

CHAPTER 2. - ALCOHOLIC BEVERAGES^[2]

Footnotes:

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Editor's note—The substance of this chapter, unless otherwise indicated is derived from Ord. No. 86-05, 6-10-86. Substantial reorganization of the ordinance was done during codification.

Cross reference— Alcoholic beverage offenses involving minors, § 11-1-21.

State Law reference— Alcoholic beverage code, O.C.G.A., Title 3; driving under the influence of alcohol, O.C.G.A., § 40-6-391.

ARTICLE A. - GENERAL PROVISIONS

Sec. 9-2-1. - Purpose of chapter.

This chapter has been enacted in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and sale of alcoholic beverages; to protect and preserve schools; to give effect to existing land use; to protect those of minor age in the community; and to preserve certain residential areas, with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values; and to protect against the evils of concentration of outlets for alcoholic beverages in one family or to prevent undesirable persons from controlling the alcoholic beverage industry.

Sec. 9-2-2. - Definitions.

For the purposes of this chapter, in addition to the general definitions provided in section 1-1-2, the following definitions shall apply:

- (1) Alcohol. Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- (2) Alcoholic beverage. All alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.
- (3) Church. A permanent building where persons regularly assemble for religious worship.
- (4) College. Such state, county, city, church or other colleges that teach subjects commonly taught in the common colleges of the State of Georgia, not including private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.
- (5) Distilled spirits. Any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines.
- (6) Family. Includes any person related to the holder of the license within the first degree of consanguinity or affinity as computed according to the civil law.
- (7) Food caterer. Any person who prepares food for consumption off the premises.
- (8) Fortified wine. Any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, brandy.

- (9) Hotel. Every building or other structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and transient guests, in which 50 or more rooms are used for the sleeping accommodations of guests, and where the sleeping accommodations are in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Guest rooms must have interior accessibility only, with no exterior doorways and no exterior room entry. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels.

Hotels shall have the privilege of granting franchises for the operation of restaurants in their premises and the holder of any franchise shall be included in the definition of hotel hereunder, provided such restaurant meets the standards and requirements of this chapter.

- (10) Interest in license. An "interest in a license" shall be deemed to exist if the person involved is the outright owner of the license; a co-owner of the license; a partner in a partnership which owns all or any part of a license; a stockholder in any corporation organized for the pecuniary gain which owns all or any part of a license; an owner, lessor, sublessor or stockholder in any corporation organized for pecuniary gain owning or leasing any real estate which is occupied by a licensed alcoholic beverage establishment or shares in any of the income or corpus of any trust fund or estate having any interest in a licensed alcoholic beverage establishment. Provided, however, that a stockholder shall not be deemed to have an interest in a licensed alcoholic beverage establishment where he owns stock in a motel or hotel having 200 or more rooms with a retail spirituous liquor store located on the premises of such motel or hotel and owned by such motel or hotel.
- (11) Licensed alcoholic beverage caterer. Any retail dealer who has been licensed pursuant to Article 2 of Chapter 4, Article 2 of Chapter 5, or Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated.
- (12) Lounge or banquet room A separate room or area enclosed within a hotel with all booths, stools and tables being open and unobstructed to the view of any other customers in the lounge or the manager thereof.
- (13) Malt beverage. Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.
- (14) Motel. See hotel.
- (15) Package. A bottle, can, keg, barrel or other consumer container sufficient to hold 32 or more ounces.
- (16) Private residence. A house or dwelling wherein not less than one nor more than two families reside and shall not include an apartment house having facilities for housing more than two families, nor a boarding or rooming house where there are five or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a private residence.
- (17) Restaurant. Any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, the place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 60 people, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six days per week, with the exception of holidays, vacations and periods of redecorating; and the serving of these meals shall be the principal business conducted. Closure of an establishment for more than four weeks in any calendar year for vacation, redecorating or other purposes shall void any alcoholic beverage license held by such establishment as a restaurant. For restaurants designating breakfast as their meal for purposes of this definition, the establishment must be

open for business a minimum of three consecutive hours and the period of 6:00 a.m. to 7:00 a.m. must be included within such three-hour block. For restaurants designating lunch as their meal for purposes of this definition, the establishment must be open for business a minimum of three consecutive hours and the period of 11:30 a.m. to 12:30 p.m. must be included within such three-hour block. For restaurants designating dinner as their meal for purposes of this definition, the establishment must be open for business a minimum of three consecutive hours and the period of 7:00 p.m. to 8:00 p.m. must be included within such three-hour block.

