



Small town. Big difference.

City of Lilburn
76 Main Street
Lilburn, GA 30047

City Council
Meeting Agenda

Auditorium
Monday, August 8, 2016
7:30 p.m.

Council
Johnny Crist, Mayor
Brian Burchik, Post 1
Scott Batterton, Post 2
Eddie Price, Post 3
Tim Dunn, Post 4

As set forth in the Americans with Disabilities Act of 1990, the City of Lilburn does not discriminate on the basis of disability in the admission or access to, or treatment or employment in its programs or activities. Doug Stacks, 76 Main Street, Lilburn, GA 30047 has been designated to coordinate compliance with the non-discrimination requirements contained in section 13.107 of the Department of Justice regulations, information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA coordinator.

The City of Lilburn will assist citizens with special needs given proper notice (seven working days). Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of the City of Lilburn should be directed to Doug Stacks, 76 Main Street, Lilburn, GA 30047, telephone number 770-921-2210.

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PLEDGE TO THE FLAG**
- IV. APPROVAL OF AGENDA**
- V. ANNOUNCEMENTS –**
 - August 9th – Food Truck Tuesday from 6 pm to 9 pm.
 - August 27th – White Elephant Sale from 9 am to 1 pm.
 - September 10th – Lilburn International Festival from 10 am to 2 pm.
- VI. CEREMONIAL MATTER**
 - Captain Wentzell – New Lilburn Police Department Captain
 - Police Ceremonial Matter – TBA
- VII. PUBLIC COMMENT – NONE**
- VIII. APPROVAL OF MINUTES**
 - Consideration of the **City Council Regular meeting minutes from July 11, 2016.**
- IX. PUBLIC HEARING**
- X. AGENDA**
 - 1. ACCEPTANCE OF DONATION MADE TO LILBURN POLICE DEPARTMENT – CHIEF OF POLICE**

Trisha Martenn made a donation in the amount of \$300.00 to the Lilburn Police Department for appreciation of service and community partnership to be spent on behalf of the Police Department for the K-9 Unit's protective vest.

Staff recommends approval to accept donation and increase budget expenditure and revenue by \$300.00.

Attachment: *none*

- 2. AMENDMENT OF ALCOHOL ORDINANCE – ORDINANCE #2016-505 – FINANCE DIRECTOR**

Previously, the ARB has had numerous businesses that violated the City Alcohol Ordinance. Due to the various Supervised Action Plans put into place, it became noticeable that revisions needed to be made.

Proposed changes to the following sections:

Sec. 6-70 and 6-71 Supervised Action Plan, Suspension or Revocation. Amendment to Section 6-26 Violations and penalties and Sec. 6-27 Per-drink excise tax. Revise Sec. 6-60.1 Alcohol Review Board, Sec. 6-63 License; criteria for issuance, Sec. 6-67 Transferability, Sec. 6-69 Expiration and renewal and adding Sec. 6-102 Severability.

Staff recommends a motion to approve Ordinance #2016-505, Amending Chapter 6 Alcoholic Beverages, of the Code of Ordinances of the City of Lilburn.

Attachment: *ORR #2016-505, Alcohol Ordinance Working Document*

- XI. ADJOURNMENT**

**CITY OF LILBURN
AGENDA ITEM 1**

Date:	7/18/16	To: Mayor and Council	8/8/2016
From:	Chief Bruce Hedley	Department:	Police Department
Work Session Date Requested:	7/11/16 W/S and REG MTG.	Presenter:	Chief of Police
Agenda Title:	Acceptance of Donation Made to Lilburn Police Department		
Audio/Visual Requirements:		Deadline Date:	

Agenda Item (Background/History/Details):
Trisha Martenn made a donation in the amount of \$300.00 to the Lilburn Police Department for appreciation of service and community partnership to be spent on behalf of the Police Department for the K-9 Unit's protective vest.

Staff Recommendations:
Staff recommends the following: Staff recommends approval to accept donation and increase budget expenditure and revenue by \$300.00.

Department Head Approval:	
----------------------------------	--

Mayor's Signature Required:	YES	NO
------------------------------------	-----	----

List Attachments:

Financial Information (For Financial Services Use Only)

Budgeted Yes/No	Fund Name & Code	Current Balance	Requested Allocation	City Manager's Initials
NO	General Fund		\$300.00	
	5503200.52.3940			

**CITY OF LILBURN
AGENDA ITEM 2**

Date:	8/8/16	To: Mayor and Council	8/8/16
From:	Sheila McGaughey	Department:	Finance Director
Work Session Date Requested:	8/8/16	Presenter:	Sheila McGaughey
Agenda Title:	Amendment of Alcohol Ordinance – Ordinance #2016-505		
Audio/Visual Requirements:	n/a	Deadline Date:	n/a

Agenda Item (Background/History/Details):

Previously, the ARB has had numerous businesses that violated the City Alcohol Ordinance. Due to the various Supervised Action Plans put into place, it became noticeable that revisions needed to be made.

Proposed changes to the following sections:

Sec. 6-70 and 6-71 Supervised Action Plan, Suspension or Revocation. Amendment to Section 6-26 Violations and penalties and Sec. 6-27 Per-drink excise tax. Revise Sec. 6-60.1 Alcohol Review Board, Sec. 6-63 License; criteria for issuance, Sec. 6-67 Transferability, Sec. 6-69 Expiration and renewal and adding Sec. 6-102 Severability.

Staff Recommendations:

Staff recommends the following: **“Motion to approve Ordinance #2016-505, Amending Chapter 6 Alcoholic Beverages, of the Code of Ordinances of The City of Lilburn.”**

Department Head Approval:

B. Johnsa

Mayor’s Signature Required:

YES

NO

List Attachments:

1. Ordinance
2. Alcohol Ordinance – Working Document

Financial Information (For Financial Services Use Only)

Budgeted Yes/No	Fund Name & Code	Current Balance	Requested Allocation	City Manager’s Initials
N/A				BJ



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2014-505

Date of Reading and Adoption: August 8th, 2016
At the meeting of the Lilburn City Council held at 76 Main Street, Lilburn, Georgia.

AN ORDINANCE TO AMEND CHAPTER 6 ALCOHOLIC BEVERAGES, ARTICLE III LICENSING AND REGULATION, OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN GEORGIA, HEREBY ORDAIN THAT CHAPTER 6 OF PART II OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN SHALL BE AMENDED AS FOLLOWS:

Sec. 6-26. Same - Violations and penalties.

Any person violating any of the provisions of this chapter or who shall assist any retail dealer in distilled spirits in the city to evade or avoid the payment of the taxes herein provided for shall be guilty of a violation of this Code and, on conviction thereof in the municipal court, shall be fined or sentenced as provided by chapter 1 of this Code. Any such person so convicted shall also be subject to having his license **subjected to a supervised action plan**, suspended, or revoked, if he shall be **the holder of a license issued by the City** ~~licensed dealer in distilled spirits at retail~~.

Sec. 6-27. Per-drink excise tax.

- (d) Any licensee who violates any provision of this chapter may upon conviction by punished by a fine of not less than \$300.00 for each offense and/or 30 days in the city jail and **the** license of such location may be **subjected to a supervised action plan**, suspended, or revoked.

Sec. 6-60.1 Alcohol Review Board

- (c) Appointment, term, replacement. The Mayor and Council Members shall each appoint one member of the ARB to serve a one-year term beginning on the date of the appointment. Members shall serve for one year or until the appointment of a replacement. Any member who is absent without cause from three consecutive meetings of the Board shall be automatically terminated from his/her appointment. **A member may resign from the Board by notifying the ARB and the City Council in writing.** A replacement shall be appointed by the nominating city official for the terminated/resigning member. **In the event a replacement is not appointed by the nominating city official within 14 days from the date of the vacancy, then the Mayor shall be authorized to appoint the replacement for the remaining term of the terminated/resigning member.**
- (l) Meetings. The Board's regular meetings shall be held every third Thursday of the month, with the time and place to be determined by the Board. **The Board shall be authorized to reschedule a regular meeting as may be necessary to achieve a quorum for such meeting as is required herein.**
- (m)(1) Every decision of the Board shall be final, subject, however, to such remedy an aggrieved party might have at law or in equity **or as may otherwise be set forth in this Chapter.** Every decision

shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the offices of the Finance Director or designee, and a copy of the decision shall be sent by mail or otherwise to the applicant.

Sec. 6-63. License; criteria for issuance.

- (a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. No license for the sale of alcoholic beverages shall be granted to any business that is not the holder of a valid and current business license or Occupation Tax Certificate issued by the City of Lilburn. After a license has been granted, if the applicant should have its business license or Occupation Tax Certificate, suspended or revoked **or otherwise fail to renew or secure a valid business license or Occupation Tax Certificate**, said license may be subjected to a supervised action plan, suspended or revoked by the ARB as provided for in this Chapter.
- (o)(7)(b) Each retail licensee doing business in the city shall keep and maintain the original invoice of each sale to him/her or purchase by him/her from a wholesaler of any distilled spirits for at least 12 months after the date of such purchase and shall maintain records to show the sales of distilled spirits and any other records required by the city. The city, or its duly authorized representative, shall have the right to inspect the records of each licensee and make a complete audit of the records of each licensee at any time. Failure of a licensee to properly maintain records showing receipt of distilled spirits, payment therefore, and payment of the taxes due thereon to the appropriate wholesaler, and records which clearly show the sales, the amount of sales, and the types of sales of each licensee may, at the discretion **of the ARB and/or** mayor and council, after a hearing as provided for in this chapter, result in the revocation or suspension of such license **or subject the license to a supervised action plan.**

Sec. 6-67. Same--Transferability.

- (c) In the event that a license is surrendered, or a licensee severs his association with a licensed establishment **by some means other than a change in the ownership of the licensed establishment**, the establishment may continue to sell alcoholic beverages for a period of 45 days from the date of surrender, or from the date determined by the ARB to be the date of severance; provided, no such sale shall be authorized until such time as a new application for a license is made, said application indicating that no change of ownership has occurred, ~~except as excepted herein~~. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.
- (e) ~~Except as provided above, any~~ **Any** change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license hereunder automatically without the necessity of any hearing, **provided, however, that the establishment may continue to sell alcohol beverages during the period of time that a new application for a license is under review or for a period of thirty (30) days, whichever time period is shorter. No additional license fees shall be required during the period for which the original license was issued. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. If no new application for a license is made within seven (7) days of the change in ownership, the license shall stand automatically revoked. If the license application is received after the seventh day, the license fees set forth in Section 6-65 shall apply.**
- (f) Violation of this section shall result in revocation of the license being used and a fine on the new ownership and the old ownership of not less than \$300.00 and/or 30 days in jail. No license will

be issued to the old or the new owner in the city for 90 days ~~one-year~~ from the date of the violation.

Sec. 6-69. Same--Expiration and renewal.

- (c) All licenses granted hereunder may be renewed by the Licensing and Revenue Manager so long as the applicant, the establishment serving alcohol, and ~~any/~~or any employee thereof has not been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year. If the applicant, the establishment serving alcohol, and/or any employee thereof has been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year, then the application shall be reviewed and approved or denied by the ARB. In the event of any irregularity on the face of the application, then the application shall be reviewed and approved or denied by the ARB.

Sec. 6-70. Same -- Supervised Action Plan, Suspension or Revocation.

- (a) A supervised action plan is an intermediate sanction imposed upon a licensee to correct a violation of this chapter under such terms and conditions as set by the ARB and/or the City Council and shall not terminate until the Chief of Police certifies to the Board that said terms and conditions have been completed as directed by the Board and/or the City Council.
- (b) A license may be subjected to a supervised action plan, suspended or revoked by the ARB and/or the City Council where the licensee furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of this chapter.
- (d) Any licensed establishment that is found to be in violation of any section of this chapter shall be subject to a hearing before the ARB as set forth in Sec. 6-71 that may result in license revocation, suspension, or supervised action plan.
- (g) The ARB and/or the City Council may mandate a supervised action plan, suspend or revoke the license of any establishment which does not meet the licensing qualifications set forth in this chapter at any time such knowledge becomes known to him/her.
- (h) An act or omission of a licensee, owner of more than 20 percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this chapter will subject the license to a supervised action plan, suspension or revocation in accordance with the provisions of this chapter, when the ARB and/or the City Council determines to its own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues; provided, however, in the case of an employee, the ARB and/or the City Council must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.
- (j) (1) Any supervised action plan may be for a period of time that extends longer than the time remaining on such license. In that event, once the license is renewed, the supervised action plan shall continue as previously imposed. The ARB shall notify the license holder at the time of the approval of the renewal that the supervised action plan will continue into the new license period.
- (2) The following factors shall be considered on any supervised action plan, revocation or suspension as set out above:

- a. Consistency of penalties mandated by this chapter and those set by the ARB;
- b. Likelihood of deterring future wrongdoing;
- c. Impact of the offense on the community;
- d. Any mitigating or aggravating circumstances, ~~any remedial or corrective steps taken by licensee~~;
- e. Any remedial or corrective steps taken by licensee;
- f. Any failure by licensee to take remedial or corrective steps; and
- g. Whether the situation involves a violation of a supervised action plan and/or suspension previously imposed by the ARB.

