

Chapter 3 ALCOHOLIC BEVERAGES¹

ARTICLE I. IN GENERAL

Sec. 3-1. Short title.

This chapter shall be known and may be cited as the "Powder Springs Alcoholic Beverage Ordinance."
(Ord. No. 2000-30, 11-20-00)

Sec. 3-2. Definitions.

- (a) All definitions as may be set forth in the State Alcoholic Beverage Code of Title 3 of the Official Code of Georgia are adopted by this chapter.
- (b) The following additional words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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

Alcoholic beverage caterer means any retail dealer licensed pursuant to this chapter who provides alcohol off-premises.

Applicant means generally a person requesting to be a licensee responsible for the sale of alcoholic beverages on the premises applied for.

Arrests means all arrests and dispositions thereof for all violations of municipal, state, or federal law, both felonies and misdemeanors, during the five (5) years immediately preceding the date of the application.

Art shop means a retail establishment devoted exclusively to providing art education that is limited to instruction in painting, sculpture and other arts and crafts; or to selling and displaying portraits, paintings, sculptures, art supplies and similar artwork and crafts. An art shop shall not allow activities that would cause the retail establishment to be an adult entertainment establishment as defined in chapter 12, article VI, section 12-131 of the Code of Ordinances, City of Powder Springs, Georgia.

Barrel means fifty-three (53) gallons for purposes of Distilled Spirits and thirty-one (31) gallons for purposes of malt beverages.

Beer Garden means an establishment with an open-air area in which beer and/or wine may be served, along with food.

¹Editor's note(s)—Ord. No. 2000-30, adopted Nov. 20, 2000, amended Ord. No. 89-27, adopted Aug. 16, 1989, in its entirety, being Ch. 3, Alcoholic beverages.

Cross reference(s)—Alcoholic beverages in game rooms, intoxicated persons in game rooms, § 12-100; drunkenness, §§ 13-4(b)(6), 13-13; consuming on public property, § 13-14; occupying vehicle driver's seat while intoxicated, § 17-22.

Brewer means a manufacturer of malt beverages.

Brewery means a place where malt beverages are manufactured or brewed.

Brewpub means any eating establishment in which malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form. As used herein, the term "eating establishment" shall mean an establishment which is licensed to sell distilled spirits, beer, malt beverages, or wines and which derives at least fifty (50) percent of its total annual gross food and beverage sales from the sale of prepared meals or food, excluding from such calculation the barrels of beverages sold to licensed wholesalers or to the public for consumption for off-premises consumption.

Brown-bagging means when a business establishment allows its customers to bring their own alcoholic beverages to consume on the premises.

Case means a box or receptacle containing not more than two hundred eighty-eight (288) ounces of malt beverages on the average.

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

City-sanctioned event is one which is conducted by any department agency, board or commission of the city, the city downtown development authority, the Development Authority of Powder Springs or as specifically approved by City Council.

Closed function means a private event on city property not open to the general public. Closed functions can only occur at the "Coach" George E. Ford Reception Hall and the Patricia C. Vaughn Cultural Arts Center. No pay-at-the-door or uninvited guests are permitted.

Distance means, unless otherwise specified in this chapter, the measure in lineal feet of the most direct route of travel on the ground by a pedestrian from the center of the nearest door of customer entry of the proposed license premises to the nearest property line of the church, school, park, public building, library, or residence. Such travel shall be measured as a straight line from the customer door to the property line and is not required to follow a line running along the nearest sidewalk or street route; provided that, when a straight line of travel would not be a customary and reasonable line of travel because of obstacles to such travel, the line of travel shall be angled around such obstacles and the distance shall be the sum of the segments of the line.

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

Drink means any alcoholic beverage not in its original package which is served for consumption on premises which may or may not be diluted by any other liquid.

Farm winery means a winery which makes at least forty (40) percent of its annual production from agricultural produce grown in the state where the winery is located and:

- (A) Is located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery; or
- (B) Is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production.
- (C) For purposes of this definition, the commissioner of revenue shall determine what is a substantial portion of such winery premises or agricultural produce.

Food service establishment means any establishment holding a valid food service permit from the county health department.

Grocery store means a retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed five (5) percent of its total gross sales from all sources as evidenced in a public hearing by a certified audit showing the sales for the calendar year most recently ending at the proposed location or for a similar store at a similar location.

Growler means a sanitized, reusable glass, stainless steel, or ceramic jug, bottle or container or non-reusable plastic container filled by a licensee or employee of a licensee with beer from a keg and used to transport said beer for off-premises consumption. A growler is not to exceed sixty-eight (68) ounces in capacity and not be less than twelve (12) ounces in capacity.

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which fifty (50) or more rooms are used for the sleeping accommodations of such guests and having one (1) or more public dining rooms, with adequate and sanitary kitchen and a minimum seating capacity of at least forty (40), where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant or nightclub on their premises, and the holder of such franchise shall be included in the definition of hotel under this definition.

Immediate family means any person related within the first degree of consanguinity or affinity as determined according to civil law.

Indoor recreation establishment means an indoor facility licensed for entertainment venues such as, but not limited to, physical sporting activity where equipment related to such activity is for rent or sale, movie theatres, escape rooms, fun parks, climbing centers, ax throwing, bowling alleys, billiard halls, skating rinks, or other inventive entertainment centers. Indoor recreation establishments that desire to sell alcoholic beverages for consumption on premises shall be licensed under pouring licenses.

License means the authorization by the governing authority of the city to engage in the sale of alcoholic beverages as provided for in this chapter. As used in this chapter, an annual special events facility permit and the special permit for pouring wine and malt beverages and sale of package wine and malt beverages shall qualify as a license.

Licensee means generally the person to whom a license is granted and who is responsible for the sale of alcoholic beverages as prescribed in this chapter.

Lounge means a separate room connected with a part of and adjacent to a restaurant as defined herein with all booths, stools and tables being unobstructed and open to view. All lounges shall have a seating capacity of at least forty (40). The maximum area of said lounge shall be one-third ($\frac{1}{3}$) the size of the food serving area.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barely, malt, hops, or any other similar product, or any combination of such products in water, containing not more than fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

Nightclub means an establishment having a seating capacity of at least one hundred (100) persons with all booths and tables being unobstructed and open to a view and providing a band and/or other professional entertainment, a minimum of twenty (20) days per month, each and every month with the exception of holidays,

vacations and period of redecorating. All such nightclubs shall be equipped with air conditioning and shall maintain adequate kitchen with a sufficient number of servants and employees for cooking food, preparing and serving food and meals for their patron, provided that nightclubs located in hotels having dining room and kitchen facilities may be excluded from the requirement of maintaining a kitchen in connection with such nightclub. The principal business of such nightclubs shall be entertainment, and the serving of food and spirituous liquors shall be incidental thereto.

Open container means any container of an alcoholic beverage which is immediately capable of being consumed from, or the seal of which has been broken.

Package means a bottle, can, keg, barrel, or other original consumer container.

Park means any public lands owned or controlled and operated by the city, state, or any county of the state, in and upon which facilities are provided for the recreation of the general public.

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.

Pouring means the sale of alcoholic beverages by the drink.

Premises means the definite closed or partitioned-in locality, whether room, shop, or building wherein alcoholic beverages are sold, and may include an attached patio, deck or ground area when:

- (1) It is separated from the general public by a permanent wall, fence, hedge or similar approved device, and access to the patio, deck or ground area is limited only through the main premises;
- (2) The location of the patio, deck, or ground area does not encroach upon any sidewalk, right-of-way, or other common area customarily used for ingress, egress, pedestrian or vehicular traffic; and
- (3) The location and plans shall first have been approved by the city building inspector and fire marshal.

Use of a patio, deck, or ground area as a part of the premises shall be suspended or revoked when its use interferes with other uses in the vicinity, or becomes in any way a public nuisance.

Notwithstanding the foregoing, premises shall include an outdoor dining area utilized as part of the operation of a sidewalk cafe. Open containers of alcoholic beverages shall only be transported into or out of outdoor dining areas by the licensee's working employees as part of their work duties.

(4) Outdoor spaces such as Beer Gardens subject to the requirements of 3-79.

Private club means any nonprofit association organized under the laws of this state which (A) has been in existence at least one year prior to the filing of its application for a license to be issued under this chapter; (B) has at least 75 regular dues paying members; (C) owns, hires, or leases a building or space within a building for the reasonable use of its members which building or space (i) has suitable kitchen and dining room space and equipment and (ii) is staffed with a sufficient number of employees for cooking preparing and serving meals for its members and guests; and (D) 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.

Privately held corporation means an entity registered only through Georgia Secretary of State and not registered with the U.S. Securities and Exchange Commission.

Publicly traded corporation means an entity which is traded on a major stock trading exchange or registered with the U.S. Securities and Exchange Commission.

Purchase price means the consideration received for the sale of alcoholic beverages by the drink valued in money, whether received in cash or otherwise, including all receipts, cash, credits and property, or services of any kind or nature and also, the amount for which credit is allowed by the licensee or his/her agent to the purchases, without any deduction therefrom whatsoever.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served with a minimum seating capacity of forty (40), such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least six (6) days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto.

School means the buildings, grounds, or campus only of such state, county, city, church or other school as teaches the subjects commonly taught in the common schools of this state, not to include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational or technical occupations and other special subjects are taught.

Special events facility means any public place kept, used, maintained, advertised and held out to the public as a place which serves as a location for special events, including, but not limited to wedding receptions, anniversary receptions, bar/bat mitzvah receptions, birthday parties, annual events, and other such parties or receptions. Such locations shall include, but not be limited to reception halls, conference centers, and banquet centers which have applied for and been issued a special events facility license

Wholesale means the sale of alcoholic beverages as a distributor to retailers for the purpose of resale.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2015-016, § 1, 6-1-15; Ord. No. 2017-007, § 1, 4-17-17; Ord. No. 2018-002, § 1(Exh. A), 1-16-18; Ord. No. 2019-006, § 1, 3-4-19; Ord. No. 2020-026, § 1, 1-4-21; Ord. No. 2021-015, § 1, 6-21-21; Ord. No. 2021-023, § 1, 12-6-21)

Sec. 3-3. Purposes.

This chapter is enacted for the purposes, among others, of promoting the health and general welfare of the community, of establishing reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcoholic beverages, and of protecting and preserving certain areas, through reasonable consideration, among others, to the character of the areas and their peculiar suitability for particular uses, to the congestion in the roads and streets, to a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values, and to the prevention of undesirable persons from engaging in or having any interest in alcoholic beverages.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-4. Power to regulate licenses.

All powers as may be provided to municipalities by the laws of the state pertaining to alcoholic beverages are adopted by this chapter.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-5. Compliance with chapter required.

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages without having first complied with the provisions of this chapter.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-6. Applicability of provisions to territory inside city.

The terms and provisions of this chapter shall apply only to the City of Powder Springs.

(Ord. No. 2000-30, 11-20-00)

Secs. 3-7—3-30. Reserved.

ARTICLE II. LICENSES

DIVISION 1. GENERALLY

Sec. 3-31. Approval of governing body.

- (a) No alcoholic beverage license for a new license at a location that has not been issued an alcoholic beverage license more than one (1) year prior to the filing of the application shall be issued until it has been approved by the governing body.
- (b) No alcoholic beverage license shall be approved unless all provisions of this chapter have been met.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-32. Grant or privilege.

- (a) All licenses shall be a mere grant or privilege to carry on such business during the term of the license, subject to all the terms and conditions imposed by this chapter and related laws, applicable provisions of this Code and other ordinances and resolutions of the city relating to such business.
- (b) All licenses hereunder shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled by the mayor and council of the City of Powder Springs." Such license shall be prominently displayed within the premises.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-33. License required.

- (a) No alcoholic beverages shall be manufactured, sold at wholesale or retail, or possessed for the purpose of sale, in the city except under a license granted by the city.
- (b) Where there is a change of ownership or change of licensee/agent, a change of ownership and change of licensee applications shall be filed for locations previously approved by the governing body for an alcoholic

beverage license and the change shall be approved and an alcoholic beverage license shall be issued by the city.

- (c) Nothing herein shall prevent business establishments not engaged in the sale of alcoholic beverages from occasionally offering patrons alcoholic beverages in small amounts such as a free glass of wine or a malt beverage to enhance the customer experience. Such practice shall be exempt from the provisions of this chapter.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17; Ord. No. 2021-023 , § 1, 12-6-21)

Sec. 3-34. Types of licenses.

The types of alcoholic beverage licenses which may be issued under this chapter are:

- (1) Pouring distilled spirits;
- (2) Pouring wine and malt beverage;
- (3) Pouring for special events facility;
- (4) Package distilled spirits;
- (5) Package wine and malt beverage;
- (6) Wholesale alcoholic beverages;
- (7) Manufacturer;
- (8) Temporary special event permit;
- (9) Brewery;
- (10) Brewpubs;
- (11) Farm winery;
- (12) Art shop;
- (13) Special permit for pouring wine and malt beverages and sale of package wine and malt beverages.
- (14) Distiller's license;
- (15) Alcoholic beverage caterer's license:
- (16) Temporary special event permit to serve alcohol;
- (17) Brown-bagging license; and
- (18) Home brew special event permit.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2015-016, §2, 6-1-15; Ord. No. 2018-025 , § 1, 12-3-18; Ord. No. 2021-015 , § 2, 6-21-21; Ord. No. 2021-023 , § 1, 12-6-21)

Sec. 3-35. Holding more than one (1) allowed.

A licensee may hold more than one (1) type of license, provided that each license must be approved by the governing body; subject, however, to the provisions of section 3-42 hereunder.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-36. Use restricted to license type.

It shall be unlawful for a licensee to engage in any activity except that authorized by the type of license held.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-37. Separate license for each place of business.

Except as provided in section 3-70, or otherwise provided herein, a person doing business at more than one (1) place of business shall take out and pay for a separate license for each place of business.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-007 , § 2, 4-17-17; Ord. No. 2021-023 , § 1, 12-6-21)

Sec. 3-38. Limitations on use.

- (a) It shall be unlawful for any person operating premises licensed for the sale of wine and malt beverages to store or have on the premises any distilled spirits without a license therefor.
- (b) Licensees for the sale of distilled spirits by the drink, and for the sale of malt beverages by the drink, shall not permit the sale of distilled spirits by the bottle or package. Such licensees shall have the right to sell wines, champagnes, or malt beverages to the public by the bottle or package for consumption on the premises.
- (c) No package sales shall be allowed in, or in connection with, any restaurant, cafe, eating place, private club or in any establishment where pouring sales are allowed pursuant to this chapter.
- (d) Notwithstanding any other provision of this chapter, growlers may be sold in compliance with this subsection by a licensee, or employee of the licensee, authorized to sell alcoholic beverages, excluding distilled spirits, by the package. Furthermore, the filling of growlers by means of a tapped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26. Growlers shall only be filled from kegs procured by the licensee from a duly licensed wholesaler. Customers who return used glass, stainless steel or ceramic growlers and purchase new growlers shall only be provided growlers that have been sanitized prior to filling and subsequently sealed. Every customer who purchases a growler shall, at the time of the purchase, be provided written documentation regarding the open container laws of the state and the City of Powder Springs.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2015-016, § 3, 6-1-15)

Sec. 3-39. Delivery by retailer beyond licensed premises.

