

ALCOHOL ORDINANCE OF CITY OF WATKINSVILLE, GEORGIA

ARTICLE I. IN GENERAL

Sec. 1. Definitions.

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

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced, includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine.

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

City means mayor and council, or alternatively, where the context demands, the area in Watkinsville.

Church means a building primarily used for public religious worship on a regular basis.

Distilled spirits means alcohol obtained by distillation or more than 21% alcohol, including but not limited to all fortified wines.

Fortified wine means any alcohol more than 21% alcohol made from fruits, berries or grapes, by natural fermentation or by natural fermentation with brandy added. The term includes but is not limited to brandy.

Governing authority or city means the mayor and city council, provided, however, where the context demands such, city means the geographical area within incorporated Watkinsville, Georgia.

License in Article II means authorization to sell alcohol by the package not for consumption on premises.

Licensee in Article II means any person selling, at retail, any alcohol in unbroken packages not for consumption on premises.

License in Article III means authorization to engage in sale of alcohol for consumption on premises.

Licensee in Article III means a person engaged in selling, at retail, alcohol for consumption on premises.

Lounge means a separate room where alcoholic beverages are served by the drink connected with or adjacent to a restaurant. **No lounges shall be permitted.**

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

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

Permit means authorization for a wholesaler or distributor for wholesale sales of alcohol to retail licensees.

Place of business means the premises described in a license issued pursuant to this chapter.

Premises means the location where a licensee is authorized to sell alcoholic beverages. The premises of restaurants shall include outdoor seating areas owned or leased by the licensee.

Private club means an entity organized and operated for pleasure, recreation and other non-profit purposes including an organization which has received approval from the US Internal Revenue Service as a 501(c)(3) organization. No private club shall be entitled to possess, serve or sell alcoholic beverages.

Restaurant means any place held out to the public where meals are actually and regularly served, without sleeping accommodations. Such place shall be air-conditioned and contain adequate and sanitary kitchen and dining equipment and seating capacity for at least 50 people, and have sufficient employees to cook and serve food for its patrons. At least one meal per day shall be served at least 5 days a week, except holidays, vacations and periods of redecorating. Serving of such meals shall be the principal business, with the serving of alcohol consumed on the premises as only incidental to such business. A restaurant shall derive at least 65% of its total annual gross food and beverages sales from the sale of prepared meals or prepared food and shall have food sales in excess of \$150,000 per calendar year (Jan. 1 – Dec. 31).

School means building, publicly or privately owned, used for teaching and includes below the first grade usually serving pupils of the four to six age group and fostering their natural growth and social development through constructive play, including pre-K and kindergarten.

Wholesaler or wholesale distributor means distributor or seller to retailers for resale of any alcoholic beverage. Wholesale distribution centers of operation are not allowed within the City limits. Wholesalers are permitted to deliver to licensees within the City limits; they are not permitted to operate a center of operation for a wholesaling business in the City limits.

Wine means any alcohol containing not more than 21% alcohol by volume made from fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes but is not limited to all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or

other ingredients to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point when it conforms to the definition of wine contained in this section.

Sec. 2. Posting of Warning in Licensee's Establishment.

A licensee under this chapter shall post in a conspicuous place in his establishment a sign in letters at least four inches high reading: "SALE OF ALCOHOLIC BEVERAGES TO PERSONS UNDER 21 YEARS OF AGE STRICTLY PROHIBITED". The licensee shall also post in a conspicuous place in the licensed premises a sign in letters at least four inches high reading: "WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS."

ARTICLE II. BEER AND WINE: PACKAGE SALES

Sec. 32. Off-premises consumption.

Alcohol under this Article will be for consumption only off the premises of the licensee.

Sec. 33. Licensee Qualifications.

(a) No license shall be granted unless such person is at least 25 years and has been a resident of the state for a minimum of one year prior to filing an application. If a corporation or LLC should be an applicant, it shall designate a person responsible for all matters regarding the business, and that person shall be at least 25 years of age.

(b) No official or employee or member of the city shall be eligible for a license; however, any nonprofit corporation whose earnings are purely civic and for community purposes may be organized or owned by or operated by members of the city, and/or by officials or employees of the city as the case may be.

(c) Per 3-3-21, no license shall be granted to any person unless the entire business premises of the proposed location is situated beyond 100 yards of any housing authority property and beyond 100 yards from the property line of any school ground or college campus and not less than 100 yards from any building used as an alcohol rehabilitation center, and, furthermore, the front door of the retail sales establishment is beyond 150 feet from the front door of any Church. The distance shall be measured by most direct route of travel on the ground. Each application shall include a scale drawing of the location of the proposed premises showing distance to nearest housing authority property, school and alcohol rehabilitation center or a certificate of a registered surveyor that such location complies with this section.

(d) A separate license shall be required for each place of business.

(e) No license shall be issued unless the building is complete and detailed plans of the building and outside premises are attached to the application, unless proposed plans and specifications and a building permit of a proposed building comply with all ordinances of the city, all regulations of the state revenue commissioner, and all the laws of the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so the building and the premises on all sides shall be readily visible at all times from the street. The lighting shall illuminate the inside retail area and all the outside premises. Each applicant shall attach evidence of ownership or a copy of the lease if the applicant is leasing.

(f) The licensee shall not have been convicted of or pled nolo to a felony or a misdemeanor involving moral turpitude within 10 years of the date of application. As to entity applicants, including without limitation LLC's corporations, and partnerships, the foregoing requirements, regarding no such convictions, apply to any owners who own a 20% or more interest in the entity. All such owners, and all applicant's managers, shall furnish picture ID and a complete set of fingerprints for state and federal law enforcement background check. The manager(s) shall also submit a complete set of fingerprints and be photographed by the City.

(g) Licensee shall be responsible for the management and operation of the business.

(h) The applicant shall make a sworn statement of his qualifications according to this section and shall place the statement on file with the city clerk before any license is issued.

(i) If the application covers a partnership, all members of the partnership must be qualified to obtain a license and must make sworn statements of these qualifications.

(j) If the application covers a corporation or LLC, the manager of the proposed licensed premises must be qualified to obtain a license and must make sworn statements of these qualifications. A corporate license applicant shall appoint and designate to the city an agent authorized to receive service of process under state law. If no such designation is made, the city may serve or notify the applicant or license holder at any address of the applicant or license holder known to the city.

(k) The city, in its reasonable discretion, may objectively consider any and all relevant circumstances regarding location history and proximity to residential which may reflect favorably or unfavorably on the applicant, the application or the proposed location of the business. If in its reasonable judgment circumstances are such that the granting, suspension or revocation of the license would or would not be in the best interest of the general public, such circumstances may be grounds for the decision of the city.

(l) Any misstatement or concealment shall be grounds for revocation and make the applicant liable to prosecution for perjury.

(m) When the city shall deny an application, the applicant shall have 10 days following the date of notice of the denial to request a hearing before the city. The applicant shall be entitled at such a hearing to present evidence and cross examine opposing witnesses.

Sec. 34. Application for a Package Sales License.

Application shall be made on forms furnished by the city as follows:

(1) All applications shall be presented in person.

(2) Each applicant shall attach a completed application for a state license. Upon applicant's receipt of the state license, it shall be promptly forwarded to the city.

(3) Per 3-3-2 (c) applicant shall furnish a complete set of fingerprints for search of the files of the GCIC and NCIC for any instance of criminal activity during the last 10 years.

(4) Before any license is granted, the applicant must post with the city a performance bond with an insurance company as surety. This bond shall require the faithful observance and performance by the licensee of the rules and regulations in this article. Upon the violation of this article the amount of bond to be forfeited will be determined by the seriousness of the violations as determined by the city. The bond is to be approved by the city and shall be properly executed. The bond is to be in the amount of \$100 for a wholesale license and \$1000 for a retail license. In lieu of the bond required hereinabove, the City may accept a letter of credit or a certificate of deposit from a FDIC insured bank in the same amount.

(5) A license shall be valid only for the calendar year on the license, and not renewed. A licensee who desires to continue in business must make a new application for next year by noon on the first Wednesday in December of the present year. The prior year's application may be used, with complete supplementation addressing any and all changed circumstances. The accuracy of the original application and any supplemental information shall be certified under oath.