- (18) Retail consumption dealer. Any person who sells alcoholic beverages for consumption on the premises at retail only to consumers and not for resale.
- (19) Retail dealer. Any person who sells alcoholic beverages in unbroken packages at retail only to consumers and not for resale or for consumption on the premises.
- (20) School. Such state, county, city, church or other schools as teach the subjects commonly taught in the common schools of the State of Georgia, not including private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.
- (21) Wholesale dealer. Any person who sells alcoholic beverages to retail consumption dealers, retail dealers or other wholesale dealers for resale.
- (22) Wine. Any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients 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 Code section.
- (23) Olde Town Morrow District. All that land or portion of land located in Land Lot 144 of the 13th District, Clayton County, Georgia, consisting of 16.210 acres and more specifically described as follows:

To arrive at the Point of Beginning, begin at a point at the intersection of the Northern right-of-way of Mt. Zion Road (formerly known as Morrow Industrial Boulevard (100' r/w) and the Western right-of-way of Lake Drive (80' r/w), thence North 84 degrees 06 minutes 30 seconds West for a distance of 681.60 feet along the northern right-of-way of Mt. Zion Road to a point, thence North 09 degrees 46 minutes East for a distance of 642.70 feet to a point, thence South 37 degrees 29 minutes 30 seconds East for a distance of 178.20 feet to a point, thence North 16 degrees 50 minutes 30 seconds East for a distance of 126.50 feet to a point, thence North 78 degrees 49 minutes East for a distance of 46.70 feet to a point, thence North 14 degrees 13 minutes East for a distance of 352.10 feet to a ½" rebar (set), at the Southeast corner of Lot 15, Block "E" of Imperial Estates, Unit 1 as recorded in Plat Book 7, Page 44 of the Clayton County records and the Point of Beginning;

THENCE North 00 degrees 29 minutes 57 seconds East for a distance of 1174.87 feet along the Eastern lot lines of Lots 15, 16, 17, and 18 of Imperial Estates, Unit 1 and Lots 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of Forest Manor South, Unit IV as recorded in Plat Book 9, Page 239 of the Clayton County records to a ½" rebar (found);

THENCE North 01 degrees 30 minutes 19 seconds West for a distance of 460.33 feet along the Eastern line of Lot 12, Block "J", the Eastern right-of-way limits of Boca Raton Drive (50' r/w) and the Eastern line of Lot 37, Block "M" of Yorktown, Unit 5 as recorded in Plat Book 9, Page 63 of the Clayton County records to a ½" rebar (found) on the Southern right-of-way of Interstate 75 (r/w varies);

THENCE South 77 degrees 30 minutes 00 seconds East for a distance of 994.41 feet along the southern right-of-way of Interstate 75 to a ½" rebar (found), said point also being the Northwest corner of the Property now or formerly owned by Southlake Mall, L.L.C.;

THENCE South 26 degrees 00 minutes 00 seconds West for a distance of 428.70 feet along the Western line of the property now or formerly owned by Southlake Mall, L.L.C. as recorded in Deed Book 3803, Page 24 of the Clayton County records to a ½" rebar (set);

THENCE along a curve to the left having a radius of 1636.23 feet and an arc length of 258.41 feet, being subtended by a chord of South 55 degrees 51 minutes 50 seconds West for a distance of 258.14 feet along the Northern line of the Southlake Mall, L.L.C. property to a ½" rebar (set);