It shall be unlawful for any licensee under this article to make deliveries of any alcoholic beverages by the drink beyond the indoor boundaries of the premises covered by the license. A license under this article may make deliveries of alcoholic beverages by the package in accordance with State Law. Also, notwithstanding anything herein to the contrary, any food service establishment which is licensed to sell distilled spirits for consumption on the premises may sell mixed drinks for off-premises consumption in approved containers in accordance with State Law.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2020-026 , § 2, 1-4-21; Ord. No. 2021-023 , § 1, 12-6-21)

(Supp. No. 31)

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Sec. 3-40. Licensed premises; inspection; product of unlicensed wholesaler.

All licensed retailers shall store all alcoholic beverage possessions on the premises for which the license was issued, and at no other place. All alcoholic beverage stock shall be available at all times for inspection by authorized city officials. Any brand or type of alcoholic beverages found in any retailer's stock that is handled by a wholesaler who is not licensed to make sale and deliveries in the city shall be subject to immediate confiscation.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-41. Requirements for wholesalers generally.

All wholesalers shall be licensed under the provisions of this chapter and shall comply with this chapter before they can sell or deliver any alcoholic beverages to any establishment in the city. Deliveries and sales shall only be made to retailers properly licensed under such sections for the operation of establishments in the city. Deliveries shall be made in conveyance owned and operated by a wholesaler licensed as set out in this section, and shall at all times when deliveries are being made be subject to inspection by any duly authorized authority of the city.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-42. Wholesale licensees prohibited from interest in other licenses.

Except as authorized by state law or as may be allowed by this section, no person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license under the terms of this chapter.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2018-002 , § 1(Exh. A), 1-16-18)

Sec. 3-43. Discrimination by wholesalers.

No wholesaler may discriminate between retail dealers as to quantity, sections, and brands sold to the retail dealer, nor use any business technique so as to control the retail dealer's business and pricing policy or in any way interfere with the free enterprise operation of the retail dealer.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-44. Purchase from properly licensed wholesalers.

Retail dealers in alcoholic beverages licensed under the applicable provisions of this chapter shall not buy or accept deliveries of alcoholic beverages from wholesalers or other persons offering the same for sale except from wholesalers duly licensed under this chapter. Such retail dealers shall not accept deliveries of alcoholic beverages except directly to the premises for which their license and permit was issued, and by no means other than by a conveyance owned and operated by a wholesaler licensed as required by this chapter, except, on written request to the business license supervisor of the city and upon the granting of permission by the business license supervisor in writing, deliveries may in special instances be made otherwise upon terms and conditions as prescribed by the business license supervisor of the city as to each such delivery.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-45. Invoices.

Upon each delivery by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared, showing the quantities and brands of alcoholic beverages delivered together with the price thereof and the tax collected thereon. The original copy of such invoice shall be delivered by the wholesaler to the retailer simultaneously with each such delivery. The wholesaler shall retain the second copy of such invoice and shall keep it for a period of twenty-four (24) months after the date of same, and during said period of such invoices shall be made available for inspection by authorized representatives of the city; a copy of such invoice shall be attached to any reports requested or required by the city.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-46. Consumption on package licensed premises prohibited.

It shall be unlawful for any person licensed for the operation of a package store only to permit or allow any consumption of alcoholic beverages on the premises of such package store location. It shall be the duty of the owner and/or operator of each establishment to police and prevent the consumption of any alcoholic beverages upon the premises of any package store location, and evidence that there has been any such consumption by any person within the premises of operation of said location shall be deemed prima facie evidence that said owner or operator is allowing consumption of such beverages and the burden shall be upon such owner or operator to establish to the governing authority that same was not with his knowledge or permission. For the purposes of this section, knowledge of the owner and/or operator without taking any steps to prevent such consumption shall be deemed permission. Consumption on the premises shall be allowed only in those locations having a pouring license. Notwithstanding the foregoing nothing in this chapter shall be construed to prohibit tasting events in accordance with State Law nor shall it prohibit a representative or salesperson of a manufacturer or wholesaler from opening a package of alcoholic beverages on the premises of a retail package liquor store or other retail dealer for the purpose of providing samples of such alcoholic beverage product to a retail dealer or its employees for consumption on the licensed premises provided that:

- (1) All samples are provided and consumed in the presence of a representative or salesperson of the manufacturer or wholesaler in an office storage room or other area of the licensed premises of the retail dealer that is closed to the public; and
- (2) Such representative or salesperson of the manufacturer or wholesaler removes from the licensed premises any packages he or she brought onto such licensed premises in order to provide samples of alcoholic beverage products.

For purposes of this subsection the term "sample" means a small amount of any malt beverage, wine or distilled spirits.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2021-023 , § 1, 12-6-21)

Sec. 3-47. Package sales of single malt beverages.

It shall be unlawful for any person licensed for the operation of a package store to display or offer for sale single malt beverages from an ice chest or other similar display at or near the front of the premises. Singles beverages may be offered for sale from the cooler with other packaged beverages.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-48. Carry-in and carry out.

- (a) It shall be unlawful for any person operating any business establishment licensed to serve alcoholic beverages by the drink, or food, to permit the consumption of alcoholic beverages that are not purchased on the premises where they are consumed, except as otherwise provided hereunder including section 3-74.
- (b) It shall be unlawful for any pouring licensee to sell, or offer to sell, or to give, to any customer or patron any alcoholic beverages by the package or drink for carry out purposes except as provided in section 3-74.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2019-006 , § 2, 3-4-19)

Sec. 3-49. Service in hidden rooms of pouring licensee.

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

(Ord. No. 2000-30, 11-20-00)

Sec. 3-50. Familiarity with chapter.

- (a) It shall be the duty of each licensee and employee thereof to be familiar with this chapter.
- (b) It shall be the responsibility of each licensee to provide all new employees at the time of their employment, and all employees annually, with an orientation and training on the Powder Springs Alcoholic Beverage Ordinance; provided that, the failure of the employer to provide such orientation and training or of the employee to participate shall not be a defense for an employee who does not follow the provisions of the alcoholic beverage ordinance; and provided that, a licensee shall keep a record of such orientation and training, which shall be subject to inspection.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-51. Responsibility of licensee for acts of employees and others.

Licensees shall be responsible for compliance with this chapter by their officers, agents, and employees.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-52. License to be displayed.

Each licensee for the sale of alcoholic beverages shall have their license posted conspicuously in the place of business of the person to whom the license is issued, and upon failure to so display, license may at the discretion of the governing body be revoked and the person to whom the license is issued be punished as prescribed in this chapter.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-53. Issuance of requisite photo permit for employees.

- (a) All employees involved in either the dispensing, serving or sale of alcoholic beverages are required to obtain a photo permit from the city police department. Such a permit shall also be required for all managers and employees serving in a managerial capacity and any employee who provides security shall be required to have a photo permit whether or not they sell alcohol to customers.
- (b) Employees subject to this provision shall, within fourteen (14) calendar days of their first day of work in an establishment holding a license to sell alcoholic beverages, report to the city police department for the purpose of applying for photo permit on such forms as shall be required by the police department. No person may remain employed by any establishment holding an alcoholic beverage license unless the provisions of these sections have been complied with.
- (c) Photo permits are transferable from one licensed premises to another within the corporate city limits. A photo permit shall be valid for a period of two (2) years from the date of issue. At expiration, a new photo permit must be applied for. Photo permits must be made available for inspection at the premises upon request by the governing body, police department or city marshal at any time. In case of lost, altered or mutilated photo permits, a replacement must be obtained immediately. If the original photo permit is found after a replacement is issued, then it must be turned in to the permits section at the police department; possession of more than one (1) photo permit is a violation of this section.
- (d) A processing fee is payable to the city upon application for a photo permit. In the event of a lost or mutilated photo permit, a replacement fee shall be payable to the city.
- (e) The city shall have a complete and exhaustive search made relative to any police record of the person applying for the photo permit. No photo permit shall be issued to any person if the following is shown to exist:
 - (1) That employee as a previous or current employee, or as a previous alcoholic beverage licensee, has been convicted of violating any laws, ordinances, or regulations regulating such business if such conviction or arrest occurred within a five-year period immediately preceding the date of application. The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated;
 - (2) That employee within a five-year period preceding the date of application shall have been convicted for any felony charged under any of the laws of the several states or of the United States. The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated;
 - (3) That employee has been convicted of more than one (1) misdemeanor, including traffic violations, involving the use or abuse of any alcoholic beverage, opiate or drug, within the three (3) years preceding the application. The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated; or
 - (4) That employee is on parole from any state or federal prison or work camp; provided that, in the event employee is on active probation or parole, a signed letter must be submitted with the application for a photo permit from the applicant's parole or probation officer, such letter must be on official stationery, and such letter must state that the employee has been authorized by the probation officer to maintain employment in an establishment holding an alcoholic beverage license.

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- (5) That employee has any outstanding arrest warrants for whom no service has been perfected. In the event there is a criminal record discovered that would exclude the issuance of a photo permit, the designated agent of the police department shall issue a letter to the person fingerprinted, to the permits and licenses clerk, and to the employer, stating that the person is ineligible for employment.
 - (f) Any employee excluded from receiving or holding a photo permit under the terms of this section shall have the right to appeal such exclusion to the governing body, which may in its discretion approve the issuance of a photo permit.
 - (g) The failure of an employee to get a photo permit will not prohibit the employee from applying for and receiving one if all other conditions of this section are otherwise met.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-53.1. Age limit for employees.

- (a) Except as authorized by state law or as herein provided, no licensee hereunder shall employ any person in or about the premises where alcoholic beverages are sold, consumed or offered for sale, to sell or deliver, or to aid or assist in the sale or delivery, directly or indirectly, of such alcoholic beverages, unless such person is eighteen (18) years of age or older. It shall likewise be unlawful for any person under the age of eighteen (18) years to sell, take orders for or deliver, or in any manner take part or assist in the sale, serving or delivery of such alcoholic beverages.
- (b) This section shall not prohibit persons under eighteen (18) years of age who are employed in supermarkets, convenience stores, or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises if there is, at all times during which any person under eighteen (18) years of age is working, during hours within which alcoholic beverages are sold, either the licensee or at least one (1) employee twenty-one (21) years of age or older and who is serving in a supervisory capacity, on the premises inside the building within which the alcoholic beverages are sold.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-54. Limitations on employee conduct.

- (a) Employees of alcoholic beverage licensees are prohibited from dancing or sitting with customers on licensee's premises during such employee's working hours.
- (b) Customers of alcoholic beverage licensees are not permitted to purchase food or drink for employees of licensees during such employee's working hours.
- (c) Employees and contractees of licensees are prohibited from consuming alcoholic beverages on the premises of the licensee during such employee's or independent contractor's working hours.
 - (1) The purpose of this section is to ensure that employees and contractees are able to exercise with unimpaired judgment their responsibility for the public safety and good under this chapter and the laws of this state as they serve customers;
 - (2) Employees and contractees violating this section shall be subject to a fifteen-day revocation of their photo permit by the officer responsible for the issuance of such permits upon a first offense; a ninety-day revocation upon a second offense; and a one-year revocation for any subsequent offense; provided that, an appeal from such revocation is subject to the same appeals provided in the photo permit provisions of this chapter; and

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- (3) Licensees may be held responsible for multiple violations of this section under the enforcement provisions of this chapter.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-55. Pricing.

- (a) This section shall be construed to cover, include and apply to every type of alcoholic beverages licensed to be sold.
- (b) Each licensee shall maintain a menu or schedule of the prices to be charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The schedule of prices shall be maintained in a manner so as to be available to the paying public and law enforcement officers or agents of governmental authority. Said schedule shall be effective except as hereinafter provided, for not less than a twenty-four-hour period beginning at 12:01 a.m. and ending at midnight, and shall show thereon the date for which the schedule is effective.
- (c) No licensee or holder of any license to sell alcoholic beverages for consumption on the premises or in any part thereof, or employee or agent of a license, shall:
 - (1) Deliver more than two (2) alcoholic beverages to one (1) person at one (1) time;
 - (2) Sell, offer to sell, or deliver alcoholic beverages, by the pitcher or carafe, except to two (2) or more persons at any one time;
 - (3) Require or encourage the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased; or
 - (4) Knowingly allow an alcoholic beverage purchased on the premises to be removed from the premises without having been consumed, except for those located in an Entertainment District "Premises," for the purpose of this subsection, shall be construed to mean the entire area under the supervision, management or control of the licensee, excluding areas for parking of motor vehicles, and, in the case of licensees whose licensed location is located on a portion of the premises of a club, organization, establishment or entity offering outdoor recreation (for instance, golf or tennis), then the word "premises" shall extend to cover all areas operated as a part of the club or entity excluding areas for parking of motor vehicles.
- (d) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (c) of this section.
- (e) 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 a 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 (1) person, or to prohibit any hotel or motel from offering room services to registered guests or to prohibit the sale of more than two (2) drinks at one time which are to be consumed by the purchaser out-of-doors on the premises of the licensee, as described in subsection (c) of this section, in connection with the purchaser's participation as a player in the games of golf or tennis; otherwise, no food and alcoholic beverage package may be offered by any licensee; provided, however, that nothing contained in this section shall be construed to allow a licensee to circumvent the intent of this section by offering meals which include an alcoholic beverage as a device or scheme to promote drink sales at a price per beverage less than the daily listed price.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-56. Prices to be conspicuously displayed.

Each retail package licensee shall have conspicuously displayed within the interior of the licensed premises not less than four (4) copies of a printed price list of the alcoholic beverages offered for sale; however, in lieu of having four (4) copies of a printed price list, the licensee may have the price placed on the package or on the bottom of the shelf where the alcoholic beverages are exhibited for sale.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-57. Reserved.

Editor's note(s)—Ord. No. 2004-36, § 1, adopted Nov. 15, 2004, repealed § 3-57 in its entirety. Former § 3-57 pertained to exterior advertisements and derived from Ord. No. 2000-30, adopted Nov. 20, 2000.

Sec. 3-58. Misrepresentation of alcoholic beverages.

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

(Ord. No. 2000-30, 11-20-00)

Sec. 3-59. Coin-operated; similar machines prohibited.

No retail dealer in packaged distilled spirits shall permit on his premises any slot machine. (Ord. No. 2000-30, 11-20-00)

Sec. 3-60. Serving of drinks by employees only.

Drinks or packages hereunder shall be served only by employees of the establishment.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-61. Exotic dancing in connection with pouring license.

It shall be unlawful for any licensee who sells alcoholic beverages by the drink to permit professional belly dancers, strip dancing, exotic dancing, or any exhibition of any like kind by whatever name called in connection with the operation of a restaurant, lounge, or private club, as defined herein.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-62. Hours of operation.

