

ALCOHOLIC BEVERAGES

Chapter 4

**ALCOHOLIC BEVERAGES\***

**Art. I. In General, §§ 4-1—4-20**

**Art. II. Malt Beverage Dealers, §§ 4-21—4-90**

Div. 1. Generally, §§ 4-21—4-45

Div. 2. License, §§ 4-46—4-70

Div. 3. Excise Tax on Wholesale Dealers, §§ 4-71—4-90

**Art. III. Wine Dealers, §§ 4-91—4-160**

Div. 1. Generally, §§ 4-91—4-115

Div. 2. License, §§ 4-116—4-140

Div. 3. Excise Tax on Wine, §§ 4-141—4-160

**Art. IV. Retail Dealers in Distilled Spirits, §§ 4-161—4-224**

Div. 1. Generally, §§ 4-161—4-190

Div. 2. License, §§ 4-191—4-220

Div. 3. Excise Tax on Distilled Spirits, §§ 4-221—4-230

**Art. V. Distilled Spirits Sold by the Drink, §§ 4-231—4-261**

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\***Cross reference**—Alcoholic beverages prohibited in Monroe Hills Memorial Gardens, § 8-57.

**State law reference**—Alcoholic beverages, OCGA Title 3.

## ALCOHOLIC BEVERAGES

### ARTICLE I. IN GENERAL

#### Sec. 4-1. Definitions.

Unless the context otherwise demands, the words and terms used in this chapter shall have the definitions and meanings set out in Section 3-1-2 of the Official Code of Georgia Annotated, as now existing or as hereafter amended. The word "liquor," as used in this chapter, shall mean distilled spirits, as defined in such section.

(Code 1967, §§ 3-1, 3-51; Ord. of 7-7-81, § 1; Ord. of 12-7-82, § 1)

#### Sec. 4-2. Consumption in public places.

It shall be unlawful for any person to consume any alcoholic beverage in any public place within the city, unless such place is licensed for on-premises consumption of such beverage.

(Code 1967, § 15-8)

**State law reference**—Authority of city to prohibit use of alcoholic beverages at stated places, OCGA § 37-8-11.

#### Sec. 4-3. Furnishing to persons under certain ages.

(a) No person shall knowingly, by himself or through another, furnish, cause to be furnished, or permit any person in his employ to furnish, any alcoholic beverage to any person under twenty (20) years of age. After September 30, 1986, no person shall knowingly, by himself or through another, furnish, cause to be furnished, or permit any person in his employ to furnish, any alcoholic beverage to any person under twenty-one (21) years of age.

(b) The prohibition contained in subsection (a) of this section shall not apply with respect to the sale of any alcoholic beverage by a person, when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is twenty (20) years of age or older, or, after September 30, 1986, showing that the person to whom the alcoholic beverage is sold is twenty-one (21) years of age or older. For purposes of the subsection, 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 authorized under Sections 40-5-100 through 40-5-104 of the Official Code of Georgia Annotated. "Proper identification" shall not include a birth certificate.

(Code 1967, §§ 3-23, 3-74; Ord. of 12-7-82, § 6; Ord. of 1-7-86, § 1)

**State law reference**—Similar provisions, OCGA § 3-3-23.

#### Sec. 4-4. Possession by persons under certain years of age.

(a) It shall be unlawful for any person under twenty (20) years of age to have in his possession within the city any alcoholic beverage; and after September 30, 1968, it shall be unlawful for any person under twenty-one (21) years of age to have in his possession within the city any alcoholic beverage.

(b) This section shall not apply to any person who is at least eighteen (18) years of age and is an active member of the regular armed forces of the United States.

(Code 1967, §§ 3-23, 3-74; Ord. of 1-7-86, § 2)

**State law references**—Similar provisions, OCGA § 3-3-23; authority of city to prohibit possession of alcoholic beverages by particular class of persons, § 37-8-11.

## ALCOHOLIC BEVERAGES

### **Sec. 4-5. Issuance by city council of temporary permits for the sale of nonprofit civic organizations of alcoholic beverages for consumption only on premises.**

(a) Upon the filing of an application and payment of a fee of twenty-five dollars (\$25.00) by a bona fide nonprofit civic organization, the city council may issue a permit authorizing the organization to sell malt beverages, beer, and wine for consumption only on the premises for a period not to exceed one (1) day, subject to any state law or city code or ordinance regulating the time for selling such beverages.

(b) No more than two (2) such permits may be issued to an organization in any one (1) calendar year pursuant to this section.

(c) Permits issued pursuant to this section shall be valid only for the place specified in the permit. No permit may be issued unless the sale of wine, beer or malt beverages is lawful at the place for which the permit is issued.

(d) The organization issued any temporary permit under the provisions of this section shall also obtain any necessary state permits with regard to the temporary sale by nonprofit civic organizations of alcoholic beverages for consumption only on premises.

(Ord. of 3-7-89, § 1)

**Secs. 4-6—4-20. Reserved.**

## **ARTICLE II. MALT BEVERAGE DEALERS\***

### DIVISION 1. GENERALLY

#### **Sec. 4-21. Definitions.**

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

*Retail dealer* means any person selling malt beverages directly to the consumer under a license which does not specifically provide for the consumption of such beverages upon the premises where they are sold.

*Retail pouring dealer* means any person selling malt beverages directly to the consumer in any establishment holding a license which authorizes the consumption of such beverage upon the premises where such beverages is sold.

*Wholesale dealer* means any person selling malt beverages to retailers and not directly to the consumers.  
(Code 1967, § 3-1)

#### **Sec. 4-22. Copy of article to be kept on premises; instructions as to, and familiarity with, provisions of article.**

Every holder of a license for the sale of malt beverages shall keep a copy of this article on his premises and instruct any person working on such premises with respect to the terms of this article and each licensee and person selling malt beverages shall at all times be familiar with the terms of this article.

(Code 1967, § 3-2)

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\*State law reference—Malt beverages, OCGA § 3-5-1 et seq.

## ALCOHOLIC BEVERAGES

### **Sec. 4-23. Inspection of premises by police.**

The business premises of the holder of a license for the sale of malt beverages, including out buildings shall be open to inspection, at any and all times, by police officers of the city.

(Code 1967, § 3-13)

### **Sec. 4-24. Advertising signs.**

(a) No wholesale dealer or retail dealer shall advertise malt beverages by the use of signs, except as follows:

(1) Unlighted signs, using letters not larger than eight (8) inches in height, located flat against the outside of the building and below the roof line and bearing the words "malt beverages," "beer," or any combination thereof, together with the trade name or style of the dealer, may be used. Similar lighted signs, located inside the place of business and so placed as not to obstruct the view of the inside of the place of business from the outside, may be used.

(2) Signs, lighted, or unlighted, not larger than eight (8) inches in height and bearing the word "open," may be displayed inside the place of business in such manner as not to obstruct the view of the inside of the place of business from the outside.

(b) Outside signs permitted by this section shall not be lighted, nor shall the dealer's place of business be otherwise lighted, except at such times such place is open for business as authorized by law or this article. This subsection shall not prohibit a night light for safety purposes.

(Code 1967, § 3-18)

**Cross reference**—Signs abutting or visible from I-75 right-of-way, § 3-16 et seq.

### **Sec. 4-25. Sign on beverage box.**

The holder of a license for the sale of malt beverages shall post on his beverage box a printed sign, in letters at least four (4) inches high, reading as follows: "Sale of malt beverages to persons under twenty (20) strictly prohibited." After September 30, 1986, the sign referred to herein shall read: "Sale of malt beverages to persons under twenty-one (21) strictly prohibited."

(Code 1967, § 3-19; Ord. of 1-7-86, § 3)

**State law reference**—Posting of notice as to sale of alcoholic beverages to underage persons, OCGA § 3-3-24.2.

### **Sec. 4-26. Allowing minors to dispense malt beverages.**

No person shall allow or require a person in his employment, who is under eighteen (18) years of age, to dispense, serve, or sell, or take orders for, malt beverages. The provisions of 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 malt beverages which are sold for consumption off the premises.

(Code 1967, § 3-22; Ord. of 7-7-81, § VI; Ord. of 11-3-81)

**State law references**—Similar provisions, OCGA § 3-3-24; authority of city to prohibit sale or dispensing of alcoholic beverages by particular class of persons, § 37-8-11.

## ALCOHOLIC BEVERAGES

### **Sec. 4-27. Consumption of malt beverages on retailer's premises.**

No holder of a retail dealer's license shall allow malt beverages to be consumed on his premises and any license shall be held responsible for such consumption by his customers or any other person. This section shall not apply to those persons or establishments holding retail pouring dealer's licenses.

(Code 1967, § 3-20)

### **Sec 4-28. Sale of malt beverages during certain hours and on certain days prohibited.**

(a) No malt beverages shall be sold or offered for sale in the city between the hours of 12:00 midnight on Saturday and 7:00 a.m. on the following Monday, or between the hours of 1:00 a.m. and 7:00 a.m. on the other days of this week.

(b) No malt beverages shall be sold or offered for sale in the city on Sundays, Christmas Day, or any other day on which the sale shall be prohibited by order of the city council.

(c) No later than 1:00 a.m. on Sunday, and no later than 1:30 a.m. on the other days of the week when malt beverages may be sold or offered for sale in the City of Forsyth, all patrons and customers of any establishment holding a retail pouring dealer's license for malt beverages shall vacate the premises and the doors to such establishment shall be closed and locked. This subsection shall not apply to a restaurant which serves prepared, cooked meals and which derives at least seventy-five (75) percent of its gross revenue from the sale of food and nonalcoholic beverages; provided, however, that this exception shall not be construed as authorizing the sale or offering for sale of malt beverages when the same is prohibited by subsection (a) of this section. Except during the times as set out in this Section 4-28, no retailer licensed hereunder shall be in his place of business, or open his place of business, or furnish, sell or offer for sale any alcoholic beverages.