THENCE North 41 degrees 15 minutes 00 seconds West for a distance of 146.44 feet to a ½" rebar (set);

THENCE South 48 degrees 45 minutes 00 seconds West for a distance of 100.00 feet to a ½" (set);

THENCE South 41 degrees 15 minutes 00 seconds East for a distance of 144.98 feet to a ½" (set);

THENCE along a curve to the left having a radius of 1636.23 feet and an arc length of 974.30 feet, being subtended by a chord of south 30 degrees 46 minutes 43 seconds West for a distance of 959.97 feet along the Northern line of the property now or formerly owned by Southlake Mall, L.L.C. to a ½" rebar (set), said point also being the southeast corner of Lot 15, Block "E" of Imperial Estates, Unit 1 as recorded in Plat Book 7, Page 44 of the Clayton County records.

(Ord. No. 96-05, § 1, 5-28-96; Ord. No. 2005-11, 1-10-06; Ord. No. 2009-12, § 8, 10-13-09; Ord. No. 2011-34, § 1, 10-25-11; Ord. No. 2012-42, § 1, 11-13-12)

Sec. 9-2-3. - Construction of undefined terms.

Words and terms not explicitly defined in this chapter or section 1-1-2 of this Code shall have the meaning given by common and ordinary use as defined in the latest edition of Webster's New Collegiate Dictionary.

Sec. 9-2-4. - Delivery of alcoholic beverages.

- (a) No delivery of alcoholic beverages shall be made except onto the premises from which such beverages are to be sold.
- (b) A licensee for on-premises consumption may purchase from wholesalers, licensed by the city, alcoholic beverages, designated by their licenses, in one-fifth of a gallon, liter or larger containers unless a particular brand is not packaged in these sizes, in which event the licensee may purchase the brand in the nearest size to those container sizes.

Secs. 9-2-5—9-2-10. - Reserved.

ARTICLE B. - LICENSES^[3]

Footnotes:

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Cross reference— Suspension and revocation procedures, § 9-2-84.

Sec. 9-2-11. - License required.

Any person desiring to operate in the city as a retail consumption dealer or retail dealer shall apply for and obtain a license from the city prior to commencing operations.

Sec. 9-2-12. - Application required.

- (a) Every person desiring to operate within the city as a retail consumption dealer or retail dealer shall make an application therefor. Such forms necessary for the application shall be furnished by the city.
- (b) Each application shall be accompanied by a nonrefundable investigation fee as provided in section 9-2-30(c).

Sec. 9-2-13. - Applicant.

The applicant shall be the owner of the proposed business if the business is solely owned or the co-owner if a partnership or firm. If a proposed licensee is a corporation, the applicant may be the president, a vice-president, secretary or treasurer of the corporation or the corporation's general manager at the particular business location. Otherwise, no other individual may qualify as an applicant.

Sec. 9-2-14. - Off-premises licenses for catered events.

Any licensed alcoholic beverage retail dealer, whether for package sales or on-premises consumption, may apply to the city for an off-premises license to serve alcoholic beverages for catered functions. The license shall restrict the holder to sale of beverages authorized by its primary license issued by the city and the State of Georgia. The alcoholic beverage caterer's license is secondary to and dependent upon the primary license held for the sale of alcoholic beverages within the city. Should the primary alcoholic beverage license of the caterer be suspended or revoked, its off-premises license to serve catered functions shall be automatically suspended or revoked for the same duration.

(Ord. No. 2011-34, § 2, 10-25-11)

Editor's note— Prior to the reenactment of § 9-2-14, said section was repealed by Ord. No. 2002-08, adopted Oct. 8, 2002. The former § 9-2-14 pertained to personal restrictions on interest in retail business, specifically the alcoholic beverage business.

Sec. 9-2-15. - Retail licensee prohibited from having direct financial interest in wholesale liquor business.

No person shall hold a retail or retail consumption license who also has any direct financial interest in any wholesale alcoholic beverage business.