- (a) *Package, distilled spirits.* Licensees in package distilled spirits shall not sell except between the hours of 8:00 a.m. and 11:45 p.m., Monday through Saturday, provided that, these hours may be extended as provided by a special sales permit and Sunday sales permit as described in this chapter. The hours of operation may be extended for New Year's Eve to allow licensees to sell and serve alcoholic beverages until 2:55 a.m. New Year's Day

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- (b) *Package, wine and malt beverages.* Licensees in package wine and malt beverages shall not sell except between the hours of 8:00 a.m. and 1:00 a.m., Monday through Friday (Saturday morning), and 8:00 a.m. through 11:45 p.m. on Saturday, provided that, these hours may be extended as provided by a special sales permit and Sunday sales permit as described in this chapter. The hours of operation may be extended for New Year's Eve to allow licensees to sell and serve alcoholic beverages until 2:55 a.m. New Year's Day
- (c) *Pouring, distilled spirits and pouring, wine and malt beverages.* Licensees in pouring distilled spirits and licensees in pouring wine and malt beverages shall not sell except between the hours of 8:00 a.m. to 1:00 a.m., Monday through Friday (Saturday morning), and Saturday 8:00 a.m. through 1:00 a.m. (Sunday morning). This section shall apply to private clubs as well. Provided that, these hours may be extended as provided by a special sales permit and Sunday sales permit as described in this chapter. The hours of operation may be extended for New Year's Eve to allow licensees to sell and serve alcoholic beverages until 2:55 a.m. New Year's Day.
- (d) *Wholesalers.* Business hours of any wholesaler licensed hereunder shall be limited to the hours from sunup to 9:00 p.m., exclusive of Sunday. No wholesaler shall be open on Sunday.
- (e) *Election days.* The sale of alcoholic beverages in the city shall be permitted on election days so long as the sale does not take place within two hundred fifty (250) feet of polling place as prohibited by O.C.G.A. § 3-3-20.
- (f) *Thanksgiving Day.* Licensees in package distilled spirits shall not sell on Thanksgiving Day.
- (Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-63. Sunday sales permit.

- (a) (1) In addition to the hours of operation specified in this chapter, licensees in pouring distilled spirits and licensees in pouring wine and malt beverages may sell and serve on Sundays from 11:00 a.m. until 10:00 p.m., provided the licensee applies for and receives a Sunday sales permit for such sales from the city. The licensee must also hold a city alcoholic beverage pouring license and meet the requirements for Sunday Sales under Title Three of the Official Code of Georgia Annotated. The hours of operation for pouring may be extended for New Year's Eve when the holiday falls on Sunday to allow licensees who also hold a Sunday sales permit to sell and serve alcoholic beverages until 2:55 a.m. on Monday.
- (2) In addition to the hours of operation specified in this chapter, licensees of package distilled spirits and wine and malt beverages establishments may sell on Sundays from 12:30 p.m. until 10:00 p.m., provided the licensee applies for and receives a Sunday sales permit for such sales from the city. The licensee must also hold a city alcoholic beverage package license and meet the requirements for Sunday Sales under Title Three of the Official Code of Georgia Annotated.
- (b) Such applicants shall complete a form furnished by the city, supplying such information as may be requested. Prior to permit issuance, the applicant must make available records for audit purposes to determine and verify if the establishment is meeting all requirements prescribed in this chapter. The permit may be denied or removed for failure to so conform or failure to produce satisfactory evidence of conforming.
- (c) All annual permit renewals shall be made in the same manner and during same time periods as other alcoholic beverage license renewals. All renewals are subject to audit prior to being renewed to ensure compliance with this section.
- (d) No Sunday sales permit is transferable.

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- (e) A fee for issuance of the Sunday sales permit may be established and/or changed from time to time by the governing body by resolution, and a schedule of fees shall be maintained in the office of the city clerk.
 - (f) The Sunday sales permit shall be subject to any requirements in this chapter pertaining to enforcement and revocation proceedings and shall be automatically revoked if the alcoholic beverage pouring license is revoked.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2012-05, 3-5-12; Ord. No. 2018-025 , § 3, 12-3-18)

Sec. 3-64. Time limit on vacating premises after conclusion of hours of operation.

In all locations licensed to serve alcoholic beverages by the drink, both public and private, said premises must be vacated of customers within thirty (30) minutes of the conclusion of the hours of operation as established by this chapter.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2004-05, § 1, 2-16-04)

Sec. 3-65. Compliance with sanitary and fire protection regulations; inspections.

- (a) All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations of the health department of the county. Licensee shall not permit any disturbance of the peace or obscenity or any lewd, immoral or indecent entertainment, conduct or practice on said premises.
- (b) The following types of entertainment, attire and conduct are not permitted upon any premises licensed to sell, serve or dispense alcoholic beverages, or upon any premises licensed under the business and occupational ordinances of Powder Springs in which alcoholic beverages are consumed, allowed or dispensed on the premises.
 - (1) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages which 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 any portion of the public hair, anus, cleft of the buttocks, vulva, or genitals; or
 - (2) Live entertainment where any person appears in the manner described in subsection (1) above or where any person performs acts of or acts which simulate:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are otherwise prohibited by law; or
 - b. The touching, caressing, or fondling of the breast, buttocks, anus or genitals; or
 - c. The displaying of the public hair, anus vulva or genitals; or
 - d. The showing of any film, still pictures, electronic reproduction or other visual reproduction depicting any of the acts described in subsection (2) above; 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) The fire department shall inspect such premises and report its findings to the governing body. All premises licensed hereunder shall conform at all times with all fire regulations of the city.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-66. Sale to certain persons prohibited.

- (a) No licensee or employee hereunder shall sell any alcoholic beverage to any person under the age of twenty-one (21) years or to any person in an intoxicated condition. It shall be the responsibility of the licensee or employee to examine the proper identification of patrons to be certain that all such persons are of legal age. The term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. "Proper identification" shall not include a birth certificate.
- (b) Any person seventeen (17) years of age or older charged with violating this section shall be entitled on request in municipal court to have the case transferred to the state court of this county.
- (c) Any person seventeen (17) years of age or older arrested for violating this section shall be fingerprinted in accordance with O.C.G.A. §§ 35-3-33 and 35-3-35.
- (d) Any person seventeen (17) years of age or older convicted of violating this section shall be guilty of a misdemeanor and subject to a fine or other punishment as defined in this Code, unless otherwise provided for in this Code or the Official Code of Georgia Annotated.
- (e) For the purpose of this section, any person under the age of twenty-one (21) years shall be considered a minor.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-67. Minors on licensed premises prohibited.

Except as authorized by state law, no person who holds a license to sell alcoholic beverages shall allow any minor to be in, frequent or loiter about the premises of the licensee unless such minors are accompanied by a parent or legal guardian; provided, however, such minors shall be permitted in restaurants or private clubs as defined herein without being accompanied by a parent or legal guardian; and provided further, this section shall not apply to minors who are employees as authorized under the terms of this chapter.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-68. Alcoholic use by persons under age.

- (a) It shall be unlawful for any person under the age of twenty-one (21) years to purchase, consume or possess any alcoholic beverage.
- (b) It shall be unlawful for any person to keep or maintain a place where persons under the age of twenty-one (21) years knowingly are allowed and permitted to come and purchase, consume or possess any alcoholic beverage.
- (c) It shall be unlawful for any person to buy any alcoholic beverage and furnish it to a person under the age of twenty-one (21) years.
- (d) It shall be unlawful for any person under the age of twenty-one (21) years to purchase, consume or possess any alcoholic beverage under authority of a false, fictitious or altered form of identification.
- (e) Any person seventeen (17) years of age or older convicted of violating this section shall be guilty of a misdemeanor and subject to a fine or other punishment as defined in this Code, unless otherwise provided for the Official Code of Georgia Annotated.

(Supp. No. 31)

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- (f) Any person sixteen (16) years of age or under charged with violating this section shall be referred to the juvenile court of this county.
 - (g) Any person seventeen (17) years of age or older charged with violating this section shall be entitled on request to have the case transferred to the state court of this county.
 - (h) Any person seventeen (17) years of age or older arrested for violating this section shall be fingerprinted in accordance with O.C.G.A. §§ 35-3-33 and 35-3-36.
 - (i) Any person seventeen (17) years of age or older arrested for violating this section shall be entitled to be released on a driver's license bond in accordance with O.C.G.A. §§ 3-3-23.1 and 17-6-11.
 - (j) The prohibitions contained in subsections (a), (b) or (c) of this section shall not apply with respect to the sale, purchase or possession of alcoholic beverages for consumption:
 - (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state;
 - (2) At a religious ceremony; or
 - (3) When possession or consumption by a person under the age of twenty-one (21) years takes place in the home of the person's parent or legal guardian and such parent or legal guardian is present.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-69. Prohibited activities.

- (a) No alcoholic beverages shall be sold, possessed, or consumed by any person in any school building or on any school ground.
- (b) Except as provided in subsection (d) hereof, and section 3-74, no alcoholic beverages shall be sold, possessed or consumed by any person at a park or on other city property, except at a closed function as defined herein and only at the locations specified in the definition, or at any golf course facility.
- (c) It shall be unlawful for any person to consume or to have in his or her possession while driving or operating any vehicle on any public road or street any alcoholic beverage in any open or unsealed original container or cup, can, bottle or other open or unsealed container.
- (d) Notwithstanding anything herein to the contrary, a person may possess and consume alcoholic beverages at a city-sanctioned event in Thurman Springs Park, so long as any such beverage is contained within a discreet container which would leave no visible indication as to the alcoholic content therein, unless such event is related to the city's Christmas events, at which no alcoholic beverages shall be allowed.

(e) Notwithstanding anything herein to the contrary, no alcoholic beverages shall be sold or consumed by any person on commercially zoned property without the issuance of the applicable alcohol license.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2015-016, § 4, 6-1-15; Ord. No. 2018-002, § 1(Exh. A), 1-16-18; Ord. No. 2019-006, § 3, 3-4-19; Ord. No. 2021-009, § 1, 4-19-21; Ord. No. 2021-023, § 1, 12-6-21)

Sec. 3-70. Special event permits and licenses

The office of permits and licenses is authorized to issue special events permits or licenses to persons holding or participating in a special event within an area of the City of Powder Springs designated as an "entertainment district," as depicted on the maps attached and incorporated into this ordinance by reference hereto, at a licensed

special events facility or at a city-sanctioned event held in Thurman Springs Park or the campus of the "Coach" George E. Ford Center for the sale and consumption of beer, wine or spirituous liquors for special events, in the manner set forth below:

- (1) *Type of permits and licenses.* There shall be an annual special events facility license, a temporary special event permit, and a temporary special event permit to serve alcohol. No citizen may apply for a temporary special event permit except for an event held at a licensed special events facility or at a city-sanctioned event held in Thurman Springs Park the Entertainment District or the campus of the "Coach" George E. Ford Center for the sale and consumption of beer, wine, or spirituous liquors for special events, in the manner set forth below;
 - a. Annual special events facility license (Public). An annual special events facility license shall permit the holder of said permit to host special events and serve and sell alcoholic beverages at a specified location or locations and shall be valid for three hundred sixty-five (365) days following the date of issuance. Such a facility must also obtain a retailer or retail dealers' license from the State. This is subject to all requirements and fees of pouring licenses. If food is not prepared onsite, the minimum food sale requirement can be met using food trucks/mobile food service units or licensed food caterers per Section 3-80.
 - b. Annual special events facility license (Private). An annual special events facility license shall permit the holder of said permit to host special events and serve alcoholic beverages at a specified location or locations and shall be valid for three hundred sixty-five (365) days following the date of issuance. Catered event permits may be issued for alcohol sales.
 - b. Temporary special event permit. A temporary special event permit shall permit the holder of said permit to serve and sell alcohol within an area of the City of Powder Springs designated as an "entertainment district," as depicted on the maps attached and incorporated into this ordinance by reference hereto, at a licensed special event facility or facilities, or at a city-sanctioned event held in Thurman Springs Park or the campus of the "Coach" George E. Ford Center on the dates of a special event and shall be valid only on the dates specified on the permit, said event not to exceed ten (10) days. Such permits for city-sanctioned events shall be subject to the terms and conditions which the council deem advisable. Non profit events may not exceed three (3) days in accordance with OCGA 3-9-3.
 - c. Temporary special event permit to serve alcohol. A temporary special event permit shall permit the holder of said permit to serve alcohol at the campus of the "Coach" George E. Ford Center on the dates of the special event and shall be valid only on the dates specified on the permit, said event not to exceed ten (10) days.
- (2) *Application.* A person seeking issuance of an annual special events facility license and/or a temporary special event permit shall file an application with the office of permits and licenses on a form provided by the city.
- (3) *Filing periods.* An application for an annual special events facility license may be filed at any time. An application for a temporary special event permit shall be filed with the permits and licenses clerk not less than fourteen (14) days nor more than sixty (60) days before the dates on which the special event is proposed.
- (4) *Contents of application annual special events facility license.* In addition to the requirements for all other licenses under this Code, the application for an annual special events facility license shall set forth the following information:

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- a. The location or locations of the premises on which alcoholic beverages are proposed to be sold and served;
 - b. The nature and proposed use of the premises on which the applicant proposes to sell and serve alcoholic beverages (i.e., business establishment used for wedding receptions);
 - c. The estimated number of special events during a calendar year on which the applicant proposes to sell and serve alcohol on the premises;
 - d. All information as required for a license application under Sec. 3-103 of this Chapter;
 - ~~ed.~~ Any additional information which the city shall find reasonably necessary to make a fair determination as to whether a license should be issued.
- (5) *Contents of application temporary special event permit.* The application for a temporary special event permit shall set forth the following information:
- a. The name, address and telephone number of the person seeking to conduct the special event;
 - b. If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of this organization;
 - c. The nature and location or locations of the special event (e.g. wedding, reception, holiday celebration, etc.);
 - d. The name, address and telephone number of the person who will be the special event chairman and who will be responsible for its conduct;
 - e. The date when the special event is to be conducted, and whether the special event will extend over a series of days;
 - f. The hours when the special event will start and terminate; and
 - g. Any additional information which the city shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (6) *[Reserved.]*
- (7) *Fees.* The following fees shall apply to the issuance of special event permits and licenses:
- a. Annual special events facility license. There shall be a fee of two hundred fifty dollars (\$250.00) for an annual special events facility license; and
 - b. Temporary special event permit. There shall be a fee of seventy-five dollars (\$75.00) per day per special event.
 - c. Temporary special event permit for serving but not selling. There shall be a fee of fifty dollars (\$50.00) per day per special event.
- (8) *Standards for issuance of temporary special event permit.* The office of permits and licenses shall issue a permit as provided for in this section when, from a consideration of the application and from such other information as may otherwise be obtained, the city finds that:
- a. The conduct of the special event will not substantially interrupt the safe and orderly conduct of any individuals in, around or near the situs of the special event;
 - b. The conduct of the special event will not require the diversion of so great a number of police officers of the city property to police the areas contiguous thereto as to prevent normal police protection to the city;

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- c. The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance; and
 - d. The applicants for the permit have not violated the terms of any previous special event permit granted to them and have not caused undue traffic congestion and police problems under any previous special event-permit.
- (9) Standards for issuance of annual special events facility license. The annual special events facility license shall be issued according to Division II of this Chapter.