(Code 1967, § 3-14; Ord. of 7-7-81, § V; Ord. of 11-3-81; Ord. of 1-21-86, § 1; Ord. of 3-17-87, § 2)

**State law references**—Similar provisions as to sale on Sunday and election day and authority of city to prohibit sale on Christmas Day, OCGA § 3-3-20; authority of city to prohibit sale on of alcoholic beverages at stated times, § 37-8-11.

### **Sec. 4-29. Separation of stock and locking of same when sale prohibited.**

All holders of a license for the sale of malt beverages shall separate the stock of malt beverages from nonalcoholic merchandise, so that such stock may be closed off or completely covered at all times when the sale of malt beverages is prohibited, and the same shall be closed off or completely covered at such times. Freestanding displays of malt beverages shall be allowed provided that such displays do not commingle with nonalcoholic merchandise, and provided that such freestanding displays of malt beverages can be closed off or completely covered at all times when the sale of malt beverages are prohibited, and such freestanding displays shall be closed off or completely covered at such times.

(Code 1967, § 3-15; Ord. of 3-17-87, § 1)

### **Sec. 4-30. Sales to intoxicated persons.**

No wholesale or retail dealer shall sell any malt beverage to any person who is in a state of noticeable intoxication.

(Code 1967, § 3-24)

**State law reference**—Similar provisions, OCGA § 3-3-22.

## ALCOHOLIC BEVERAGES

**Secs. 4-31—4-45. Reserved.**

### DIVISION 2. LICENSE\*

**Sec. 4-46. Required.**

No malt beverage shall be sold in the city except under a license issued in accordance with this division.  
(Code 1967, § 3-3)

**State law reference**—Local license required, OCGA §§ 3-3-2, 3-5-40.

**Sec. 4-47. Application generally.**

All applicants for a license under this division shall apply therefor in person at the office of the city clerk and shall file a completed application form furnished for this purpose by the clerk.

(Code 1967, § 3-7)

**Sec. 4-47.1. Publication of notice of application.**

A notice of each application for a license under this division shall be advertised, in the official newspaper in the city in which sheriff's advertisements are made, once a week for two (2) weeks immediately preceding the meeting of the city council at which the application is to be acted upon. The advertisement shall contain the name of the applicant, the purpose of the application, the proposed location of the business and the names of the owners.

**Sec. 4-48. Applicant's bond generally.**

An applicant for a license for the sale of malt beverages shall file with is application a personal performance bond, in the amount of one thousand dollars (\$1,000.00), to ensure compliance with all laws, rules, regulations, and ordinances of the city. If the application is approved, such bond shall remain in force so long as the license is valid.

(Code 1967, § 3-7; Ord. of 12-17-81, § I)

**Sec. 4-49. Applicant's fingerprints.**

All applicants for a license for the sale of malt beverages shall furnish a complete set of fingerprints, which shall be forwarded to the Georgia Bureau of Investigation, which shall search the files of the Georgia Crime Information Center, for a period of two (2) years immediately preceding the date of the application, for any instance of criminal activity. The Georgia Bureau of Investigation shall also submit such fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification records. The federal record, if any, shall be obtained and returned to the city.

Ord. of 7-7-81, § II)

**State law reference**—Similar provisions, OCGA § 3-3-2.

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\***Cross reference**—Licenses generally, Ch. 12.

## ALCOHOLIC BEVERAGES

### **Sec. 4-50. Fee.**

(a) The annual fee for a license required by this division shall be as follows:

(1) For a wholesale dealer's license, one hundred dollars (\$100.00).

(2) For a retail dealer's license, two hundred fifty dollars (\$250.00).

(3) For a retail pouring dealer's license, one hundred fifty dollars (\$150.00). Such fee shall be in addition to the license fee charged for a retail dealer's license. No person shall be issued a retail pouring dealer's license unless such person has first secured a retail dealer's license.

(b) No license fee prescribed by this section shall be prorated for a fraction of a year.

(Code 1967, §§ 3-4, 3-5; Mo. of 1-20-80)

**State law references**—License fee to be fixed by council, OCGA § 3-5-42; limitation on a wholesale dealer's license fee, OCGA § 3-5-43.

### **Sec. 4-51. Grant on denial generally.**

(a) In considering an application for a license under this division, the city council may, in its sole discretion, consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application or proposed location of the business. If, in its judgment, circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.

(b) No license shall be granted under this division to an applicant who has been convicted under any federal, state, or local law for a criminal offense involving moral turpitude, or has been convicted under any federal, state, or local law of any criminal offense involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant would not maintain the operation for which he is seeking a license in conformity with federal and state law and the ordinances of the city.

(Code 1967, §§ 3-8, 3-9)

**State law reference**—Powers of council as to grant or denial of license, OCGA § 3-3-2.

### **Sec. 4-52. Not to be granted for premises near church, school, or college.**

No license to sell malt beverages shall be granted, if the proposed location is within three hundred (300) feet of a church or a school or college building in which the subjects commonly taught in the public schools of the state are taught. In determining compliance with this section, the distance shall be determined by measuring along the curb or outer edge of the sidewalk from the entrance of the selling establishment to the nearest entrance of a church, school, or college building.

(Code 1967, § 3-10)

**State law reference**—Sale of malt beverages near school or colleges, OCGA § 3-3-21.

### **Sec. 4-53. Notice of, and hearing on, denial.**

No application for a license under this division shall be denied unless the applicant has been given at least three (3) days written notice, in person or by registered mail, of the intention of the council to refuse to grant the license, which notice shall state the reasons for such action. Upon application made within five

## ALCOHOLIC BEVERAGES

(5) days of receipt of the notice, the applicant shall be afforded a hearing, with opportunity to present evidence and cross-examine opposing witnesses. The applicant may appear at such hearing in person and by attorney.

(Ord. of 7-7-81, § IV; Ord. of 11-3-81)

### **Sec. 4-54. To be issued to specific person for specific location.**

A license required by this division shall be issued to a specific person and for a specific location.

(Code 1967, § 3-11)

### **Sec. 4-55. Term.**

Licenses shall be issued under this division for a calendar year.

(Code 1967, § 3-5)

### **Sec. 4-56. Display.**

All persons holding a license issued pursuant to this division shall display the license prominently at all times on the premises for which the license is issued.

(Ord. of 7-7-81, § I)

**State law reference**—Similar provisions, OCGA § 3-3-3.

### **Sec. 4-57. Not transferable; surrender if business sold or closed.**

No license for the sale of malt beverages shall be transferable, and in the event a licensed business is sold or closed, the licensee shall immediately surrender his license to the city clerk.

(Code 1967, § 3-11)

### **Sec. 4-58. Suspension or revocation; forfeiture of bond.**

(a) Any license for the sale of malt beverages may be suspended for a definite length of time or revoked and any part or all of the personal performance bond posted by the licensee under this division may be forfeited.

(b) The making of any statement on an application for a license to sell malt beverages which is later found to be false, shall constitute grounds for revocation of the license.

(c) The performance of any act prohibited by this chapter or the failure to perform any act required hereby, as well as the violation of this code or of any ordinance of the city or any law, state or federal, relating to the sale of alcoholic beverages, shall constitute grounds for the revocation of a license issued under this division.

(d) A license for the sale of malt beverages may be temporarily suspended and the place of business closed upon receipt of evidence by the city council or the chief of police of any violation referred to in this section.

(e) No license shall be revoked and no bond shall be forfeited under this section, unless the licensee has been given at least three (3) days written notice, in person or by registered mail, of the intention of the city council to take such action. The notice shall specify the time, place, and purpose of the hearing and

## ALCOHOLIC BEVERAGES

the charges upon which the council proposes to take action. At the hearing, the licensee shall have the right to appear, in person and by attorney, and the council and the licensee shall have the right to present evidence relating to the question as to whether or not a violation, as set forth in this section, has occurred, as well as evidence relating to any extenuating or mitigating circumstances.

(Code 1967), § 3-12)

**State law references**—Suspension of revocation of license, OCGA, §3-3-2, invalidity of state license when local license revoked, OCGA § 3-5-40.

### **Secs. 4-59—4-70. Reserved.**

#### DIVISION 3. EXCISE TAX ON WHOLESALE DEALERS\*

### **Sec. 4-71. Levied.**

There is hereby levied and imposed, upon each wholesale dealer selling malt beverages within the city, an excise tax in the amount specified in section 3-5-80 of the Official Code of Georgia Annotated.

(Ord. of 4-1-74, §§ 1, 2)

**State law reference**—Duties to levy above tax, OCGA § 3-5-80.

### **Sec. 4-72. Report of sales and payment of tax—Generally.**

Each wholesale dealer who has sold malt beverages within the city shall file a report, by the tenth day of each month, itemizing, for the preceding calendar month, the exact quantities of all malt beverages, by size and type of container, sold during the month within the city. Each such wholesale dealer shall remit to the city, on the tenth day of the month next succeeding the calendar month in which such sales were made, the amount of excise tax due in accordance with this division.

(Ord. of 4-1-74, § 3)

**State law reference**—Similar provisions, OCGA § 3-5-81.

### **Sec. 4-73. Same—Delinquency; false or fraudulent reports.**

(a) The failure to make a timely report and remittance pursuant to Section 4-72 shall render a wholesale dealer liable for a penalty equal to twenty (20) percent of the total amount due during the first thirty-day period following the date such report and remittance were due and a further penalty of twenty (20) percent of the amount of such remittance for each successive thirty-day period or any portion thereof during which such report and remittance are not made.

(b) The filing of a false or fraudulent report under this division shall render the wholesale dealer making such report liable for a penalty equal to one hundred (100) percent of the amount of the remittance which would be required under an accurate and truthful report.

(c) The failure to make a timely report or remittance or the filing of a false or fraudulent report under this division shall constitute grounds for the revocation of the business license issued by the city to the wholesale dealer involved.

(Ord. of 4-1-74, § 6)

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\***Cross reference**—Taxation generally, Ch. 22.