(6) Proof of compliance with all Watkinsville zoning and subdivision regulations and other applicable local, state, and federal requirements.

Sec. 35. License Fee.

The annual fee for a new license shall be \$1000 and shall be paid prior to the issuance of any license and shall be cash or a bank certified check. All licenses shall expire on December 31 of the year for which they were granted. No license fee shall be prorated.

Every person working on a licensee's premises who may ever provide beer or wine to a customer shall be no less than 18 years.

Each new licensee shall complete an alcohol training class, approved by the City after careful investigation of the proposed program and test by the City, prior to license approval. Every person working on a licensee's premises who may ever provide alcohol to a customer shall complete an alcohol training class, approved by the City after careful investigation of the proposed program and test by the City of Watkinsville, prior to license approval, and within 6 months of a new employee's hiring date and renew such every 3 years. Licensee shall supply proof of such at the time of permit application. Failure to timely present such proof shall be cause for a determination by mayor and council of non-compliance and suspension of alcohol sales until the next meeting of mayor and council after proof of compliance.

Sec. 36. Licensee Regulations.

No licensee, nor any agent or employee of the licensee, nor any other person shall do any of the following upon the licensed premises. No licensee shall:

(1) Sell or deliver any alcohol to any person except in the licensee's place of business.

(2) Furnish, sell or offer for sale any alcohol on Christmas Day.

(3) Sell or possess for sale alcohol where such person does not have a license to sell or possess for sale.

(4) Receive alcohol at the premises other than by a wholesale dealer with a permit granted by the city.

- (5) Knowingly and intentionally offer for sale, sell, barter, exchange, give, provide or furnish alcohol to any person confined in any jail, penal institution, correctional facility, prison camp, penitentiary or other lawful place of confinement, or to any person who is a patient or inmate of the Central State Hospital, or to any person who is noticeably intoxicated, or who is of unsound mind, or is an habitual drunkard whose intemperate habits are known to the licensee.
- (6) Fail to post in a conspicuous place in the licensed premises the signs required by section 2.
- (7) Fail to maintain on the licensed premises at all times a telephone in good working order.
- (8) Knowingly allow a person with a criminal record for violence or disorder to frequent/loiter on premises.
- (9) Knowingly allow any person to frequent the licensee's premises for the purpose of soliciting prostitution.
- (10) Fail to report to police at the earliest possible time any known incident of a criminal nature. It shall be unlawful for a licensee to willfully withhold from police any information pertaining to any crime on premises.
- (11) Knowingly allow any criminal act to be committed on the premises.
- (12) Give away any ticket, token or any other item that can be exchanged for any alcoholic beverage or wine upon the purchase of any other alcoholic beverage or wine.
- (13) Allow the sale of two (2) or more alcoholic beverages or wine for a single price, or the sale of one (1) container of alcoholic beverages or wine with a ticket, token or any other items redeemable for a subsequent container of alcoholic beverage or wine.
- (14) Allow display of alcoholic beverages or wine within 20 feet of point of purchase, i.e., cash register.

Sec. 37. Limitations.

- (a) Minimum % of non-alcohol and non-wine Product Sales. No license shall be issued under this Section unless the business or person derives at least 65% of its total quarterly and annual gross sales income from the sale of products other than beer and wine.
- (b) Minimum amount of non-alcohol and non-wine Product Sales. No license shall be issued under this Section unless such business or person has a total annual gross sales income from the sale of products other than alcohol, beer, or wine in an amount exceeding \$150,000 per calendar year.

Sec. 38. Display of License.

Licenses shall be displayed prominently at all times on the premises.

Sec. 39. Wholesale Permits.

Any wholesale distributor licensed by the state or the agent of such may be granted a permit from the city to distribute in the city upon making application for such permit to the city clerk and upon the presentation of evidence satisfactory to the city that the applicant understands and will comply fully with all terms and conditions and provisions of this article, and upon payment of an annual fee of \$100.

Sec. 6-40. Taxes.

In addition to the annual alcohol license fee required, there is also hereby levied an excise tax computed as prescribed in OCGA §§ 3-6-50, 3-5-60 and 3-5-80 with the following addition:

- (a) There is levied an excise tax per state law.
- (b) Each wholesale distributor shall furnish to the city a summary of all purchase invoices sold to each retailer in the city by the 20th day of each month following such purchases. This shall show the amount of excise tax paid.
- (c) **Wine Sales:** shall be taxed at the rate of twenty-two cents (\$.22) per liter and proportionate taxes at like rates on all fractional parts of a liter.
- (d) **Alcoholic Beverage Sales:** Where alcohol sold in bottles, cans or other containers, a tax of five cents per twelve ounces and a proportionate tax at the same rate on all fractional parts of twelve ounces.

Sec. 41. Financial Responsibility.

All applicants for a license must show financial responsibility. Selling alcoholic beverages is a privilege, not a right, and financial responsibility requirements are reasonable. All applicants shall, at the time of application and periodically thereafter, upon request of the City, submit to the City Clerk or designee, evidence of financial responsibility. The evidence or certification shall include without limitation:

- a) Financial statements and other proof of the finances of the business, which may be provided at the business for confidentiality, the review to be at licensee's expense, and/or a sworn certification from applicant's CPA, CEO, CFO or owner that licensee is a viable going concern, operated in a fiscally

responsible manner, which maintains reasonable reserves and maintains and follows a responsible business plan, and licensee is "financially responsible" and meets that requirement of the regulations.

- b) Proof of liability insurance coverage in the amount of no less than \$1,000,000 per occurrence, \$2,000,000 aggregate with a company listed on the U.S. Treasury Circular 570;
- c) A \$2,500 performance bond with an insurance company as surety, approved by the City and properly executed, requiring faithful observance and performance by licensee of all rules and regulations.
- d) Proof applicant owns or leases the business (fully executed deed in recordable form or copy of lease);
- e) Affidavit from applicant that it has adequate financial participation in the business to direct and manage it, and is not a mere surrogate for a person who would not otherwise qualify for a license for any reason, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- f) Payment of the applicable license fee;
- g) Certified copies of the sales and use tax monthly reports filed with the department of revenue for each month during the prior year (presentation of such, including with totals for the year, to the City Clerk or designee at the business shall be deemed lawful compliance with any report filing requirement in this article), and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all relevant documentation, that said financial responsibility requirement has been met;
- h) An affidavit certifying that all state and local excise taxes were charged and paid the prior year, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- i) Written acknowledgement that the City shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of the applicant for auditing the records of such applicant or licensee, securing compliance by such licensee with the provisions of this ordinance, proving or disproving violation of any part of this ordinance by any licensee, or to show payment or nonpayment of any taxes, fees, charges or the like due hereunder. If the City has a reasonable suspicion that an affidavit/certification is inaccurate, it may insist upon and be entitled to tender of the actual backup documentation.

Sec. 42. Transferability.

- (a) Except as otherwise stated, no license shall be transferable to any person or location; if a licensed business is sold or closed, licensee shall immediately surrender the license. Under no circumstances will the license fee be refunded.
- (b) No license shall be transferred during the year in which the license was obtained except in the case of death. In such a case, the executor or administrator may continue to operate for up to six months.
- (c) Upon the sale of any licensed business, the new owner may operate under the old license, but in no event for longer than 60 days or until his application is granted or denied, whichever shall first occur.
- (d) All holders of licenses shall, within 6 months, open for business the establishment in the license. Failure to shall serve as a forfeiture of the unused license, and no refund of license fee shall be made.

Sec. 43. Inspections.

The business shall be open to inspection at all times by officers/officials authorized to conduct such.

Sec. 44. Gambling.

There shall be no gambling, betting, games of chance, punchboards, slot machines, lotteries, tickets or chances therein or any schemes for hazarding money or any other thing of value, or in any adjoining room owned, leased or controlled by licensee; however, the sale of Georgia lottery tickets in compliance with 50-27-1 et seq. is permitted.

Sec. 45. Compliance with Laws.

Each licensee shall comply with all laws, and all rules and regulations of the state revenue commissioner; any violation shall subject the licensee to suspension or revocation and also may subject the licensee to criminal prosecution.