(10) *Special requirements.* The office of permits and licenses or the chief of police may impose any additional requirements which are necessary and reasonable, given the nature, location, date and time of the event to ensure the safety and comfort of the attendees and the nearby residents and businesses, including, but not limited to, specified hours or days of operation, and requiring the permit or license holder to provide one (1) or more off duty police officers to maintain order and control traffic flow. Additionally, the council may impose any additional requirements which it deems necessary and appropriate for temporary special event permits issued for city-sanctioned events at Thurman Springs Park or the campus of the "Coach" George E. Ford Center.

(11) *Notice of rejection of application.* The city shall act upon the application for a temporary special event permit within seven (7) days after the filing thereof. If the city disapproves the application, the city shall mail to the applicant, within seven (7) days after the date upon which the application was filed, a statement of the reasons for the denial of the permit. Notwithstanding the foregoing, for temporary special event permits for city sanctioned events at Thurman Springs Park or the campus of the "Coach" George E. Ford Center, the city shall not be required to act upon such application until it has been submitted for approval to the council as part of a regular agenda.

(12) *Appeal procedure.* Any person aggrieved shall have the right to appeal the denial of a permit or license hereunder to the mayor and council. The appeal shall be filed within five (5) days after notice of denial.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2016-030 , § 1, 11-21-16; Ord. No. 2017-007 , § 3, 4-17-17; Ord. No. 2019-025 , § 1(Exh. A), 11-18-19; Ord. No. 2021-023 , § 1, 12-6-21)

Sec. 3-71. Breweries and distillers and farm wineries.

- (1) Brewer's licenses are authorized in the city; provided, however, that no individual shall be permitted to own or operate a brewery without first obtaining a proper brewer's license from the city in the manner provided in this chapter, and each holder of a brewer's license shall comply with the provisions of this chapter and all applicable state statutes, including rules and regulations promulgated by the Department of Revenue. Consumption on the premises shall be authorized under the limited three- tier system for the distribution and sale of malt beverages up to three thousand (3,000) barrels of malt beverages per year produced at the brewer's licensed premises for (1) consumption on the premises; and (2) consumption off the premises, provided that such sales for consumption off the premises shall not exceed a maximum of two hundred eighty-eight (288) ounces of malt beverages per consumer per day. Said consumption on and off the premises shall be in conformity with O.C.G.A. 3-5-24.1, and as may be amended from time to time. Tastings shall be permitted in accordance with the provisions of state law.
- (2) Distiller's licenses are authorized in the city: provided, however, that no individual shall be permitted to own or operate a distillery without first obtaining a proper distiller's license from the city in the manner provided in this chapter, and each holder of a distiller's license shall comply with the provisions of this chapter and all applicable state statutes, including rules and regulations promulgated by the Department of Revenue. Consumption on the premises shall be authorized under the limited three-tier system for the distribution and

sale of distilled spirits up to five hundred (500) barrels of distilled spirits per year produced at the distiller's licensed premises for (1) consumption on the premises; and (2) consumption off the premises, provided that such sales for consumption off the premises shall not exceed a maximum of two thousand two hundred fifty (2,250) milliliters of distilled spirits per consumer per day. Said consumption on and off the premises shall be in conformity with O.C.G.A. 3-4-24.2, and as may be amended from time to time.

- (3) Farm winery licenses are authorized in the city; provided, however, that no individual shall be permitted to own or operate a farm winery without first obtaining a proper winery license from the city in the manner provided in this chapter, and each holder of a winery license shall comply with the provisions of this chapter and all applicable state statutes, including rules and regulations promulgated by the department of revenue. Consumption and tastings shall be permitted in accordance with the provisions of state law.

(Ord. No. 2015-016, § 5, 6-1-15; Ord. No. 2018-002 , § 1(Exh. A), 1-16-18)

Sec. 3-72. Brewpubs.

Brewpubs shall be allowed to operate in the city subject to the following conditions:

- (a) No individual shall be permitted to own or operate a brewpub without first obtaining a proper license from the city as well as the commissioner of the department of revenue, and each brewpub licensee shall comply with all other applicable state and local license requirements;
- (b) A brewpub license authorizes the holder of such license to:
- (1) Manufacture on the licensed premises not more than ten thousand (10,000) barrels of malt beverages in a calendar year solely for retail sale;
 - (2) Operate an eating establishment that shall be the sole retail outlet for such malt beverages; and
 - (3) Operate an eating establishment that may offer for sale for consumption on the premises any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this title, including wine, distilled spirits, and malt beverages, provided that such alcoholic beverages are purchased from a licensed wholesaler; and, provided, further, that in addition to draft beer manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers; and
 - (4) Notwithstanding any other provision, sell up to a maximum of five thousand (5,000) barrels annually of such malt beverages to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brewpub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale;
- (c) Possession of a brewpub license shall not prevent the holder of such license from obtaining a retail consumption dealer's license or a retailer's license for the same premises;
- (d) A brewpub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises;
- (e) There is hereby levied an excise tax on all beer and malt beverage produced by a brewpub at the rate of six dollars (\$6.00) per one-half (½) barrel (fifteen and one-half (15½ gallons) and twelve dollars (\$12.00) per barrel (thirty-one (31) gallons). Such tax shall be paid to the city no later than the twentieth 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) Every brewpub located within the city shall file a monthly report with the city, no later than the twentieth day of each month, on such forms as the city 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 twenty-five dollars (\$25.00) for each deficient reporting period.

(Ord. No. 2015-016, § 5, 6-1-15; Ord. No. 2018-002 , § 1(Exh. A), 1-16-18)

Sec. 3-73. Special license for pouring wine and malt beverages and sale of package wine and malt beverages.

Notwithstanding anything in this Code to the contrary, subject to the approval of City Council, a business within the **downtown development entertainment** district, as the same is defined in section **15-43-74** of this Code, may obtain a special license for the pouring of wine and malt beverages for on-premises consumption and the sale of package wine and malt beverages for off-premises consumption. Such license holder may not sell food products but may make available the sale of food products by a third-party vendor on the business premises.

(Ord. No. 2018-025 , § 2, 12-3-18)

Sec. 3-74. Consumption of alcohol; entertainment districts.

- (a) Except as provided in subsection (c) below, it shall be unlawful for any establishment licensed to sell or serve alcohol within the City of Powder Springs to dispense any alcoholic beverage in an open container for removal from the premises.
- (b) Except as provided in subsection (c) below, it shall be unlawful for any person to remove from any establishment licensed to sell or serve alcohol within the City of Powder Springs any open container of alcoholic beverage or to drink or attempt to drink any alcoholic beverage from any open container or to possess in any open container any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private, within the corporate limits of the city.
- (c) Within any area of the City of Powder Springs designated as an "entertainment district," as depicted on the maps attached and incorporated into this ordinance by reference hereto, the following regulations shall apply:
 - (1) Any establishment within the boundaries of an entertainment district licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or to allow a customer to pour such customer's alcoholic beverage into a paper or plastic cup, and in no other type of open container, for removal from the premises: provided, however, that no establishment shall dispense to any person more than one (1) such open container of alcoholic beverage at a time for removal from the premises.
 - (2) No person shall remove at one (1) time more than one (1) open container of alcoholic beverage from the licensed premises.
 - (3) No open container in which an alcoholic beverage is dispensed and removed from the licensed premises within an entertainment district shall exceed sixteen (16) fluid ounces in size.
 - (4) No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within an entertainment district any open container of alcoholic beverage that exceeds sixteen (16) fluid ounces in size.

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- (d) It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle when the vehicle is parked on any city street, alley, way or parking lot within the corporate limits of the city.
 - (e) No alcoholic beverage purchased pursuant to this provision may be consumed outside the boundaries of an entertainment district or within an entertainment district on any parcel used as a church, day care center, or school, as designated by such facility's certificate of occupancy. Coolers containing alcoholic beverages in cans or bottles for personal consumption may be brought into permitted areas within the entertainment district only during events allowed by issuance of a special event permit in accordance with section 3-70.
 - (f) The distance requirements set forth in section 3-120 shall not apply to establishments licensed to sell or serve alcohol within an entertainment district as defined in this section.
 - (g) Establishments licensed to sell or serve alcohol in open containers within an entertainment district may allow the removal of such open containers from the premises between the hours of 5:00 p.m. and midnight on weekdays and between the hours of 11:00 a.m. and midnight on weekends.
 - (h) Any licensed establishment that allows patrons to leave the establishment with an alcoholic beverage in an open container as provided in this section shall maintain posted inside all exit doors for clear public view a map of the current boundaries of the entertainment district and a sign of at least 11-inches by 8 ½ inches that states the following:

"All patrons leaving this establishment with an alcoholic beverage in an open container do hereby assume full responsibility to consume such alcoholic beverage only if it has been served in a paper or plastic cup not to exceed sixteen (16) ounces in size and obtained from an establishment licensed to sell alcoholic beverages within the entertainment district outlined on the map below. Any individual who leaves the entertainment district with an alcoholic beverage in an open container is in violation of the Code of Ordinances, City of Powder Springs, Georgia and may be subject to a citation, arrest, incarceration, and/or fine."
 - (i) The provisions of this section shall not be deemed to abrogate or otherwise impact any state law or local ordinance pertaining to public drunkenness, disorderly conduct, driving with an open container or under the influence of alcohol, or similar laws or ordinances.
 - (j) No establishment licensed to sell or serve alcohol within an entertainment district will be required to offer open containers of alcohol for sale to its customers or to allow patrons to enter the establishment with open containers of alcohol purchased or obtained from outside the establishment.
 - (k) The boundaries of any entertainment district within the City of Powder Springs shall be established by the mayor and council and may be amended from time to time by the mayor and council under the procedures set out in the City Charter for amending an ordinance.
 - (l) It shall be permissible for a person within an entertainment district to enter into a business establishment, without regard to whether the establishment is licensed, with an alcoholic beverage lawfully purchased in the entertainment district where the owner of the retail establishment consents to possession of such alcoholic beverages by such person.

(Ord. No. 2019-006 , § 4, 3-4-19; Ord. No. 2020-017 , § 1, 8-17-20; Ord. No. 2021-023 , § 1, 12-6-21)

Editor's note(s)—Map of Entertainment District is on file at the City Clerk's office.

Sec. 3-75. Art shop license.

Art shop licenses shall be allowed in the city. The holder of an art shop license may allow customers to bring wine and beer to be consumed on the premises of an art shop. Wine or beer may not be served by an art shop license holder and/or an employee of an art shop license holder.

Sec. 3-76. Alcoholic beverage caterers.

Notwithstanding any other provision of this chapter to the contrary, a licensed alcoholic beverage caterer shall be permitted to sell alcoholic beverages for consumption off-premises at a catered event or function in accordance with the provisions of this section.

(a) *License requirements.*

(1) *License required.* Any alcoholic beverage retailer possessing a valid license from any jurisdiction in the State of Georgia to sell malt beverages, wine or distilled spirits by the drink for consumption may apply for an alcoholic beverage caterer's license as provided herein. It shall be unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off the premises of the company's business location and in connection with a catered event or function without first having obtained a license as provided herein.

(2) *Non-resident requirements.* Any alcoholic beverage retailer possessing a valid license to sell malt beverages, wine or distilled spirits by the drink for consumption from a jurisdiction other than from the City of Powder Springs shall, prior to the issuance of an alcoholic beverage caterer's license, provide a copy of the alcoholic beverage license and business license issued by the jurisdiction in which the business is located to the community development department. **As a condition of permit issuance, the applicant shall be provided a copy of the city's alcoholic beverages ordinances, and shall indicate, by signature, that they have received such ordinances and acknowledge the applicability of such ordinances to their operations. Caterers licensed by a jurisdiction other than the city shall maintain a record of all alcoholic beverages transported into the city for the event, and shall pay an excise tax to the city covering all such beverages at the rates provided by Article III of this chapter. Failure to report and remit the tax within seven (7) days of the conclusion of the event shall be grounds for denial of subsequent permits to the caterer for similar events.**

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(3) *License application requirements.* The alcoholic beverage caterer's license application shall be provided by the office of permits and licenses and include the contact information of the applicant as well as requisite business licenses and permits and the location of the catered event.

(4) *Duration.* Each off-premises catering license as authorized herein shall be valid only for the event for which the license was approved. The fees for each such license shall be set by the city council and approved by resolution from time to time.

(5) *Limitation of license.* A licensed alcoholic beverage caterer may sell only that which is authorized by his or her alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he or she may sell only malt beverages at the authorized catered event or function. **The hours and days of sale or distribution of alcoholic beverages under this section shall be the same as provided for sale by the drink.**

(6) *Sunday sales.* An alcoholic beverage caterer wishing to cater an event or function on Sunday must possess a valid Sunday sales license and comply with the requirements of state law with respect to the service of alcoholic beverages on Sunday.

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(7) **Catered special event permit.** Before a licensed alcoholic beverage caterer may sell or dispense alcoholic beverages at any authorized catered function, such caterer shall apply for a catered event permit from the city marshal or his designee at least 30 working days prior to the event. Any person seeking a license pursuant to this section for a catered event or function that requires a special event permit in accordance section 3-70 hereof shall also comply with all of the requirements of section 3-70. The office of permits and licenses is authorized to issue catered event permits to licensed caterers within an area of the City of Powder Springs designated as an "entertainment district," as depicted on the maps attached and incorporated into this ordinance by reference hereto, at a licensed special events facility or at a city-sanctioned event held in Thurman Springs Park or the campus of the "Coach" George E. Ford Center for the sale and consumption of beer, wine or spirituous liquors, in the manner set forth below:

a) The application for the event shall include the name of the caterer; the date, address, time and name of the event; and the quantity of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event or function.

b) The original catered event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function, and shall be available for inspection at the catered event or function during the duration of such event or function.

c) It is unlawful for a licensed alcoholic beverage caterer to distribute or sell alcoholic beverages off-premises except as authorized by the catered event permit.

d) The catered event permit will be valid for the length of the authorized event or function or as approved by the city. After expiration of the catered event, the alcoholic beverage caterer shall apply for a new catered event permit in the same manner as the original permit.

(Ord. No. 2021-023 , § 1, 12-6-21)

Sec. 3-77. Brown-bagging license.

- (a) Notwithstanding any other provision of this chapter to the contrary, the office of permits and licenses is authorized to issue a brown-bagging license to a non-alcohol business establishment under the provisions of this section. Brown-bagging shall not be permitted by a business establishment without first receiving a license under this section. The fees for each such license shall be set by the city council and approved by resolution from time to time.
- (b) Only non-alcohol business establishments with a valid occupational tax license and without an alcohol license are eligible for a brown-bagging license under the provisions of this section. A brown-bagging establishment is not eligible for any other alcohol license provided by this chapter.
- (c) Wine, malt beverages, and/or distilled spirits may be provided by the customers under the provisions of this section.
- (d) Only the customer may provide the alcoholic beverages.
- (e) Bottles or other containers of alcohol must remain in the possession of, or under the control of, the person bringing such bottle or container into an establishment permitting brown-bagging. No bottle or other

container of alcohol shall be in the possession or under the control of any owner, licensee, employee or agent of such establishment at any time.