(3) No supervised action plan nor any suspension of a license shall commence until at least five (5) calendar days subsequent to the issuance of the ARB's decision to impose such supervised action plan or suspension. This subparagraph shall not apply to any supervised action plan and/or suspension entered pursuant to Section 6-71 (a) herein.

Sec. 6-71. Same--Hearings.

(a) (2)(j) Whether the situation in question is a violation of a supervised action plan and/or suspension previously imposed by the ARB or City Council.

(8)(b) Further suspend the subject license for a certain time period; and/or

(9) Within 72 hours of the conclusion of the emergency review hearing, the ARB shall provide written notice of its decision to licensee and the Chief of Police. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify either party of the right to appeal under the provisions of this chapter. A review of the ARB's decision may be made by appeal to the City Council on the record only; no further evidentiary hearings shall be held before the City Council. Such appeal shall be by written petition, filed in the office of the Finance Director or designee within 15 days after the final order or action of the ARB. It shall be the duty of the Finance Director or designee to forward a copy of said appeal to the ARB and the record to the City Council. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from licensee.

(10) Appeal to City Council

- a. The filing of an appeal after an emergency hearing process shall not act as a supersedeas, unless the ARB so states in its decision.
- b. The City Council may affirm, reverse, or modify the findings of the ARB.
- c. The findings of the ARB shall be affirmed unless found to be:
 - i. Contrary to law or ordinances, or
 - ii. There is no evidence in the record to support the findings of the ARB, provided, however, that the City Council may modify the findings as set forth herein.

- d. In the event of a modification of the findings of the ARB, the City Council shall consider the following factors:
 - i. Consistency of penalties mandated by this chapter and those set by the ARB;
 - ii. Likelihood of deterring future wrongdoing;
 - iii. Impact of the offense on the community;
 - iv. History of prior suspensions and/or revocations of licensee and of warnings of violations to licensee;
 - v. Disorderly conduct at the establishment;
 - vi. Presence of illegal drugs at the establishment;
 - vii. Violence at the establishment;
 - viii. Gambling at the establishment;
 - ix. Any public safety implications of failing to immediately suspend the subject license; and
 - x. Whether the situation in question is a violation of a supervised action plan and/or suspension previously imposed by the ARB.
- (11) The findings of the City Council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County. The filing of an appeal after an emergency hearing process shall not act as a supersedeas, unless the City Council so states in its decision.
- (b) (5)(c) Revoke the subject license; and/or
- (7) Appeal to City Council
- a. The filing of such appeal to the City Council shall act as a supersedeas until such time as the City Council votes on the appeal or for a period of 45 days, whichever period of time is shorter.
 - b. The City Council may affirm, reverse, or modify the findings of the ARB.
 - c. The findings of the ARB shall be affirmed unless found to be:
 - i. Contrary to law or ordinances, or
 - ii. There is no evidence in the record to support the findings of the ARB, provided, however, that the City Council may modify the findings as set for the herein.
 - d. In the event of a modification of the findings of the ARB, the City Council shall consider the following factors:
 - i. Consistency of penalties mandated by this chapter and those set by the ARB and/or the City Council;
 - ii. Likelihood of deterring future wrongdoing;
 - iii. Impact of the offense on the community;
 - iv. Any mitigating or aggravating circumstances;

v. Any remedial or corrective steps taken by licensee or the failure by licensee to take remedial or corrective steps; and

vi. Whether the situation involves a violation of a supervised action plan and/or suspension previously imposed by the ARB and/or City Council.

(8) The findings of the City Council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County. The filing of such an appeal shall not act as a supersedeas, unless the City Council so states in its decision.

(c) The requirement of service of any written decision, communication, notice, and/or supervised action plan from the ARB and/or the City Council to a licensee shall be deemed satisfied with hand-delivery of said written document to the physical location of the licensed establishment and given to any employee, contractor, and or representative of the licensee, unless the licensee requests in writing service by some other reasonable means and delivers same to the ARB and/or Council at the time of the initial granting of the license and/or at each renewal of the license .

(d) In the event a licensee wishes to request a continuance of any hearing before the ARB and/or an appeal before the City Council, the request must be in writing and must be delivered no later than seven (7) days prior to the hearing or appeal. For any hearing before the ARB, the chairman of the ARB is authorized to deny or grant said request for good cause shown. For an appeal before the City Council, the City Manager is authorized to deny or grant said request for good cause shown.

Sec. 6-102. Severability.

Should any court of competent jurisdiction declare any section or part of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

This Ordinance shall become effective upon signature of the Mayor.

SO ORDAINED this the 8th day of August, 2016

Johnny D. Crist, Mayor
City of Lilburn

ATTEST:

Melissa L. Penate, City Clerk



Small town. Big difference.

Chapter 6
Alcohol Ordinance
August 8, 2016

Draft

Working Document

Article I. IN GENERAL

Sec. 6-1 Issuing authority

All duties and responsibilities conferred by this ordinance shall be placed upon the Alcohol Review Board in the manner described herein.

Sec. 6-2 - 6-18. Reserved.

Article II. EXCISE TAXES**Sec. 6-19 Malt beverages and wine - Imposition; rates.**

In addition to the malt beverage and wine retail license fees, there is hereby assessed an excise tax to be imposed upon and paid by the registered wholesale dealer in malt beverages and wine based on sale, in the following amounts:

- (1) Where malt 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 1/2 gallons and a proportionate tax at the same rate on all fractional parts of 15 1/2 gallons;
- (2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces;
- (3) On the first sale or use of wine by the package, a tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

Sec. 6-20 Same; reports - Remittance.

- (a) The excise taxes provided for in this Code shall be paid by such dealer on or before the 10th day of the month following the calendar month in which the beverages are sold or disposed of within the city.
- (b) Each licensee shall file a report itemizing for the preceding calendar month the exact quantities of wine and malt beverage, by size and type of container, for the month sold within the city. The wholesaler shall remit to the city of the 10th day of the month next succeeding the calendar month in which such sales were made, the taxes imposed by this section.

Sec. 6-21. Distilled spirits; levy; rate.

- (a) In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the city in the business of selling distilled spirits, there is imposed and levied upon retail dealers within the city an excise tax to be computed and collected as hereinafter set forth.
- (b) The tax levied hereunder shall be computed on the basis of \$0.22 per liter for distilled spirits, excluding fortified wine, sold or delivered as hereinafter set forth, with a proportionate tax at the same rate on all fractional parts of a liter.

Sec. 6-22. Same - Collection; payment; records.

- (a) The tax imposed shall be computed and payable monthly. Each wholesale dealer or distributor selling, shopping, or delivering distilled spirits to any retail dealer in the city shall, as a condition to the privilege of conduction that business within the city:
 - (1) Keep and maintain true and correct records of all sales, shipments or deliveries of distilled spirits to each retail dealer in the city, such records to be preserved for a period

of not less than one year and to be made available on request for the inspection of any duly authorized representative of the city.

- (2) Collect from each retail dealer in the city at time of delivery of distilled spirits, the amount of tax due under the terms of this section and hold the same in trust for the city until such tax is remitted to the city as herein provided.
- (b) On or before the 10th day of each calendar month, each wholesaler shall make a verified and comprehensive report to the city, which shall correctly show and reflect all sales and deliveries of distilled spirits to or for retail dealers in the city for the calendar month immediately preceding the date of the report. The report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount of excise tax collected under the terms of this section, and such other reasonable information as may be requested by the city. The report shall be accompanied by remittance payable to the city for all taxes collected or due, as shown on the report.
- (c) The excise tax levied on this chapter is hereby levied upon the retailer licensed to do business in the city and it is the intent of this section to so levy this tax but require the payment of the tax at the time of delivery by the retailer to the wholesaler, who shall have the responsibility of remitting the tax to the city on behalf of the retailer on or before the tenth day of each calendar month, as hereinbefore required. In the event the tax due hereunder is not paid on or before the 10th day of each calendar month, a ten percent penalty on the gross tax will be levied by the city against each defaulting retailing licensee for whom the tax is not paid on or before the tenth day of the month.

Sec. 6-23. Same - Noncompliance by wholesale dealer; distributor.

If any wholesale dealer or distributor fails or refuses to make the reports required herein, the city shall notify such dealer or distributor in writing and if the reports are not made and the taxes are not remitted within five days from the date of such notice, such wholesale dealer or distributor shall be prohibited from making any further deliveries in the city.

Sec. 6-23.1 Same – Registration required.

Every person, corporation, or other business entity who conducts business as a Wholesale Dealer within the corporate limits of Lilburn, shall be required to register as a Wholesale Dealer with the office of the Lilburn Finance Director or designee.

Sec. 6-24. Same - Unlawful retail sales.

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

Sec. 6-25. Same - Unlawful deliveries.

It shall be unlawful and a violation of this chapter for any wholesale dealer or distributor to deliver any distilled spirits to any retail dealer in the city without at the time of such delivery collecting the excise taxes herein provided for.

Sec. 6-26. Same - Violations and penalties.

Any person violating any of the provisions of this chapter or who shall assist any retail dealer in distilled spirits in the city to evade or avoid the payment of the taxes herein provided for shall be guilty of a violation of this Code and, on conviction thereof in the municipal court, shall be fined or sentenced as provided by chapter 1 of this Code. Any such person so convicted shall also be subject to having his license subjected to a supervised action plan, suspended or revoked, if he shall be the holder of a license issued by the City.

Sec. 6-27. Per-drink excise tax.

- (a) Every purchase of alcoholic beverages by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee hereunder and such licensee shall remit the same to the city on or before the 19th day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of alcoholic beverages by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the Finance Director or designee to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to the rate authorized for deductions from state tax under Part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, OCGA 48-8-50, as now written or hereafter amended; provided, that said tax is not delinquent at the time of payment. Each licensee shall include as part of this monthly report the total liters purchased within that same month of distilled spirits and the registered wholesaler from whom it was purchased. It shall be the duty of every such licensee required to make a report and pay any tax levied hereunder, to keep and preserve suitable records of the sales taxable hereunder, and such other books or accounts as may be necessary to determine the amount of tax due; and it shall be the duty of every licensee to keep and preserve such records for a period of three years.
- (b) Excise taxes received in the business license department after the 20th day of the month shall be charged a ten percent penalty.
- (c) In the event the Alcohol Review Board deems it necessary to conduct an audit of the records and books of the licensee, it will notify the licensee of the date, time and place of the audit.
- (d) Any licensee who violates any provision of this chapter may upon conviction be punished by a fine of not less than \$300.00 for each offense and/or 30 days in the city jail and the license of such location may be subjected to supervised action plan, suspended or revoked.

Sec. 6-28 - 6-57. Reserved.

Article III. LICENSING AND REGULATION**Sec. 6-58. City license a privilege.**

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

Sec. 6-59. Definitions.

As used in this chapter, defined words shall have the meaning specified unless the context in which the word or term is used clearly requires that a different meaning by used.

Alcohol means ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever process produced.

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, hard cider, malt beverage, wine or fortified wine.

Banquet/Event Hall means a publicly or privately owned commercial establishment which:

1. Is available for rent to parties other than the alcohol licensee on a regular and recurring basis.
2. Has interior dimensions of at least 3,000 square feet of seating space.
3. Exceptions to be considered in the Old Town Overlay District on a case by case basis.
4. Regularly serves food prepared in or delivered from a health department certified kitchen.
5. Is prepared to serve food (at least as substantial as Hor D'oeuvres and Appetizers) for every hour it is open while alcohol is being served.
6. Sale or delivery of alcoholic beverages to guests shall be for the purpose of on premises consumption only.

Other Restrictions:

1. Any banquet/event hall serving alcoholic beverages must have one Georgia P.O.S.T. certified law enforcement officer on duty per 200 guests for a particular event, for every hour that alcohol is served.
2. Banquet/Event halls licensed to serve alcoholic beverages may only operate between the hours of 6:00 AM and 12:00 AM, and may only serve alcoholic beverages between the hours of 9:00 AM and 1:55 PM.
3. Any banquet/event hall must have a TIPS trained staff member on the premises at all times when alcohol is being served.

*Permit fees shall be the same as those for eating establishments.

Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other product, or any combination of such product in water containing not more than six percent alcohol by volume. Ale, porter, brown, stout, lager beer, shall beer, craft beer, and strong beer shall also be considered beer and/or malt beverages. Hard cider shall be deemed a malt beverage.

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed for retail consumption on the premises pursuant to a brewpub license as set forth in Section 6-87.4 herein.

Chief of Police shall mean the Chief of the City of Lilburn Police Department.

Department of public safety shall mean the City of Lilburn Police Department.

Direct supervision means having a person at least 21 years of age on the licensed premises at all times where required under this chapter.

Distilled spirits or spirituous liquor means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wine. The term does not include sake, known as Japanese rice wine; ale; porter; brown; stout; lager beer; shall beer; craft beer; or strong beer.

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen (a "full-service kitchen" will consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals as it derives from the sale of all alcoholic beverages.

Fixed bar means that area in which distilled spirits are mixed and/or prepared to dispense, serve or sell on the licensed eating establishment's premises. All eating establishments licensed to sell distilled spirits for consumption on premises shall be considered as having at least one fixed bar.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, brandy.

Governing authority means the city council of the City of Lilburn.

Growler means a sanitized, reusable glass or ceramic jug, bottle or container used to transport beer, malt beverages, and hard cider for off premises consumption that is not to exceed sixty-eight (68) ounces and not be less than twelve (12) ounces. The sale and filling of growlers shall only be in compliance with this chapter and pursuant to a growler shop license as set forth in Section 6-87.3 herein.

Growler Shop is a retail establishment or eating establishment that may sell and fill growlers pursuant to a growler shop License as set forth in Section 6-87.3 herein.

Hard cider means a fermented alcoholic beverage made from fruit such as apples and/or pears containing not more than six percent (6%) alcohol by volume, including, but not limited to, flavored or carbonated cider. The term does not include “sweet cider.” Hard cider shall be deemed a malt beverage.

Historic Main Street District means that geographic area within the boundaries of Lilburn City Park, excluding the children’s playground area, and within all commercially zoned property, sidewalks, and rights-of-way on both sides of Main Street from the north side of the CSX Railroad to Fist Avenue.

Hotel means any building or other structure providing sleeping accommodations for hire to the general public, either transient, permanent or residential. Motels and Bed and Breakfast facilities meeting the qualifications set out herein for hotels shall be classified in the same category as hotels.

Indoor commercial recreational establishment is limited to establishments (1) regularly serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator all of which must be approved by the health and fire departments), prepared to serve food every hour they are open and deriving at least seventy (70) percent of its total annual gross sales from the sale of prepared meals and recreation activities, and (2) wherein the sale of food and alcoholic beverages is incidental to its primary enterprises and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally to mean a use which attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted. Bingo parlors, dance halls, night clubs, taverns, billiard parlors, video arcades, skating arenas, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments. No indoor commercial recreational establishment shall offer alcoholic beverages for sale during the time it is sponsoring events which primarily attract persons under the lawful drinking age in Georgia.

License means an authorization granted by the City to operate as a retail consumption dealer, retail package dealer or wholesale dealer.

Licensee means the individual to whom a license is issued or, in the case of a partnership or corporation, all partners, officers and directors of said partnership or corporation.

Liter means metric measurement currently used by the United States.

Manufacturer means any make, producer or bottler of an alcoholic beverage. The term "manufacturer" also means:

- (1) In the case of distilled spirits, any person engaged in distilling, rectifying or blending any distilled spirits;
- (2) In the case of malt beverages, any brewer.

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

Package store means a geographic location within the city wherein a license may be issued for the sale of packaged distilled spirits for consumption off-premises. Such package store must be operated

as a distinct business and cannot be operated in conjunction with or as a part of any other business, except only as provided in this chapter and/or by state law.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company trust, business trust, receiver, fiduciary or other group or combination acting as a unit, body politic or political subdivision, whether public, private or quasi-public.

Pouring permit means an authorization granted by the City to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer or growler shop.

Prepared food means food that is prepared and served on the eating establishment's premises. Nachos, pretzels, peanuts and other similar snack foods shall not be considered prepared food.

Retail consumption dealer means any person who sells alcoholic beverages for consumption on the premises at retail only to consumer and not for resale.

Retail establishment means an establishment which maintains the floor space and storage area in a manner which is devoted principally to the retail sale of general merchandise and located in zoning districts in which these establishments are permitted as a conforming use or in districts where an existing establishment exists as a nonconforming use. For the purpose of this ordinance, licensed pharmacies and/or drugstores shall be considered retail establishments.

Retail package dealer means any person who sells unbroken packages, at retail only, to consumers and not for resale.

Wholesaler or wholesale dealer means any person who sells alcoholic beverages to other wholesale dealer, to retail dealers, or to retail consumption dealers, who have completed all prescribed registration procedures in accordance with Section 6-23.1 of this ordinance.

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

Sec. 6-60. Unauthorized sale or delivery prohibited.

- (a) It is unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage where the person does not have a license granted by the city to sell or possess for sale these alcoholic beverages, or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violations of this section shall result in a fine of not less than \$300.00 and/or 30 days in jail.
- (b) It is unlawful for any retail consumption dealer, retail establishment, or retail package dealer to purchase or accept delivery of any alcoholic beverages in any form from a wholesale dealer who is not registered with the City of Lilburn as prescribed in Section 6-23.1.

- (c) It is unlawful for any retail consumption dealer, retail establishment, or retail package dealer to pick up off site, or accept delivery of, any alcoholic beverages in any form at any location other than that originally approved for the purchasing licensee.
- (d) It is unlawful for any wholesale dealer to allow the off site pick up by any retail consumption dealer, retail establishment, or retail package dealer of any alcoholic beverage in any form, or to make deliveries to any location other than that originally approved for the purchasing licensee.

Sec. 6-60.1 Alcohol Review Board

- (a) **Creation.** There is hereby created an Alcohol Review Board for the City of Lilburn to be appointed by and to serve at the pleasure of the Mayor and Council for such duration as deemed appropriate. The Alcohol Review Board shall be identified throughout Article III, of Chapter 6 of Part II of the Code of Ordinances as the “ARB.”
- (b) **Purposes.** The purpose of the ARB shall be to:
 - (1) Serve as a quasi-judicial body empowered to hold evidentiary hearings as set forth in Article III, of Chapter 6 of Part II of the Code of Ordinances;
 - (2) Screen, verify, investigate, review, and grant or deny applications for licenses to sell alcoholic beverages within the City of Lilburn pursuant to Article III, of Chapter 6 of Part II of the Code of Ordinances;
 - (3) Mandate a supervised action plan, suspend or revoke such licenses under the terms of Article III, of Chapter 6 of Part II of the Code of Ordinances;
 - (4) Advise the Mayor and Council, the City Manager, and the Downtown Development Authority on issues and matters of concern regarding Article III, of Chapter 6 of Part II of the Code of Ordinances; and
 - (5) Hear appeals concerning the denial, suspension, or revocation of licenses, permits and occupation tax certificates granted to Pawnbrokers as set forth in Article VI of Chapter 14 of Part II of the Code of Ordinances, and to Precious Metals Dealers as set forth in Article VII of Chapter 14 of Part II of the Code of Ordinances, and to Massage Parlors as set forth in Article IV of Chapter 14 of Part II of the Code of Ordinances, Commercial Soft Tissue or Manipulation establishments and agents as set forth in Article X of Chapter 14 of Part II of the Code of Ordinances, and to businesses as set forth in Article II of Chapter 62 of Part II of the Code of Ordinances; and
 - (6) Perform such other and further duties which are delegated to them by the Mayor and Council and as set forth in Article III, of Chapter 6 of Part II of the Code of Ordinances.
- (c) **Appointment, term, replacement.** The Mayor and Council Members shall each appoint one member of the ARB to serve a one-year term beginning on the date of the appointment. Members shall serve for one year or until the appointment of a replacement. Any member who is absent without cause from three consecutive meetings of the Board shall be automatically terminated from his/her appointment. A member may resign from the Board by notifying the

ARB and the City Council in writing. A replacement shall be appointed by the nominating city official for the terminated/resigning member. In the event a replacement is not appointed by the nominating city official within 14 days from the date of the vacancy, then the Mayor shall be authorized to appoint the replacement for the remaining term of the terminated/resigning member.

- (d) Compensation. Members shall be paid \$50.00 per meeting as compensation unless otherwise provided for by the Mayor and Council.
- (e) Limitation/Qualification. All members shall be residents of the City of Lilburn. No member shall have a conviction for any alcohol-related offense during his or her lifetime. Employees of the City shall not be members.
- (f) Officers. Members shall elect from among them a chairman and a vice-chairman. The term of office shall begin immediately upon election.
- (g) Quorum. Three (3) members of the ARB shall constitute a quorum.
- (h) Voting. The vote of three (3) members shall be required to approve any action.
- (i) Conflicts of Interest. If a Board member has any interest in any matter which may result in a gain or loss to that Board member, his/her immediate family by blood or by marriage, or to any individual, partnership or corporation with whom that member has had any regular business or contractual relationships within the previous twelve (12) months, such member shall not participate in the consideration, discussion, questioning and voting on that particular matter before the Board, nor shall the member take any action which may influence the vote of any other member. If the chairman has a conflict of interest, the vice-chairman shall preside over the meeting during consideration of that particular matter.
- (j) Records. The Board shall designate a recording secretary. The designated secretary shall keep a record all proceedings, which shall set forth reasons for the Board's decision, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.
- (k) Procedure. The Board shall establish rules and regulations for its own procedure consistent with the City of Lilburn Code or ordinances.
- (l) Meetings. The Board's regular meetings shall be held every third Thursday of the month, with the time and place to be determined by the Board. The Board shall be authorized to reschedule a regular meeting as may be necessary to achieve a quorum for such meeting as is required herein.
- (m) Decisions to be final and without delay.
 - (1) Every decision of the Board shall be final, subject, however, to such remedy an aggrieved party might have at law or in equity or as may otherwise be set forth in this Chapter. Every decision shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the offices of the Finance Director or designee, and a copy of the decision shall be sent by mail or otherwise to the applicant.

- (2) The Board shall, in every case, reach a decision without unreasonable or unnecessary delay, unless a specified time is otherwise provided.

Sec. 6-61. License; separate for each location.

Separate applications must be made for each location and separate licenses must be issued. One location may hold separate licenses as otherwise allowed by law.

Sec. 6-62 License; application form.

- (a) All persons, firms or corporations desiring to sell alcoholic beverages shall make application to the office of the Finance Director or designee on the form prescribed by the ARB, to be forwarded to any appropriate city department(s) for review and investigation.
- (b) The application shall include but shall not be limited to: the name and address of the applicant; the proposed business to be operated; if a partnership, the names and addresses of the partners; if a corporation, the names of the officers; the names and address of the registered agent for service of process, the name of the manager, and the name of all shareholders holding more than 20 percent of any class of corporate stock, or any other entity having a financial interest in each entity which is to own or operate the establishment for which a license is sought. If the manager changes, the applicant must furnish the ARB and department of public safety the name and address of the new manager and other information as requested within ten days of such change.
- (c) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the ARB and to ensure compliance with the provisions of this chapter. Failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.
- (d) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.
- (e) In all instances in which an application is denied under the provisions of this chapter, the applicant may not reapply for a license for at least one year from the final date of such denial.
- (f) The ARB shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.
- (g) Any license application made pursuant to this chapter may be withdrawn by the applicant without prejudice only until such time as the legal advertisement of a public hearing thereon is placed. No application shall be allowed to be withdrawn under any circumstances after public notice of the public hearing has been placed. All applications, having been advertised, shall be considered by the ARB and/or mayor and council of the city and shall receive final action.
- (h) Each application for a license under this chapter shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of

\$250.00 for all retail packaged beer and wine sales and for a growler shop license and \$500.00 for all other alcoholic beverage application fees, to defray investigative and administrative costs. If the applicant is denied a state license, the deposit representing the license fee shall be refunded, but the cost paid for investigation and administrative cost shall be retained; provided, however, that any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative authorized under this chapter. Any applicant for a license under this chapter who has in existence at the time of making the new application an existing license under this chapter shall pay no investigative or administrative costs.

- (i) A notice of each application to sell distilled spirits by consumption on-premises and/or package stores, for locations that have not been previously approved or which have not been continuously operated during the last 12 months, shall be advertised in the official organ once a week for two weeks immediately preceding consideration of the application by the city council. The ARB shall cause a sign to be placed upon the property of a proposed package store.
- (j) Notwithstanding any other provisions of this section, any application to sell any alcoholic beverages other than distilled spirits for a location that has not been previously approved or which has not been continuously operated during the last 12 months shall be considered by the mayor and city council.

Sec. 6-63. License; criteria for issuance.