Licensee agrees law enforcement officers of Watkinsville, or any other enforcement agency, shall have the right to enter the premises of licensee for purposes of determining compliance with this Section.

The state laws and regulations relating to the sale and distribution of alcoholic beverages including beer and wines in Georgia, as revised, promulgated by the state revenue department, and especially as relates to retail sales, are hereby incorporated into and made a part of this Section as if fully set out herein.

Sec. 46. Sales to Minors.

- (a) "Minor" shall mean any person under 21 years, or as defined in 3-3-23 or by other state laws.
- (b) It is unlawful for a minor to attempt to purchase or for any other person purchase alcohol for a minor.
- (c) It shall be unlawful for a minor to exhibit fake, forged or borrowed ID to obtain alcohol.
- (d) No person shall make or permit to be made any sale of alcohol to minors. Upon violation, the licensee shall generally be treated as follows: upon a first offense by the licensee, a suspension for 30 consecutive days of sales of alcoholic beverages; proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the City Council, such proof to be provided to the City Council within 75 days of the first day of the suspension of the license; a \$500 civil penalty; and on the first day of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension. Upon a second offense by the licensee, within three years of a prior offense, a suspension of 60 consecutive days of sales of alcoholic beverages; proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the City Council, such proof to be provided to the City Council within 75 days of the first day of the suspension of the license; a \$1,000 civil penalty; removal of all alcoholic beverages from the premises; on the first day of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension; and probationary status for one year. Upon a third offense within three years, by the licensee, the license shall be revoked for a period of one full year.
- (e) Upon receipt of letter of notification of penalty, licensee has 10 days to file a written request for a hearing to appeal the fine, suspension, attendance at an approved alcohol awareness class, and/or the starting date of suspension of sales.
- (f) If no written request for a hearing is filed within 10 days of receipt of notification of penalty letter, the fine and suspension will begin on the eleventh day after the receipt of the notification of penalty letter unless the 11th day is a Saturday, in which case the suspension will begin on the next day of the establishment's operation during which alcoholic beverages would normally be available. Additionally, proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the City Council, to be provided to the City Council within 75 days of the receipt of the notification of penalty. Failure to timely present such proof shall be cause for a determination by the mayor and council of non-compliance and a suspension of alcohol sales until the next meeting of the mayor and council after presentation of proof of compliance.
- (g) Schedule if Appeal Hearing conducted: fine and/or suspension commences within five days thereafter, on a date set at the appeal hearing by Mayor and City Council. Proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by Council, such proof to be provided to Council within 75 days after the hearing. Failure to timely present such proof shall be cause for a determination by the mayor and council of non-compliance and a suspension of alcohol sales until the next meeting of the mayor and council after presentation of proof of compliance.

Sec. 47. Violations.

Any person violating this article shall, upon conviction, be punished as provided in City Code. In addition, such violation may be a cause for revocation or suspension of the license of a licensee by the city.

Sec. 48. Suspension or Revocation of License.

- (a) A license under this article shall be subject to suspension or revocation upon any of the following:
 - (1) The making of any false statements on an application for a license;
 - (2) A violation of regulations in this article and/or laws of the United States and/or the state and/or the city;
 - (3) The failure to have the financial responsibility upon which issuance of the license was conditioned;
 - (4) Default in any obligation, of any kind whatsoever, lawfully owing to the city;
 - (5) Suspension or revocation of a state license;
 - (6) Any violation of this article; or
 - (7) For any other legal and sufficient case.
- (b) Any action taken by the city to suspend or revoke a license shall not preclude and may be in addition to any criminal prosecution by a proper authority as provided by the laws and/or ordinances of the city, the state and/or the United States. Whenever action is taken by the city to suspend or revoke a license, the city shall provide written notice to the licensee of the action taken. The notice shall set forth the reasons for such

action. The licensee shall have ten days following notification of such action to request a hearing before the city. Licensee shall be entitled at such hearing to present evidence and cross examine opposing witnesses.

Sec. 49. Production of Records.

In conjunction with any license or the revocation, suspension or cancellation of any license or the hearings or payment or nonpayment of any excise tax levied or to be collected under this article, the city shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of any applicant or licensee. This shall be for auditing the records of such applicant or licensee, securing compliance by such licensee with the provisions of this article, proving or disproving violation of any part of this article, or to show payment or nonpayment of any taxes, fees, charges or the like.

Sec. 50. Conditions of Premises.

- (a) All premises used for the sale of alcohol and/or for the storage of alcohol shall be kept in a sanitary condition and shall be kept in full compliance with the regulations of the county health department.
- (b) All premises shall be subject to inspection by the health department, the fire department, the building inspector, and any authorized law enforcement officers to determine if the premises are in compliance with all rules, regulations, laws and codes.

Sec. 51. Incorporation of State Law.

The state laws and/or regulations relating to the sale and/or distribution of alcohol within the state are incorporated in and made a part of this article as if fully set out in this article.

Sec. 52. Employees.

- (a) Every licensee shall maintain at all times on the premises a list of all persons employed, which shall show the full legal name, alias, date of birth, current address, current home telephone number, and social security number of each employee.
- (b) The employee list shall be available during reasonable hours for inspection by any law enforcement officer or official or his designee. If so required by such person, an employee must submit to a fingerprint identification and criminal history check.
- (c) No person under 18 years of age shall be employed in any capacity in any place of business licensed under this chapter. (d) The licensee shall not employ any person who in the last 10 years has been convicted of a felony or misdemeanor involving moral turpitude.

Sec. 53. Copy of Article.

Licensees shall keep a copy of this article on the licensed premises and instruct any person working there to read and follow this article, and all persons selling alcohol shall at all times be familiar with the terms of this article. The licensee shall be held responsible for any acts of his employees. Each new licensee shall complete an alcohol training class, approved by the city after careful investigation of the proposed program and test, prior to license approval. Failure to timely present such proof shall be cause for a determination by the mayor and council of non-compliance and a suspension of alcohol sales until the next meeting of the mayor and council after presentation of proof of compliance. Every person working on a licensee's premises who may ever provide alcohol to a customer shall complete an alcohol training class, approved by the city after careful investigation of the proposed program and test, prior to license approval, and within 6 months of a new employee's hiring date and renew such every 3 years. Failure to timely present such proof shall be cause for a determination by the mayor and council of non-compliance and suspension of alcohol sales until the next meeting of the mayor and council after presentation of proof of compliance. Licensee shall supply proof at the time of permit application.

Sec. 54. Prohibited Sales.

- (a) No licensee shall furnish, sell or offer to sell any alcohol to any person in any jail or other lawful place of confinement, or to any person who is a patient or inmate of the Central State Hospital, or to any person who is noticeably intoxicated, or is of unsound mind, or is an habitual drunkard whose intemperate habits are known to the licensee or his agent or employee.
- (b) Pouring of alcoholic beverages, and/or wine on the premises is prohibited. Alcoholic beverages and/or wine may only be sold pursuant to a license granted under this article, for consumption only OFF the premises of the licensee.

Sec. 55. Contraband.

All malt beverages and/or wine owned or possessed contrary to the provisions of this article are declared to be contraband and shall be seized by the proper authorities.

ARTICLE III. POURING LICENSES

Sec. 302. Unlawful Sales without License.

As used in this article, defined words shall have the meanings specified unless the context in which the word or term is used clearly requires that a different meaning be used. It shall be unlawful for any person to sell or offer to sell any alcoholic beverages for consumption on the premises without first complying with the regulations in this article. The business of selling or otherwise dealing in or possessing alcoholic beverages is declared to be a privilege, not a right, and such privilege shall not be exercised in the City except as licensed under the terms of this article.

Sec. 303. Applications.

No alcoholic beverages shall be sold by the drink for consumption on the premises except under a license granted by the city. Application for a pouring license may be made only on behalf of restaurants located within the City, and shall be made on forms provided by the city, subject to the following:

(a) A pouring license shall be valid only for the calendar year indicated thereon and not renewed. A licensee who desires to continue in business must make a new application for next year on or before noon on the first Wednesday in December of the preceding year.