- (f) Establishments holding a brown-bagging license shall not deny or restrict the privilege of brown-bagging by patrons or impose any admission charge, cover charge or minimum charge on brown-bagging patrons that is not also imposed upon all other patrons during the legal hours of sale and consumption of alcoholic beverages.
- (g) Hours. Establishments holding a brown-bagging license shall comply with the alcohol regulations relative to business hours contained in this chapter.
- (h) Other provisions. Consumption shall be subject to all of the provisions related to the service of other alcoholic beverages under this chapter, including, but not limited to, the prohibition of the consumption of alcoholic beverages by anyone under twenty-one (21) years of age or by anyone intoxicated.
- (i) Food. Nothing in this section shall prohibit a business establishment from serving food, provided that it meets all of the requirements provided in this Code and is properly permitted by the city.
- (j) Approval. The issuance of the brown-bagging license requires the approval of city council.
- (k) Exemption. Any retail or retail consumption business with an active alcohol license and a valid occupational tax registration may allow customers to bring in a bottle or bottles of wine and charge a corkage fee without a brown-bagging license.
- (l) Renewal. The brown-bagging license expires annually on December 31 unless renewed.

(Ord. No. 2021-023 , § 1, 12-6-21)

Sec. 3-78. Home brew special event permit.

- (a) Malt beverages may be produced by a person in his or her private residence subject to the limitations provided under State Law pursuant to O.C.G.A, § 3-5-4. With the approval of the city council, the office of permits and licenses is authorized to issue a home brew special event for the holding of home-brew special events, including contests, tastings, and judgments. A home-brew special event permit shall cost fifty dollars (\$50.00) and shall be valid for not more than six (6) events per calendar year.
- (b) Home-brew special events shall not be held at any location licensed under this title.
- (c) Consumption of malt beverages at home-brew special events shall be limited solely to malt beverages produced pursuant to this Code section, and such malt beverages shall only be consumed by the participants in and judges of the home-brew special events.

(Ord. No. 2021-023 , § 1, 12-6-21)

• Sec. 3-79 Beer garden.

a. **Food.** Have at least 50 percent of its total annual gross sales be the sale of prepared meals or food, if it permits Sunday alcohol sales; if it does not permit Sunday alcohol sales, a beer garden is required to meet the 30% food requirement as required in Section 3-126. A beer garden can have an on-site kitchen or can use the provisions of Section 3-80 to satisfy this requirement;

b. Have an open-air area (roofed or unroofed) to provide alcohol service and (if desired) food service. The beer garden may also have an indoor service area (if desired, no smaller than 500 square feet). A beer garden shall have an associated permanent structure on-site to provide restrooms, secure storage of alcohol, refrigeration and waste-disposal facilities, the total area for all facilities and open space shall not exceed 2000 sf;

c. The open-air area must be separated from non-licensed property and public rights-of-way by a fence, barrier, vegetation or similar demarcation. The applicant will be required to demonstrate how the open-air area is to be separated from the adjacent areas, how any nuisance towards adjacent properties will be mitigated, and how patrons will be prevented from leaving the permitted area with an alcoholic beverage. Sales through drive-thru windows or other windows or doors to the street, sidewalk or vehicles are prohibited.

d. Location restrictions. The property must be located in a commercially zoned district as indicated in the Unified Development Code. The alcohol service area of any beer garden must be located 100 feet or more from residentially zoned and used parcels (under the City of Powder Springs Unified Development Code). If entertainment in the form of music, bands, groups, amplification systems or loud noise of any kind is offered in a beer garden, the alcohol service area shall be located 250 feet or more from a residential zoned and used property. Distances shall be measured from the point of the beer garden area closest to a residential zone to the closest property line of that property with a residential use. Amplified sound or alcohol sales shall not be permitted during the hours of operation of day cares or schools within 500 feet of the beer garden.

e. Roofing or enclosing the open-air area with a tent may require inspection and approval from the state or local fire marshal. Applicants are advised to consult with the appropriate official.

• **Sec. 3-80. - Licensed establishments with food trucks/mobile food service units.**

A licensed Beer Garden or Special Event Facility (Public) may partner with one or more food trucks/mobile food service units to satisfy the percentage of food sales requirements of this ordinance or state law by complying with the terms of this section. The food trucks/mobile food service units may also serve to satisfy the requirement of having a full-service kitchen. The food trucks/mobile food service vendors must be:

a. Licensed under Article 12 (occupation tax); and permitted by the Cobb County Board of Health as a mobile food service unit;

b. Generally incorporated into the operation of the licensed establishment; and

c. Available, open and prepared to serve food every hour that alcoholic beverages are offered for sale from any portion of the premises.

If the alcoholic beverages are to be consumed outside, the establishment shall need an outdoor service authorization under Section 3-81.

Sec. 3-81 - Outdoor service authorization.

An applicant for a license for consumption on the premises may seek as a part of that license an "outdoor service authorization." This is permission to serve alcohol outside the premises in adjacent outdoor areas controlled by the licensee. This can be patio area next to the licensed premises or a space as large as a golf course. The outdoor area must be separated from non-licensed property and public rights of way by a fence, barrier, vegetation or similar demarcation. The applicant will be required to demonstrate how the outdoor area is to be separated from the adjacent areas, how any nuisance towards adjacent properties will be mitigated, and how patrons will be prevented from leaving the permitted area with an alcoholic beverage. Sales through drive-thru windows or other windows or doors to the street, sidewalk or vehicles are prohibited.

Secs. 3-7982—3-100. Reserved.

DIVISION 2. APPLICATION

Sec. 3-101. Generally.

- (a) No license shall be approved by the governing authority for any applicant who has not complied with the application provisions of this article.
- (b) In addition to other application and licensing provisions as set forth in this article, it is the policy of the city that any license for the sale of alcoholic beverages shall be applied for by, and be issued to, an owner who is a full time employee and, if not, then by and jointly to the owner and an agent who is a full time employee responsible for the sale of alcoholic beverages as prescribed in this chapter, on the premises applied for or on other such premises in the county owned by the owner.
 - (1) Where the applicant is a sole proprietor, any license for the sale of alcoholic beverages shall be applied for by, and shall be issued to, the sole proprietor if the sole proprietor is a full time employee and, if not, then by and jointly to the sole proprietor and an agent who is a full time employee responsible for the sale of alcoholic beverages as prescribed in this chapter, on the premises applied for or on other such premises in the county owned by the sole proprietor.
 - (2) Where the applicant is a partnership, any license for the sale of alcoholic beverages shall be applied for by, and shall be issued to, the partnership together with either a majority partner who is a full time employee and, if not, then by and jointly to a majority partner and an agent who is a full time employee responsible for the sale of alcoholic beverages as prescribed in this chapter, on the premises applied for or on other such premises in the county owned by the partnership.
 - (3) Where the applicant is a corporation, whether publicly traded or privately held, any license for the sale of alcoholic beverages shall be applied for by, and shall be issued to, the corporation together with an agent who is a full time employee responsible for the sale of alcoholic beverages as prescribed in this

chapter, on the premises applied for or on other such premises in the county owned by the corporation.

- (4) Where the owner is a private club, any license for the sale of alcoholic beverages shall be applied for by, and shall be issued to, the private club together with an officer of said club who is a full time employee and, if not, then by and jointly to the private club together with an agent who is a full time employee responsible for the sale of alcoholic beverages as prescribed in this chapter, on the premises applied for or on other such premises in the county owned by the private club.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-102. Written format.

An applicant for an alcoholic beverage license shall make written application to the city through the community development director or the designee of same upon such forms to be prepared by the community development department governing body; provided that an applicant seeking more than one (1) type of license or an additional license must submit a separate application for each type of license sought.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-103. Contents.

The written application upon the prescribed forms shall include each of the following:

- (1) Information on the type of alcoholic beverage license sought.
- (2) Information on the location which will be the site of the license sought, as follows:
 - a. The street address of the premises;
 - b. The name(s), home address(es), and home phone number(s) of the owner(s) of the premises;
 - c. Plans and renderings of the proposed premises, unless the permits and licenses clerk certifies that such plans and renderings are on file, and the applicant certifies that such plans and renderings are correct;
 - d. A certification of zoning from the city certifying that the place of the proposed business is properly zoned therefor; and
 - e. A certificate from a registered surveyor showing a scale drawing of the location of the proposed premises and the distance to the nearest school located within six hundred (600) feet, and to the nearest church, library, park, public building, or residence located within three hundred (300) feet, by the most direct route of travel on the ground; such scale drawing shall also show the distance from any part of the proposed premises to the nearest property line of the school, church, park, public building, library, or residence located within one hundred (100) feet, as measured by a straight line from the nearest point of the premises to the property line.
- (3) Information on the business at the location of the proposed licensed premises, as follows:
 - a. The name, street address, and phone number of the business;
 - b. A description of the nature and character of the business; and
 - c. A copy of the warranty deed if the business owns the premises; if the business leases the premises, a copy of the lease agreement.
- (4) Information on the applicant, as follows:

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- a. If a sole proprietor, then from the sole proprietor the name, home address, home phone number, date of birth, social security number, county of residency and country of citizenship, a statement of arrests; and, in addition, if the sole proprietor does not meet the citizenship or residency requirements of this article or is not a full time employee, then the same information is also required for an agent who is a full time employee, provided that the person so named must meet all requirements of this article;
 - b. If a partnership, then for each partner owning ten (10) percent or more, the name, home address, home phone number, date of birth, social security number, county of residency and length of residency, country of citizenship, percent of ownership, and a statement of arrests; and, in addition, if no such partner is a full time employee, then the same information is required for an agent who is a full time employee, provided that the person so named must meet all requirements of this article;
 - c. If the applicant is a publicly traded corporation, then the corporate name, corporate chief executive officer, corporate address, and corporate phone number; and in addition if the corporate chief executive officer is not a full time employee, then for an agent who is a full time employee, the name, home address, home phone number, date of birth, social security number, county of residency and length of residency, country of citizenship and a statement of arrests, provided that the person so named must meet all requirements of this chapter;
 - d. If the applicant is a privately held corporation, then the corporate name, corporate chief executive officer, corporate address, and corporate phone number; and for each officer, director and each person owning ten (10) percent or more, the name, home address, home phone number, date of birth, social security number, length of residency in the county, country of citizenship, percent of ownership, and a statement of arrests; and in addition if no such owner is a full time employee, then for an agent who is a full time employee, the name, home address, home phone number, date of birth, social security number, county of residency and length of residency, country of citizenship, and a statement of arrests, provided that the person so named must meet all requirements of this chapter; and
 - e. If the applicant is a private club, then the private club name, private club chief executive officer, private club address, private club phone number, and a statement of arrests for the chief executive officer; and in addition if the chief executive officer is not a full time employee, then for an agent who is a full time employee, the name, home address, home phone number, date of birth, social security number, county of residency and length of residency, country of citizenship, and a statement of arrests, provided that the person so named must meet all requirements of this chapter.
- (5) The applicant shall furnish such other data, information or records as may be required by the governing body or its authorized officers in order to make a determination whether the applicant or agent meets the requirements of this article.
 - (6) The application must be sworn to by the applicant and notarized.
 - (7) In instances in which the ownership of an existing licensed location is the same but the agent has changed, within thirty (30) days of resignation or reassignment of the previous agent, the new agent must apply, and all application provisions of this chapter shall apply, except that only information on the new agent shall be required on an abbreviated form provided through the permits and licenses clerk or other designated official; provided that, a copy of the most recently approved application shall be attached; and further provided, that a certification must be made by the ownership or legally authorized designee other than the new agent, that all previous information on the most recently approved application remains true and correct to the best knowledge of the applicant.

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- (8) A certificate of proof that the licensee has successfully completed a responsible alcohol sales and service training course approved by the city.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2002-18, § 1, 8-19-02)

Sec. 3-104. Fees.

Upon filing of the application for an alcoholic beverage license with the license department, the city shall require the applicant to pay a processing fee according to a fee of five hundred dollars (\$500.00) to cover the expense of advertising, investigation and processing of the application. The fee is not refundable.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-105. Producing persons for oral interrogation.

Applicants by filing an application agree to produce for oral interrogation any person or persons requested by the governing body or authorized officers when such persons are considered important in the ascertainment of the facts relative to such license application.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-106. Time limit for furnishing information.

All applicants for an alcoholic beverage license shall furnish all data, information, records or persons requested of them by the mayor and council or its authorized officers, and the failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve to dismiss the application.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-107. Authorized officers.

Persons considered to be authorized officers of the governing body include, but are not limited to, the following or their designees: Permits and licenses clerk, city attorney, city manager, police chief, city building inspector, and city finance officer.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-108. False information.

Any material omission or untrue or misleading information contained in or left out of an application shall be cause for the denial thereof, and, if any license has previously been granted under these circumstances, such false information or omission shall constitute cause for the revocation of the license.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-109. Investigation of applicant.

The city shall investigate every applicant for a license as to criminal background and compliance with laws and ordinances, as well as whether the existing or proposed premises complies with all building, parking, health,

fire, and similar city ordinances. A search, both locally and through the National Crime Information Center, shall be conducted to determine the applicant's and agent's criminal record. Each applicant and agent shall provide other such information as may be required to confirm the identity of the applicant and agent, including fingerprints in such a manner as may be required if necessary to confirm the identity.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Secs. 3-110, 3-111. Reserved.

Editor's note(s)—Ord. No. 2017-012 , § 1, adopted May 1, 2017, repealed §§ 3-110 and 3-111. Section 3-110 pertained investigation made by the city building inspector and derived from Ord. No. 2000-30, adopted November 20, 2000. Section 3-111 pertained to investigation by the finance officer and derived from Ord. No. 2000-30, adopted November 20, 2000.

Sec. 3-112. Time limit for city to process.

The city may require forty-five (45) days for processing any application for an alcoholic beverage license required under this article.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-113. Public notices of intent and of hearing.

- (a) All applicants for new licenses under this article shall give notice that the application has been filed and of the purpose of making such application by advertisement at least one (1) time a week for two (2) consecutive weeks prior to the date of consideration of the application by the governing body. The first advertisement shall not appear more than thirty (30) days prior to the date of such initial consideration. Such publication shall be made in the newspaper in which the legal advertisements of the city are carried, which notice shall contain the business name and address of the location of the proposed premises; the owners of the business as required by the application; and the name of the applicant(s). The ad will also contain the date, time and place the governing body will hear the application. The ad will also contain a statement that any objections to the issuance must be in writing and received by the governing body on or before the date and time of its consideration. The advertisement referred to in this section shall be of not smaller than ten-point capital and lowercase type and shall be at least a one-inch column advertisement.
- (b) Where the proposed location has been vacant for one (1) year or more or has never been licensed to sell alcoholic beverages, the applicant shall place or cause to be placed upon the location for which a license to sell alcoholic beverages is to be conducted a sign stating the following:

"Alcoholic beverage license [type] applied for. Hearing before mayor and council of the City of Powder Springs, Georgia, on the _____ day of _____
20 _____, at _____ p.m."
- (c) The sign or signs shall not be less than eighteen (18) inches by twenty-four (24) inches in size and shall face toward all public streets, alleys, sidewalks, or other public property which adjoin or adjoins the location wherein alcoholic beverages are to be sold. Signs shall be displayed for a period of not less than ten (10) days prior to the scheduled hearing.
- (d) Payment to cover the cost of newspaper advertisement and sign shall be made as required in this article.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-114. Public hearing on application.