- (a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. No license for the sale of alcoholic beverages shall be granted to any business that is not the holder of a valid and current business license or Occupation Tax Certificate issued by the City of Lilburn. After a license has been granted, if the applicant should have its business license or Occupation Tax Certificate, suspended or revoked or otherwise fail to renew or secure a valid business license or Occupation Tax Certificate, said license may be subjected to a supervised action plan, suspended or revoked by the ARB as provided for in this Chapter.
- (b) Where the applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers, managers and majority stockholder. In the case of a corporation, the license shall be issued jointly to the corporation and to the majority stockholder, if an individual. Where the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its agent registered under the provisions of this chapter. In the case of a partnership, the license will be issued to all the partners owning at least 20 percent of the partnership or if no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership will be licensed.
- (c) No person, firm or corporation shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the city council and/or Alcohol Review Board that such person, partners in the firm, officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere, and have been released from parole or probation, to any crime involving moral turpitude; illegal gambling; illegal possession or sale of controlled substances; illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot;

giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that the applicant, nor any of the other owners of the establishment, have been convicted or has pleaded guilty or entered a plea of nolo contendere and have been released from parole or probation to any crime involving moral turpitude; illegal gambling; illegal possession or sale of controlled substances; illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. Should any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, be convicted or plead guilty or nolo contendere to a crime involving moral turpitude; illegal gambling; illegal possession or sale of controlled substances; illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, the license shall be immediately revoked and cancelled.

- (d) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within ten years prior to the filing of application for such license.
- (e) No elected official or any employee of the city or his spouse shall have any whole, partial or beneficial interest in any license to sell alcoholic beverages issued within the corporate limits of the City of Lilburn.
- (f) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the city previously revoked within two years prior to the filing of the application.
- (g) The ARB may decline to issue a license when any person having any ownership interest in the operation of such place of business does not meet the same character requirements as herein set forth for the licensee.
- (h) All licensed establishments must have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of Gwinnett County. The licensee shall file the name of such agent, along with the written consent of such agent with the ARB and shall be in such form as he may prescribe.

- (i) All applicants for any alcoholic beverage license must be of good moral character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good moral character.
- (j) A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- (k) The city council may consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If, in their judgment, circumstances are such that granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.
- (l) For purposes of this chapter, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which defendant who was allowed to avail themselves of the Georgia First Offender Act (O.C.G.A. title 42, Ch. 8, art. 3, O.C.G.A. § 42-8-60 et seq.) except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which defendant had previously been sentenced as a first offender.
- (m) Reserved.
- (n) Sale of alcoholic beverages for consumption on the premises shall be restricted to eating establishments, all hotels or motels with eating establishments on the premise, and indoor commercial recreation establishments, and banquet halls.
 - (1) Hotel – Restriction on sale of alcoholic beverages.
 - a. Sale of alcoholic beverage is limited to patrons and guests in the eating establishment or in the room of a guest.
 - b. Licensee may sell wine of malt beverage by the bottle, not to exceed 1.5 liters, which may be served in the eating establishment and/or delivered to the room of registered guests at a price which is not below the licensee's cost.
 - c. Mini-Bar Permit
 - 1) Authorized Activities – The holder of a minibar permit may sell the following alcoholic beverages out of a minibar:
 - i. Distilled spirits in containers of not less than one ounce nor more than two ounces.
 - ii. Wine in containers of not more than 13 fluid ounces.
 - iii. Malt beverages in containers of not more than 12 fluid ounces.
 - 2) Limited Access to Minibar
 - i. Minibars shall be of such design as to prevent access to alcoholic beverages to all persons who do not have a minibar key. The minibar key shall be different from the hotel guestroom key, and the permittee shall not provide a minibar key to any person who is not of legal drinking age.

liquor store. Notwithstanding any of the other provisions of this section, no person shall be deemed to have more than one interest in any one license.

- c. All applications for license, whether original or for renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interests, as defined in subsection (o)(1)b. in retail liquor stores. This shall include the names and addresses of all persons interested in the ownership of the business of selling packaged liquor at retail, together with any interest each person or members of his immediate family have in any other retail liquor store, the ownership of the land and building where such retail business is operated; the amount of rental paid for the land and building, and the manner in which the same is determined and to whom and at what intervals it is paid; the names and addresses (by affidavit from the owner, lessor, or sub lessor of such land and building) of all persons having any whole, partial, beneficial, or any other interest in and to the land and building on and in which the retail liquor store is to be located; a copy of the proposed lease, and any other information requested by the department of public safety or the mayor and council pertinent to the application under investigation.
 - d. Any change in any of the relationships and/or ownership interests contained on the application must be filed with the ARB within 30 days after such change is made and the failure to do so shall be grounds for immediate cancellation and revocation by the mayor and council of any license issued hereunder or for the immediate dismissal of any application for a license hereunder.
- (2) A licensee of a retail establishment under this chapter shall not operate such business in connection with any other mercantile establishment except a retail store selling package beer and wine, and then only if such package beer and wine store sells only beer, wine, and other items of convenience normally associated with the retail sale of package beer, and then only if such package beer and wine is sold only for consumption off premises. No such retailer shall sell, offer for sale, display, or keep in stock at his/her place of business where packaged distilled spirits are offered for sale any other product or commodity, except:
- a. Wines (if licensed);
 - b. Beverages containing no alcohol and commonly used to dilute distilled spirits, but no beverages of any kind may be opened or consumed in the place of business;
 - c. Tobacco products;
 - d. Malt beverages or beer; and
 - e. Packaged ice, snacks and supplies.
- (3) The number of licenses which may be issued by the city under this chapter and which may be in operation within the city at any one time shall not exceed one license for each

3,000 citizens according to the Atlanta Regional Commission Census of 1989 or any future census.

- (4) It shall be unlawful to sell or dispense distilled spirits from "drive-in" or "service" windows. Curb service or other sales of distilled spirits outside the building licensed to sell are expressly prohibited.
- (5) Retail dealers in distilled spirits licensed under the provisions of this chapter shall not buy or accept deliveries of distilled spirits from wholesalers, dealers or distributors, except those licensed by the state revenue department of Georgia.
- (6) All licensed retailers shall store all distilled spirits on the premises for which the license was issued and at no other place. All distilled spirits stock shall be available at all times for inspection by the mayor and council or their duly authorized representatives. Any distilled spirits found in any retailer's stock that is sold or distributed by a wholesaler not licensed in accordance with the laws of Georgia to make sales and deliveries in the city, shall be subject to immediate confiscation.
- (7) Invoices.
 - a. Upon each and every delivery by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared, showing the quantities and brands of distilled spirits delivered, together with the price thereof and the excise tax due and collected thereon. The original of such invoice shall be delivered by the wholesaler to the retailer simultaneously with such delivery. The wholesaler shall retain the second copy of such invoice and shall keep it for a period of 12 months after the date of delivery and during such 12-month period, such invoices shall be made available for inspection by the mayor and council, or their duly authorized representatives. Upon request of the city, a copy of such invoice shall be attached to any reports requested or required by the city.
 - b. Each retail licensee doing business in the city shall keep and maintain the original invoice of each sale to him/her or purchase by him/her from a wholesaler of any distilled spirits for at least 12 months after the date of such purchase and shall maintain records to show the sales of distilled spirits and any other records required by the city. The city, or its duly authorized representative, shall have the right to inspect the records of each licensee and make a complete audit of the records of each licensee at any time. Failure of a licensee to properly maintain records showing receipt of distilled spirits, payment therefore, and payment of the taxes due thereon to the appropriate wholesaler, and records which clearly show the sales, the amount of sales, and the types of sales of each licensee may, at the discretion of the ARB and/or of the mayor and council, after a hearing as provided for in this chapter, result in the revocation or suspension of such license or subject the license to a supervised action plan.
- (8) A retail consumption dealer shall not be eligible for a retail package license, but eating establishments shall be eligible for a license to sell packaged beer and wine for off-premises consumption as allowed hereunder.

- (p) An eating establishment that is licensed as a retail consumption dealer shall not sell distilled spirits in packages at any time. An eating establishment that is licensed as a retail consumption dealer shall be eligible for a license to sell packaged beer and wine for off-premises consumption, pursuant to the same procedures as are set forth in this Chapter as it pertains to a retail package store, and each such eating establishment shall comply with all other applicable state and local requirements.

Sec. 6-64. Distance requirements.

- (a) No person, knowingly and intentionally, may sell or offer to sell any alcoholic beverage in or within 100 yards of a church building or within 200 yards of any school grounds.
- (b) The school buildings referred to in this section shall apply only to state county, city or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common school and colleges of this state, and does not include a pre-kindergarten program. The term "school building" includes only those structures in which instruction is offered.
- (c) The term "church building," as used herein, means the main structure used by any religious organization for purposes of worship.
- (d) For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:
- (1) From the front door of the structure from which alcoholic beverages are sold or offered for sale;
 - (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;
 - (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
 - (4) To the front door of the church building, or to the nearest portion of the school grounds, whichever is applicable.
- (e) No location which is licensed to sell alcoholic beverages on the effective date of the ordinance codified in this chapter shall be denied continued operation under an existing license, or denied any renewal of such license, nor shall any new owner of said location be denied a new license based upon the measurements set forth in this section.
- (f) As to any location licensed in the future, if the distance requirements herein are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited herein shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property. However, notwithstanding any other provisions of this section and chapter, said use shall not be reestablished after discontinuance of 12 months, unless it shall meet the requirements of subsection (a).

- (g) An applicant for a license to sell alcohol must submit written documentation from the City's Director of Planning and Economic Development or his/her designee that the applicant meets the distance requirements as set forth herein.

Sec. 6-65. License; fees.

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the city council regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the city council and kept on file in the office of the Finance Director or designee as follows:

- (a) If the application is made from January 1 to March 31: the full amount of the license fee designated therein;
- (b) If the application is made from April 1 to June 30: three-fourths of the full amount of the license fee designated therein;
- (c) If the application is made from July 1 to September 30: one-half of the full amount of the license fee designated therein; and
- (d) If the application is made from October 1 to December 31: one-fourth of the full amount of the license fee designated therein.

Sec. 6-66. Same - Display.

The city alcoholic beverage license shall at all times be kept plainly exposed to view, to the public, at the place of business of the licensee.

Sec. 6-67. Same--Transferability.

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided herein.
- (b) In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall first occur; provided, that no sale of alcoholic beverages shall be allowed until such time as a person representative of this estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the ARB.
- (c) In the event that a license is surrendered, or a licensee severs his association with a licensed establishment by some means other than a change in the ownership of the licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 45 days from the date of surrender, or from the date determined by the ARB to be the date of severance; provided, no such sale shall be authorized until such time as a new application for a license is made, said application indicating that no change of ownership has occurred. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.

- (d) Nothing in this section, however, shall prohibit one or more of the partnership holding a license to withdraw from the partnership in favor of one or more partners who were partners at the time of the issuance of the license.
- (e) Any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license hereunder automatically without the necessity of any hearing, provided, however, that the establishment may continue to sell alcohol beverages during the period of time that a new application for a license is under review of for a period of thirty (30) days, whichever time period is shorter. No additional license fees shall be required during the period for which the original license was issued. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. If no new application for a license is made within seven (7) days of the change in ownership, the license shall stand automatically revoked. If the license application is received after the seventh day, the license fees set forth in Section 6-65 shall apply.
- (f) Violation of this section shall result in revocation of the license being used and a fine on the new ownership and the old ownership of not less than \$300.00 and/or 30 days in jail. No license will be issued to the old or the new owner in the city for 90 days from the date of the violation.

Section 6-68. Forfeiture for nonuse.

- (a) All holders of licenses hereunder must, within three months after the issuance of the license, open for business the establishment referred to in the license. Failure to open the licensed establishment within three months after the issuance of the license shall serve as the automatic forfeiture and cancellation of the license, and no refund of license fee shall be made to the license holder.
- (b) Any holder of a license hereunder who shall begin the operation of the business authorized in the license, but who shall for a period of three months thereafter cease to operate the business as authorized in the license, shall, upon expiration of such three-month period, automatically forfeit the license; and the license shall, by virtue of such failure to operate, be canceled without the necessity of any further action of the mayor and council, and no refund of license fee shall be made to the license holder.
- (c) Extensions of the time period may be granted by the mayor and council under extraordinary circumstances.

Sec. 6-69. Same--Expiration and renewal.

- (a) All licenses granted hereunder shall expire on December 31st of each year. Licensees who desire to renew their license shall file an application, with the requisite fee heretofore provided, with the Licensing and Revenue Manager on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30th of each year. If the license application is received after November 30th but before January 1st, an additional 20% late charge shall be assessed. If the license application is received after January 1st, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had

been and held. If the license application is received after January 1st, investigative and administrative costs will be assessed. If an application was received in the prior calendar year by the Finance Director or designee that did not result in the issuance of a license, any subsequent license shall be treated as an initial application, and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held.