(b) The owner and/or manager of each applicant shall be photographed, and shall furnish picture identification, a separate form of identification, and a complete set of fingerprints, which shall be forwarded to law enforcement, who shall institute a search of the files of GCIC/NCIC for criminal activity within the 10-year period immediately preceding the date of such application. Law enforcement shall make such other investigations as are appropriate in the judgment of law enforcement. All new owners and/or managers shall also immediately undergo this procedure. As to entity applicants, including without limitation LLC's corporations, and partnerships, the foregoing requirements, regarding no such convictions during the prior 10 years, apply to any owners who own a 20% or more interest in the entity. All such owners, and all of applicant's managers, shall furnish picture identification and a complete set of fingerprints for state and federal law enforcement background check. The manager(s) shall also submit a complete set of fingerprints and will be photographed by the City.

(c) Each applicant shall attach a completed form with all attachments and requirements for a state license.

(d) Before a license is granted, the applicant must post with the city, along with his application, a performance bond with an insurance company as surety. Said bond is to be conditioned requiring the faithful observance and performance by the licensee of the rules and regulations contained in this article. Upon the violation of this article, or any part thereof, the amount of the bond to be forfeited will be determined by the seriousness of the violation as determined by the city. Said bond is to be approved by the city and shall be properly executed. Said bond shall be in the amount of \$2,500. Bond amount for Beer and Wine only is \$1,000.

(e) All applications for a license shall be presented in person.

(f) At the time an application is made for a license, the city clerk shall give notice to the applicant of the date on which the city shall consider the application.

Sec. 304. Legal Age, Residency and Ownership.

No license shall be granted unless such person is at least 25 and been a resident of Georgia for one year prior to filing an application. If a corporation or LLC should be an applicant and has not been allowed to do business by the secretary of state in Georgia for said one-year period, then the incorporator or managing member and the owners of at least 80% of the stock or interests shall all have been residents of Georgia for at least one year prior to filing an application.

Sec. 305. Standards of Issuance.

The following standards shall be applied to all decisions pertaining to the issuance or denial of licenses hereunder:

(1) All applicants for a license must show financial responsibility. All applicants shall, at the time of application and periodically thereafter, upon request of the City, submit to the City Clerk or designee, evidence of financial responsibility. The evidence or certification shall include without limitation:

- a) Financial statements and other proof of the finances of the restaurant, which may be provided at the restaurant for confidentiality reasons, the review to be at the licensee's expense, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner that the licensee is a viable going concern, being operated in a fiscally responsible manner, which maintains reasonable reserves and maintains and follows a responsible business plan, and that the licensee is therefore "financially responsible" and meets that requirement of the City of Watkinsville alcohol regulations.
- b) Proof of liability insurance coverage in the amount of no less than \$1,000,000 per occurrence, \$2,000,000 aggregate with a company listed on the U.S. Treasury Circular 570;
- c) A \$2,500 performance bond with an insurance company as surety, approved by the City and properly executed, requiring the faithful observance and performance by the licensee of the rules and regulations in this ordinance. Bond amount for Beer and Wine only is \$1,000.
- d) Proof applicant is the owner or lessee of the restaurant (fully executed deed or a copy of lease);
- e) An affidavit from applicant that it has adequate financial participation in the restaurant to direct and manage its affairs, and is not a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- f) Payment of the applicable license fee;
- g) Proof of quarterly and annual food sales (with totals) of 65% or more of its total gross sales, and annual food sales in excess of \$150,000 via presenting a confidential non-public sworn statement of the true and correct sales during the preceding calendar quarter and year respectively on forms approved by the city, which reflect the gross dollar sales amount for: total sales for the quarter and year, sales of alcohol for the applicable calendar quarter and year, and sales of food items for the quarter and year (presentation of the statement to the City Clerk or designee at the restaurant shall be deemed lawful compliance with any statement filing requirement in this ordinance) and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- h) Proof, upon request, via purchase receipts and sales records, of ongoing maintenance of two weeks supply (consistent with past sales) of the types of alcohol typically sold, to prevent undercapitalized restaurants and to demonstrate the financial viability of the restaurant, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- i) Certified copies of the sales and use tax monthly reports filed with the state department of revenue for each month during the prior year (presentation of such, including with totals for the year, to the City Clerk or designee at the business shall be deemed lawful compliance with any report filing requirement in this article), and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- j) An affidavit from CPA, CEO, CFO, or Owner, based on their familiarity with and review of all relevant documentation, certifying all excise taxes were charged and paid the prior year;
- k) Written acknowledgement that the City shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of the applicant for auditing the records of such applicant or licensee, securing compliance by such licensee with the provisions of this ordinance, proving or disproving violation of any party of this ordinance by any licensee, or to show payment or nonpayment of any taxes, fees, charges or the like due hereunder. If the City has a reasonable suspicion that an affidavit/certification is inaccurate, it may insist upon and be entitled to tender of the actual backup documentation.

(2) No officials or employees of the City shall be eligible to receive a license.

(3) All applicants for a license must be the owner or lessee of the premises and must provide evidence of ownership of the premises in the form of a fully executed deed or a copy of the lease.

(4) All applicants for a license must be of good character as evidenced by no conviction within the last 10 years of misdemeanors involving moral turpitude or felonies, and all operators, managers, clerks, or other employees shall be of such good character. Furthermore, corporate or firm applicants shall also be of such

good character, with all officers and members being of such good character. The application shall be sent within five business days of receipt to law enforcement for investigation of the applicants, employees, officers and members, then law enforcement shall timely present a written investigation report to the city.

(5) A license may be denied if it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or if it appears that the applicant is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason.

(6) The city, in its reasonable discretion, may objectively consider any extenuating circumstances regarding location history and proximity to residential that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If in the reasonable judgment of the city 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.

(7) A corporate applicant shall appoint and designate to the city an agent authorized to receive service of process under the laws of Georgia. If no such designation is made, the city may serve or notify the applicant or license holder at any address of the applicant or license holder known to the city.

(8) The city shall give notice in writing to the applicant of any decision to deny an application and give reasons for the decision. When the city shall deny an application, applicant shall have ten days from notice of denial to request a hearing before the city. The applicant shall be entitled at such a hearing to present evidence and cross-examine opposing witnesses.

Sec. 306. Transfer.

No license shall be transferable and if a licensed business is sold or closed, it shall be the duty of licensee to immediately surrender said license to the city, and under no circumstances will the license fee be refunded to the holder; provided, however, license transfer and temporary licensing can occur subject to the following conditions:

(a) If the owner of a license desires to transfer, or a 50% or greater interest in the business is sold or otherwise transferred, then the purchaser or transferee shall make a new application to the city as for an original license, before the date on which such sale or transfer is made. Ownership of such license shall remain unchanged until the application is approved by the city and all proper fees and taxes are paid.

(b) Upon the sale or other transfer of 50% or more interest in the business for which the license was issued, the purchaser or transferee shall be entitled to continue to operate such business for 30 days, pending the a new license, but only if such purchaser or transferee has filed a complete application with the city as required in subsection (a).

(c) In case of the death of any natural person the license may be transferred to the administrator, executor or the lawful heir or devisee by filing a new application for the change in license ownership within 30 days of such death. The business may continue to operate until disposition of the application is determined as for an original license. No additional fees shall be charged above what would be due if the business, or portion thereof, remained under the deceased person's ownership.

(d) All holders of licenses shall within 6 months after the issuance of such license open for business the establishment. Failure to open shall serve as a forfeiture of the unused license, and no refund of the license fee shall be made.

Sec. 307. Separate License.

A separate license shall be required for each pouring location of each place of business. Each license will enable the licensee to sell the licensed alcoholic beverages only in the areas of the premises permitted by state laws and regulations.

Sec. 308. Building.

No license shall be issued to any person unless complete and detailed diagrams of the building the outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building are attached. The building shall comply with ordinances of the city, regulations of the state revenue commissioner, and the laws of Georgia. Upon completion, the proposed building shall be subject to final inspection and approval by the building inspector. Each applicant shall attach evidence of ownership of the building or proposed building or a copy of the lease. Licensees shall provide on premises adequate sanitary toilet facilities as required by health and building codes and the building shall be adequately illuminated so all hallways, passageways and open areas may be clearly seen by customers.