The governing body shall hold a public hearing on an application for a new license as required herein at the time advertised in the notice and prior to action by the governing body. A public hearing shall also be held for change of ownership applications and change of licensee applications which do not meet all requirements of this code. The governing body shall grant the license to the applicant if the application meets all of the legal requirements of this chapter; however, if the application does not meet all of the requirements of this chapter, the application shall not be granted by the governing body.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-115. Appearance of applicant.

The applicant for a license shall appear before the governing body when the application is to be considered; provided that the applicant may be represented by the manager who is jointly applying.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-116. Causes for denial of applicant.

The governing body may deny a license when the application or the evidence presented before the governing body at the time of the hearing on the application shows any of the following conditions to exist:

- (1) The applicant has been adjudicated as incompetent or insane, or has insufficient mental capacity to conduct the business for which the application is made.
- (2) The applicant has had any license issued under the police powers of any city or other governmental subdivision previously suspended or revoked.
- (3) The applicant, or any corporation or partnership of which the applicant is or was an officer, director, shareholder, general partner or managing agent, is delinquent in payment of any property tax or other tax or license fee payable to the city, the county or the state.
- (4) The applicant, as a previous or current holder of a license to sell alcoholic beverages, has been convicted of violating any laws, ordinances, or regulations regulating such business if such conviction or arrest occurred within a five-year period immediately preceding the date of application. The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated.
- (5) The applicant, within a five-year period preceding the date of application, shall have been convicted for any felony charged under any of the laws of the several states or of the United States. The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated.
- (6) The applicant has been convicted of more than one (1) misdemeanor, including traffic violations, involving the use or abuse of any alcoholic beverage, opiate or drug, within the three (3) years preceding the application. The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-117. Additional standards for issuance, renewal or transfer of retail license.

With respect to the issuance, transfer, renewal or retention of the licenses for the retail sale of alcoholic beverages either by the package or for the consumption on the premises, any right to retain or have approved an application for a license, renewal or transfer of an existing license, the following standards shall apply in addition to standards stated elsewhere in this chapter:

- (1) Where there is evidence that, even though there is compliance with the minimum distances from schools and churches, the type and number of schools or number of churches in the vicinity causes minors to frequent the immediate area.
- (2) Where there is evidence that the location or type of structure could create difficulty in police supervision.
- (3) Where there is evidence that there are no licenses granted in the area or where there is evidence that the proposed area is adequately supplied with such licenses.
- (4) Where there is evidence that a license for the location would be detrimental to the property values in the area.
- (5) Where there is evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking spaces for automobiles. Sufficient parking shall mean not less than one (1) parking space for each two hundred (200) square feet of gross floor area and otherwise in conformance with the zoning ordinance and regulations of the city. However, a licensee shall have sufficient parking on the premises so as to provide parking for his customers and so as to prevent parking on the streets or adjoining property.
- (6) Where there is evidence that the licensee or the spouse is related to any distributor or wholesaler of malt beverages or employees thereof, within the first degree of consanguinity or affinity as computed according to the civil law, so that there might be special concessions granted licensee to give him a competitive advantage over others not similarly privileged.
- (7) Where there is evidence that alcoholic beverages have been sold to intoxicated persons or to a minor.
- (8) Where there is evidence that the conducting of the business creates a disturbance, congregation of intoxicated persons, congregation of minors, allows minors to purchase, drink or possess alcoholic beverage on the premises, or causes the police to answer complaints or make extra surveillance of the premises. More than three (3) minors without supervision of a parent or one authorized by a parent shall be prima facie a congregation of minors.
- (9) In addition to the above and in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:
 - a. If the applicant is a previous holder of a license, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.
 - b. The location for which the license is sought as to traffic congestion, general character of neighborhood and the effect such an establishment would have on the adjacent and surrounding property values.
 - c. The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.

A violation of this or other sections of this chapter shall authorize the governing body to suspend, revoke or place on probation, with or without conditions, the license or holder. The governing body may specify conditions

of operation of license holder during any time of probation. Such conditions shall be on file with the license and permitting clerk. No probation shall extend over a period of more than twelve (12) consecutive calendar months.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-118. Limitation on number of retail liquor package licenses within a family.

- (a) No application for a license to sell spirituous liquors by the package at retail shall be granted where the members of the applicant's family, including applicant, either individually or collectively, already hold two (2) interests in a license to sell liquor by the package at retail anywhere in the state.
- (b) As used in this section an interest in a license shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of the license, a partner in a partnership which owns all or any part of a license, a stockholder in any corporation organized for pecuniary gain which owns all or any part of a license, an owner, lessor, sublessor or stockholder in any corporation is occupied by a retail liquor store or share in any of the income or corpus of any trust fund or estate having any interest in a retail liquor store.
- (c) All applications for retail liquor package licenses, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interest (as herein before defined in subsection (b)) in retail liquor stores. This shall include the names and addresses of all persons interested in the ownership of the business of selling a retail packaged liquor, together with any interest each person or any member of his immediate family has in any other retail liquor store; the ownership of the land and building where such retail business is operated; the amount of rental paid for said land and building and the manner in which the same is determined and to whom and at what intervals it is paid; the names and addresses (by affidavit from the owner, lessor sublessor of such land and building) of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which said retail liquor store is located; and any other information called for by the governing body. Notwithstanding the foregoing, renewal applicants shall not be required annually to report rental information unless there have been changes in such rental information.
- (d) Any change in any relationship herein declared must be filed when made with the governing body and failure to so file within a period of thirty (30) days after such change is made shall be grounds for cancellation by the governing body.
- (e) No retail liquor package licenses or person having an interest therein shall have any business or commercial transactions with a wholesaler or manufacturer of alcoholic beverages other than the purchase and payment for alcoholic beverages.
- (f) No retail liquor package license shall be approved where the licensee pays to any person any rent, management fees, or other payment based on the profits or sales of such licensed store. Any legal, accounting, management or other consulting fees and all rentals shall be an amount which are reasonable for the area and consistent with amounts paid by other similar businesses and other retail business establishments. All retail liquor package establishments will maintain books which correctly reflect all business transactions and shall make them available for inspections and audit by the city. Such records shall be maintained for a period of five (5) years.
- (g) It shall be unlawful for any licensee or person having an interest therein, to have any connection, either directly or indirectly, in any scheme or device to obtain an interest in a retail liquor package license, being more than allowed by this chapter, or to engage in any scheme or device to use another person as a quasi or "dummy" to obtain a retail liquor package license. Any violation of this subsection shall be grounds to revoke any license issued under this chapter and in which such violators shall have an interest.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-119. Reports from investigations.

No license shall be issued unless the investigations by the police department, city building inspector, finance officer, or as are otherwise required or may be appropriate to the purposes of this article, have been completed and a satisfactory report has been issued.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-120. Distance from certain locations.

- (a) It is the policy of the city that, in keeping with the purposes of this article, any premises proposed for license for the sale of or wholesale or manufacture of alcoholic beverages shall be at a suitable distance from a school, church, and residence, except for locations within one hundred (100) feet of Thurman Springs Park or for locations zoned Central Business District ("CBD"), which shall be exempt from the distance requirements of this chapter. Unless otherwise authorized to be reduced by an action of the mayor and City Council pursuant to such reservation under State law, the distances from schools, churches and residences shall comply with O.C.G.A. § 3-3-21, and as may be amended from time to time.
- (b) A suitable distance shall be as follows:
- (1) For a license for package distilled spirits, a suitable distance is six hundred (600) feet from a school, and three hundred (300) feet from a church, or residence.
 - (2) For a license for pouring distilled spirits, a suitable distance is six hundred (600) feet from a school, and three hundred (300) feet from a church, or residence; provided, however, that in no event shall any part of the proposed premises be located closer than one hundred (100) feet from the property line of the school, church, or residence, as measured only for this purpose by a straight line from the nearest point of the premises to the property line of the school, church, park, public building, library, or residence.
 - (3) For a license for package wine and malt beverages, a suitable distance is six hundred (600) feet from a school, and three hundred (300) feet from a church or residence; provided that the distance from a church or residence shall be waived when the applicant is a grocery store.
 - (4) For a license for pouring wine and malt beverages, a suitable distance is six hundred (600) feet from a school, and three hundred (300) feet from a church or residence; provided, however, that in no event shall any part of the proposed premises be located closer than one hundred (100) feet from the property line of the school, church, park, public building, library, or residence, as measured only for this purpose by a straight line from the nearest point of the premises to the property line of the school, church, park, public building, library, or residence.
 - (5) For a license for wholesale, or for a license for manufacture, a suitable distance is six hundred (600) feet from a school, church or residence.
- (c) Except as where specifically stated otherwise, the measurement of suitable distance shall be as defined in article I of this chapter.
- (d) After issuance of any license, no change in the location of a customer entry shall be made which would affect compliance with any distance requirements of this article.
- (e) An application for a new license on an existing licensed location, or on a previously licensed location for a period of one (1) year from expiration of the previous license to the date of application, shall not be required to comply with the distance requirements from a school, church or residence. An application filed under this section shall meet and qualify under all other requirements of this article for the granting of a new license.

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- (f) The distance requirements of this section may be waived by the mayor and City Council, to the extent authorized by law and on such conditions as may be appropriate, where application of the requirements would cause a hardship to the licensee that outweighs the purposes of this section. In determining whether to grant a waiver under this subsection, the following shall be considered:
- (1) The nature and extent of the hardship.
 - (2) The characteristics of the zoning district and the property in which the premises are located.
 - (3) The degree of visibility of the premises from the church, school, or residence, including consideration of landscape and other buffers, either existing or to be installed.
 - (4) The distance from the nearest structure of a school, church, or residence to the closest property line of the premises.
 - (5) The relative impact of traffic and parking activity on the school, church, or residence generated by the sale of alcoholic beverages.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2005-14, § 1, 5-16-05; Ord. No. 2015-016, § 6, 6-1-15; Ord. No. 2017-023, § 1, 9-18-17; Ord. No. 2018-002, § 1(Exh. A), 1-16-18; Ord. No. 2021-023, § 1, 12-6-21)

Sec. 3-121. Citizenship and residency.

No license shall be granted to any applicant or remain held by any licensee or agent who does not qualify as one (1) of the following: a citizen of the United States, or a person who possesses a valid United States government-issued I-551 card; an application for I-551 status does not comply with this section. Any other status which allows a person to enter the United States does not comply with this section.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012, § 1, 5-1-17)

Sec. 3-122. Corporate registration.

No license shall be granted to any applicant who is a corporation or officer thereof who is not registered or domesticated with the office of the secretary of state.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012, § 1, 5-1-17)

Sec. 3-123. Applicant as guise.

- (a) No license shall be granted to an applicant if the spouse of the applicant shall not be able to meet the qualifications of an applicant.
- (b) No license shall be granted to an applicant if it appears to the governing body that another person who may or may not be eligible for a license is using the applicant as a guise to obtain a license.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-124. Age.

No license shall be granted to an applicant if the applicant shall not have attained the age of twenty-one (21).

(Ord. No. 2000-30, 11-20-00)

Sec. 3-125. Wholesale license.

- (a) No retail package or pouring alcoholic beverage license for retail sales shall be granted to an applicant who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale.
- (b) No license for retail sales shall be granted to an applicant who is related to any distributor or wholesaler of alcoholic beverages or employees thereof, within the first degree of consanguinity or affinity as computed according to civil law.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-126. Pouring requirements.

No alcoholic beverage pouring license shall be issued to, or held by, any applicant unless at least thirty (30) percent of the business by volume, when considering the total of sales from alcoholic beverages and food consumed on the premises shall be from the sale of food prepared on the premises of this establishment. **Breweries, Distilleries, and indoor recreation establishments seeking to obtain a pouring license shall be exempt from this requirement.**

- (1) All establishments licensed to pour alcoholic beverages shall submit an annual audit showing the sales of alcoholic beverages and food prepared on the premises and nonalcoholic drinks to the permits and licenses clerk no later than at the time of renewal for the coming license year.
- (2) Authorized officials of the city may examine the records of applicants at any reasonable time to ascertain that the requirements of this section are met.
- (3) The dining area or serving area of the applicant must have a minimum seating capacity of forty (40).
- (4) All renewal applications for pouring licenses shall be accompanied by a statement by a certified public accountant that no more than seventy (70) percent of sales are derived solely from the sale of alcoholic beverages.

(Ord. No. 2000-30, 11-20-00;; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-127. City officials and employees and family prohibited.

It shall be unlawful for any elected city official, full-time appointed city official, any city employee, or the immediate family thereof, to have a license to sell alcoholic beverages in the city.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-128. Time limits for obtaining and using.

- (a) A license must be obtained and fees paid not later than thirty (30) days from the date of the approval of the application by the governing body, and, if not so obtained, the license granted by the governing body shall be void.
- (b) A holder of a license must within twelve (12) months after the issuance of the license open for business the establishment referred to in the license. Failure to do so shall serve as an automatic forfeiture and cancellation of the unused license, unless the holder shall appeal to and be granted an extension by the governing body. No refund of license fees shall be made.

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- (c) A holder of a license who shall begin the operation of the business as authorized in the license, but who shall for a period of three (3) consecutive months thereafter cease to operate the business, shall have automatically forfeited the license. No refund of license fees shall be made.
 - (d) Where a building in which a retailer intends to operate under the provisions of this article is, at the time of the application for such license, not in existence or not yet completed or renovated, a license may be issued for such location, provided the plans for the proposed building show clearly a compliance with the other provisions of this article. No sales or consumption shall be allowed in such establishment until it has been completed in accordance with said plans and is in conformity with all of the other provisions of this article.
 - (e) A prospective purchaser of a business which has already obtained an alcoholic license during the calendar year must apply within seven (7) business days of closing of the purchase of the business. The application shall be investigated and all requirements for the new owner of the business shall be enforced for the issuing of an alcoholic beverage license for the new owner. Approval by the governing body for the new owner shall only be required if the owner does not meet all requirements of this chapter to be issued an alcoholic beverage license. Purchase of a licensed business does not guarantee that an application will be approved. Additionally, a change in the agent or licensee shall be required within thirty (30) days of the change of the agent or licensee at the licensed location and an application for the change of licensee shall be submitted and approved but a new license fee shall not be required to be paid to the city for the change of licensee.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-129. Time limit on reapplication.

When an application is denied for cause or any license is revoked for cause by the governing body, the denied applicant may not reapply for an alcoholic beverage license within twelve (12) months from the date of application.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-130. Restriction upon transfers.

Licenses hereunder shall not be transferable, as to location or ownership, except upon the approval of the governing body subject to the following:

- (1) In case of the death of any person holding such a license or any interest therein, the same may, in the discretion of the governing body, be transferred to the administrator, executor or lawful heirs of the decedent.
- (2) Nothing in this section, however, shall prohibit one (1) or more of the partners in a 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. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership.
- (3) Should a transfer of a location be approved, there shall be no pro rata return of any license fee and the new location shall be considered under, and meet the requirements of a new license hereunder, however, where a transfer of an existing location is approved and there is no change in the ownership of the business, the license fee paid for the old location shall be applied to the new location.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-131. Right of licensee to take in additional partners or stockholders restricted.