## ALCOHOLIC BEVERAGES

### **Sec. 4-74. Decal or other marking indicating payment not required.**

No decal, stamp, or other identifying marking evidencing payment of the tax imposed by this division shall be required on malt beverages sold within the city.

(Ord. of 4-1-74, § 4)

**State law reference**—Similar provisions, OCGA § 3-5-82.

### **Sec. 4-75. Tax additional to other fees, taxes or charges.**

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

(Ord. of 4-1-74, § 5)

### **Secs. 4-76—4-90. Reserved.**

## **ARTICLE III. WINE DEALERS\***

### **DIVISION 1. GENERALLY**

#### **Sec. 4-91. Definitions.**

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

*Retail wine dealer* means any person selling wine directly to the consumer under a license which does not specifically provide for the consumption of such beverage upon the premises where it is sold.

*Retail wine pouring dealer* means any person selling wine directly to the consumer in any establishment holding a license which authorizes the consumption of such beverage upon the premises where the same is sold.

*Wholesale wine dealer* means any person selling wine to retailers and not directly to consumers.

(Code 1967, § 3-51; Ord. of 7-7-81, § I)

#### **Sec. 4-92. Copy of article to be kept on premises; instruction as to, and familiarity with, provisions of article.**

Every holder of a license for the sale of wine shall keep a copy of this article on his premises and instruct any person working on such premises with respect to the terms of this article and each licensee and person selling wine shall at all times be familiar with the terms of this article.

(Code 1967, § 3-52)

#### **Sec. 4-93. Inspection of premises by police.**

The business premises of a holder of a license for the sale of wine, including out buildings, shall be open to inspection, at any and all times, by police officers of the city.

(Code 1967, § 3-64)

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\***State law reference**—Wine generally, OCGA § 3-6-1 et seq.

## ALCOHOLIC BEVERAGES

### **Sec. 4-94. Advertising signs.**

(a) No wholesale or retail wine dealer shall advertise wine by the use of signs, except as follows:

(1) Unlighted signs, using letters not larger than eight (8) inches in height, located flat against the outside of the building and below the roof line and bearing the words "wine," "champagne" or any combination thereof, together with the trade name or style of the dealer, may be used. Similar lighted signs, located inside the place of business and so placed as not to obstruct the view of the inside of the place of business from the outside, may be used;

(2) Signs, lighted or unlighted, not larger than eight (8) inches in height and bearing the word "open," may be displayed inside the place of business in such manner as not to obstruct the view of the inside of the place of business from the outside.

(b) Outside signs permitted by this section shall not be lighted, nor shall the dealer's place of business be otherwise lighted, except at such times as such place is open for business as authorized by law or this article. This subsection shall not prohibit a night light for safety purposes.

**Cross reference**—Signs abutting or visible from I-75 right-of-way, § 3-16 et seq.

### **Sec. 4-95. Sign on beverage box.**

The holder of a license for the sale of wine shall post on his beverage box a printed sign, in letters at least four (4) inches high, reading as follows: "Sale of wine to persons under twenty (20) strictly prohibited." After September 30, 1986, the sign referred to herein shall read: "Sale of wine to persons under twenty-one (21) strictly prohibited."

(Code 1967, § 3-70; Ord. of 1-7-86, § 4)

**State law reference**—Posting of notice as to sale of alcoholic beverages to underage persons, OCGA § 3-3-24.2.

### **Sec. 4-96. Allowing minors to dispense wine.**

No person shall allow or require a person in his employment, who is under eighteen (18) years of age, to dispense, serve or sell, or take orders for, wine. The provisions of 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 wine which is sold for consumption off the premises.

(Code 1967, § 3-73; Ord. of 7-7-81, § VIII; Ord. of 11-3-81)

**State law references**—Similar provisions, OCGA § 3-3-24; authority of city to prohibit sale or dispensing of alcoholic beverages by particular class of persons, § 37-8-11.

### **Sec. 4-97. Consumption of wine on retailer's premises.**

No holder of a retail wine dealer's license shall allow wine to be consumed on his premises and any licensee shall be held responsible for such consumption by his customers or any other person. This section shall not apply to those persons or establishments holding retail wine pouring dealer's licenses.

(Code 1967, § 3-71)

## ALCOHOLIC BEVERAGES

### **Sec. 4-98. Sale of wine during certain hours and on certain days prohibited.**

(a) No wine shall be sold or offered for sale in the city between the hours of 12:00 midnight on Saturday and 7:00 a.m. on the following Monday, nor between the hours of 1:00 a.m. and 7:00 a.m. on the other days of the week.

(b) No wine shall be sold or offered for sale in the city on Sundays, Christmas Day, or any other day on which the sale of same shall be prohibited by order of the city council.

(c) No later than 1:00 a.m. on Sunday, and no later than 1:30 a.m. on the other days of the week when wine may be sold or offered for sale in the City of Forsyth, all patrons and customers of any establishment holding a retail pouring dealer's license for wine shall vacate the premises and the doors to such establishment shall be closed and locked. This subsection shall not apply to a restaurant which serves prepared, cooked meals and which derives at least seventy-five (75) percent of its gross revenue from the sale of food and nonalcoholic beverages; provided, however, that this exception shall not be construed as authorizing the sale or offering for sale of wine when the same is prohibited by subsection (a) of this section. Except during the times as set out in this Section 4-98, no retailer licensed hereunder shall be in his place of business, or open his place of business, or furnish, sell or offer for sale any alcoholic beverages. (Code 1967, § 3-65; Ord. of 7-7-81, § VII; Ord. of 11-3-81; Ord. of 1-21-86, § 2; Ord. of 3-17-87, § 3)

**State law references**—Similar provisions as to sale on Sunday and election day and authority of city to prohibit sale on Christmas Day, OCGA § 3-3-20; authority of city to prohibit sale of alcoholic beverages at stated times § 37-8-11.

### **Sec. 4-99. Separation of stock and locking of same when sale prohibited.**

All holders of a license for the sale of wine shall separate the stock of wine from nonalcoholic merchandise, so that such stock may be closed off or completely covered at all times when the sale of wine is prohibited, and the same shall be closed off or completely covered at such times. Freestanding displays of wine shall be allowed provided that such displays do not co-mingle with nonalcoholic merchandise, and provided that such freestanding displays of wine can be closed off or completely covered at all times when the sale of wine is prohibited, and such freestanding displays shall be closed off or completely covered at such times.

(Code 1967, § 3-66; Ord. of 3-17-87, § 2)

### **Secs. 4-100. Sales to intoxicated persons.**

No wholesale or retail wine dealer shall sell any wine to any person who is in a state of noticeable intoxication.

(Code 1967, § 3-75)

**State law reference**—Similar provisions, OCGA § 3-3-22.

### **Secs. 4-101—4-115. Reserved.**

## ALCOHOLIC BEVERAGES

### DIVISION 2. LICENSE\*

#### **Sec. 4-116. Required.**

No wine shall be sold in the city except under a license issued in accordance with this division.

(Code 1967, § 3-53)

**State law reference**—Local license required, OCGA, §§ 3-3-2, 3-6-40.

#### **Sec. 4-117. Application generally.**

All applications for a license for the sale of wine shall apply therefor in person at the office of the city clerk and shall file a completed application form furnished for this purpose by the clerk.

(Code 1967, § 3-57)

#### **Sec. 4-117.1. Publication of notice of application.**

A notice of each application for a license under this division shall be advertised, in the official newspaper in the city in which sheriff's advertisements are made, once a week for two (2) weeks immediately preceding the meeting of the city council at which the application is to be acted upon. The advertisement shall contain the name of the applicant, the purpose of the application, the proposed location of the business and the names of the owners.

#### **Sec. 4-118. Applicant's bond generally.**

An applicant for a license for the sale of wine shall file with his application a personal performance bond, in the amount of one thousand dollars (\$1,000.00), to ensure compliance with all laws, rules, regulations and ordinances of the city. If the application is approved, such bond shall remain in force so long as the license is valid.

(Code 1967, § 3-57; Ord. of 12-17-81, § I)

#### **Sec. 4-119. Applicant's fingerprints.**

All applicants for a license under this division shall furnish a complete set of fingerprints, which shall be forwarded to the Georgia Bureau of Investigation, which shall search the files of the Georgia Crime Information Center, for a period of two (2) years immediately preceding the date of the application, for any instance of criminal activity. The Georgia Bureau of Investigation shall also submit such fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification records. The federal record, if any, shall be obtained and returned to the city.

(Ord. of 7-7-81, § III)

**State law reference**—Similar provisions, OCGA § 3-3-2.

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\***Cross reference**—Licenses generally, Ch. 12.

## ALCOHOLIC BEVERAGES

### **Sec. 4-120. Fee.**

(a) The annual fee for a license required by this division shall be as follows:

(1) For a wholesale wine dealer's license, one hundred dollars (\$100.00).

(2) Fee for a retail wine dealer's license, two hundred fifty dollars (\$250.00).

(3) For a retail wine pouring dealer's license, one hundred fifty dollars (\$150.00). Such fee shall be in addition to the license fee charged for a retail wine dealer's license. No person shall be issued a retail wine pouring dealer's license unless such person has first secured a retail wine dealer's license.

(b) No license fee prescribed by this section shall be prorated for a fraction of a year.

(Code 1967, §§ 3-54, 3-55; Mo. of 1-20-80)

### **Sec. 4-121. Grant or denial generally.**

(a) In considering an application for a license under this division, the city council may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application or proposed location of the business. If circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.

(b) No license shall be granted under this division to an applicant who has been convicted under any federal, state or local law for a criminal offense involving moral turpitude, or has been convicted under any federal, state or local law of any criminal offense involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant would not maintain the operation for which he is seeking a license in conformity with federal and state law and the ordinances of the city.