Sec. 309. Distance Requirements.

No license shall be granted unless the front door of the building at the proposed location is not less than 150 feet from the property line of any school ground or college campus, and not less than 150 feet from any church building or 100 yards (300 feet) from any housing authority property or any building used as an alcohol rehabilitation center. This distance is to be measured by the most direct route of travel on the ground. Each application shall include a scale drawing of the location of the proposed premises showing the distances or a certificate of a registered surveyor that such location complies.

Sec. 310. Hours of Operation.

No alcohol may be served before 11 a.m. on any day.

No licensee shall furnish or serve alcohol at any of the following times:

- (1) Any time in violation of a local ordinance or regulation or of a special order of the city; or
- (2) Any time in violation of state law or regulation.
- (3) Any time more than one hour after the restaurant shuts down the kitchen for the evening. However, wholesale or retail sale of alcohol shall be lawful during polling hours of any election, except the sale of alcoholic beverages within 250 feet of a polling place is unlawful during such hours that the polls are open.
- (4) On Christmas Day
- (5) Restaurants will close no later than 11:00 p.m. (New Year's Day close no later than 12:30 a.m.)

Sec. 311. Minimum Age of Consumption; Exceptions.

No licensee nor any agent or employee of a licensee shall give, furnish, sell or offer to sell any alcoholic beverage(s) to a person under 21. Licensee shall post in a conspicuous place in the establishment a sign in letters at least four inches high reading as follows: "SALE OF ALCOHOLIC BEVERAGES TO PERSONS UNDER 21 YEARS OF AGE STRICTLY PROHIBITED". Licensee shall also post in a conspicuous place in the premises a sign printed in letters at least four inches high reading: "WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS." It shall be unlawful for a minor to exhibit fake, forged, or borrowed ID to obtain alcoholic beverages.

Sec. 312. Furnishing Alcoholic Beverages to Certain Persons Prohibited.

No licensee shall furnish, sell or offer to sell any alcohol to any person confined in any jail or other lawful place of confinement, or to any person who is a patient or inmate of the Central State Hospital, or to any person who is noticeably intoxicated, or is of unsound mind, or is a habitual drunkard whose intemperate habits are known to said person.

Sec. 313. Certain Employment Prohibited. Reserved.

Sec. 314. Containers.

Sale of alcohol in unbroken packages or for other than consumption on premises is prohibited.

Sec. 315. Annual Fees.

- (a) The fee for a license shall be \$1000, and shall be paid prior to issuance of any license. Said fee shall accompany the application and shall be either a cash payment or a bank check.
- (b) No annual fee shall be prorated.
- (c) Wholesalers are exempt from said fee unless payment of said fee is required under OCGA 48-5-354.

Sec. 316. Excise tax.

(a) ***Malt Beverages.***

(1) Where alcoholic beverages are sold in or from a barrel or bulk container, a tax of \$10 on each container sold containing not more than 31 gallons and a proportionate tax at the same rate on all fractional parts of 31 gallons; and

(2) Where alcoholic beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of .045 cents per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(3) There is levied a state excise tax on all such beverages in excess of 576 ounces or two standard cases of 12-ounce size or their equivalent or one 7.75-gallon keg or barrel of such beverages, this tax being levied at the rate of taxation of \$0.045 per 12 ounces.

(4) The City shall impose an excise tax, in addition to the excise taxes levied by the state, as follows:

(a) Where alcoholic beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15 ½ gallons and a proportionate tax at the same rate on all fractional parts of 15 ½ gallons;

(b) It shall be unlawful and a violation of this chapter for any restaurant dealer to possess, own, hold, store, display, or sell any alcoholic beverages on which such taxes have not been paid.

b) **Wine.** Taxation is per OCGA: 11 cents/liter and a proportional tax at the same rate for any fractional parts of a liter.

Sec. 317. Responsibility.

Any holder of an license shall keep a copy of this article on the premises and shall instruct any person working there to read and follow such, and each licensee and the licensee's agents and employees selling alcohol by the drink shall at all times be familiar with the terms hereof. The licensee shall be held responsible for any acts of the licensee's agents and/or employees in any violation hereof and/or of the laws of Georgia and/or the rules and regulations of the revenue commissioner.

Each new licensee shall complete an alcohol training class, approved by the City after careful investigation of the proposed program and test, prior to license approval. Failure to timely present such proof shall be cause for a determination by the mayor and council of non-compliance and a suspension of alcohol sales until the next meeting of the mayor and council after proof of compliance. Every person working on a licensee's premises who may ever provide alcohol to a customer shall complete an alcohol training class, approved by the City after careful investigation of the proposed program and test, prior to license approval, and within 6 months of a new employee's hiring date and renew such every 3 years. Failure to timely present such proof shall be cause for a determination by the mayor and council of non-compliance and suspension of alcohol sales until the next meeting of the mayor and council after presentation of proof of compliance. Licensee shall supply proof of such at the time of permit application.

Sec. 318. Inspection.

The business of the licensee shall be available for inspection at any and all times by officers or officials authorized to conduct such inspections, including without limitation law enforcement and City staff.

Sec. 319. Production of Records.

In conjunction with any license application or any license issued hereunder, or the revocation, suspension or cancellation of any license or any of the hearings contemplated by this article, or the payment or nonpayment of any excise tax levied or to be collected hereunder, the city shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of any applicant or licensee. Said subpoena right shall be had for auditing the records of such applicant or licensee, securing compliance with this article, proving or disproving violation of any part of this article by any licensee, or to show payment or nonpayment of any taxes, fees, charges or the like due hereunder.

Sec. 320. False statement.

Making of any false statement on an application shall constitute grounds for revocation of license.

Sec. 321. Gambling.

There shall be no gambling, betting, games of chance, slot machines, lotteries or tickets of chance or operation of any schemes for hazarding money or any other thing of value, nor in any room adjoining owned or controlled by licensee.

Sec. 322. Soliciting.

No licensee shall require, permit, or induce any person to solicit the purchase of any drink or money with which to purchase the same; nor shall any licensee pay a commission or any other compensation to any person to solicit for himself or for others, the purchase by the patron of any drink.

Sec. 323. Display of License.

A license under this article shall be displayed prominently on the premises for which it was issued.

Sec. 324. Delivery.

It shall be unlawful for any licensee to make delivery of any alcoholic beverage, except inside of the premises or area licensed for the sale thereof. It shall be unlawful to sell alcoholic beverages by the drink for consumption off the premises.

Sec. 325. Criminal Record.

It shall be unlawful for any licensee to knowingly allow any person with a criminal record for violence or disorder to frequent the premises or loiter on the premises.

Sec. 326. Prostitution; Adult Entertainment.

It shall be unlawful for any licensee to allow any person to frequent the licensee's premises for soliciting prostitution. Based on the experiences of other counties and municipalities, which experiences are relevant to the problems faced by the city, the mayor and council note the conditions and occurrences generally associated with adult entertainment establishments. It is the finding of the mayor and council that adult entertainment establishments, particularly those where alcoholic beverages are served, result in an increase in criminal behavior and create undesirable community conditions. An increase in instances of disorderly conduct, public drunkenness, prostitution, drug trafficking and loitering of individuals with criminal histories has been the experience of other counties and municipalities that permit adult entertainment establishments, particularly those in which alcoholic beverages are served. The mayor and council also find that the increase in criminal behavior which accompanies adult entertainment establishments causes undesirable community conditions. Conditions experienced in other counties and municipalities are depression of property values in neighborhoods surrounding the adult entertainment establishment, community blight, an increased burden on and expenditure for law enforcement, and an increase in the criminal case load in the judicial system due to a greater number of arrests because of the above-mentioned crime problems.

In addition to the prohibitions under Georgia law at 3-3-41, no alcoholic beverages may be sold in any restaurant which features performances by topless dancers, go-go dancers, strippers or similar entertainers whose performances involve erotic dancing including without limit simulation of sexual activities and/or erotic or lewd touching. No such adult entertainment may be located within 1,000 feet of any restaurant selling alcoholic beverages. For the purpose of this subsection, distance shall be by direct measurement between property lines, using the closest property lines of the parcels of land involved.