A licensee for the retail sale of distilled spirits by the package may take in partners or additional shareholders where it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanding the facilities of the business or for building new facilities and where it appears that the licensee himself receives directly none of the additional capital invested. Under this section any additional partner or stockholder must be approved by the city; and if approved, the business must obtain a new license.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-132. Changes in information.

It shall be the duty of the license holder to notify the permits and licenses clerk of any changes in any information submitted to the city within thirty (30) days of the change. This includes but is not limited to changes in owners, agents, licensees or their addresses, their marriage status or any changes in the operation of the business, and each license holder shall re-certify the correctness and completeness of all such information annually prior to renewal of any licenses issued thereunder. Failure to comply with this section shall render the alcoholic beverage license void and shall require resubmittal and approval of the application for an alcoholic beverage license.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Secs. 3-133—3-140. Reserved.

ARTICLE III. FEES AND TAXES

DIVISION 1. GENERALLY

Sec. 3-141. Setting annual license fee; license period; refunds.

- (a) The annual license fee for each type of license issued under this chapter shall be set by the governing body.
- (b) No license shall issue for less than a calendar year period, except as provided in section 3-70 for temporary special events permits, and in case of the revocation or surrender of such license before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-142. Payment of license fees; amounts.

- (a) An annual license shall be effective from January 1 until December 31 of each calendar year, and all annual license fees under this article shall be due and shall be paid in advance on or before November 15 of the preceding calendar year. Any new license granted under this chapter during a calendar year shall pay the license fee for the full year.
- (b) Each person manufacturing or selling alcoholic beverages in the city shall pay an annual license fee as set by the mayor and council and kept on file in the permits and licenses clerk's office.

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- (c) A person doing business at more than one (1) place shall take out and pay for a separate license for each place of business.
 - (d) Any person licensed under this chapter shall be required to renew his license on or before January 31, on forms required by the city. Failure to pay or renew the license on or before January 31 shall automatically revoke the license.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-142.1. Penalty for late payment.

In addition to and not in the alternative to any other penalty which may be provided in this chapter, any licensee, person, or entity who fails to pay any fee, tax or other payment due to the city of any kind when due shall pay, in addition to such fee, tax or other charge, a separate penalty equal to ten (10) percent of the required fee, tax or other charge, for each period of thirty (30) days, or portion thereof, following the date due, until paid in full, including penalties.

(Ord. No. 2000-30, 11-20-00)

DIVISION 2. SPIRITUOUS LIQUORS

Sec. 3-143. Annual license fee.

Each person manufacturing or selling spirituous liquors in the city shall pay an annual license fee as follows:

See the schedule of fees on file in the city hall.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-144. Excise tax; levied, amount, payment, duties of dealers and wholesalers.

- (a) *Scope of section.* In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the city in the business of selling spirituous liquors as defined under the laws of the state, there is imposed and levied upon all hereinafter described dealers within the city an excise tax, to be computed and collected as hereinafter set forth.
- (b) *Basis for computation of tax.* See the schedule of fees on file in the city hall.
- (c) *Computation, payment; duties of wholesale dealer, distributor.* The tax imposed herein shall be computable and payable monthly. Each wholesale dealer or distributor selling, shipping or delivering spirituous liquors to any retail dealer in the city shall, as a condition to the privilege of carrying on said business in the city.
 - (1) Keep true and correct records of all sales, shipments, or deliveries of such spirituous liquors to each retail dealer in the city, such records to be preserved for a period of two (2) years and to be made available on request for the inspection of any duly authorized representative of the city.
 - (2) Collect from each such retail dealer in the city at the time of delivery of the spirituous liquors the amount of tax due under the terms of this section and hold the same in trust for the city until such amount is remitted to the city as next provided; and
 - (3) On or before the twentieth day of each calendar month make a verified and comprehensive report to the city which shall correctly show all sales and deliveries of spirituous liquors to or for retail dealers in the city for the month immediately preceding said report. Said report shall show the name and address

of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this section, and such other information as may be called for by the city. Said report shall be accompanied by remittance to the city for all taxes collected or due as shown on said report. There is assessed a ten (10) percent late charge on the gross tax due for failure to remit excise tax to the city by the twentieth of the month.

- (d) *Noncompliance by wholesale dealer or distributor.* If any wholesale dealer or distributor fails or refuses to make the report herein provided for, the city shall notify said party in writing, and if the reports are not made and the taxes remitted within five (5) days from date of said notice, the city may withdraw from said wholesale dealer or distributor the privilege of doing business in the city by revoking his permit.
- (e) *Unlawful retail sales.* It shall be violation of this section for any person to sell at retail within the limits of the city any spirituous liquors on which the taxes herein provided for have not been paid.
- (f) *Unlawful deliveries.* It shall be unlawful and a violation of this section for any wholesale dealer or distributor, to deliver any spirituous liquors to any retail dealer in the city without collecting the taxes herein provided for at the time of delivery.
- (g) *Deposit by wholesale dealer or distributor.* Each wholesale dealer or distributor who sells spirituous liquors within the city shall be required to place one (1) month's tax on deposit with the city. Said deposit shall be an amount equal to the amount of tax paid by said dealer or distributor during the first thirty (30) days of operation in the city, and shall be deposited at the same time as the first payment of tax required of said dealer or distributor by this section. Said deposit shall be retained by the city to be applied to make up for any default on the part of the wholesaler dealer or distributor and shall be refunded to the wholesale dealer or distributor upon his ceasing to do business in the city, provided that the wholesale dealer or distributor is current in his remission of taxes. This deposit shall be adjusted each year to be an average of one-twelfth (1/12) of the previous year's tax collections.

The wholesaler shall post a good and sufficient bond for the benefit of the city in the sum of ten thousand dollars (\$10,000.00), conditioned that he shall comply with every provision and make payment of any sums due hereunder. In the event the wholesaler's license shall be revoked for cause, the bond shall be forfeited and paid to the city.

- (h) *Violations and penalties.* Any person violating any of the provisions of this section, or who shall assist any retail dealer in spirituous liquors in the city to evade or avoid the payment of the taxes herein provided for shall on conviction thereof in the state court be fined or sentenced to the maximum allowed under the laws providing for the punishment of a misdemeanor, or both such fine and sentence shall be imposed in the discretion of the state court, and such person so convicted shall also be subject to having his license revoked.

(Ord. No. 2000-30, 11-20-00)

DIVISION 3. MALT BEVERAGES

Sec. 3-145. Annual license fee.

There is hereby levied an annual license fee and tax for all persons in the city for the sale of malt beverage.

See the schedule of fees on file in the city hall.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-146. Excise tax levied.

In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the city in the business of selling malt beverages, as defined under the laws of the state, there is imposed and levied upon all such retail dealers within the incorporated areas of the city an excise tax, to be computed and collected as hereinafter set forth.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-147. Amount of tax; computation.

The amount of tax imposed by this division on such dealers shall be computed on the following basis:

See the schedule of fees on file in the city hall.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-148. Payment of tax; records and reports; penalty.

The tax imposed herein shall be computable and payable monthly. Each wholesale dealer or distributor selling, shipping, or delivering malt beverages to any retail dealer in the unincorporated areas of the city, whether delivered to the dealer's place of business for resale or not, shall as a condition to the privilege of carrying on said business in the city:

- (1) Keep true and correct records of all sales, shipments, or deliveries of such malt beverages to each retail dealer in the city, such records to be preserved for a period of one (1) year and to be made available on request for the inspection of any duly authorized representative of the city.
- (2) Collect from each such retail dealer in the city at the time of delivery of the malt beverages the amount of tax due under the terms of this section and hold the same in trust for the city until such amount is remitted to the city as next provided.
- (3) On or before the twentieth day of each calendar month make a verified and comprehensive report to the city which shall correctly show all sales and deliveries of malt beverages to or for retail dealers in the city for the month immediately preceding said report. Said report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this section, and such other information as may be called for by the governing body. Said report shall be accompanied by remittance to the city for all taxes collected or due as shown on said report. Failure of the wholesale dealer or distributor to remit the taxes herein required will result in a penalty of ten (10) percent of the tax due, in addition to the tax due.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-149. Failure to make report or remit tax; notice revocation of license.

If any wholesale dealer or distributor fails or refuses to make the reports herein provided for, the governing body shall notify said party in writing, and if the reports are not made and the taxes remitted within five (5) days from date of said notice, the governing body may withdraw from said wholesale dealer or distributor the privilege of doing business in the city by revoking his license.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-150. Unpaid taxes; violation.

It shall be a violation of this chapter for any person to sell at retail within the city any malt beverages on which the taxes herein provided for have not been paid.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-151. Failure to collect taxes at delivery; violation.

It shall be unlawful and a violation of this section for any wholesale dealer or distributor, to deliver any malt beverages to any retail dealer in the city without collecting the taxes herein provided for at the time of delivery.

(Ord. No. 2000-30, 11-20-00)

DIVISION 4. FERMENTED WINE

Sec. 3-152. Annual license fee.

The annual license fee for the various wine licenses for the city will be as follows:

See the schedule of fees on file in the city hall.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-153. Excise tax levied.

In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the city in the business of selling naturally fermented wines, as defined under the laws of the state, there is imposed and levied upon all such retail dealers within the city an excise tax, to be computed and collected as hereinafter set forth.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-154. Amount of tax; computation.

The amount of tax imposed by this division on such dealers shall be computed on the following basis:

See the schedule of fees on file in the City Hall.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-155. Payment of tax; records and reports; penalty.

The tax imposed herein shall be computable and payable monthly. Each wholesale dealer or distributor selling, shipping, or delivering wine to any retail dealer in the city, whether delivered to the dealer's place of business for resale or not, shall as a condition to the privilege of carrying on said business in the city.

- (1) Keep true and correct records of all sales, shipments, or deliveries of such wine to each retail dealer in the city, such records to be preserved for a period of one (1) year and to be made available on request for the inspection of any duly authorized representative of the city.

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- (2) Collect from each such retail dealer in the city at the time of delivery of the wine the amount of tax due under the terms of this section and hold the same in trust for the city until such amount is remitted to the city as next provided; and
 - (3) On or before the twentieth day of each calendar month make a verified and comprehensive report to the city which shall correctly show all sales and deliveries of wine to or for retail dealers in the city for the month immediately preceding said report. Said report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this section, and such other information as may be called for by the city. Said report shall be accompanied by remittance to the city for all taxes collected or due as shown on said report. Failure of the wholesale dealer or distributor to remit the taxes herein required will result in a penalty of ten (10) percent of the tax due, in addition to the tax due.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-156. Failure to make report or remit tax; notice revocation of license.

If any wholesale dealer or distributor fails or refuses to make the reports herein provided for, the governing body shall notify said party in writing, and if the reports are not made and the taxes remitted within five (5) days from date of said notice, the governing body may withdraw from said wholesale dealer or distributor the privilege of doing business in the city by revoking his license.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-157. Unpaid taxes; violation.

It shall be a violation of this chapter for any person to sell at retail within the city any wines on which the taxes herein provided for have not been paid.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-158. Failure to collect taxes at delivery; violation.

It shall be unlawful and a violation of this section for any wholesale dealer or distributor, to deliver any wines to any retail dealer in the city without collecting the taxes herein provided for at the time of delivery.

(Ord. No. 2000-30, 11-20-00)

DIVISION 5. TAXATION OF BEVERAGES BY THE DRINK

Sec. 3-159. Definitions.

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

Agent means the license representative.

Drink means any alcoholic beverage served for consumption on the premises which may or may not be diluted by any other liquid.

Monthly period means the calendar months of any year.

Purchase price means the consideration received for the sale of alcoholic beverages by the drink valued in money, whether received in cash or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction whatsoever.

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

Tax means the tax imposed by this article.

(Ord. No. 2015-016, § 7, 6-1-15)

Sec. 3-160. Tax levied.

There is imposed and there shall be paid a tax of three (3) percent of the purchase price of every sale of an alcoholic beverage (but not including malt beverages, fermented wines or fortified wines) purchased by the drink in the city.

(Ord. No. 2015-016, § 7, 6-1-15)

Sec. 3-161. Collection of tax; information to city.

Every licensee or his agent is authorized and directed to collect the tax imposed in this article from purchasers of alcoholic beverages (but not including malt beverages, fermented wines or fortified wines) by the drink sold within the licensed premises. Such licensee or his agent shall furnish such information as may be requested by the city to facilitate the collection of this tax.

(Ord. No. 2015-016, § 7, 6-1-15)

Sec. 3-162. Payment of tax by licensee; collection fee.

- (a) *Due date of taxes.* All taxes collected by any licensee or agent under this article shall be due and payable to the city on or before the twentieth day of every month next succeeding each respective monthly period as set forth in this article.
- (b) *Return; time of filing; persons required to file.* On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the permits and licenses clerk in such form as the city may prescribe, by every licensee or agent liable for the payment of tax under this article.
- (c) *Delivery of return and remittance.* The person required to file the return shall deliver the return, together with the remittance of the net amount of tax due, to [the] permits and licenses clerk.
- (d) *Collection fee allowed licensees or agents.* Licensees or agents collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of deduction shall be the same rate authorized by O.C.G.A. § 3-4-133.

(Ord. No. 2015-016, § 7, 6-1-15)

Sec. 3-163. Deficiency determinations.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the permits and licenses clerk is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the city by any person, the permits and licenses clerk may compute and determine the amount required to be paid upon the basis of any information within his or her possession or that may come into his or her possession. One (1) or more than one (1) deficiency determinations may be made of the amount due for one (1) or more than one (1) monthly period.
- (b) *Interest on deficiency.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction of a month, from the twentieth day after the close of the monthly period for which the amount or any portion should have been returned, until the date of payment.
- (c) *Offsetting of overpayments.* In making a determination, the permits and licenses clerk may offset overpayments; for a period or periods, against underpayments; for another period or periods, against penalties; and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in subsection 3-164(c).
- (d) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to gross negligence or disregard of rules and regulations, a penalty of fifteen (15) percent of the amount of such deficiency shall be added.
- (e) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination has been made is due to fraud or intent to evade any provision of this article or other authorized rules and regulations, a penalty of twenty-five (25) percent of the deficiency shall be added, in addition to the fifteen (15) percent penalty provided in subsection (d) of this section.
- (f) *Notice of permits and licenses clerk's determination; service of.* The permits and licenses clerk or his or her designated representative shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his address as it appears in the records of the permits and licenses clerk. In the case of service by mail of any notice required by this article, the service is complete at the time of deposit in the United States Post Office.
- (g) *Time within which notice of deficiency determination to be mailed.* Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the tenth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

(Ord. No. 2015-016, § 7, 6-1-15)

Sec. 3-164. Determination if no return made.