- (b) All licenses granted hereunder shall be for the calendar year.
- (c) All licenses granted hereunder may be renewed by the Licensing and Revenue Manager so long as the applicant, the establishment serving alcohol, and/or any employee thereof has not been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year. If the applicant, the establishment serving alcohol, and/or any employee thereof has been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year, then the application shall be reviewed and approved or denied by the ARB. In the event of any irregularity on the face of the application, then the application shall be reviewed and approved or denied by the ARB.
- (d) The Chief of Police, or his designee, shall verify the applicant's and/or establishment's compliance with the requirements of this chapter prior to renewal and shall report to the ARB regarding same. The director of public safety, or his designee, also shall verify whether the applicant, the establishment serving alcohol, and/or any employee thereof has been subjected to an alcohol-related citation and shall report to the ARB and the Licensing and Revenue Manager regarding same.

Sec. 6-70. Same -- Supervised Action Plan, Suspension or Revocation.

- (a) A supervised action plan is an intermediate sanction imposed upon a licensee to correct a violation of this chapter under such terms and conditions as set by the ARB and/or the City Council and shall not terminate until the Chief of Police certifies to the Board that said terms and conditions have been completed as directed by the Board and/or the City Council.
- (b) A license may be subjected to a supervised action plan, suspended or revoked by the ARB and/or the City Council where the licensee furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of this chapter.
- (c) Whenever the state shall revoke any permit or license to sell alcoholic beverages, the city license shall thereupon be automatically revoked. The director of public safety, upon notice of this revocation from the ARB, shall take the necessary steps to see that signs are removed and that all alcoholic beverage sales cease.
- (d) Any licensed establishment that is found to be in violation of any section of this chapter shall be subject to a hearing before the ARB as set forth in **Sec. 6-21** that may result in license revocation, suspension, or corrective action plan.

- (e) The ARB shall revoke the license of any licensee whose license has been suspended two or more times in any consecutive 12-month period.
- (f) The ARB shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
- (g) The ARB and/or the City Council may mandate a supervised action plan, suspend or revoke the license of any establishment which does not meet the licensing qualifications set forth in this chapter at any time such knowledge becomes known to him/her.
- (h) An act or omission of a licensee, owner of more than 20 percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this chapter will subject the license to a supervised action plan, suspension or revocation in accordance with the provisions of this chapter, when the ARB and/or the City Council determines to its own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues; provided, however, in the case of an employee, the ARB and/or the City Council must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.
- (i) Whenever it can be shown that a licensee hereunder no longer maintains adequate financial responsibility upon which issuance of the license was conditioned or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the city, the ARB shall issue a supervised action plan, suspend or revoke the subject's license.
- (j) Wherever this chapter permits the ARB to mandate a supervised action plan, revoke or to suspend any license issued hereunder but does not mandate the period of such plan or suspension, such discretion shall be exercised within the guidelines of this section.
 - (1) Any supervised action plan may be for a period of time that extends longer than the time remaining on such license. In that event, once the license is renewed, the supervised action plan shall continue as previously imposed. The ARB shall notify the license holder at the time of the approval of the renewal that the supervised action plan will continue into the new license period.
 - (2) The following factors shall be considered on any supervised action plan, revocation or suspension as set out above:
 - a. Consistency of penalties mandated by this chapter and those set by the ARB;
 - b. Likelihood of deterring future wrongdoing;
 - c. Impact of the offense of the community;
 - d. Any mitigating or aggravating circumstances;
 - e. Any remedial or corrective steps taken by licensee;

- f. Any failure by licensee to take remedial or corrective steps; and
 - g. Whether the situation involves a violation of a supervised action plan and/or suspension previously imposed by the ARB.
- (3) No supervised action plan nor any suspension of a license shall commence until at least five (5) calendar days subsequent to the issuance of the ARB's decision to impose such supervised action plan or suspension. This subparagraph shall not apply to any supervised action plan and/or suspension entered pursuant to Section 6-71 (a) herein.

Sec. 6-71. Same--Hearings.

(a) Emergency Review Hearings by the ARB.

- (1) The Chief of Police shall notify either the chairman or the vice-chairman of the Board that such a situation exists that constitutes a significant, present threat to public safety or public order, which is likely to continue and that requires the immediate suspension of a license;
- (2) A decision to immediately suspend a license shall be jointly made by the Chief of Police and the chairman or vice-chairman of the Board and shall be justified when any of the criteria set forth in Section 6-70 is present and at least one identifiable aggravating circumstance exists that the chairman or vice-chairman of the Board finds requires an emergency suspension, after consideration of the following:
 - a. Consistency of penalties mandated by this chapter and those set by the ARB;
 - b. Likelihood of deterring future wrongdoing;
 - c. Impact of the offense of the community;
 - d. History of prior suspensions and/or revocations of licensee and of warnings of violations to licensee;
 - e. Disorderly conduct at the establishment;
 - f. Presence of illegal drugs at the establishment;
 - g. Violence at the establishment;
 - h. Gambling at the establishment; and
 - i. Any public safety implications of failing to immediately suspend the subject license.
 - j. Whether the situation in question is a violation of a supervised action plan and/or suspension previously imposed by the ARB or City Council.

- (3) Within five (5) days of the decision to immediately suspend a license, the Board shall conduct an evidentiary emergency review hearing to determine if the situation presented is sufficient to justify any further suspension or revocation of a license or a supervised action plan;
- (4) At least within 24 hours of said hearing, the ARB shall issue a show cause order notifying licensee of the decision to immediately suspend said license; notifying licensee of the time, date, and place of the review hearing to be conducted before the ARB; and directing licensee to show cause why said license should not be subject to further suspension, revocation or a supervised action plan; both licensee and the Chief of Police shall receive a copy of the show cause order;
- (5) The Finance Director or designee shall be authorized to issue no more than three (3) subpoenas on behalf of each party regarding witnesses for said emergency review hearing, unless further subpoenas are approved in writing by the Chairman of the Board;
- (6) At said emergency review hearing, licensee shall be allowed to present evidence to the ARB to show cause why the license should not be further suspended, revoked or subject to a supervised action plan, and the Chief of Police or his designee shall be allowed to present evidence to the ARB as to why the license should be further suspended, revoked or subject to a supervised action plan;
- (7) Strict evidentiary rules shall not apply to said emergency review hearing;
- (8) After consideration of all evidence presented at the emergency review hearing, the ARB shall issue its decision to either:
 - a. Mandate a supervised action plan;
 - b. Further suspend the subject license for a certain time period; and/or
 - c. Revoke the subject license;
- (9) Within 72 hours of the conclusion of the emergency review hearing, the ARB shall provide written notice of its decision to licensee and the Chief of Police. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify either party of the right to appeal under the provisions of this chapter. A review of the ARB's decision may be made by appeal to the City Council on the record only; no further evidentiary hearings shall be held before the City Council. Such appeal shall be by written petition, filed in the office of the Finance Director or designee within 15 days after the final order or action of the ARB. It shall be the duty of the Finance Director or designee to forward a copy of said appeal to the ARB and the record to the City Council. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from licensee.
- (10) Appeal to City Council

- a. The filing of an appeal after an emergency hearing process shall not act as a supersedeas, unless the ARB so states in its decision.
- b. The City Council may affirm, reverse, or modify the findings of the ARB.
- c. The findings of the ARB shall be affirmed unless found to be:
 - i. Contrary to law or ordinances, or
 - ii. There is no evidence in the record to support the findings of the ARB, provided, however, that the City Council may modify the findings as set forth herein.
- d. In the event of a modification of the findings of the ARB, the City Council shall consider the following factors:
 - i. Consistency of penalties mandated by this chapter and those set by the ARB;
 - ii. Likelihood of deterring future wrongdoing;
 - iii. Impact of the offense on the community;
 - iv. History of prior suspensions and/or revocations of licensee and of warnings of violations to licensee;
 - v. Disorderly conduct at the establishment;
 - vi. Presence of illegal drugs at the establishment;
 - vii. Violence at the establishment;
 - viii. Gambling at the establishment;
 - ix. Any public safety implications of failing to immediately suspend the subject license; and
 - x. Whether the situation in question is a violation of a supervised action plan and/or suspension previously imposed by the ARB.

- (11) The findings of the City Council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County. The filing of an appeal after an emergency hearing process shall not act as a supersedeas, unless the City Council so states in its decision.

(b) Regularly Scheduled Hearings by the ARB.

Except as set forth in this chapter, no license shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided. The ARB shall hold evidentiary hearings regarding the denials, imposition of supervised action plans, suspensions and/or revocations of all licenses.

- (1) Except in the case of Emergency Hearings as set forth in this section, in the event the ARB intends to deny, mandate a supervised action plan, suspend or revoke a license, it shall provide written notice to the applicant or licensee that applicant or licensee shall show cause before the ARB why said license should not be denied, subject to a supervised action plan, suspended or revoked; said order shall notify applicant or licensee and the Chief of Police of the time, date, and place of the hearing to be conducted before the ARB;
- (2) The Finance Director or designee shall be authorized to issue no more than three (3) subpoenas on behalf of each party regarding witnesses for said hearing, unless further subpoenas are approved in writing by the Chairman of the Board;
- (3) At said hearing, applicant or licensee shall be allowed to present evidence to the ARB to show cause why the license should not be denied, suspended or revoked, and if necessary, the Chief of Police or his designee shall be allowed to present evidence to the ARB as to why the license should be denied, suspended or revoked;
- (4) Strict evidentiary rules shall not apply to said hearing;
- (5) After consideration of all evidence presented at the hearing, the ARB shall issue its decision to either:
 - a. Mandate a supervised action plan;
 - b. Suspend the subject license for a certain time period;
 - c. Revoke the subject license; and/or
 - d. Deny an application;
- (6) After said hearing, the ARB shall provide written notice to licensee and the Chief of Police of its decision. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify either party of the right to appeal under the provisions of this chapter. A review of the ARB's decision may be made by appeal to the City Council on the record only; no further evidentiary hearings shall be held before the City Council. Such appeal shall be by written petition, filed in the office of the Finance Director or designee within 15 days after the final order or action of the ARB. It shall be the duty of the Finance Director or designee to forward a copy of said appeal to the ARB. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from applicant or licensee.
- (7) Appeal to City Council
 - a. The filing of such appeal to the City Council shall act as a supersedeas until such time as the City Council votes on the appeal or for a period of 45 days, whichever period of time is shorter.
 - b. The City Council may affirm, reverse, or modify the findings of the ARB.

- c. The findings of the ARB shall be affirmed unless found to be:
 - i. Contrary to law or ordinances, or
 - ii. There is no evidence in the record to support the findings of the ARB, provided, however, that the City Council may modify the findings as set for the herein.
- d. In the event of a modification of the findings of the ARB, the City Council shall consider the following factors:
 - i. Consistency of penalties mandated by this chapter and those set by the ARB and/or the City Council;
 - ii. Likelihood of deterring future wrongdoing;
 - iii. Impact of the offense on the community;
 - iv. Any mitigating or aggravating circumstances;
 - v. Any remedial or corrective steps taken by licensee or the failure by licensee to take remedial or corrective steps; and
 - vi. Whether the situation involves a violation of a supervised action plan and/or suspension previously imposed by the ARB and/or City Council.

(8) The findings of the City Council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County. The filing of such an appeal shall not act as a supersedeas, unless the City Council so states in its decision.

- (c) The requirement of service of any written decision, communication, notice, and/or supervised action plan from the ARB and/or the City Council to a licensee shall be deemed satisfied with hand-delivery of said written document to the physical location of the licensed establishment and given to any employee, contractor, and or representative of the licensee, unless the licensee requests in writing service by some other reasonable means and delivers same to the ARB and/or Council at the time of the initial granting of the license and/or at each renewal of the license .
- (d) In the event a licensee wishes to request a continuance of any hearing before the ARB and/or an appeal before the City Council, the request must be in writing and must be delivered no later than seven (7) days prior to the hearing or appeal. For any hearing before the ARB, the chairman of the ARB is authorized to deny or grant said request for good cause shown. For an appeal before the City Council, the City Manager is authorized to deny or grant said request for good cause shown.

Sec. 6-72. Service of notice generally.

For the purpose of this chapter, notice shall be deemed delivered when personally served or by certified mail, within three days after the date of deposit in the United States mail.

Sec. 6-73. Retailer to purchase from licensed wholesaler.

- (a) No retailer shall purchase alcoholic beverages from any person, firm or corporation other than a wholesaler licensed under this chapter. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter.
- (b) The ARB or its designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.