Sec. 327. Police Reports.

It shall be unlawful for a licensee to fail to report to police at the earliest possible time known incidents of a criminal nature that happen on licensee's premises. It shall be unlawful for a licensee to willfully withhold from police any information pertaining to any crime on premises.

Sec. 328. No Employees with Criminal records.

It shall be unlawful for any licensee to employ on the premises any person who in the preceding ten years has been convicted of a felony or of a misdemeanor involving moral turpitude. It shall also be unlawful for any licensee to allow any criminal act to be committed on the premises. No applicant or licensee shall have been convicted of or have pled nolo to, within 10 years of the date of application, a felony or of a misdemeanor involving moral turpitude, or any crime relating to the sale of alcohol. If the applicant or licensee is a partnership, all members of such partnership must meet this requirement. If the applicant or licensee is a corporation or LLC, all stockholders and officers and members must meet this requirement.

Sec. 329. Advertising.

It shall be unlawful to display on the outside of the premises any form of signs or lettering using brand names or words or advertisements indicating or have the connotation of promoting or advertising the sale of alcoholic beverages.

Sec. 330. Minors.

- (a) "Minor" in this article shall mean any person under 21, or as defined in 3-3-23 or by other state laws.
- (b) It is unlawful for a minor to attempt to purchase or for any other person to purchase alcohol for a minor.
- (c) It is unlawful for a minor to exhibit fake, forged or borrowed ID to obtain alcohol.
- (d) No person shall make or permit to be made any sale of alcohol to minors. Upon violation, the licensee shall generally be treated as follows: upon a first offense by the licensee, a suspension for 7 consecutive

days of sales of alcoholic beverages; proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the City Council, such proof to be provided to the City Council within 75 days of the first day of the suspension of the license; a \$500 civil penalty; and on the first day of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension. Upon a second offense by the licensee, within three years of a prior offense, a suspension of 60 consecutive days of sales of alcoholic beverages; proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the City Council, such proof to be provided to the City Council within 75 days of the first day of the suspension of the license; a \$1,000 civil penalty; removal of all alcoholic beverages from the premises; on the first day of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension; and probationary status for one year. Upon a third offense within three years, by the licensee, the license shall be revoked for a period of one full year.

(e) Upon receipt of letter of notification of penalty, licensee has 10 days to file a written request for a hearing to appeal the fine, suspension, attendance at an approved alcohol awareness class, and/or the starting date of suspension of sales.

(f) If no written request for a hearing is filed within 10 days of receipt of notification of penalty letter, the fine and suspension will begin on the eleventh day after the receipt of the notification of penalty letter unless the 11th day is a Saturday, in which case the suspension will begin on the next day of the establishment's operation during which alcoholic beverages would normally be available. Additionally, proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the City Council, to be provided to the City Council within 75 days of receipt of letter of notification of penalty. Failure to timely present such proof shall be cause for a determination by the mayor and council of non-compliance and a suspension of alcohol sales until the next meeting of the mayor and council after presentation of proof of compliance.

(g) Schedule if Appeal Hearing conducted: fine and/or suspension commences within five days thereafter, on a date set at the appeal hearing by Mayor and Council. Proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by Council, such proof to be provided to Council within 75 days after the hearing. Failure to timely present such proof shall be cause for a determination by the mayor and council of non-compliance and a suspension of alcohol sales until the next meeting of the Council after presentation of proof of compliance.

Sec. 331. Containers.

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

Sec. 332. Conditions of Premises.

(a) All premises for sale and consumption of alcohol and/or for the storage of alcohol shall be kept in a sanitary condition and shall be kept in full compliance with the regulations of the Health Department.

(b) All premises shall be inspected by the Health Department, Fire Department, building inspector, and law enforcement to determine if the premises are in compliance with all rules, regulations, laws, and codes.

Sec. 333. Telephone.

A licensee shall maintain on the premises at all times a telephone in good working order.

Sec. 334. Incorporation of State Law.

The state laws and/or regulations relating to the sale and/or distribution of alcoholic beverages within Georgia are hereby incorporated herein and made a part of this article as if fully set out herein.

Sec. 335. Employees.

(a) Every licensee shall maintain at all times on the premises a list of all persons employed by such licensee, which list shall show the full legal name, alias, date of birth, address, home telephone number and social security number of each employee.

(b) The employee list shall be available during reasonable hours for inspection by any law enforcement person or government official or his designee. Upon reasonable grounds for making such request, an employee must submit to a fingerprint identification and criminal history check. Every retail licensee shall

cause each of the licensee's employees during the hours of employment to be identified by a conspicuous label or badge on which shall appear the employee's first name.

(c) No person under 18 shall be employed in any capacity in any place of business licensed hereunder.

Sec. 336. Promotions.

No licensee shall engage in any of the following in connection with sale or disposition of alcohol:

- (a) Giving away a ticket, token or any other item that can be exchanged for alcohol on purchase of any other beverage;
- (b) Sale of two or more beverages for a single price or at the substantially same price as customarily charged for one;
- (c) Sale of one beverage with a ticket, token or any other items redeemable for a subsequent beverage;
- (d) The sale of all alcohol a customer can or desires to drink at a single price;
- (e) The sale of alcohol during any special period of the day or the week, at prices lower than those customarily charged;
- (f) Encouraging purchase of a second beverage at the same time another is purchased, or before the first is consumed; and
- (g) Conducting/allowing promotions which have a primary purpose of increased consumption of alcohol.
- (h) There shall be no discounts during certain hours, often known as "Happy Hour" Promotions.

Sec. 337. Prohibited Acts.

No licensee or business shall authorize or permit anyone to bring onto the premises any alcohol acquired elsewhere, nor shall any such licensee authorize anyone to take out of the premises any alcohol. No licensee shall authorize or permit any patron or customer to bring or carry any deadly weapon or firearm on the premises except a law enforcement officer or other person authorized by law to bring or carry any deadly weapon or firearm on the premises, nor shall licensee act as a keeper, bailee or custodian of any kind of deadly weapon or firearm for anyone.

Sec. 338. Clearing Service Areas.

All licensees shall remove or cause to be removed from the customer area all alcoholic beverages within one-half hour after the times for last call specified in this article. To discourage customers from trying to evade this requirement, at no time shall licensees give customers multiple drinks or "doubles" or similar, or provide a new drink or refill before the customer finishes the current drink.

Sec. 339. Contraband All alcoholic beverages owned or possessed contrary to this article are hereby declared to be contraband and shall be seized by the proper authorities.

Sec. 340. Grounds for Suspension or Revocation of License.

No person shall sell alcohol without first complying with this article. Any license shall be subject to suspension or revocation, and/or any licensee subject to civil penalty, upon any of the following grounds:

- (a) The making of any false statement on an application for a license issued hereunder;
- (b) A violation of the regulations in this article and/or regulations of the US and/or Georgia and/or the City;
- (c) The failure to have the financial responsibility upon which issuance of the license was conditioned;
- (d) Default in any obligation, of any kind whatsoever, lawfully owing to the City;
- (e) Suspension or revocation of a state retail dealer's license; or
- (f) For any other legal and sufficient cause.

Any action to suspend or revoke a license shall not preclude and may be in addition to criminal prosecution by a proper authority. Whenever any action is taken by the city to suspend or revoke any license, the city shall provide written notice to the licensee of the action and set forth the reasons for such action. The licensee shall have ten days following notification of such action to request a hearing before the city. The licensee shall be entitled at such hearing to present evidence and cross-examine opposing witnesses.

Sec. 6-341. New Restaurant; Temporary Licenses.

(a) Notwithstanding any other provision of this article, a person may apply as a qualified restaurant even though the establishment has not yet been in operation for the previous 12 months. Because it is not possible to determine if such restaurant has annual food sales which are 65% or more of its total gross sales and it is not possible to determine if such restaurant has annual food sales in excess of \$150,000, the

city may in its reasonable discretion consider the size and seating capacity of the restaurant, the size and seating capacity of any lounge in the restaurant, the size and type of kitchen facilities and all other relevant factors to determine if it appears substantially likely that the restaurant will qualify for a license under this article. If the city anticipates that the establishment will qualify for a license, it may vote to award the applicant a temporary license not to exceed 90 days. At or before the conclusion of the 90-day period, the city shall use a pro rata analysis to determine if the applicant is operating a qualified restaurant. If the city has determined that the restaurant is qualified under this article, the applicant may make application for a license under section 303.