(Code 1967, § 3-60; Ord. or 7-7-81, § IV)

**State law reference**—Powers of council as to grant or denial of license, OCGA § 3-3-2.

### **Sec. 4-122. Not to be granted for premises near church, school or college.**

No license to sell wine shall be granted, if the proposed location is within three hundred (300) feet of a church or a school or college building in which the subjects commonly taught in the public schools of the state are taught. In determining compliance with this section, the distance shall be determined by measuring along the curb or outer edge of the sidewalk from the entrance of the selling establishment to the nearest entrance of a church, school or college building.

(Code 1967, § 3-61)

**State law reference**—Sale of wine near schools or colleges, OCGA § 3-3-21.

### **Sec. 4-123. Notice of, and hearing on, denial.**

No application for a license under this division shall be denied unless the applicant has been given at least three (3) days written notice, in person or by registered mail, of the intention of the city council to refuse to grant the license, which notice shall state the reasons for such action. Upon application made within five (5) days of receipt of the notice, the applicant shall be afforded a hearing, with opportunity to present

## ALCOHOLIC BEVERAGES

evidence and cross-examine opposing witnesses. The applicant may appear at such hearing in person and by attorney.

(Ord. of 7-7-81, § VI)

### **Sec. 4-124. To be issued to specific person for specific location.**

A license required by this division shall be issued to a specific person and for a specific location.

(Code 1967, § 3-62)

### **Sec. 4-125. Term.**

Licenses shall be issued under this division for a calendar year.

(Code 1967, § 3-55)

### **Sec. 4-126. Display.**

All persons holding a license issued pursuant to this division shall display the license prominently at all times on the premises for which the license is issued.

(Ord. of 7-7-81, § II)

**State law reference**—Similar provisions, OCGA § 3-3-3.

### **Sec. 4-127. Not transferable; surrender if business sold or closed.**

No license for the sale of wine shall be transferable, and in the event a licensed business is sold or closed, the licensee shall immediately surrender his license to the city clerk.

(Code 1967, § 3-62)

### **Sec. 4-128. Suspension or revocation; forfeiture of bond.**

(a) Any license for the sale of wine may be suspended for a definite length of time or revoked and any part or all of the personal performance bond posted by the licensee under this division may be forfeited.

(b) The making of any statement on an application for a license to sell wine, which is later found to be false, shall constitute grounds for revocation of the license.

(c) The performance of any act prohibited by this chapter or the failure to perform any act required hereby, as well as the violation of this Code or of any ordinance of the city or any law, state or federal, relating to the sale of alcoholic beverages, shall constitute grounds for the revocation of a license issued under this division.

(d) A license for the sale of wine may be temporarily suspended and the place of business closed upon receipt of evidence by the city council or the chief of police of any violation referred to in this section.

(e) No license shall be revoked and no bond shall be forfeited under this section, unless the licensee has been given at least three (3) days written notice, in person or by registered mail, of the intention of the city council to take such action. The notice shall specify the time, place, and purpose of the hearing and the charges upon which the council proposes to take action. At the hearing, the licensee shall have the right to appear, in person and by attorney, and the council and the licensee shall have the right to present

## ALCOHOLIC BEVERAGES

evidence relating to the question as to whether or not a violation, as set forth in this section, has occurred, as well as evidence relating to any extenuating or mitigating circumstances.

(Code 1967, § 3-63)

**State law reference**—Authority of council as to suspension or revocation of license, OCGA § 3-3-2.

**Secs. 4-129—4-140. Reserved.**

### DIVISION 3. EXCISE TAX ON WINE\*

**Sec. 4-141. Levied; rate.**

There is hereby levied an excise tax, computed at the rate of twenty-two cents (\$0.22) per liter, on all wine sold, displayed or stored in the city. Such tax shall be prorated on fractional liter sizes, so that each bottle or each individual size container shall be taxed on the basis of twenty-two cents (\$0.22) per liter.

(Ord. of 6-7-83, § 1)

**State law reference**—Authority for above tax, OCGA § 3-6-60.

**Sec. 4-142. Collection and remittance by wholesaler.**

Each wholesale wine detailer selling, shipping, or in any way delivering wine to any retail wine dealer in the city shall collect the tax levied by this division at the time of delivery and shall remit the same, together with a summary of all deliveries to each retailer, to the city on or before the twentieth day of the month following.

(Ord. of 6-7-83, § 1)

**Sec. 4-143. Compensation of wholesaler for collection.**

Each wholesale wine dealer shall be paid three (3) percent of the amount of taxes collected under this division as reimbursement for collection of such taxes.

(Ord. of 6-7-83, § 1)

**Sec. 4-144. Sale, delivery, etc. of wine on which tax not paid.**

It shall be unlawful for any wholesale wine dealer to sell, ship or deliver in any manner any wine to a retail wine dealer, without having collected the tax levied by this division. It shall likewise be unlawful for any retail wine dealer to possess, own, hold, store, display or sell any wine on which such tax has not been paid.

(Ord. of 6-7-83, § 1)

**Secs. 4-145—4-160. Reserved.**

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\***Cross reference**—Taxation generally, Ch. 22.

ALCOHOLIC BEVERAGES

**ARTICLE IV. RETAIL DEALERS IN DISTILLED SPIRITS\***

DIVISION 1. GENERALLY

**Sec. 4-161. Copy of article to be kept on premises; instruction as to, and familiarity with, provisions of article.**

(a) All holders of a license under this article for the sale of liquor shall keep a copy of this article on the premises and shall instruct any person working on such premises with respect to the terms of this article and each such licensee or his agent selling liquor shall, at all times, be familiar with the terms of this article.

(b) By accepting the issuance of a license under this article, the licensee shall be presumed to have received a full copy of this article or the ordinance from which it is derived, to have read the same and to be familiar with all of its terms and provisions.

(Ord. of 12-7-82, §§ 14, 24)

**Sec. 4-162. Inspection of premises.**

The business premises of the holder of a retail liquor dealer's license shall be open to inspection, at any and all reasonable times, by officers authorized to conduct such inspections.

(Ord. of 12-7-82, § 15)

**Sec. 4-163. Compliance with state and federal laws, etc.**

Each retail liquor dealer doing business in the city shall comply with all laws of the state, federal laws and rules and regulations of the state revenue commissioner relating to the sale and distribution of distilled spirits in the state.

(Ord. of 12-7-82, § 21)

**Sec. 4-164. List of employees to be filed with chief of police.**

All persons licensed under this article shall file with the chief of police a list of the names of all employees of the licensed business, with home addresses, within three (3) days of the effective date of the license. Changes in the employees, with the names of new employees, shall be filed with the chief within three (3) days of any such change.

(Ord. of 12-7-82, § 17)

**Sec. 4-165. Employment of minors.**

No person under eighteen (18) years of age shall be employed in any capacity in any place of business licensed under this article.

(Ord. of 12-7-82, § 17)

**State law reference**—Minors dispensing or taking orders for alcoholic beverages, OCGA § 3-3-24.

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\***Editor's note**—The ordinance from which this article is derived was adopted following the approval, by the voters, of package sales of distilled spirits at a referendum held on October 28, 1982, pursuant to OCGA § 3-4-40 et seq.

**State law references**—Distilled spirits generally, OCGA § 3-4-1 et seq.; authority of city to regulate sale of distilled spirits, OCGA § 3-4-49.

## ALCOHOLIC BEVERAGES

### **Sec. 4-166. Responsibility for violations by employees.**

Each licensed retail liquor dealer shall be held responsible for any acts of his employees in any violation of this chapter or of the laws of the state or the rules and regulations of the state revenue commissioner. (Ord. of 12-7-82, § 14)

### **Sec. 4-167. Notice of disciplinary action against dealer or employees.**

(a) Every retail liquor dealer licensed under this article who has any disciplinary action taken against him or his employees by any authority, either municipal, county, state or federal, shall notify the city council or its agents within fifteen (15) days of such action.

(b) The term "disciplinary action," as used in this section, shall mean arrests (with the exception of nonalcoholic beverage related traffic citations), citations, indictments, presentments or accusations, convictions in any court, penalties imposed by any regulatory agency, any written charge or reprimand by any authority and any civil action or accusations against the licensee or his employees relating to the sale of liquor or other alcoholic beverages.

(Ord. of 12-7-82, § 21)

### **Sec. 4-168. Minimum inventory of liquor.**

A liquor retailer shall keep within his licensed place of business, at all times, a stock of liquor with a value of not less than forty-five thousand dollars (\$45,000.00). Such valuation shall be exclusive of business fixtures and items set out in Section 4-173. In making such valuation, the prices paid to wholesale dealers or distributors shall be the best determination of the value in stock.

(Ord. of 12-7-82, § 7A)

### **Sec. 4-169. Storage of liquor.**

No liquor retailer shall keep any liquor stored in any bonded or other type warehouse in the city, nor shall he enter into any type of arrangement whereby liquor ordered by him is stored for him by any licensed wholesaler. A retailer shall keep no inventory or stock of liquor at any place except his licensed place of business, and within his licensed place of business his storage space for liquor shall be immediately adjacent to the room in which he is licensed to do business. If such storage space has a door leading directly to the outside, such door shall be so equipped that it may only be unlocked and opened from the inside and shall only be opened while accepting delivery of goods from a licensed wholesaler. It shall be permissible to store other products, which the retailer is legally permitted to sell, in the same storage space.

(Ord. of 12-7-82, § 7)

### **Sec. 4-170. Signs generally.**

(a) A retail liquor dealer may display at his place of business signs as follows:

(1) Unlighted signs, using letters not larger than eight (8) inches in height, located flat against the outside of the building and below the roof line and bearing the words, "liquor," "beer," "wine," "champagne" or any combination thereof, "package store" or liquor store," together with the trade name or style of the retail dealer. Similar lighted signs, located inside the place of business

## ALCOHOLIC BEVERAGES

and so placed as not to obstruct the view of the inside of the place of business from the outside may be displayed.

(2) Signs, lighted or unlighted, not larger than eight (8) inches in height, bearing the word "open" may be displayed inside the place of business in such manner as not to obstruct the view of the inside of the place of business from the outside.