Sec. 9-2-16. - Hotels, motels.

Hotel and motel corporations and their franchise restaurant corporations operating as contemplated in these regulations are authorized to apply for and to hold a retail consumption license in their corporate names. They shall name on such application an agent and/or manager actively employed in the operation of said hotel, motel or franchise restaurant who shall be responsible for operation under said license and who shall qualify in all respects under these regulations. Should said manager and/or agent leave the employment of the hotel or motel corporation or its franchise restaurant corporation in the city, a new agent and/or manager shall be named by the licensee within ten days thereafter.

Sec. 9-2-17. - Qualification of applicants.

All applicants for licenses must make application on forms furnished by the city and in connection therewith shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, bonds and other supporting data or documents as required hereby. No license, whether original or renewal, shall be issued to any person, partnership or corporation, organized for monetary gain, where any individual having an interest either as owner, partner, general or limited, stockholder, directly or indirectly, beneficial or absolute, who by reason of such person's personal associations, records of arrests, or reputation in the community where he has resided, is not likely to maintain the operation in conformity with federal, state or local laws. Convictions or pleas of guilty, in this or any state, or by the United States or any other country, of any offenses involving sexual misconduct, drug possession (felony), or distribution, keeping a disorderly place, gambling, or offenses related to the manufacture or sale of alcoholic beverages, or other felony offenses related to the illegal possession or use of alcoholic beverages, within ten years immediately prior to the date of application would render such applicant ineligible for registration.

(Ord. No. 2001-18, § 1.A., 9-11-01)

Sec. 9-2-18. - Application contents.

The application shall contain, under oath, the following information and documents:

- (1) Name and address of each applicant and each person who would have an interest in the license, however including only those stockholders owning 20 percent or more of the corporation's stock. A list of all officers and stockholders, along with their addresses and social security numbers, must be attached to the application.
- (2) Name and address for the past ten years of each individual licensee, including registered agent where necessary.
- (3) The name, address and date of birth of each employee working at the business location.
- (4) Description of the business operation, its location and facilities.
- (5) Blueprint or scale drawing of the business facility.
- (6) Survey indicating the location of the business and the distance to the nearest school, church, library, private residence and alcoholic treatment center, as described in section 9-2-26.
- (7) Such other information and documents as may be required by the city manager.

(Ord. No. 99-04, § 1(A), 2-9-99)

Sec. 9-2-19. - Untrue or misleading information; omissions.

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

Sec. 9-2-20. - Interests specified in application.

- (a) All applications for licenses, both originals or renewals, must be accompanied by a full and complete statement under oath of information relative to any and all interest (as defined before in section 9-2-2(9)) in establishments which sell alcoholic beverages at wholesale or retail. This shall include:
 - (1) The names and addresses of all persons interested in the ownership of the business applying for a license to sell alcoholic beverages, together with an interest each person or any member of his or her immediately family has in any other business licensed to sell alcoholic beverages.

- (2) The ownership of the land and building where the business is to be operated.
 - (3) The amount of rental paid for the land and building and the manner in which the rent is determined and to whom and at what intervals it is paid.
 - (4) The names and addresses (by affidavit from the owner, lessor, or sublessor of the land and building) of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the store is located.
 - (5) A set of fingerprints of each applicant and each person who would have an interest in the license.
 - (6) A photograph of each applicant and each person who would have an interest in the license.
 - (7) Any other information called for by the city.
- (b) Any change in any relationship herein declared must be filed with the city manager when the change is made, and failure to so file within a period of 30 days after the change is made shall be grounds for cancellation or revocation by the mayor and council.

(Ord. No. 99-04, § 1(B), 2-9-99)

Sec. 9-2-21. - Reserved.

Editor's note— Ord. No. 90-04, § 1, adopted May 8, 1990, repealed § 9-2-21 pertaining to wholesaler's applications. Such section bore no history note, see the editor's footnote to chapter 2.