(b) Notwithstanding any other provision of this article to the contrary, a nonprofit organization which has at least 75 members regularly paying monthly, quarterly, semiannual or annual dues and has received and has maintained approval from the IRS as a 501(c)(3) organization, may apply for a temporary 3-day special event license for consumption of malt beverages and wine (not distilled spirits, except one single day event, one time per year, upon approval of the Mayor and Council, using as criteria all applicable standards and requirements; applicant shall then comply with all applicable liquor serving requirements). In addition to the city requirements below, such organizations must file an application with and pay a fee of \$25 to the commissioner of the state department of revenue, and receive approval and issuance of the state license. No more than 6 licenses may be issued to an organization in any one calendar year pursuant to this code section. It shall be unlawful for a licensee to distribute or sell alcohol during any hours in which the sale of alcoholic beverages by the drink for consumption only on the premises is not permitted in the jurisdiction. It shall be unlawful for a licensee to employ any person under 18 who, in the course of such employment, would dispense, serve, sell, or handle alcoholic beverages. To make application for such license, the organization must comply with all the following:

- (1) Make application at least 14 days prior to the proposed license date(s);
- (2) Pay a fee of \$25 per licensed event;
- (3) Not hold more than 18 days and/or nights of such sales per calendar year. A license shall only be granted for a period not to exceed 3 days and/or nights per event;
- (4) All sales must be for fundraising, or to directly further the purpose of the organization, or made with service of a meal;
- (5) All sections of this article must be complied with except sections 303, 305, 306, 308, 315 and 342;
- (6) Only one such license shall be issued for any one location in the city, and such location shall be stated in the application. Licenses issued pursuant to this Code section shall be valid only for the place specified in the license;
- (7) All applicants for a license must be of good character, as evidenced by no conviction within the last 10 years of misdemeanors involving moral turpitude or felonies, and all operators, managers, clerks or other employees shall be of such good character, and corporate or LLC or firm applicants shall also be of good business reputation, with all officers and members being of such good character; the application shall be sent within five business days of receipt to law enforcement for investigation of the applicants, employees, officers and members, then law enforcement shall timely present a written investigation report to the city.
- (8) Whenever the city shall deny an application for a license, the applicant shall have ten days following the date of notice of denial to request a hearing before the city; the applicant shall be entitled at such a hearing to present evidence and cross-examine opposing witnesses; and
- (9) No license under this section shall be transferable or assignable to any person or other location. Under no circumstances will the temporary license fee be refunded to the organization.
- (10) A person who willfully, knowingly, and unlawfully sells, furnishes, or serves alcoholic beverages to a person who is not of lawful drinking age, knowing that such person will soon be driving a motor vehicle, or who knowingly sells, furnishes, or serves alcoholic beverages to a person who is in a state of noticeable intoxication, knowing that such person will soon be driving a motor vehicle, may become liable for injury or damage caused by or resulting from the intoxication of such minor or person when the sale, furnishing, or serving is the proximate cause of such injury or damage.

(c) Notwithstanding any other provision of this article to the contrary, a state-approved alcoholic beverage caterer who additionally holds a valid license from the city which authorizes the licensee to sell alcohol by the drink for consumption on the premises may be issued from the city an off-premises license which authorizes such licensed alcoholic beverage caterer to sell malt beverages and wine (not distilled spirits) by the drink off premises and in connection with a specifically designated catered function. Such shall be known as a "special event license". A "licensed alcoholic beverage caterer" means any retail dealer who has been licensed pursuant to OCGA § 3-4-2, 3-5-2, or 3-6-2. In addition to the city requirements below,

such organizations must file an application with and pay a fee of \$25 to the commissioner of the state department of revenue, and receive approval and issuance of the state license. It shall be unlawful for a licensed alcoholic beverage caterer to distribute or sell malt beverages or wine during any hours in which the sale of alcohol by the drink for consumption only on the premises is not permitted in the jurisdiction. It shall be unlawful for a licensed alcoholic beverage caterer to employ any person under 18 who, in the course of such employment, would dispense, serve, sell, or handle malt beverages and wine. To make application for such license, the organization must comply with and agree to all the following:

- (1) Make application at least 14 days prior to the first date of the proposed license period. The application shall include without limitation the name of the caterer; the date, address, and time of the event; and the licensed alcoholic beverage caterer's license number;
- (2) Pay a fee of \$250 annually;
- (3) Reserved.
- (4) All sales of malt beverages and wine must be for fundraising, or to directly further the purpose of the organization, or made in conjunction with service of a meal;
- (5) All sections of this article must be complied with except sections 303, 305, 306, 308, 315 and 342;
- (6) Only one such license shall be issued for any one location within the city and such location shall be stated in the application. Licenses issued pursuant to this code section shall be valid only for the place specified in the license;
- (7) All applicants for a license must be of good character as evidenced by no conviction of misdemeanors involving moral turpitude or felonies, and all operators, managers, clerks or other employees shall be of such good character, and corporate or LLC or firm applicants shall also be of good business reputation, with all officers and members of such good character; the application shall be sent within five business days of receipt to law enforcement for investigation of the applicants, employees, officers and members, then law enforcement shall timely present a written investigation report to the city;
- (8) Whenever the city shall deny an application for a license, the applicant shall have ten days following the date of notice of denial to request a hearing before the city; the applicant shall be entitled at such a hearing to present evidence and cross-examine opposing witnesses; and
- (9) No license under this section shall be transferable or assignable to any person or other location. Under no circumstances will the temporary license fee be refunded to the organization.
- (10) All sales of malt beverages and wine in connection with an authorized catered event, shall be cash at the time of delivery or not more than five days in advance of the authorized catered event. All other malt beverages and wine sales will be subject to restrictions and requirements imposed by department of revenue regulations. The acceptance of checks and credit cards shall be deemed the same as cash and are subject to the requirements and restrictions imposed by department of revenue regulations.
- (11) All sales are final and in no case will broken packages of beverage alcohol be removed or returned by the licensed beverage alcohol caterer from the site of the authorized catered event to his place of business or any other location. All returns of unbroken packages must be documented on the quantity-destination report. Under no circumstances will malt beverages or wine be returned to caterer's inventory on Sunday. Returns of unbroken packages of beverage alcohol will be handled as no sale.
- (12) Leftover broken packages of malt beverages and wine shall be the property of the event sponsor.
- (13) The licensed beverage alcohol caterer must provide such personnel as needed to handle all malt beverages and wine at the authorized catered event. This shall include bartending services, dispensing, and serving, providing, or furnishing beverage alcohol. Employees of a licensed alcohol beverage caterer must be 18 years of age or older in order to handle malt beverages and wine at such authorized catered event.
- (14) The licensed beverage alcohol caterer shall notify the state revenue commissioner in writing of the site of the authorized catered event. The notification will also contain such other information as the commissioner may require. Such notification must be received five working days prior to such authorized catered event.
- (15) The licensed beverage alcohol caterer will keep on file at his place of business, all beverage alcohol quantity/destination reports, local catering event permits and all other documents, records and reports required by Georgia Law and other department of revenue regulations for a time period prescribed by those laws and regulations.
- (16) The licensed beverage alcohol caterer is required to notify sponsors of authorized catered events of the authority of the state revenue commissioner or his agents to enter upon the premises which is the site of an authorized catered event for the purpose of inspection and enforcement of these regulations and all

other laws and regulations pertaining to the sale, possession and dispossession and distribution of beverage alcohol.

(17) Delivery of malt beverages and wine by a licensed beverage alcohol caterer shall be made only in connection with an authorized catered event. Delivering not meeting the requirements as set forth in these regulations shall be a violation of these regulations and department of revenue regulations governing the transportation of beverage alcohol by retail dealers and alcohol pouring licensees and shall be cause for the suspension or revocation of licensee's beverage alcohol licenses and forfeiture of licensee's bond or both by the state revenue commissioner. All beverage alcohol transported in violation of these regulations shall be declared contraband and subject to seizure by the state revenue commissioner or his agents.