Sec. 6-74. Retail consumption dealers; inventory restrictions.

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

Sec. 6-75. Adding to containers prohibited.

No one shall add to or permit the adding to any alcoholic beverage or refill any alcoholic beverage container in any manner, except as provided pursuant to a growler shop license as set forth in this chapter.

Sec. 6-76. Self-service prohibited.

- (a) Poured alcoholic beverages will be transported from outlet by employees only.
- (b) It is prohibited for any person to bring in his own alcoholic beverage (brown bag) in any establishment either licensed or unlicensed to serve alcoholic beverages, except as provided in Section 6-87.2.
- (c) In addition to any license holder, the owner of the property and any lease holder of any establishment shall be responsible for ensuring that no person shall bring his or her own alcoholic beverage (brown bag) on to the premises. (Added 8-13-12)
- (d) In the event of a violation of this Section of this Chapter, a citation may be issued to the individual bringing in his or her own alcoholic beverage as well as the owner of the property, the lease holder, and/or any related business entity. (Added 8-13-12)

Sec. 6-77. Responsibility for posting and compliance with provisions.

Each licensed alcoholic beverage dealer hereunder shall keep a copy of this chapter in the licensed premises and shall instruct any person working there with respect to the terms hereof, and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms hereof.

Sec. 6-78. Underage persons; employment restrictions.

- (a) No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.
- (b) The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises provided such person has direct supervision, as provided for in this chapter.
- (c) It is unlawful for any person under the age of 18 years of age to work as an entertainer in any establishment licensed hereunder without written consent from parents or guardian.

Sec. 6-79. Same – Failure to require ID; responsibility.

It shall be a violation not to require and properly check identification to ensure an underage person is not sold, served, or have in his possession, alcoholic beverages while in a licensed establishment. "Identification" in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card.

Sec. 6-80. Same – Frequenting or loitering at alcohol-licensed establishments.

No holder or employee of the holder of a license authorizing the sale of alcoholic beverages, shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment or lounge unless such minors are accompanied by a parent, legal guardian, or custodian; provided, however, that such minors shall be permitted in eating establishments, or private clubs, as defined in the chapter, without being accompanied by a parent, legal guardian, or custodian; and provided further, that this section shall not apply to minors who are employees under the terms of this chapter.

Sec. 6-81. Intoxicated persons; sales to prohibited.

No alcoholic beverage shall be sold, bartered, exchanged, given, provided, or furnished to any person who is in a state of noticeable intoxication.

Sec. 6-82. Underage persons; alcoholic beverages prohibitions.

- (a) Except as otherwise authorized by law:
 - (1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age;
 - (2) No person under 21 years of age shall purchase, attempt to purchase, or knowingly possess any alcoholic beverage;
 - (3) No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage;

- (4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age, or
 - (5) No person under 21 years of age shall misrepresent his or her identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
- (b) The prohibitions contained in this section shall not apply with respect to the sale, purchase, or possession of alcoholic beverages for consumption:
- (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or
 - (2) At a religious ceremony.
- (c) The prohibitions contained in this section shall not apply with respect to the possession of alcoholic beverages for consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person and when possession is in the home of the parent or guardian and such parent or guardian is present.
- (d) The prohibition contained in this section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this 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, driver’s license, or an identification card authorized under O.C.G.A. 20-5-100 through 40-5-104. “Proper identification” shall not include a birth certificate and shall not include any traffic citation and complaint form.
- (e) If such conduct is not otherwise prohibited pursuant to O.C.G.A. 3-3-24, nothing contained in this section shall be construed to prohibit any person under 21 years of age from:
- (1) Dispensing, serving, selling, or handling alcoholic beverages as a part of employment in any licensed establishment;
 - (2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured; or
 - (3) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.
- (f) Testimony by any person under 21 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this section, shall not be used in any administrative or judicial proceedings brought against such testifying person under 21 years of age.
- (g) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such

alcoholic beverage to request to see and to be furnished with proper identification as provided for in this section in order to verify the age of such person; and the failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so knowingly.

- (h) Any retailer or retail consumption dealer, or any person acting on behalf of such retailer or retail consumption dealer, who upon requesting proper identification from a person attempting to purchase alcoholic beverages from such retailer or retail consumption dealer pursuant to this section is tendered a driver's license which indicates that such license is falsified, is not the driver's license of the person presenting it, or that such person is under the age of 21 years, the person to whom said license is tendered shall be authorized to either write down the name, address, and license number or to seize and retain such driver's license and in either event shall immediately thereafter summon a law enforcement officer who shall be authorized to seize the license either at the scene or at such time as the license can be located. The procedures and rules connected with the retention of such license by the officer shall be the same as those provided for the acceptance of a driver's license as bail on arrest for traffic offenses pursuant to O.C.G.A. 17-6-11.

Sec. 6-83. Underage persons; purchase or possession by prohibited.

- (a) It is unlawful for any person to keep or maintain a place where persons under 21 years of age are allowed and permitted to come and purchase, drink or possess any alcoholic beverage.
- (b) It shall be the responsibility of the licensee to examine the identification of patrons to be certain that such patrons are of legal age. A Georgia driver's license, which is apparently valid upon its face, may be accepted by the licensee or his employee as evidence of age.

Sec. 6-84. Gambling prohibited.

There shall be no gambling, betting, games of chance of any kind, punch-boards, slot machines, or the operation of any scheme for hazarding money or any other thing of value in any place, or any room adjoining the same, leased or controlled by a licensee. Any violation of this section shall be cause for suspension or revocation of a license.

Sec. 6-85. Employee regulations.

- (a) The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises, for brewpubs, for retail package stores, and for growler shops for consumption off-premises, and for eating establishments licensed to sell packaged beer and wine for consumption off-premises:
- (1) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or in any managerial position, by an establishment holding a license hereunder until such person has been fingerprinted or cleared by the Chief of Police or his designee, indicating that the person is eligible for such permit.

- (2) No person shall be granted a pouring permit unless it appears to the satisfaction of the Chief of Police or his designee, that such person has not been convicted or plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude; illegal gambling; illegal possession or sale of controlled substances; illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of five years of the date of conviction and has been released from parole or probation. In the event that the Chief of Police or his designee learns of a person's first time conviction for illegal possession of alcohol as a misdemeanor or a first time conviction for illegal possession of alcohol as a violation of a city ordinance, the Chief of Police shall notify the ARB who will then determine said person's eligibility for an alcohol pouring permit.
- (3) No person shall be granted a pouring permit who has been convicted, plead guilty or entered a plea of nolo contendere to any federal, state, or local law for any felony within five years of the date of conviction and has not been released from parole or probation prior to the filing for application for such permit.
- (b) For purposes of this chapter, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which defendants who was allowed to avail themselves of the Georgia First Offender Act (O.C.G.A. title 42, ch. 8, art. 3, O.C.G.A. § 42-8-60 et seq.). Except; however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.
- (c) No permit shall be issued until such time as a signed application has been filed with the city department of public safety and upon paying a fee which shall be established by the mayor and council and a search of the criminal record of the applicant completed. Said application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the applicant, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall not be produced for public inspection without a court order.
- (d) The Chief of Police shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. In the event there is no record of a violation of this chapter, the Chief of Police shall issue a permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the Chief of Police shall notify the employer that this person is not eligible for employment, the cause of such denial and their right to appeal.
- (e) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Chief of Police the name of the establishment, the license number and a list of all employees,

with their home addresses and home telephone numbers twice annually on or before June 1, and again on or before December 1.

- (f) All permits issued through administrative error or through an error in completion of a background investigation can be terminated by the Chief of Police or the ARB.
- (g) This section shall not be construed to include employees whose duties are limited solely to those of busboy, cook or dishwasher.
- (h) No licensee shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
- (i) In the event that any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the department of public safety.
- (j) All permits issued hereunder remain the property of the city and shall be produced for inspection upon the demand of any officer of the department of public safety.
- (k) Separate permits shall be required by the department of public safety for each employee working in more than one establishment serving alcoholic beverages.
- (l) No person shall be issued a permit if it is determined that the person knowingly and willfully falsified, concealed or covered up any material fact by any device, trick, or scheme while making application to the department of public safety for an alcoholic beverage pouring permit under this section. Any person convicted of this offense shall be punished by a minimum fine of \$250.00.
- (m) This applies only to eating establishments as outlined in this chapter:
 - (1) Each licensed eating establishment is required to have a minimum of 75 percent, at all times, of servers to be certified as "alcohol awareness servers." Each server's certificate will be posted in plain view to the public along with the license to operate the establishment.
 - (2) Each eating establishment will be granted a maximum of 60 days from receipt of license to allow time for servers to complete the training course and receive certification. The cost of this course will be the responsibility of the eating establishment. The establishment is responsible for ensuring that each alcohol awareness training certificate is current and not expired.
 - (3) Each establishment will provide the Chief of Police a list of all servers that are employed and the certificate number of each "alcohol awareness server." This list is to be received no later than 60 days from receipt of license to operate, including renewals. At the time of submission to the Chief of Police, all alcohol awareness training certificates must be current and shall not expire within three months of the establishment obtaining its annual license.

- (4) Accepted course of this certification is "Training for Intervention Procedures for Servers of Alcohol (TIPS). Any other program must be comparable, following the same guidelines, and approved by the Chief of Police.
- (n) An alcohol pouring permit shall be issued for a period of one calendar year from the date of the original application. The alcohol pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by members of the City of Lilburn Police Department.

Sec. 6-86. Employee regulations; hearings on adverse actions.

- (a) No pouring permit shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.
- (b) The Chief of Police shall provide written notice to the applicant/employee of his order to deny, suspend or revoke the employment. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant/employee of the right to appeal under the provision of this chapter. Any applicant/employee who is aggrieved or adversely affected by a final action of the Chief of Police may have a review thereof by appeal to the ARB. Such appeal shall be by written petition, filed in the office of the Finance Director or designee within 15 days after the final order or action of the Chief of Police.
- (c) A hearing shall be conducted on each appeal at the next regularly scheduled meeting of the ARB, unless a continuance of such date is agreed to by the appellant and the Chief of Police.
- (d) The Finance Director or designee shall be authorized to issue no more than three (3) subpoenas on behalf of each party regarding witnesses for said hearing, unless further subpoenas are approved in writing by the Chairman of the ARB.
- (e) At said hearing, applicant/employee shall be allowed to present evidence to the ARB to show cause why the pouring permit should not be denied, and if necessary, the Chief of Police or his designee shall be allowed to present evidence to the ARB as to why the license should be denied.
- (f) Strict evidentiary rules shall not apply to said hearing. The ARB shall not consider hardship as a basis to reverse a decision denying a pouring permit under Section 6-85 (a) or (b).
- (g) After said hearing, the ARB shall provide written notice to applicant/employee and the Chief of Police of its decision. Such written notification shall set forth in reasonable detail the reasons for such decision and shall notify either party of the right to appeal under the provisions of this chapter. A review of the ARB's decision may be made by appeal to the City Council on the record only; no further evidentiary hearings shall be held before the City Council. Such appeal shall be by written petition, filed in the office of the Finance Director or designee within 15 days after the final order of the ARB. It shall be the duty of the Finance Director or designee to forward a copy of said appeal to the ARB. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from the appealing party
- (h) The findings of the ARB shall not be set aside unless found to be:

- (1) Contrary to law or ordinances, or
 - (2) There is no evidence in the record to support the findings of the ARB.
- (i) The findings of the City Council shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Gwinnett County.

Sec. 6-87. Patio sales/outside temporary events.

- (a) A patio sales license may be issued to establishments licensed to sell alcoholic beverages for consumption on the premises, or establishments seeking such license, to allow alcoholic beverages sales in patio or open areas.
- (b) In order to be eligible for a patio sales license, such patios or open areas shall be enclosed by some structure the height of which shall be a minimum of four (4) feet above ground level. Such structure may be constructed of material which permits visibility into and out of the patio or open area. Such structure must comply with all applicable city codes, including, but not limited to, building and fire codes, and shall function to prevent patrons from leaving the patio or open area with an alcoholic beverage without the knowledge of the licensee.
- (c) The licensee shall require patrons to enter and exit licensed patio or open areas through the licensed establishment's main premises. Licensed patio or open areas shall have an approved fire exit for emergency use only, equipped with an audible alarm triggered by unauthorized use of such fire exit, unless such licensee is a historic restaurant.
- (d) Subsection (b) of this section shall not apply to a historic restaurant, motel or hotel licensed to sell alcoholic beverages for consumption on the premises which makes sales and allows consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such historic restaurant, hotel or motel provided such functions are in connection with a meeting, reception, conference, convention or similar type gathering at such historic restaurant, hotel or motel.
- (e) Establishments duly licensed by the Alcohol Review Board to sell alcoholic beverages for consumption on the premises must submit an application to the office of the Finance Director or designee for approval of the ARB to engage in outside special events. The applicant must meet the following requirements:
- (1) The licensed establishment must have an existing license for the sale of alcoholic beverages for consumption on the premises. The only entrance and exit to the event must be through a controlled entry point which allows for east monitoring of patrons entering and leaving the event.
 - (2) The outside event must be enclosed by a temporary fence of rigid material construction or an enclosed tent. The fence shall be a minimum of three and one half (3.5) feet in height.
 - (3) The temporary fence must have two (2) emergency exits with an alarm that sounds so that the establishment will be alerted of unauthorized use when no emergency exists. A

uniformed off duty law enforcement officer may be stationed at each emergency exit instead of a gate and alarm.