(b) Outside signs permitted by this section shall not be lighted, nor shall the retailer's store or its premises be otherwise lighted, except at such times as the store is open for business as authorized by law or this article. This subsection shall not prohibit a night light for safety purposes.

(Ord. of 12-7-82, § 20)

**Cross reference**—Signs abutting or visible from I-75 right-of-way, § 3-16 et seq.

### **Sec. 4-171. Sign as to sales to underage persons.**

Every retail liquor dealer shall post, in the most conspicuous place in his establishment, a sign printed in letters at least four (4) inches high and reading as follows: "Sale of liquor to persons under twenty (20) strictly prohibited." After September 30, 1986, the sign referred to herein shall read: "Sale of liquor to persons under twenty-one (21) strictly prohibited."

(Ord. of 12-7-82, § 6; Ord. of 1-7-86, § 5)

### **Sec. 4-172. Business prohibited at certain times.**

No liquor retailer shall be in his place of business, open his place of business or furnish, sell or offer for sale any liquor at any of the following times:

(1) At any time on Christmas Day or on Sundays;

(2) At any time in violation of a local ordinance or regulation or of a special order of the city council;

(3) On any other day before 9:00 a.m. or after 10:00 p.m.

(Ord. of 12-7-82, § 5; Ord. of 3-17-87, § 4)

**State law references**—Sale of alcoholic beverages on Sunday and election days and authority of city to prohibit sale thereof on Christmas Day, OCGA § 3-3-20; authority of city to prohibit sale of alcoholic beverages at stated times, § 37-8-11.

### **Sec. 4-173. Limitation on dealing in products other than liquor.**

No retailer shall sell, offer for sale, display or keep in stock, at his place of business where liquor is offered for sale, any other product or commodity except the following:

(1) Wine, when properly licensed;

(2) Beverages containing no alcohol commonly used to dilute distilled spirits;

(3) Malt beverages or beer, when properly licensed;

(4) Tobacco products; and

## ALCOHOLIC BEVERAGES

(5) Packaged ice.  
(Ord. of 12-7-82, § 4)

### **Sec. 4-174. Sale of liquor to be in original unbroken package; minimum size of package.**

Retail dealers shall sell or offer to sell liquor in the original unbroken package only and shall sell no package containing less than two hundred (200) milliliters.

(Ord. of 12-7-82, § 4)

**State law reference**—Similar provisions, OCGA § 3-4-25.

### **Sec. 4-175. Limitation on place of selling or delivering liquor; fencing of drive-in window.**

No retailer shall sell or deliver any liquor to any person except in such retailer's place of business, with the exception of a drive-in window for sale to persons in automobiles. If a drive-in window is used, a solid fence, at least six (6) feet in height, shall be erected between the driveway for such window and abutting property.

(Ord. of 12-7-82, § 4)

### **Sec. 4-176. Consumption of alcoholic beverages or opening containers thereof on premises.**

It shall be unlawful for any person to consume any alcoholic beverage or to open any container of alcoholic beverage on the licensed premises of a retail liquor dealer or the parking area of such premises.

(Ord. of 12-7-82, § 4)

**State law reference**—Authority of city to prohibit use of alcoholic beverages at particular places, OCGA § 37-8-11.

### **Sec. 4-177. Sale of liquor to intoxicated, etc., persons.**

No retailer shall give, sell or offer to sell any liquor to any person who is noticeably intoxicated, who is of unsound mind or who is a habitual drunkard whose intemperate habits are known to the retailer.

(Ord. of 12-7-82, § 6)

**State law reference**—Sale of alcoholic beverages to intoxicated persons, OCGA §3-3-22.

### **Sec. 4-178. Gambling, pinball machines, etc., prohibited on premises.**

It shall be unlawful for any retail liquor dealer to permit gambling, betting, games of chance, punchboards, vending machines, slot machines, pinball machines, electronic games, lotteries, or tickets or changes therein, or the operation of any schemes for hazarding money or any other thing of value in his place of business or in any room adjoining the same, owned, leased or controlled by such dealer. (Ord. of 12-7-82, § 18)

### **Secs. 4-179—4-190. Reserved.**

## ALCOHOLIC BEVERAGES

### DIVISION 2. LICENSE\*

#### **Sec. 4-191. Required.**

It shall be unlawful for any person to engage in the business of a retail dealer in liquor or distilled spirits within the city, unless he has a current license so to do issued pursuant to this division.

(Ord. of 12-7-82, § 21)

**State law reference**—Local license required, OCGA § 3-3-2.

#### **Sec. 4-192. Separate license for each place of business.**

A separate retail liquor dealer's license shall be required for each place of business and a separate rate application under this division shall be made for each.

(Ord. of 12-7-82, § 3)

#### **Sec. 4-193. Application generally.**

(a) An application for a retail liquor license shall be presented in person to the city clerk. Such applications shall be made on forms furnished by the city and shall state the following:

(1) As to the applicant: Full name, age, home address, addresses for the immediately preceding ten (10) years, present employer and business address, previous employment in the immediately preceding five (5) years, name of spouse and all children, complete record of any and all convictions and guilty pleas and pleas of nolo contendere for violations of any law, city, state or federal.

(2) As to corporate applicants: Full corporate name and address, name and address of registered agent, names and addresses of all shareholders, directors and officers, with the information set out in subparagraph (1) above.

(3) As to applicant's proposed manager, if not the same as the applicant: The same information as set out in response to subparagraph (1) above.

(4) The exact location of the proposed business, including the distances and building requirements set out in this division.

(5) Any and all other matters as required by this division or as reasonably required by the city council.

Such application shall be sworn to before a notary public.

(b) An application submitted under this section shall have attached thereto a true and complete copy of the application form, with all attachments and requirements, to be submitted for a state license.

(Ord. of 12-7-82, §§ 8, 12)

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\***Cross reference**—Licenses generally, Ch. 12.

## ALCOHOLIC BEVERAGES

### **Sec. 4-194. Multiple applications involving same property not to be considered.**

The city council will not consider more than one (1) application for a license under this division involving the same property.

(Mo. of 12-21-82)

### **Sec. 4-195. Publication of notice of application; posting of proposed location.**

(a) A notice of each application for a license under this division shall be advertised, in the official newsletter in the city in which sheriff's advertisements are made, once a week for two (2) weeks immediately preceding the meeting of the city council at which the application is to be acted upon. The advertisement shall contain the name of the applicant, the purpose of the application, the proposed location of the business and the names of the owners.

(b) The applicant for a license under this division shall, at least three (3) days after filing the application, identify the proposed location of his place of business, by posting sign at least twenty-four (24) by thirty-six (36) inches in size, with letters at least four (4) inches in height, on the front door of the building proposed to be used, or upon a prominent place on the lot where a proposed building is to be constructed, and facing the street, which sign shall state: "Liquor license application pending for this location." The sign shall remain in place until the application is acted upon.

(Ord. of 12-7-82, § 9)

### **Sec. 4-196. General qualifications of applicant.**

(a) No license allowed by this article shall be granted to any person, unless such person has been a resident of the State of Georgia and the City of Forsyth for a period of at least six (6) months prior to making application, or, if the applicant is not such a resident of the state and city, a license may be allowed if the applicant has operated a business within the City of Forsyth for at least six (6) months prior to the time of application, and proof of such business may be made by proving the issuance of a business license by the City of Forsyth. As to corporate applicants, the same provisions shall apply, provided that any corporation which is a nonresident of the state and city may be qualified to receive a license if the corporation is a corporation qualified to do business within the state, and has operated any business within the City of Forsyth for the prerequisite six (6) months prior to application for a license under this article. No employee, agent or elected official of the city shall be eligible to receive a license under this article.

(b) Only one (1) license required by this division shall be issued to any one (1) person in the city and no person (defined to include individuals, all partners of any partnership and all directors, shareholders and officers of any corporation and any person related to such defined persons within the first degree) who has a beneficial interest in two (2) or more liquor licenses in any other municipality or county in Georgia shall be eligible to receive a license under this division.

(Ord. of 12-7-82, § 2; Ord. of 10-18-88, § 1)

## ALCOHOLIC BEVERAGES

### **Sec. 4-197. Applicant's financial responsibility.**

Every applicant for a license under this division must show, to the satisfaction of the city council, financial responsibility. Financial statements shall be submitted with each completed application, as prescribed by the council.

(Ord. of 12-7-82, § 11)

### **Sec. 4-198. Criminal record of applicant and employees.**

(a) No license shall be granted under this division to an applicant who has been convicted under any federal, state or local law for a criminal offense involving moral turpitude, or who has been convicted under any federal, state or local law of any criminal offense involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant would not maintain the operation for which he is seeking a license in conformity with federal and state laws and the ordinances of the city.

(b) No license shall be granted under this division to any applicant who proposes to employ in the retail liquor business, or who retains in such employment, any person who has been convicted of any offense referred to in subsection (a) above.

(Ord. of 12-7-82, §§ 11, 17)

### **Sec. 4-199. Location requirements for applicant's premises.**

No retail liquor license shall be granted under this division to any person, unless the entire business premises of the proposed location is situated in a commercial area, and beyond one hundred (100) yards from the property line of any church, and beyond two hundred (200) yards from the property line of any school grounds, college campus or public park, the same to be measured by way of the nearest travelled road, street or highway, as provided by law. Each application for a retail liquor license hereunder shall include a scale drawing of the location of the proposed premises showing the distance to the nearest church or school or a certificate of a registered surveyor that such location complies with this ordinance with reference to this section.

(Ord. of 12-7-82, § 3)

**State law references**—Sale of distilled spirits near church, school or college, OCGA 3-3-21; authority of city to regulate location of retailer's place of business, OCGA § 3-4-49.

### **Sec. 4-200. Requirements for applicant's building.**

(a) No retail liquor license shall be issued under this division to any person, unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit for a proposed building are attached to the application. The completed building or proposed building shall comply with the ordinances of the city, the regulations of the state revenue commissioner and the laws of the state. The proposed building shall also be subject to final inspection and approval, when completed, by the city engineer.