Sec. 9-2-22. - Investigation of application.

- (a) Applicants, by filing for a license to sell alcoholic beverages, agree to furnish the data, information and records as called for herein and also agree to submit under oath to interrogation by the city manager, as to any facts considered pertinent to the application. Applicants, by filing the application, also agree to produce for oral interrogation by the city manager, any person or persons requested by the city manager, as being important in the ascertainment of the facts relative to the granting of the license. Failure to furnish this data, information and records or failure to produce such persons within 30 days from the date of the request by the city shall automatically serve to dismiss with prejudice the application of the applicant failing to furnish the data, information and records or failing to produce such persons.
- (b) All applications for new licenses for sale of alcoholic beverages and applications for renewals thereof, shall be investigated by the chief of police, and no new or renewal license shall be issued by the city manager until the chief of police has indicated in writing that in his opinion no violation exists upon the facts as stated and ascertained by the aforesaid investigation as to any ordinance or law in effect as of the date of the rendering of the opinion.
- (c) All applicants for new licenses or for transfers of locations shall be passed upon by the city manager and such action shall be taken within 60 days from the date of the filing of the application or notice of location transfer unless written notice of extension by the city manager is given two weeks prior to the 60-day deadline.
- (d) Any change in any relationship declared in section 9-2-20, application contents, which requires investigation by the city manager prior to the issuance of a renewal license shall be passed upon by the city manager within 60 days from the date of the filing of the changes.
- (e) Any information which changes or otherwise becomes obsolete shall be immediately reported by the applicant.

Sec. 9-2-23. - Licensing considerations.

In determining whether or not any application shall be granted and a license issued, the city manager shall consider the following information in the public interest and welfare:

- (1) If the applicant and/or licensee has ever violated any federal, state, county or municipal law or regulation regarding narcotics or alcoholic beverages, their sale, distribution or manufacture;
- (2) The manner in which the applicant and/or licensee has conducted any business within the city as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance or as to the necessity for city action to compel the applicant's and/or licensee's adherence to any city law, regulation or ordinance;
- (3) The location for which the license is sought as to traffic congestion, public safety, and general character of the neighborhood; and
- (4) Whether the applicant and/or licensee has ever had an alcoholic beverage or business license suspended or revoked by the state or any political subdivision thereof.

Sec. 9-2-24. - Grant of application.

- (a) All applications for alcoholic beverage licenses meeting these regulations shall be granted by the city manager, unless some specific cause regarding location, traffic conditions or environmental conditions justifies a refusal. In such event, the applicant shall be entitled to file a new application of like kind for a different location without the loss of any part of the application fee.
- (b) In the event the city manager denies an application for a license, the applicant shall have the right to appeal the denial to the mayor and council by filing a notice of appeal with the city clerk within five business days of the date of denial. A hearing shall be held and decision rendered in accordance with the procedure established by section 9-2-84 of this chapter.

(Ord. No. 2012-42, § 2, 11-13-12)

Sec. 9-2-25. - Procedure when license denied by state.

In the event the applicant is denied a license by the state, upon the proof of that refusal, he shall be entitled to a refund of the license fee or business tax less the investigative fee as required plus an additional charge of \$25.00 to cover the clerical costs of granting the license. This refund may be made by the city clerk without the necessity of any action by the city manager.

Sec. 9-2-26. - Distance requirements from churches and schools.

- (a) No license shall be issued to sell alcoholic beverages where the proposed premises are within:
 - (1) 100 yards of any church (for the sale of distilled spirits);
 - (2) 100 yards from the property line of any school or college ground (for the sale of malt beverages and wine);
 - (3) 200 yards from the property line of any school or college ground (for the sale of distilled spirits);
 - (4) Reserved;
 - (5) Reserved;
 - (6) 100 yards from any alcoholic treatment center owned and operated by the State of Georgia, Clayton County, or a municipality; or
 - (7) 100 yards of any private residence, such distance to be measured as shown in paragraph (b) below; provided, however, this distance requirement shall not apply to any licensee located in the Olde Town Morrow District.
- (b) Distances, unless otherwise specified in this chapter, shall be measured by the most direct line from the nearest point of the structure in which the licensee's business is conducted to the nearest point

along the property line on which is located the school building, education building, school ground, college campus, church, alcoholic treatment center or residence.