- (a) *Estimate of gross receipts.* If any licensee fails to make a return, the permits and licenses clerk shall make an estimate of the amount of the gross receipts of the licensee, or as the case may be, of the amount of the total sales in the city which are subject to the tax. The estimate shall be made for the periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the permits and licenses clerk. Upon the basis of this estimate, the permits and licenses clerk shall compute and determine the amount required to be paid to the city, adding to the sum thus determined a penalty equal to fifteen (15) percent. One (1) or more determinations may be made for one (1) or for more than one (1) period.

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- (b) *Manner of computation; offsets; interest.* In making a determination, the permits and licenses clerk may offset overpayments for periods against the interest, penalties or underpayments. The interest on underpayments shall be computed in the manner set forth in subsection (c) of this section.
 - (c) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction of a month, from the tenth day of the month following the monthly period, for which the amount or any portion should have been returned, until the date of payment.
 - (d) *Penalty for fraud or intent to evade.* If the failure of any person to file a return is due to fraud or an intent to evade this article or rules and regulations, a penalty of twenty-five (25) percent of the amount required to be paid by the person, exclusive of penalties, shall be added in addition to the fifteen (15) percent penalty provided in section 3-165.
 - (e) *Giving of notice; manner of service.* Promptly after making his determination, the permits and licenses clerk shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(Ord. No. 2015-016, § 7, 6-1-15)

Sec. 3-165. Penalties and interest for failure to pay tax.

Any person who fails to pay the tax imposed in this article to the city or fails to pay any amount of such tax required to be collected and paid to the city within the time required shall pay a penalty in the amount of fifteen (15) percent of the tax plus interest on the unpaid tax or any portion of the tax as set forth in section 3-164(c).

(Ord. No. 2015-016, § 7, 6-1-15)

Sec. 3-166. Administration; enforcement; rules; records; confidentiality of reports.

- (a) *Authority of the permits and licenses clerk.* The permits and licenses clerk shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.
- (b) *Rules and regulations.* The permits and licenses clerk shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the state, or the constitution of this state or the United States for the administration and enforcement of the provisions of this article and the collection of the taxes under this article.
- (c) *Records required from licensee; form.* Every licensee for the sale of alcoholic beverages by the drink in the city shall keep such records, receipts, invoices and other pertinent papers in such form as the permits and licenses clerk may require.
- (d) *Examination of records; audits.* The permits and licenses clerk or any person authorized in writing by the city may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.
- (e) *Authority to require reports; contents.* In the administration of the provisions of this article, the permits and licenses clerk may require the filing of reports by any person or class of persons having in such person's possession or custody information relating to the sales of alcoholic beverages which are subject to the tax. The reports shall be filed with the permits and licenses clerk and shall set forth the price charged for each sale, the dates of such sales, and such other information as the permits and licenses clerk may require.

(Ord. No. 2015-016, § 7, 6-1-15)

Sec. 3-167. Penalties.

Any person found guilty of violating any of the provisions of this article shall be deemed guilty of a misdemeanor offense and upon conviction in the municipal court shall be punished as provided in section 1-8. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by such person, and shall be punished accordingly.

(Ord. No. 2015-016, § 7, 6-1-15)

Secs. 3-168—3-180. Reserved.

ARTICLE IV. ENFORCEMENT

Sec. 3-181. Compliance with chapter.

- (a) It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages without having first complied with the provisions of this chapter.
- (b) The police department shall from time to time visit licensed premises and determine compliance with this chapter.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-182. Criminal penalties for violation of chapter; administrative actions.

- (a) Alleged violations of this chapter may be cited to any court as provided by law and ordinance. Convictions under this chapter shall be punishable in the municipal court by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days, or both. Convictions may be considered due cause for suspension or revocation of any license by the governing authority.
- (b) The governing authority may and normally shall take administrative action under this chapter independent of court citations or the lack thereof, and independent of the disposition or lack of disposition thereof.
- (c) The intent of the table below is to be a guide for the governing authority in providing for fair and consistent procedures and possible penalties for alleged violations of this chapter. The authority to deviate from this guide, including but not limited to provisions regarding show cause hearings, computation of number of offenses, time periods, and penalties, is expressly reserved to the governing authority, as is the authority to consider mitigating circumstances in deciding upon possible penalties. The table calls for increased sanctions per increased violations or per increased class or seriousness; thus, among classes, a third offense under the least serious class III triggers sanctions that are reached on a second offense in the more serious class II or on a first offense in the most serious class I; and within the same class, sanctions increase as the number of violations increase. The table reflects a willingness to give a licensee the benefit of the doubt, with respect to administrative action, for an initial offense on the part of the licensee or the employee of the licensee, but to be less willing to do so upon subsequent violations. The table assumes routine enforcement efforts on the part of law enforcement officers.

Table To Be Used As A Guide For Possible Penalties At Show Cause Hearings

Offense	Class III Violations (less serious)	Class II Violations (serious)	Class I Violations (most serious)
	§ 3-52 License to be displayed	All sections of chapter not listed under class I or III	§ 3-61 Exotic dancing in connection with pouring licensee
	§ 3-55 Pricing		
	§ 3-56 Prices to be conspicuously displayed		§ 3-66 Sales to certain persons prohibited
First ¹	Warning letter	5-year class II probation ³	0 to 30-day suspension ² , 5-year class I probation
Second	5-year class III probation	0 to 15-day suspension, 5-year class II probation	30- to 60-day suspension, 5-year class I probation
Third	0 to 30-day suspension, 5-year class III probation	15- to 60-day suspension, 5-year class II probation	60- to 180-day suspension, 5-year class I probation
Fourth	30- to 60-day suspension, 5-year class III probation	60- to 180-day suspension, 5-year class II probation	180-day to 1-year suspension, 5-year class I probation
Fifth	60- to 180-day suspension, 5-year class III probation	180-day to 1-year suspension, 5-year class II probation	Revocation of license

¹ Number of offenses are to be tallied over a five-year period through and preceding the date of the most recent alleged violation.

City officials shall keep a list of offenses on record for each licensee. "Fifth" offenses applies to fourth or more offenses.

Offenses in one (1) class shall not be counted towards the number of offenses in a different class.

² Suspensions should not be redeemable through payment of a fine or buy-out provision. Length of suspension should be based on mitigating factors as determined by governing authority.

³ Probation should be for possible subsequent violations in that class only.

(d) In addition to the penalties provided herein for violation of this chapter, a licensee may be required, at his own expense, to repeat a responsible alcohol sales and service training course, at the discretion of the mayor and City Council.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2002-18, § 2, 8-19-02; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-183. Suspension and revocation of license by the governing authority.

- (a) *Hearing required; due cause prerequisite.* No license which has been issued or which may hereafter be issued by the city to any agent of or any person, partnership, corporation, retail dealer, for sale of any type of alcoholic beverages shall be suspended or revoked, except for due cause as defined in subsection (c) of this section and after a hearing requiring the licensee to appear and show cause to the mayor and council of the city why such license should not be suspended or revoked. At any such hearing, all parties to the hearing shall be entitled to be represented by counsel and shall be entitled to all subpoena powers provided by this Code or the City Charter, together with the right to examine all such witnesses under oath.
- (b) *Notice of hearing.* Notice in writing by the permits and licenses clerk addressed to the holder of such license stating the time, place and purpose of such show-cause hearing and a statement of the accusation upon

which such hearing shall be held shall be delivered to the licensed location. Not less than three (3) nor more than twenty (20) days' notice of such hearing shall be deemed reasonable notice. However, shorter or longer periods shall be authorized as the mayor and council determine that the circumstances justify. Upon application in writing by the license holder, any witness or any party at interest, showing good cause and not for purposes of delay only, the hearing date may be advanced or continued, in which event no further notice shall be required in writing.

- (c) *Definition.* The expression "due cause" for the suspension or revocation of such license shall include, but not be limited to:
- (1) The violation of any provision of this chapter by the license holder, partner, officer, director, principal stockholder (who owns more than ten (10) percent ownership) or any employee engaged in the sale of alcoholic beverages, of this Code or any other ordinance or duly adopted regulation of the city, except misdemeanor traffic violations by the above-named persons, partnership, corporation or entity;
 - (2) The violation of any provision of this chapter by the license holder, partner, officer, director, principal stockholder (who owns more than ten (10) percent ownership) or any employee engaged in the sale of alcoholic beverages, of any state law or regulation, any county ordinance or regulation, or any other ordinance, regulation or law regulating such businesses, or violation of any regulation made pursuant to authority granted for the purpose of regulating such business, or for the violation of any law of the United States of America, except misdemeanor traffic violations by the above-named persons, corporation or entity;
 - (3) Falsifying, false swearing regarding or omission of any fact affecting the license application or any supplemental information required during the term of the license, with regard to the location of the business or the license holder, partner, officer, director, principal stockholder (who owns more than ten (10) percent ownership) or any employee engaged in the sale of alcoholic beverages; or any reason which would authorize the mayor and council of the city to refuse the issuance of a license;
 - (4) The violation of any term, condition or provision of this chapter in any particular or as to any detail whatsoever shall be due and conclusive cause for suspension or revocation of any license described in this chapter;
 - (5) The sale or offer of sale of any alcoholic beverage to any minor, as defined and prohibited by the laws of the state, or to any person under the age of twenty-one (21) years; or the failure to "card" or require proof of age, together with proof of the legal ability to purchase alcoholic beverages of any person under the age of twenty-one (21) years; or the failure to report to the police department of the city, in writing, any attempt to purchase alcoholic beverages by a minor or other person not entitled to make such purchase within twenty-four (24) hours of such attempted purchase; or
 - (6) When the sale of alcoholic beverages at any location shall become a nuisance; shall adversely affect the public health, safety, morals or welfare of the community; or require police protection, enforcement or supervision to the extent not required by other retail sales of consumer goods or products.
- (d) *Refund of license fee.* In the event of revocation or suspension by the mayor and council, the licensee shall not be entitled to a refund or return of any portion of the license fee.
- (e) *Provisions cumulative.* The remedies and actions provided in this article, including but not limited to the suspension or revocation of the license, shall be cumulative, in addition to and nonexclusive of any other action, civil or criminal, pending, resolved or threatened, regarding the license, location, owner of the business or licensee.
- (f) *Emergency action by mayor.* Upon certification in writing to the mayor by any city or county official or duly sworn peace or police officer of the city, the county or state of any violation of the provisions of this chapter, and that such or other violations are continuing or are likely to continue or occur, the mayor shall be authorized to call for and cause notice to be given to the council and license holder for an emergency hearing

to show cause why such license should not be suspended or revoked as provided under this chapter. In the event an emergency show-cause hearing shall be called by the mayor, the license shall be suspended from the time and date of delivery of such notice through the date and time of the show-cause hearing.

- (g) *Authority to suspend or revoke.* At any show-cause hearing, based upon the evidence presented as to the nature of the violation, the number or frequency of violations under the license held or at the subject location and any other pertinent information, the mayor and council shall be authorized to probate or to suspend such license for any appropriate time up to six (6) months or to permanently revoke such license.
- (h) *Provision of schedule.* The governing body may from time to time provide for a schedule prescribing the length of suspensions, revocation, or other penalties as it may determine appropriate to the nature of the offense, the person committing the offense, and other such factors as it may deem appropriate. Such schedule shall be on file with the permits and licenses clerk.

(Ord. No. 2000-30, 11-20-00; Ord. No. 2017-012 , § 1, 5-1-17)

Sec. 3-184. Automatic revocation of city license upon revocation of state license.

Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the city license to manufacture or deal in such products shall thereupon be automatically revoked without any action by the mayor or governing body.

(Ord. No. 2000-30, 11-20-00)

Sec. 3-185. Removal of signs after revocation.

When any license for selling alcoholic beverages is revoked, all signs indicating that such beverage may be sold or purchased shall be removed from the place of business, both outside and inside. Upon receipt by the police department of notice of such revocation, the police department shall take the necessary steps to see that this section is enforced.

(Ord. No. 2000-30, 11-20-00)

Secs. 3-186—3-200. Reserved.

ARTICLE V. VARIANCES

Sec. 3-201. Variance.

- (a) Relief from the application of the provisions of this chapter may be granted by the mayor and City Council in their discretion,, except to the extent such variance would be in violation of Title 3 of the Official Code of Georgia Annotated or any other state laws (b) (d) If denied, an application for a variance affecting the same property shall not be reconsidered for a period of twelve (12) months from the date of denial; provided, however, that the mayor and City Council may reduce the waiting period under extenuating circumstances or on its own motion.

(Ord. No. 2009-66, § 1, 12-29-09)

Sec. 3-202. Process.

- (a) An application for variance may be initiated by any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner of the property or business affected, or the authorized representative.
- (b) All applications shall be submitted to the office of the city manager or his/her designated department on the city's application forms and shall be accompanied by a nonrefundable fee as set by the mayor and City Council
- (c)
- (f) The office of the city manager or his/her designated department shall review the application for completeness within five (5) working days of submission. Incomplete or improper applications will be returned to the applicant. The city manager or his/her designee shall then schedule the variance application for consideration at the next meeting of the mayor and City Council for which adequate public notice can be given.
- (g) (j) At least fifteen (15) days but not more than forty-five (45) days prior to each public hearing, notice shall be published in a newspaper of general circulation within the city. The notice shall state the time, place and purpose of the hearing. The applicant shall be required to post and maintain signs as required under Sec. 14-30 of the Powder Springs Unified Development Code.
- (k) (2)(n) Work sessions of the mayor and council may be convened from time-to-time to discuss pending matters prior to public hearings. Work sessions at which variance applications are to be discussed shall be attended by the applicant or representative thereof with authority to make binding commitments to the city with respect to any stipulations that may be offered in connection with such application. Failure to attend the work session may result in the application being tabled one time. Failure to attend a rescheduled work session shall result in denial of the application. The requirements of this subsection may be waived by the mayor and City Council, as the case might be, upon good cause shown.
- (o) The public hearing will be convened at the scheduled time and place by the mayor or an appointed designee, as appropriate, who will act as the presiding official. (p) The public hearing shall be attended by the applicant or representative thereof with authority to make binding commitments to the city with respect to any stipulations that may be offered in connection with such application. Failure to attend the hearing may result in the application being tabled one time. Failure to attend a rescheduled hearing shall result in denial of the application. The requirements of this subsection may be waived by the mayor and City Council, as the case might be, upon good cause shown.
- (q)
- (r) At any public hearing on the application, action shall be considered by vote of the members present. A motion to approve or deny an application must be approved by an affirmative vote of at three Council members in order for the motion to be approved. If a motion to approve fails, the application is automatically denied. If a motion to deny fails, another motion would be in order. A tie vote on a motion for approval shall be deemed a denial of the application. A tie vote on any other motion shall be deemed to be no action, and another motion would be in order. If no action is taken by the mayor and City Council, it shall be considered tabled and action deferred to the next regular meeting of the mayor and City Council.
- (s) (u) A decision of the mayor and City Council shall be final and may be appealed only to a court of competent jurisdiction. Such appeal must be taken within thirty (30) days of the decision of the mayor and City Council. Reconsideration of an appeal under court order shall follow the same procedures of this article as though a new application.

(Ord. No. 2009-66, § 1, 12-29-09)