- (4) The temporary fence must be installed and inspected at least one day prior to the event. Should the event fall on a Sunday, the installation of the fence must be completed no later than noon (12:00 pm) on the last business day prior to the event. Alcohol sales will not be approved for the event without inspection and approval of the temporary fence by the zoning compliance officer.
 - (5) At least one uniformed post certified off duty law enforcement officer, paid by the applicant, must be present on the premises throughout the event.
 - (6) A site plan must be submitted to the Finance Director or designees' office as well as the county fire marshal's office for approval. If the site plan provides for an area to accommodate more than twenty-five (25) persons a crowd control and security plan must be submitted to the city police department for approval. The department of planning and development and, if required by applicable county ordinances, the Gwinnett County Fire Marshal, must approve any temporary structure, such as tents, within the fenced area.
 - (7) A signed and notarized letter from the property owner or authorized property custodian must be submitted to the Finance Director or designees' office authorizing the use of the property for the event.
 - (7) All outside points of sale of alcoholic beverages must be licensed and the required fees paid. The outside event shall not exceed three (3) days. The outside special event license is non-transferable. If the event is cancelled, no refunds of the application fee shall be provided, and if the event is postponed to a new date, a new special event license must be obtained for the new date of the event.
 - (8) All outside events for an individual licensed establishment will be restricted to no more than a cumulative total of ten (10) days per calendar year.
 - (9) A nonrefundable fee of one hundred dollars (\$100.00) per event must be paid at the time of filing of each application.
 - (10) Completed application must be submitted to the Finance Director or designees' office by the second Thursday of the preceding month prior to the scheduled event. Upon good cause shown, the Chief of Police may waive the submission requirement date.
- (f) This section shall not apply to those licensed establishments located within the area designated in Section 6-87.2.
- (g) All licenses granted hereunder may be granted by the Licensing and Revenue Manager so long as the applicant, the establishment serving alcohol, and any employee thereof has not been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year. If the applicant, the establishment serving alcohol, and any employee thereof has been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed

by the ARB, or a revocation by the ARB in the past calendar year, then the application shall be reviewed and approved or denied by the ARB. In the event of any irregularity on the face of the application, then the application shall be reviewed and approved or denied by the ARB.

- (h) The Chief of Police, or his designee, shall verify the applicant's and/or establishment's compliance with the requirements of this chapter prior to issuance of the license and shall report to the ARB and the Licensing and Revenue Manager regarding same. The director of public safety, or his designee, also shall verify whether the applicant, the establishment serving alcohol, and/or any employee thereof has been subjected to an alcohol-related citation and shall report to the ARB and the Licensing and Revenue Manager regarding same.

Sec. 6-87.1 Beer and/or Wine Specialty Licenses

(a) Wine Tasting License

- (1) The holder of a license authorizing the sale of packaged wine shall be eligible for an ancillary wine tasting license to provide samples of wine offered for sale to customers under the conditions set forth in this section.
- (2) Wine sampling shall be on limited occasions when a customer requests sample of a wine offered for sale, or in conjunction with wine education classes and sampling designed to promote wine appreciation and education.
- (3) Samples shall not exceed two (2) ounces, and no customer shall consume more than eight (8) ounces in any two-hour period.
- (4) Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.
- (5) No open containers of wine shall be removed from the licensed premises, except as may be otherwise allowed under O.C.G.A. § 3-6-4.
- (6) The holder of an ancillary wine tasting license may conduct educational classes and sampling for the classes. The classes may be held not more than one time per week for a period not to exceed two (2) consecutive hours. All conditions of sampling set forth in this section shall apply to such classes.
- (7) Holders of an ancillary wine tasting license may charge a fee for each sample and/or may charge an event fee.
- (8) Wine sampling and tasting is only permitted within a designated, partitioned and monitored portion of the premises if the licensee allows patrons under the age of 21 years of age unescorted access to the facility.
- (9) The annual fee for an ancillary wine tasting license shall be fifty dollars (\$50.00), which fee may be revised periodically by resolution of the mayor and council
- (10) Only wine as defined in Section 6-59 shall be offered for tasting in this section.

- (11) It shall be the responsibility of the licensee and/or designated server to insure that unattended sampling containers are retrieved and discarded appropriately.
- (b) Beer and/or Wine Amenity License
- (1) A non-eating establishment that offers beer and/or wine as an act of hospitality, where it is clearly a secondary function of the business, shall be eligible to apply for a beer and/or wine amenity license. Eating establishments shall not be eligible for a beer and/or wine amenity license.
- (2) An amenity license shall allow the license holder to offer beer and/or wine as an act of hospitality and shall not be part of the core operations of such establishments.
- (3) The duration of the amenity license shall be no more than 31 days.
- (4) The amenity license application shall include a copy of the duly-issued Occupational Tax Certificate of the applicant, and a background check shall be performed by the director of public safety or his designee. A \$50.00 administrative fee shall be charged to cover this administrative process.
- (5) A non-eating establishment will be restricted to no more than a total of four (4) amenity licenses per calendar year.
- (c) All licenses granted hereunder may be granted by the Licensing and Revenue Manager so long as the applicant, the establishment serving alcohol, and any employee thereof has not been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year. If the applicant, the establishment serving alcohol, and any employee thereof has been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year, then the application shall be reviewed and approved or denied by the ARB. In the event of any irregularity on the face of the application, then the application shall be reviewed and approved or denied by the ARB.
- (d) The Chief of Police, or his designee, shall verify the applicant's and/or establishment's compliance with the requirements of this chapter prior to issuance of the license and shall report to the ARB and the Licensing and Revenue Manager regarding same. The director of public safety, or his designee, also shall verify whether the applicant, the establishment serving alcohol, and/or any employee thereof has been subjected to an alcohol-related citation and shall report to the ARB and the Licensing and Revenue Manager regarding same.

Sec. 6-87.2 Regulations regarding Historic Main Street District

- (a) For purposes of encouraging economic development in the Historic Main Street District and allowing full enjoyment of Lilburn City Park and the adjacent businesses by residents and visitors, the regulations contained in this Section 6-87.2 shall apply only to the following geographic area: within the boundaries of Lilburn City Park, excluding the children's playground area, and within all commercially-zoned property, sidewalks, and rights-of-way on both sides of Main Street from the north side of the CSX Railroad to First Avenue.

- (b) A special event alcohol license applicable only to the Historic Main Street District may be issued to applicant(s) representing a charitable or non-profit organization subject to the following conditions:
- (1) The applicant organization must comply with the provisions of OCGA §3-9-3 regarding state licensing in addition to completing the application and submitting the respective fee as set forth in the license fee schedule.
 - (2) The application form must be duly approved by the ARB.
 - (3) The applicant organization must be a recognized non-profit, tax exempt organization. This is defined as an organization, association, corporation, or other legal entity which has been determined by the federal Internal Revenue Service to be exempt from taxation under federal tax law and has been determined by the Georgia Department of Revenue to be exempt from taxation under the tax laws of this state; which is organized or incorporated in this state or authorized to do business in this state.
 - (4) The applicant organization must have been in existence as a non-profit, tax exempt organization for a period of twenty-four (24) months prior to the date on which the application for the special event alcohol license was received by the city.
 - (5) The applicant organization must be located in Gwinnett County or be able to reasonably demonstrate activity that directly benefits the citizens of Lilburn and/or Gwinnett County.
 - (6) Alcoholic beverages served under the auspices of a Special Event Alcohol License may not be served for more than 8 hours in any 24-hour period.
 - (7) At least one person from the applicant organization and/or vendors, sponsors or designated agents who has completed TIPS training must be on-site at all times during the special event. The accepted course of this certification is Training for Intervention Procedures for Servers of Alcohol (TIPS). Any other program must be comparable, following the same guidelines, and approved by the Chief of Police.
 - (8) For Special Events to be conducted on City of Lilburn property, a Special Event Permit per the City of Lilburn Special Event Policy must be in place in order for a Special Event Alcohol Permit to be issued.
 - (9) Advertising for the special event must comply with the City of Lilburn sign ordinance with regard to temporary signs.
 - (10) Completed applications for Special Event Alcohol License must be submitted to the Finance Director or designee not less than 10 calendar days prior to the Special Event.
 - (11) If the applicant is not the owner of the property, a signed and notarized letter from the property owner or authorized property custodian must be submitted to the Finance Director or designees' office authorizing the use of the property for the event.
 - (12) The possession of any open glass container for the consumption of any beverage on the public street, within Lilburn City Park, or on City Hall property is prohibited.

- (c) A special event alcohol license applicable only to the Historic Main Street District may be issued to applicant(s) representing a for-profit business organization subject to the following conditions:
- (1) The applicant must complete the application and submit the respective fee as set forth in the license fee schedule.
 - (2) The application form must be duly approved by the ARB.
 - (3) The applicant must be the holder of a valid and current business license, or Occupation Tax Certificate, issued by a jurisdiction within the State of Georgia and must submit proof of same at the time the application is submitted to the Finance Director or designees' office.
 - (4) Alcoholic beverages served under the auspices of a Special Event alcohol permit may not be served for more than 8 hours in any 24-hour period.
 - (5) At least one person from the applicant organization who has completed TIPS training must be on-site at all time during the special event. The accepted course of this certification is "Training for Intervention Procedures for Servers of Alcohol? (TIPS). Any other program must be comparable, following the same guidelines, and approved by the Chief of Police.
 - (6) For special events to conducted on City of Lilburn property, a Special Event Permit per the City of Lilburn Event Policy must be in place in order for a Special Event Alcohol Permit to be issued.
 - (7) Advertising for the special event must comply with the City of Lilburn sign ordinance with regard to temporary signs.
 - (8) Completed applications for Special Event Alcohol Permits must be submitted to the Finance Director or designee not less than 10 calendar days prior to the Special Event.
 - (9) If the applicant is not the owner of the property, a signed and notarized letter from the property owner or authorized property custodian must be submitted to the Finance Director or designees' office authorizing the use of the property for the event.
 - (10) The possession of any open glass container for the consumption of any beverage on the public streets, within Lilburn City Park, or on City Hall property is prohibited.
- (d) Any establishment within the Historic Main Street District that is licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can, bottle, or glass, for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than one such alcoholic beverage from the licensed premises.

- (e) No container in which an alcoholic beverage is dispensed and removed from the licensed premises within the Historic Main Street District shall exceed 16 fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area herein any open alcoholic beverage container which exceeds 16 fluid ounces in size.
- (f) It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.
- (g) If the special event is conducted on City of Lilburn property and the City cancels the event, the applicant may submit a written request for a refund of the application fee. If the special event is conducted on City of Lilburn property and the City postpones the event, the applicant may submit a written request for either a refund of the application fee or for the issuance of a special event alcohol license for the new date of the special event. Otherwise, for all other special events not conducted on City of Lilburn property, the special event alcohol license is non-transferable; no refunds shall be given if the event is canceled or postponed, and a new license must be obtained for a special event held on a date different than the date submitted in the application.
- (h) All licenses granted hereunder may be granted by the Licensing and Revenue Manager so long as the applicant, the establishment serving alcohol, and any employee thereof has not been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year. If the applicant, the establishment serving alcohol, and any employee thereof has been subjected to an alcohol-related citation, a Supervised Action Plan imposed by the ARB, a suspension imposed by the ARB, or a revocation by the ARB in the past calendar year, then the application shall be submitted to the Licensing and Revenue Manager not less than 7 calendar days prior to the regularly scheduled ARB meeting and said application shall be reviewed and approved or denied by the ARB. In the event of any irregularity on the face of the application, then the application shall be reviewed and approved or denied by the ARB.
- (i) The Chief of Police, or his designee, shall verify the applicant's and/or establishment's compliance with the requirements of this chapter prior to issuance of the license and shall report to the ARB and the Licensing and Revenue Manager regarding same. The director of public safety, or his designee, also shall verify whether the applicant, the establishment serving alcohol, and/or any employee thereof has been subjected to an alcohol-related citation and shall report to the ARB and the Licensing and Revenue Manager regarding same

Sec. 6-87.3 Growler Shop License and Tasting License

- (a) No person shall be permitted to own or operate a growler shop without first obtaining a growler shop License pursuant to the same procedures as are set forth in this Chapter as it pertains to a retail package store, and each growler shop license holder shall comply with all other applicable state and local requirements.
- (b) The filling of growlers by means of a tapped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or other provisions of this Ordinance, provided that after the growler is filled, the growler must be sealed on the licensed premises with a tamper-proof

plastic cap, cork, stopper, or plug forming a seal that must be broken upon opening the growler and may not thereafter be opened or consumed on the premises, including the parking lot. Growlers shall not be smaller than twelve (12) ounces in volume and shall not exceed sixty-eight (68) ounces in volume.