(b) Each building in which the business of an applicant for a license under this division will be located shall contain sufficient lighting, so that the building itself and the premises on all sides of the building are readily visible at all times so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of the building.

## ALCOHOLIC BEVERAGES

(c) Each applicant for a retail liquor dealer's license shall attach to his application evidence of ownership of the building or proposed building in which his business is to be conducted or a copy of the lease, if the applicant is leasing the building.

(Ord. of 12-7-82, § 3)

**Cross reference**—Building regulations, Ch. 7.

### **Sec. 4-201. Applicant's bond generally.**

Before any retail liquor license is granted under this division, the applicant must post with the city council, along with his application, a personal performance bond, with surety being a surety company licensed to do business in the state, conditioned on the applicant's faithful observance of, and compliance with, the provisions of this chapter. Such bond shall be payable to the city, in the amount of seven thousand dollars (\$7,000.00), and must be approved by the city council.

(Ord. of 12-7-82, § 8)

### **Sec. 4-202. Applicant's fingerprints.**

The applicant for a license under this division and the proposed manager of the liquor business, if different, shall, as a prerequisite to the issuance of any license, submit fingerprints and have crime information files searched as provided in Section 3-3-2(c) of the Official Code of Georgia Annotated.

(Ord. of 12-7-82, § 11)

### **Sec. 4-203. Fee.**

(a) The annual fee for a retail liquor dealer's license shall be three thousand five hundred dollars (\$3,500.00), which shall be paid with, and at the same time as filing, the application for the license. The fee shall be paid in cash or by a bank certified check made payable to the city. If the application is not approved and no license is granted, the fee shall be refunded; provided, however, that in any year in which the application shall not be approved, the city shall retain the sum of one hundred dollars (\$100.00) as an investigation fee, and the balance of any license fee submitted shall then be refunded.

(b) The annual license fee provided for in subsection (a) hereinabove, shall be prorated during the calendar year so that the following fees shall be payable from time to time during any calendar year:

(1) If the application is filed during the time from January 1 through March 31, the fee shall be three thousand five hundred dollars (\$3,500.00);

(2) If the application is filed during the time from April 1 through June 30, the fee shall be two thousand six hundred twenty-five dollars (\$2,625.00);

(3) If the application is filed during the time from July 1 through September 30, the fee shall be one thousand seven hundred fifty dollars (\$1,750.00);

(4) If the application is filed during the time from October 1 through December 31, the fee shall be eight hundred seventy-five dollars (\$875.00).

(Ord. of 12-7-82, § 10; Ord. of 10-18-88, § 2)

**State law reference**—Maximum license fee, OCGA § 3-4-50.

## ALCOHOLIC BEVERAGES

### **Sec. 4-204. Grant or denial generally.**

In deciding to grant or deny a license applied for under this division, the city council, in its discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, the application or the proposed location of the business. If, in the council's judgment, circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application. If the council, after providing for a public hearing on the application, finds that the applicant is not entitled to the license, the applicant shall be notified in writing of the reasons therefor, and the applicant shall have the right to appear at the next regular meeting of the council to present evidence in rebuttal.

(Ord. of 12-7-82, § 11)

**State law reference**—Authority of council as to grant or denial of license, OCGA § 3-3-2.

### **Sec. 4-205. Limitation on number to be granted.**

(a) The number of licenses which may be issued by the city under this division and which may be in operation within the city at any one time shall be based on, and shall be limited to one (1) such license for each one thousand two hundred fifty (1,250), or major fraction thereof, of population in the city. The population of the city was four thousand six hundred twenty-four (4,624) according to the 1980 United States Census, and therefore, the maximum number of licenses which may be issued and in operation in the city at any one time is hereby set at four (4) and shall not exceed that number.

(b) If qualified applicants for licenses under this division exceed the number of licenses available for issuance, for the year 1983, licenses shall be issued to such qualified applicants under the following procedure.

(1) As to all qualified black applicants (the council hereby recognizing that the population of the city is approximately one-half black and one-half white), all such applicants' names shall be placed together in a common container and the chief of police shall draw therefrom two (2) names and those whose names are so drawn shall be awarded licenses.

(2) As to all qualified white applicants, all such applicants' names shall be placed together in a common container and the chief of police shall draw two (2) names and those whose names are so drawn shall be awarded licenses.

(3) Should there be less than two (2) qualified applicants in any category as set out above, the licenses shall be awarded by issuing to the sole qualified applicant of one category a license and drawing the remainder of the licenses from the other category.

(c) For years following 1983, if qualified applicants for licenses under this division exceed the number of licenses available for issuance, those persons holding licenses and applying for a new license for each such year shall have first priority to the issuance of such new licenses for such year. If qualified applicants exceed the number of licenses available after first considering those persons holding licenses, then the remainder of the available licenses shall be determined in the same manner as set out in subsection (a) of this section.

(Ord. of 12-7-82, § 22)

## ALCOHOLIC BEVERAGES

### **Sec. 4-206. Time of grant; term.**

A license granted under this division shall be valid only for the calendar year indicated thereon and no such license may be renewed. A licensee who desires to continue in business during the next calendar year must make a new application for such year as set out in this division.

(Ord. of 12-7-82, § 8; Ord. of 10-18-88, § 5)

### **Sec. 4-207. Display.**

Licenses issued under this division shall be displayed permanently at all times on the premises for which the same are issued.

(Ord. of 12-7-82, § 19)

**State law reference**—Similar provisions, OCGA § 3-3-3.

### **Sec. 4-208. Not transferable; surrender if business sold or closed.**

No retail liquor dealer's license shall be transferable or assignable to any person or to any other location. If the event that a licensed business is sold or closed, it shall be the duty of the licensee to immediately surrender his license to the city clerk. There shall be no refund of the license fees upon such surrender.

(Ord. of 12-7-82, § 13)

### **Sec. 4-209. Suspension or revocation; forfeiture of bond.**

(a) Any license issued under this division may be suspended or revoked, if the licensee is convicted of any offense mentioned in Section 4-198 or if he retains any person in employment in the licensed business after such person is convicted of such an offense.

(b) The making of any statement on an application for a license under this division, which is later found to be false, shall constitute grounds for revocation of the license.

(c) If the holder of a license under this division violates any provision of this chapter, his license may be suspended or revoked and all or a portion of the bond required by this division may be forfeited. The amount of such forfeiture shall depend upon the seriousness of the violation and shall be determined by the city council.

(d) No license shall be suspended or revoked and no bond shall be forfeited under this section, unless the licensee has been given at least three (3) days' written notice in person, or by registered or certified mail, return receipt requested, addressed to the address of the licensee, as shown on the license, of the intention of the council to take such action. The failure or refusal to accept delivery of the notice shall be the equivalent of such notice. Such notice shall specify the time, place and purpose of the hearing and a statement of the charges upon which the council proposes to take action. At such hearing, the licensee shall have the right to appear in person and by attorney, and both the council and the licensee shall have the right to cross-examine witnesses and to present evidence relating to the question as to whether or not a violation as set forth in this section has occurred, as well as evidence relating to any extenuating or mitigating circumstances.

(Ord. of 12-7-82, §§ 8, 16, 17, 21)

**State law reference**—Authority of council as to suspension or revocation of license, OCGA § 3-3-2.

### **Secs 4-210—4-220. Reserved.**

## ALCOHOLIC BEVERAGES

### DIVISION 3. EXCISE TAX ON DISTILLED SPIRITS\*

#### **Sec. 4-221. Levied; rate.**

There is hereby levied an excise tax, computed at the rate of twenty-two cents (\$0.22) per liter, on all distilled spirits sold, displayed or stored in the city. Such tax shall be prorated on fractional liter sizes, so that each bottle or each individual size container shall be taxed on the basis of twenty-two cents (\$0.22) per liter.

(Ord. of 12-7-82, § 10)

**State law reference**—Authority for above tax, OCGA § 3-4-80.

#### **Sec. 4-422. Collection and remittance by wholesaler.**

Each wholesale dealer selling, shipping or in any way delivering distilled spirits to any retailer in the city shall collect the tax levied by this division at the time of delivery and shall remit the same, together with a summary of all deliveries to each retailer, to the city on or before the twentieth day of the month following.

(Ord. of 12-7-82, § 10)

#### **Sec. 4-223. Compensation of wholesaler for collection.**

Each wholesale dealer shall be paid three (3) percent of the amount of taxes collected under this division as reimbursement for collection of such taxes.

(Ord. of 12-7-82, § 10)

#### **Sec. 4-224. Sale, delivery, etc., of distilled spirits on which tax not paid.**

It shall be unlawful for any wholesale dealer to sell, ship, or deliver in any manner any distilled spirits to a retailer without having collected the tax levied by this division. It shall likewise be unlawful for any retailer to possess, own, hold, store, display or sell any distilled spirits on which such tax has not been paid.

(Ord. of 12-7-82, § 10)

#### **Secs. 4-225—4-230. Reserved.**

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\***Cross reference**—Taxation generally, Ch. 22.

## ALCOHOLIC BEVERAGES

### ARTICLE V. DISTILLED SPIRITS SOLD BY THE DRINK\*

#### Sec. 4-231. Definitions.

Unless the context otherwise demands, the words and terms used in this article shall have the definition and meanings set out in Section 3-1-2 of the Official Code of Georgia Annotated, as now existing or as hereafter amended.

*Club* shall mean a nonprofit association organized and existing under the laws of the state, which has been in existence for a period of at least one (1) year prior to the filing for its application for a license hereunder, which has at least thirty-five (35) members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any shareholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment, and maintaining and using sufficient employees for preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club. For the purposes of this definition, tips which are added to the bills under club regulations shall not be considered as profits hereunder.

*Governing authority* shall mean the mayor and council of the city.

*Hotel or motel* shall mean every building or other structure maintained 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 or permanent, 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 facilities and a seating capacity of at least fifty (50), 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 or motel operation.