(18) Vehicles used by a licensed beverage alcohol catering establishment for the transportation and delivery of beverage alcohol in connection with an authorized catered event will be marked only with the state license number two inches high and one inch wide. No other wordage or advertisement pertaining to the catering service will be permitted.

(19) While transporting and delivering beverage alcohol in connection with an authorized catered event, the licensee or the employee of the licensed beverage alcohol catering establishment shall have in his possession a copy of the establishment's valid state beverage alcohol license, a copy of the establishment's valid local beverage alcohol catering license, a copy of the establishment's valid local beverage alcohol catering event permit from the local governing authorities in the jurisdiction the event is being held along with the department of revenue alcohol beverage catering quantity/destination report.

(20) Delivery of all beverage alcohol by a licensee to an authorized catered event must be made in unbroken containers. Subsequent serving of all beverage alcohol at the authorized catered event must be by the drink.

(21) A person who willfully, knowingly, and unlawfully sells, furnishes, or serves alcoholic beverages to a person who is not of lawful drinking age, knowing that such person will soon be driving a motor vehicle, or who knowingly sells, furnishes, or serves alcoholic beverages to a person who is in a state of noticeable intoxication, knowing that such person will soon be driving a motor vehicle, may become liable for injury or damage caused by or resulting from the intoxication of such minor or person when the sale, furnishing, or serving is the proximate cause of such injury or damage.

Sec. 342. Reports.

(a) Each licensee under this section shall as a condition of maintaining such license, file with the clerk within 30 days after the end of each calendar quarter evidence of financial responsibility required under Section 305 (1)

(b) The statements shall be confidential and shall not be open for public inspection except as otherwise required by law. Said documentation shall be used solely by the city for determination of whether the licensee remains qualified to hold its license. Failure to timely file such documentation including evidence of financial responsibility shall be a violation of a city ordinance punishable by a civil penalty of up to \$500 and cause for suspension or revocation of the license granted hereunder.

Sec. 343. "Brown bag" and "Bring Your Own Bottle" Practices Prohibited.

It shall be unlawful for a person to bring alcoholic beverages into any restaurant or similar eating facility or any other establishment within the city limits for consumption on the premises or for any person to permit such. It shall also be unlawful for any establishment to charge a "corkage fee" or wine bottle opening fee or similar.

Sec. 344. Brewpubs - Brewpub definition, regulation, excise tax and administration.

(a) (1) Brewpub. An eating establishment in which malt beverages are manufactured, including for consumption on premises. "Eating establishment" is limited to a "Restaurant" defined under this Alcohol Ordinance, selling prepared food for consumption by the public on premises, with a full service kitchen, prepared to serve food every hour the establishment is open, and derives at least 65% of gross receipts annually from the sale of prepared food. All brewing shall be in an enclosed building. Production space shall not exceed 15,000 square feet.

(2) Restrictions. Free sampling of malt beverages is prohibited. Market prices must be charged, no "happy hour" discounts, no "buy one get one free" or other "specials." No retail package sales for consumption off premises are permitted except as specified below. In addition to draft beer manufactured

on premises, each licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.

(3) All regulations of the Alcohol Ordinance must be complied with, except as expressly stated otherwise. All state regulations relating to manufacture, sale, and distribution of beer are incorporated into and made a part of this Section as if fully set out herein.

(b) A brewpub license is \$1,500 per annum, and requires first obtaining a City and State malt beverages pouring license.

(c) A brewpub license authorizes the holder to manufacture, on premises, no more than 5,000 barrels of Malt Beverage in a calendar year, total, for: 1) consumption on premises in draft form, plus 2) for wholesalers, plus 3) for retail package sales in sealed bottles known as "growlers", together not to exceed 5,000 barrels combined.

(d) "Growler" means glass bottle, holding 12 to 68 oz., filled by a licensee or employee, from a barrel, cask, tank, or keg, only with malt beverage manufactured on the licensed premises. Only professionally sanitized and sealed growlers may be filled and made available for retail sale. Each growler must be securely sealed and removed from the premises in its original sealed condition.

(e) Distribution of malt beverages produced by a brewpub, to a wholesaler, is permitted, within the 5000 barrels limit stated above. No such malt beverages may be sold by a brewpub licensee to a person holding a retail consumption dealer's license or a retailer's license for resale.

(f) There is levied an excise tax, on all malt beverages produced by a brewpub, at \$6 per half barrel (15½ gallons) and \$12 per barrel (31 gallons). Such shall be paid to the City, by the 20th of each month, for the preceding month's production. A late payment penalty, of 10% of the tax due, shall be added to the amount due for any payment not received by the due date.

(g) Administration.

(1) The City Clerk, or designee, is authorized to establish procedures for administering this Section, including forms, requirements, procedures and schedules for financial audits or inspections of books and records of any establishment licensed under this Section.

(2) Every brewpub shall file a monthly report with the City, by the 20th of each month, on the state forms per Ga. Comp. R. & Regs, setting forth all malt beverages produced during such month, to include beginning and ending inventories. Such brewpub shall also indicate the proper tax remittance for such production. Failure to properly complete or submit the required reports shall subject the licensee to a late filing penalty of \$25 for each deficient reporting period.

Sec. 345. Pouring Distilleries - definition, regulation, excise tax and administration.

(a) (1) **Pouring Distillery.** An eating establishment in which distilled alcohol beverages are manufactured for consumption on premises. "Eating establishment" is limited to a "Restaurant" defined under this Alcohol Ordinance, selling prepared food for consumption by the public on premises, with a full service kitchen, prepared to serve food every hour the establishment is open, and derives at least 65% of gross receipts annually from sale of prepared food. Alcohol production space shall not exceed 15,000 square feet.

(2) Restrictions. Free sampling of distilled alcohol beverages is prohibited. Market prices must be charged, no "happy hour" discounts, no "buy one get one free" or other "specials." No retail package sales for consumption off premises are permitted.

(3) All regulations of the Alcohol Ordinance must be complied with, except as expressly stated otherwise. All state regulations relating to alcohol are fully incorporated herein.

(b) A Pouring Distillery license is \$4,000 per annum, and requires first obtaining a City and State distilled alcohol pouring license.

(c) A Pouring Distillery license authorizes the holder to manufacture, on premises, no more than 500 barrels (53 gallon barrels) of Distilled alcohol in a calendar year, total, for: 1) consumption on premises, plus 2) for wholesalers, not to exceed 500 barrels combined.

(d) Distribution of distilled alcohol produced by a Pouring Distillery, to a wholesaler, is permitted, within the 500 barrels stated above. No such distilled alcohol beverages may be sold by a Pouring Distillery licensee to a person holding a retail consumption dealer's license or a retailer's license for resale.

(e) There is levied an excise tax, on all distilled alcohol beverages produced by a Pouring Distillery, at 50¢ per liter, and a proportionate tax at the same rate on all fractional parts of a liter; plus Distillers shall collect sales tax. The local sales and use tax rate is 3%. Such shall be paid to the City, by the 20th of each month, for the preceding month's production. A late payment penalty, of 10% of the tax due, shall be added to the amount due for any payment not received by the due date. The State rate of sales and use tax is 4%.

(f) Administration.

(1) The City is authorized to establish procedures for administering this Section, including forms, requirements, procedures and schedules for financial audits or inspections of books and records of any establishment licensed under this Section.

(2) Every Pouring Distillery shall file a monthly report with the City, by the 20th of each month, on the state forms per Ga. Comp. R. & Regs, setting forth all distilled alcohol beverages produced during such month, to include beginning and ending inventories. Such Pouring Distillery shall also indicate the proper tax remittance for such production. Failure to properly complete or submit the required reports shall subject the licensee to a late filing penalty of \$25 for each deficient reporting period.

BE IT SO ORDAINED BY MAYOR AND COUNCIL, JULY 17, 2019, AFTER PRIOR READING JUNE 19, 2019.

Mayor and Council, City of Watkinsville

ATTEST: _____ (SEAL)
City Clerk