- (c) Any person filling a growler must have a pouring permit as set forth in Section 6-85 herein.
- (d) Growlers may be filled with beer, malt beverages, and hard cider.
- (e) Only growlers that are properly sanitized may be filled and made available for retail sale and for filling as allowed herein. It shall be the responsibility of the growler shop license holder to sanitize any growler prior to sale or filling.
- (f) Each growler filled as allowed herein must contain the following label: “GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects; (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery and may cause health problems.” It shall be the responsibility of the growler shop license holder to ensure the proper labeling of any growler, as required herein, prior to sale or filling.
- (g) Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler.
- (h) The holder of a license that allows the sale of distilled spirits shall not be eligible for a growler shop license. The holder of a growler shop license shall not also be the holder of a brewpub license. An eating establishment licensed as a retail consumption dealer shall be eligible for a growler shop license pursuant to the same procedures as are set forth in this Chapter as it pertains to a retail package store, and each such eating establishment shall comply with all other applicable state and local requirements.
- (i) The holder of a growler shop license shall be eligible for an ancillary growler beverage tasting license to provide samples of growler beverages offered for sale to customers as follows:
 - (1) Growler beverage sampling shall be on limited occasions when a customer requests a sample of a growler beverage offered for sale within the premises, or in conjunction with growler beverage education classes and sampling designed to promote growler beverage appreciation and education.
 - (2) Growler beverage tasting for customers shall only be conducted at a counter area constituting no more than ten percent (10%) of the entire floor area of the premises.
 - (3) Growler beverage sampling for customers shall be limited to no more than one (1) time per day per customer. Samples shall not exceed two (2) ounces, and no customer shall consume more than eight (8) ounces in any two (2) hour period.
 - (4) Only the growler beverage tasting license holder or an employee who holds a pouring permit as set forth in Section 6-85 herein shall open, handle, and serve samples.
 - (5) No open growler containers shall be removed from the licensed premises.

- (6) Not more than two (2) times per week for a period of not to exceed two (2) consecutive hours, the holder of growler beverage tasting license may conduct educational classes and sampling for class participants. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- (7) The holder of a growler beverage tasting license may charge a fee for each sample and/or may charge an event fee.
- (8) Samples are restricted to beverages dispensed from a tap to be sold in growler form. No samples of bottled or packaged alcohol shall be allowed, except as may be allowed pursuant to a separate wine tasting license as may be allowed herein.
- (9) The annual fee for a growler beverage tasting license shall be set by city council.

Sec. 6-87.4. Brewpub License

- (a) *License required.* No person, firm or corporation shall be issued a brewpub license without first obtaining a retail consumption license.
- (b) *Authorization of license holder.*
 - (1) A brewpub license authorizes the holder of such license to manufacture on the licensed premises not more than 1,500 barrels of malt beverage in a calendar year solely for retail sale on the premises and solely in draft form.
 - (2) A brewpub license authorizes the holder of such license to operate an eating establishment that shall be the sole retail outlet for such malt beverage and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this title, including wine, distilled spirits, and other malt beverages, provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only; and, provided, further, that in addition to malt beverages manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.
 - (3) A brewpub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.
 - (4) The holder of a brewpub license shall not also be the holder of a growler shop license.
- (c) A brewpub licensee shall not offer or permit any free sampling of beer by its customers on the premises of a brewpub.
- (d) *Distribution.* Distribution of any malt beverages produced by a brewpub licensed under this article to any wholesaler is prohibited.
- (e) *Excise tax.* Brewpubs shall be subject to the provisions herein of Article II, Sections 6-19 (1),

6-20, and 6-27. The ARB or its designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from brewpubs.

Sec. 6-88. No outside consumption.

- (a) It is prohibited for customers to leave the premises with open alcoholic beverages and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. This subsection shall not apply to the Historic Main Street District.
- (b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages. This subsection shall not apply to the Historic Main Street District.
- (c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages. This subsection shall not apply to the Historic Main Street District.
- (d) It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle when the vehicle is parked on any city street, alley, or parking lot.

Sec. 6-89. Construction and maintenance of licensed premises.

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

Sec. 6-90. Solicitation prohibited.

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

agent or manager to solicit for himself/herself or for others, the purchase by the patron of any drink whether alcoholic beverage or nonalcoholic.

Sec. 6-91. Noise control.

It shall be unlawful for any establishment licensed under this chapter to make or cause to be made any loud, unnecessary or unusual sound or noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the City of Lilburn, and which is audible to a person of normal hearing ability from the nearest property line of the business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this chapter between the hours of 10:00 P.M. or 8:00 A.M.

Sec. 6-92. Restrictions on entertainment and attire.

The following types of entertainment, attire and conduct are not permitted upon any premises licensed to sell, serve or dispense alcoholic beverages or upon any premises licensed under the business ordinances of the city in which alcoholic beverages are consumed, allowed or dispensed on the premises:

- (1) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals; or
- (2) Live entertainment where any person appears in the manner described in this section, or where any person performs acts of or acts which simulate:
 - (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or
 - (b) The touching, caressing or fondling of the breast, buttock, anus or genitals; or
 - (c) The displaying of the pubic hair, anus, vulva or genitals; or
- (3) The showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of other acts described in this section; or
- (4) The holding, promotion or allowance of any conduct, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.
- (5) Nothing contained in this section shall apply to the premises of any main-stream performance house, museum or theater that derives less than 20 percent of its gross annual income from the sale of alcoholic beverages.
- (6) The findings and statement of purpose from the City of Lilburn Code section 14-56 are hereby incorporated by reference as if fully set forth herein as the purpose for this section and all amendments hereto.

Sec. 6-93. Inspection of licensed premises.

Sworn officer of the department of public safety shall have the authority to inspect establishments licensed under this chapter during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other city officer to conduct inspections authorized to other provisions of the city ordinances.

Sec. 6-94. Emergency closure of licensed premises.

The Chief of Police, or his designee, may immediately close an establishment licensed under this chapter in case of emergency, for the safety of the public or to investigate a crime, for a period of time not to exceed 24 hours.

Sec. 6-95. Additional restrictions.

- (a) No outdoor advertising or signs with respect to the promotions of the sale of alcoholic beverages, or the prices of such beverages, shall be permitted on the exterior of any retail package outlet, on the premises consumption dealer or in the windows of any such establishment that may be viewed from outside.
- (b) No beer or wine shall be sold at retail for consumption off-premises except as follows:
 - (1) In retail establishments devoted to retail sales which maintain at least 50 percent of the floor space and storage area in a manner which is devoted principally to the retail sale of grocery products, and located in zoning districts in which retail establishments are permitted as a conforming use or in a facility duly licensed by the city to sell liquor by the package.
 - (2) Eating establishments licensed to sell packaged beer and wine for off-premises consumption as allowed herein.
- (c) No alcoholic beverages shall be sold for consumption on the premises except in establishments located in zoning district that permit such establishments as conforming uses.
- (d) Reserved.
- (e) Alcoholic beverages may not be priced on signs, menus or any place allowed by this chapter except as to single units or unbroken package quantities.
- (f) The requirements for exterior advertising as provided in this chapter shall not apply to a licensed malt beverage and wine store which is operated in connection with a licensed retail liquor store under the requirements of Georgia Department of Revenue Regulations 560-2-3.38(5). Such licensed malt beverage and wine stores may have exterior advertising.
- (g) No alcoholic beverages shall be sold for consumption off-premises in package stores except where such package stores are located in zoning districts in which package stores are permitted as a conforming use.

- (h) Single cans or bottles or other containers of alcoholic beverages may be sold.

Sec. 6-96. Hours and days of sale.

- (a) Alcoholic beverages shall not be sold for consumption on the premises except between the hours of 9:00 a.m. until 1:55 a.m., Monday through Saturday and on Sundays from 12:30 p.m. until 12:00 midnight. Alcoholic beverages may be sold for consumption on the premises from 12:00 midnight to 2:00 a.m. on any Monday that is New Year's Day, January 1, of any year.
- (b) Alcoholic beverages shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- (c) Beer and wine in original packages for consumption off the premises shall not be sold except between the hours of 7:00 a.m. and 12:00 a.m., Monday through Saturday and 12:30 p.m. and 11:30 p.m. on Sunday. Hours of operation for package stores shall meet the requirements of this section.
- (d) Licensed package stores and growler shops, and eating establishments selling alcoholic beverages for consumption off-premises shall have all exterior entrances locked not later than 12:00 a.m. Monday through Saturday and not later than 11:30 p.m. on Sunday. Licensed package stores and growler shops, and eating establishments shall not engage in the sale of alcoholic beverages for consumption off-premises except between the hours of 7:00 a.m. and 12:00 a.m., Monday through Saturday and 12:30 p.m. and 11:30 p.m. on Sunday.
- (e) This ordinance shall become effective upon adoption of Mayor and Council. (December 12, 2011)

Sec. 6-97. Consumption-only sales.

Persons holding a license to sell alcoholic beverages for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or bottle, except for eating establishments licensed to sell packaged beer and wine and/or licensed as a growler shop, as may be allowed herein.

Sec. 6-98. "Happy hour" promotions and sales.

- (a) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:
- (1) Offer or deliver any free alcoholic beverage to any person or group of person;
 - (2) Deliver more than one alcoholic beverage to one person at a time.
 - (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not open to the public; however, this subsection shall not apply to the Historic Main Street District as set forth in Section 6-87.2;

- (4) Sell, offer to sell or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not opened to the public;
 - (5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public; however, this subsection shall not apply to the Historic Main Street District as set forth in Section 6-87.2;
 - (6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages in any container which holds more than thirty-two (32) fluid ounces (0.947 liters), except to two (2) or more persons at any one time; however, this subsection shall not apply to the Historic Main Street District;
 - (7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week;
 - (8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.
- (b) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be effective for not less than one calendar week. This subsection shall not apply to the Historic Main Street District.
 - (c) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section, unless it is otherwise covered by the applicable regulations contained in Section 6-87.2 as set forth herein.
 - (d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, or to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
 - (e) It is the intent of this section to prohibit activities typically associated with promotions referred to as “happy hour” or similarly designated promotions.
 - (f) The department of public safety shall have responsibility for the enforcement of this chapter.
 - (g) Any person deemed guilty of violating this section may be punished by a fine not to exceed \$200.00 and/or by imprisonment not to exceed 60 days in the common jail of the city. Licensees may further be subject to revocation proceedings.
 - (h) All ordinances and parts of ordinances in conflict herewith are repealed to the extent of such conflict.

Sec. 6-99. Audits.

- (a) In the event the ARB deems it necessary to conduct an audit of the records and books of the licensee, he/she shall so notify the licensee of the date, time and place of the audit. The ARB may designate another person to perform any audit authorized in this chapter. Licensee shall cooperate with said audit or forfeit any license(s) issued hereunder.
- (b) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises:
- (1) Monthly income or operating statements;
 - (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees);
 - (3) Daily cash register receipts such as Z tapes or guest tickets;
 - (4) Monthly Georgia sales and use tax reports; and
 - (5) Federal income tax return with all form 1099's.
 - (6) Exception: The ARB can waive all or some of the requirements of the this subsection (b) if the ARB finds that:
 - a. No such records exist; and
 - b. It is not financially practical based on the net income of the licensed establishment to require them to keep such records.

Sec. 6-100. Collection of sums due.

In the event any person, firm or corporation shall fail to pay the sum due under this chapter, the ARB or designee shall issue an execution against the person, firm or corporation so delinquent, and his or its property, for the amount of the delinquent fee or tax.

Sec. 6-101. Penalties for violations.

Any person who violates any provision of the sections in this chapter may upon conviction be punished by a fine of not less than \$300.00 for each offense and/or 30 days in the city jail, unless a different penalty is set out herein.

Sec. 6-102. Severability.

Should any court of competent jurisdiction declare any section or part of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.