*License* shall mean the authorization by the governing authority to engage in the sale of alcoholic beverages by the drink and for consumption only on the premises.

*Licensee for the sale of distilled spirits by the drink for consumption only on the premises* shall mean any person, firm or corporation duly licensed to sell by the drink distilled spirits for consumption only on the premises.

*Lounge* shall mean a separate room connected with or part of or adjacent to a restaurant or located in hotels or motels 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).

*Manager* shall mean one who supervises the regular operations of a business licensed under this article.

*Mixed drinks* shall mean alcoholic beverages sold by the drink for consumption on the premises only, licenses for which are issued only in restaurants, hotels or motels, clubs, lounges, and nightclubs as defined herein.

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\***Editor's note**—An ordinance of July 16, 1985, added Art. V, "Sale of Distilled Spirits Sold by the Drink and for Consumption Only on the Premises," consisting of §§ 5-1—5-31. To retain Code format, the editor has numbered these sections as 4-231—4-261 and has shortened the article title. The ordinance was enacted after a special referendum approved the sale of distilled spirits by the drink.

## ALCOHOLIC BEVERAGES

*Nightclub* shall mean those establishments having a seating capacity of at least fifty (50) persons with all booths and tables being unobstructed and open to view and providing a band or other professional entertainment a minimum of ten (10) days per month each and every month with the exception of holidays, vacations, and periods of redecorating and remodeling. The principal business of such nightclub shall be entertainment and the serving of spirituous liquors shall be incidental thereto.

*Owner* shall mean any person or partner or stockholder owning twenty-five (25) percent or more of a business.

*Person* shall mean any individual, firm, partnership, cooperative, nonprofit membership, 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.

*Restaurant* shall mean any public place maintained and held out to the public as a place where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least fifty (50) people, having sufficient employees to prepare and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days per week, with the exception of holidays, vacations and periods of redecorating and remodeling, and the serving of such meals shall be the principal business conducted, with the serving of distilled spirits to be consumed on the premises as only incidental thereto.

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

*Wholesaler* means any person who sells distilled spirits to other wholesale dealers or to retail consumption dealers.

(Ord. of 7-16-85)

### **Sec. 4-232. Administration of issuance of licenses.**

(a) All applicants for licenses hereunder shall fill out and sign a notarized application form as prescribed by the governing authority which shall contain all necessary information for a determination of the qualifications of the applicants and which shall contain the names of the owners of the businesses for which licenses are proposed.

(b) The governing authority, through the chief of police of the city or his designee, shall examine the qualifications of an applicant for any license hereunder and the qualifications of the owner of the business and if he determines that an applicant and owner meet the criteria established by this article for the issuance of such license, he shall so report to the governing authority, and a license may thereafter be issued.

(Ord. of 7-16-85)

**Cross reference**—Licenses generally, Ch. 12.

### **Sec. 4-233. Application generally.**

(a) An application for a license hereunder shall be presented in person to the city clerk. Such application shall be made on forms furnished by the city and shall state the following:

(1) As to the applicant: Full name, age, home address, addresses for the immediately preceding ten (10) years, present employer and business address, previous employment in the immediately preceding five (5) years, name of spouse and all children, complete record of any and all convictions and guilty pleas of nolo contendere for violations of any law, city, state, or federal.

## ALCOHOLIC BEVERAGES

(2) As to corporate applicants: Full corporate name and address, name and address of registered agent, names and addresses of all shareholders, directors and officers, with the information set out in subparagraph (1) above.

(3) As to applicant's proposed manager, if not the same as applicant: The same information as set out in response to subparagraph (1) above.

(4) The exact location of the proposed business, including the distances and building requirements as set out in this article.

(5) Any and all other matters as required by this article or as reasonably required by the governing authority.

Such application shall be sworn to before a notary public.

(b) An application submitted under this section shall have attached thereto a true and complete copy of the application form, with all attachments and requirements, to be submitted for any state license.

(Ord. of 7-16-85)

### **Sec. 4-234. Publication of notice of application; posting of proposed location.**

(a) A notice of each application for a license hereunder shall be advertised, in the official newspaper in the city in which sheriff's advertisements are made, once a week for two (2) weeks immediately preceding the meeting of the city council at which the application is to be acted upon. The advertisement shall contain the name of the applicant, the purpose of the application, the proposed location of the business, and the names of the owners.

(b) The applicant for a license hereunder shall, at least three (3) days after filing the application with the city clerk, identify the proposed location of the place of business by posting a sign at least twenty-four (24) by thirty-six (36) inches in size, with letters at least four (4) inches in height, on the front door of the building proposed to be used, or upon a prominent place on the lot where a proposed building is to be constructed, and facing the public street, which sign shall state: "Application pending for this location for license for the sale of distilled spirits by the drink for consumption only on the premises." The sign shall remain in place until the application is acted upon by the governing authority.

(Ord. of 7-16-85)

### **Sec. 4-235. General qualifications of applicant.**

(a) No license allowed by this article shall be granted to any person, unless such person has been a resident of the state for a period of at least six (6) months prior to making applications. As to corporate applicants, the same provision shall apply, provided that any corporation which is a nonresident of the state may be qualified to receive a license if the corporation is a corporation qualified to do business within the state.

(b) No employee, agent or elected official of the city shall be eligible to receive a license under this article.

## ALCOHOLIC BEVERAGES

(c) Every applicant for a license under this article must show, to the satisfaction of the governing authority, financial responsibility. Financial statements shall be submitted with each completed application as prescribed by the governing authority.

(Ord. of 7-16-85)

### **Sec. 4-236. Criminal record of applicant and employees.**

(a) No license shall be granted under this article to an applicant who has been convicted under any federal, state or local law for a criminal offense involving moral turpitude, or who has been convicted under any federal, state, or local law of any criminal offense involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant would not maintain the operation for which he is seeking a license in conformity with federal and state laws and the ordinances of the city.

(b) No license shall be granted under this article to any applicant who proposes to employ in such business, or who retains in such employment, any person who has been convicted of any offense referred to in subsection (a) above.

(Ord. of 7-16-85)

### **Sec. 4-237. Applicant's fingerprints.**

The applicant for a license hereunder and the proposed manager of the business, if different, shall, as a prerequisite to the issuance of any license hereunder, submit fingerprints and have crime information files searched as provided in Section 3-3-2(c) of the Official Code of Georgia Annotated, as the same now exists or as may be hereafter amended.

(Ord. of 7-16-85)

### **Sec. 4-238. Copy of article to be kept on premises; instruction as to, and familiarity with, provisions of article.**

(a) All holders of a license under this article for the sale of distilled spirits by the drink for consumption only on the premises shall keep a copy of this article on the premises and shall instruct any person working on such premises with respect to the terms of this article and each such licensee or his agent and employees selling hereunder shall, at all times, be familiar with the terms of this article.

(b) By accepting the issuance of a license hereunder, the licensee shall be presumed to have received a full copy of this article, to have read the same, and to be familiar with all of its terms and provisions.

(Ord. of 7-16-85)

### **Sec. 4-239. Inspection of premises.**

The business premises of the holder of a license hereunder shall be open to inspection, at any and all reasonable times, by officers authorized by the governing authority to conduct such inspections.

(Ord. of 7-16-85)

## ALCOHOLIC BEVERAGES

### **Sec. 4-240. Compliance with state and federal laws, etc.**

Each license holder hereunder doing business within the city shall comply with all laws of the state, federal laws and rules and regulations of the state revenue commissioner relating to the sale and distribution of distilled spirits in this state.

(Ord. of 7-16-85)

### **Sec. 4-241. List of employees to be filed with chief of police.**

All persons licensed hereunder shall file with the chief of police a list of the names of all employees of the licensed business, with home addresses, within three (3) days of the effective date of the license. Changes in the employees, with the names of new employees, shall be filed with the chief within three (3) days of any such change.

(Ord. of 7-16-85)

### **Sec. 4-242. Employment of minors.**

No person under eighteen (18) years of age shall be employed in any capacity in any place of business licensed under this article.

(Ord. of 7-16-85)

**State law reference**—Minors dispensing or taking orders for alcoholic beverages, OCGA § 3-3-24.

### **Sec. 4-243. Responsibility for violations by employees.**

Each licensee hereunder shall be held responsible for any acts of his employees in any violation of this article or of the laws of the state or federal laws, or the rules and regulations of the state revenue commissioner.

(Ord. of 7-16-85)

### **Sec. 4-244. Sale of liquor to intoxicated, etc., persons.**

No licensee hereunder shall give, sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the license holder or his agents or employees.

(Ord. of 7-16-85)

**State law reference**—Sale of alcoholic beverages to intoxicated persons, OCGA § 3-3-22.

### **Sec. 4-245. Gambling, pinball machines, etc., prohibited on premises.**

It shall be unlawful for any licensee hereunder to permit gambling, betting, games of chance, punch boards, vending machines, slot machines, pinball machines, electronic games, lotteries, or the operation of any schemes for hazarding money or any other thing of value in the place of business or in any room adjoining the same, owned, leased or controlled by the license holder.

(Ord. of 7-16-85)

## ALCOHOLIC BEVERAGES

### **Sec. 4-246. Separate license for each place of business.**

A separate license hereunder shall be required for each place of business and a separate application under this article shall be made for each.

(Ord. of 7-16-85)

### **Sec. 4-247. Display of license.**

Licenses issued under this article shall be displayed permanently and prominently at all times on the premises for which the same are issued.

(Ord. of 7-16-85)

### **Sec. 4-248. License required.**

It shall be unlawful for any person to engage in the business regulated by this article within the city unless he has a current license to do so issued pursuant to this article.

(Ord. of 7-16-85)

### **Sec. 4-249. Sign as to sales to underaged persons.**

Every licensee hereunder shall post, in the most conspicuous place in his establishment, a sign printed in letters at least four (4) inches high and reading as follows: "SALE OF LIQUOR TO PERSONS UNDER 20 STRICTLY PROHIBITED." After September 30, 1986, the sign referred to herein shall read, "SALE OF LIQUOR TO PERSONS UNDER 21 STRICTLY PROHIBITED."

(Ord. of 7-16-85)

### **Sec. 4-250. Business prohibited at certain times.**

No retailer licensed hereunder shall be in his place of business, open his place of business or furnish, sell or offer for sale any alcoholic beverages at any of the following times:

- (1) At any time on Christmas Day;
- (2) At any time in violation of a local ordinance or regulation or of a special order of the governing authority
- (3) On any day between the hours of 1:30 a.m. and 9:00 a.m. on the other days of the week.

No later than 1:30 a.m. on the other days of the week when alcoholic beverages may be sold within the City of Forsyth, all patrons and customers of any establishment licensed hereunder shall vacate the premises and the doors to such establishment shall be closed and locked. This section shall not apply to a restaurant which serves prepared, cooked meals and which derives at least seventy-five (75) percent of its gross revenue from the sale of food and nonalcoholic beverages; provided, however, that this exception shall not be construed as authorizing the sale or offering for sale of alcoholic beverages when the same is prohibited by this article.

(Ord. of 7-16-85; Ord. of 1-21-86, § 3)

**State law references**—Sale of alcoholic beverages on Sunday and election days and authority of city to prohibit sale thereof on Christmas Day, OCGA § 3-3-20; authority of city to prohibit sale of alcoholic beverages at stated times, OCGA § 37-8-11.

## ALCOHOLIC BEVERAGES

### **Sec. 4-251. Location requirements for applicant's premises.**

No license hereunder shall be granted to any persons, unless the entire business premises of the proposed location is situated in a commercial area, and beyond one hundred (100) yards from the property line of any church, and beyond two hundred (200) yards from the property line of any school grounds, college campus or public park, the same to be measured by way of the nearest traveled road, street or highway, as provided by law. Each application for a license hereunder shall include a scale drawing of the location of the proposed premises showing the distance to the nearest church or school or a certificate of a registered surveyor that such location complies with this article.

(Ord. of 7-16-85)

**State law reference**—Sale of distilled spirits near church, school, or college, OCGA § 3-3-21.

### **Sec. 4-252. Requirements for applicant's building.**

(a) No license shall be issued hereunder to any person, unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit for a proposed building are attached to the application. The completed building or proposed building shall comply with all ordinances of the city, and the regulations of the state revenue commissioner and the laws of this state. The proposed building shall also be subject to final inspection and approval, when completed, by the city engineer.

(b) Each applicant for a license hereunder shall attach to the application evidence of ownership of the building or proposed building in which the business is to be conducted or a copy of the lease or rental agreement, if the applicant is leasing the building.

(Ord. of 7-16-85)

**Cross reference**—Building regulations, Ch. 7.

### **Sec. 4-253. Storage of liquor.**

No license holder hereunder shall keep any liquor stored in any bonded or other type warehouse in the city, nor shall he enter into any type of arrangement whereby liquor ordered by him is stored for him by any license wholesaler. A retailer shall keep no inventory or stock of liquor at any place except the licensed place of business, and within his licensed place of business the storage space for liquor shall be immediately adjacent to the room in which he is licensed to do business. If such storage space has a door leading directly to the outside, such door shall be so equipped that it may only be unlocked and opened from the inside and shall only be opened while accepting delivery of goods from a licensed wholesaler. It shall be permissible to store other products, which the retailer is legally permitted to sell, in the same storage space.

(Ord. of 7-16-85)

### **Sec. 4-254. Annual license fee.**

(a) The annual license fee for a retail license hereunder shall be two thousand five hundred dollars (\$2,500.00), which shall be paid with and at the same time as filing the application for the license. The fee shall be paid in cash or by a bank-certified check made payable to the city. If the application is not approved and no license is granted, the fee shall be refunded; provided, however, that in any year in which the application shall not be approved, the city shall retain the sum of one hundred dollars (\$100.00) as an investigation fee, and the balance of any license fee submitted shall then be refunded.

## ALCOHOLIC BEVERAGES

(b) The annual license fee provided for in subsection (a) hereinabove, shall be prorated during the calendar year so that the following fees shall be payable from time to time during any calendar year:

(1) If the application is filed during the time from January 1 through March 31, the fee shall be two thousand five hundred dollars (\$2,500.00);

(2) If the application is filed during the time from April 1 through June 30, the fee shall be one thousand eight hundred seventy-five dollars (\$1,875.00);

(3) If the application is filed during the time from July 1 through September 30, the fee shall be one thousand two hundred fifty dollars (\$1,250.00);

(4) If the application is filed during the time from October 1 through December 31, the fee shall be six hundred seventy-five dollars (\$675.00);

(Ord. of 7-16-85; Ord. of 10-18-88, § 3)

### **Sec. 4-255. Applicant's bond generally.**

Before any license hereunder is granted, the applicant must post with the governing authority, along with his application, a personal performance bond, with surety being a surety company licensed to do business in the state, conditioned on the applicant's faithful observance of, and compliance with, the provisions of this article. Such bond shall be payable to the city, in the amount of five thousand dollars (\$5,000.00), and must be approved by the governing authority.

(Ord. of 7-16-85)

### **Sec. 4-256. Time of grant of license; term.**

(a) A license granted under this article shall be valid only for the calendar year indicated thereon and no such license may be renewed. A licensee who desires to continue in business during the next calendar year must make a new application for such year as set out in this section, and all requirements must be met by January fifteenth of the year of such license.

(b) No license hereunder shall be transferable or assignable to any person or to any other location. In the event that a licensed business is sold or closed, it shall be the duty of the licensee to immediately surrender the license to the city clerk. There shall be no refund of the license fees upon such surrender.

(Ord. of 10-18-88, § 4)

### **Sec. 4-257. Grant or denial generally.**

In deciding to grant or deny a license applied for under this article, the governing authority, in its discretion may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, the application, or the proposed location of the business. If, in the governing authority's judgment, circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application. If the governing authority, after providing for a public hearing on the application, finds that the applicant is not entitled to the license, the applicant shall be notified in writing of the reasons therefor, and the applicant shall have the right to appear at the next regular meeting of the governing authority to present evidence in rebuttal.

## ALCOHOLIC BEVERAGES

(Ord. of 7-16-85)

### **Sec. 4-258. Notice of disciplinary action against licensees or employees.**

(a) Every retail dealer licensed under this article who has any disciplinary action taken against him or his employees by any authority, either municipal, county, state or federal, shall notify the governing authority or its agents within fifteen (15) days of such action.

(b) The term "disciplinary action" as used in this section, shall mean arrests (with the exception of nonalcoholic beverage-related traffic citations), citations, indictments, presentments or accusations, convictions in any court, penalties imposed by any regulatory agency, any written charge or reprimand by any authority and any civil action or accusations against the licensee or his employees relating to the sale of liquor or other alcoholic beverages.

(Ord. of 7-16-85)

### **Sec. 4-259. Suspension or revocation; forfeiture of bond.**

(a) Any license issued under this article may be suspended or revoked, if the licensee is convicted of any offense mentioned in this article or if he retains any person in employment in the licensed business after such person is convicted of such offense.

(b) The making of any statement on any application for a license under this article, which is later found to be false, shall constitute grounds for revocation of the license.

(c) If the holder of a license under this article violates any provision of this article, his license may be suspended or revoked and all or a portion of the bond required by this article may be forfeited. The amount of such forfeiture shall depend upon the seriousness of the violation and shall be determined by the governing authority.

(d) No license shall be suspended or revoked and no bond shall be forfeited under this article unless the licensee has been given at least three (3) days' written notice in person, or by registered or certified mail, return receipt requested, addressed to the address of the licensee as shown on the license, of the intention of the governing authority to take such action. The failure or refusal to accept delivery of such notice shall be the equivalent of such notice. Such notice shall specify the time, place and purpose of the hearing and a statement of the charges upon which the governing authority proposes to take action. At such hearing, licensee shall have the right to appear in person and by attorney, and both the governing authority and the licensee shall have the right to cross-examine witnesses and to present evidence relating to the question as to whether or not a violation as set forth has occurred, as well as evidence relating to any extenuating or mitigating circumstances.

(Ord. of 7-16-85)

### **Sec. 4-260. Excise taxes on distilled spirits.**

(a) There is hereby levied an excise tax, computed at the rate of twenty-two cents (\$0.22) per liter, on all distilled spirits sold, displayed or stored in the city. Such tax shall be prorated on fractional liter sizes, so that each bottle or each individual size container shall be taxed on the basis of twenty-two cents (\$0.22) per liter.

## ALCOHOLIC BEVERAGES

(b) Each wholesale dealer selling, shipping or in any way delivering distilled spirits to any retailer in the city shall collect a tax levied by this article at the time of delivery and shall remit the same, together with a summary of all deliveries to each retailer, to the city on or before the twentieth day of the month following. Each wholesale dealer shall be paid three (3) percent of the amount of taxes collected under this article as reimbursement for collection of such taxes.

(c) It shall be unlawful for any wholesale dealer to sell, ship or deliver in any manner any distilled spirits to a retailer without having collected the tax levied by this article. It shall likewise be unlawful for any retailer to possess, own, hold, store, display or sell any distilled spirits on which such tax has not been paid.

(Ord. of 7-16-85)

**Cross reference**—Taxation, Ch. 20.

### **Sec. 4-261. Limitation on sale of drinks.**

No licensee hereunder shall sell, offer to sell, or allow to be sold, any alcoholic beverages at reduced prices, or at any price other than established, normal prices, nor shall any licensee hereunder sell, offer to sell, or allow to be sold, any alcoholic beverages as multiple drink sales. The foregoing includes, if not necessarily being limited to, any sales promotions or plans commonly known as “happy hour” or “multiple-drink-for-the-price-of-one” or any other similar type plans or promotions.

(Ord. of 7-16-85)