- (c) All applications shall include a survey prepared and certified by a registered surveyor of the proposed premises and the straight line distance from the proposed premises to the property line of the nearest school, residence, and church showing compliance with the appropriate provisions and sections of this chapter.
- (d) No license will be considered for a retail dealer when there is a previously filed application or license for a retail dealer's place of business within 500 feet of the applicant's proposed site, measured along the most direct line.

(Ord. No. 2004-04, § 1(A), 2-10-04; Ord. No. 2009-12, § 1, 10-13-09)

Cross reference— School and private residence defined, § 9-2-2.

State Law reference— Distance requirements, O.C.G.A., § 3-3-21.

Sec. 9-2-27. - Reserved.

Editor's note— Ord. No. 2004-04, § 1(B), adopted Feb. 10, 2004, repealed § 9-2-27, which pertained to annexed areas; continuance of business and derived from Ord. No. 86-05, adopted June 10, 1986.

Sec. 9-2-28. - Physical requirements for licensed premises.

No license shall be granted to a retailer, under the provisions of this chapter, unless the front entrance to the premises is clearly visible from a public street or private drive normally frequented by the public; provided, however, that this restriction shall not apply where the license is issued to a location in a shopping center or hotel or Olde Town Morrow District.

(Ord. No. 2009-12, § 2, 10-13-09)

Sec. 9-2-29. - Types of businesses to be licensed.

Alcoholic beverage licenses shall be issued only for the following classes of businesses:

- (1) Restaurant licenses for distilled spirits and/or malt beverages and wine, 40 percent alcoholic beverage to 60 percent food; provided that no food or beverage ratio is required to be maintained for restaurant licensees in the Olde Town Morrow District (other than on Sunday) so long as those restaurants have a kitchen which is staffed, equipped and supplied in order to provide to the public a menu of food which is cooked on the premises during those hours when the restaurant is open for business, nor does the 60/40 percent food/beverage ratio apply to the Morrow Conference Center.
- (2) A hotel which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging may operate a lounge and obtain a license to sell alcoholic beverages for consumption on the premises, only if the hotel meets the requirements of section 9-2-2(8).
- (3) Movie theater (cinema, motion picture theater): Any indoor facility or auditorium, open to the public, which is used primarily for and designed for the purpose of exhibiting films, live broadcasts or other similar performances by use of film projectors or digital cinema projection. This definition shall not include adult entertainment establishments of any kind. The ability of a

movie theater to sell alcoholic beverages is subject to the requirements of section 9-2-34 of the Code of Ordinances. For the purposes of this chapter, a movie theater shall be required to have the following:

- a. At least 15 auditoriums for audience viewing of films or live broadcasts with a minimum of 75 permanently-affixed seats per auditorium and one permanently-affixed commercial screen, with dimensions of at least 17 feet tall by 27 feet wide, per auditorium; and
 - b. Films or live broadcasts must be shown at regularly scheduled and advertised times and shown during all times that the movie theater is open to the public.
- (4) Package sales of malt beverages and wine only are permitted in licensed businesses which meet the following requirements:
- a. No retail dealer license shall be issued to any applicant whose business does not have at least \$15,000.00 inventory of food, household supplies and periodicals. Tobacco products may not be included for purposes of computing total inventory.
 1. The value of such items shall be the same as those indicated in the applicants' annual returns to the Clayton County Tax Commissioner for ad valorem tax purposes.
 2. The value so indicated shall be the cost of such item to the applicant and not the price which the applicant charges in retail sales.
 3. Automotive supplies and services shall not be considered or included in determining the inventory.
 4. Provisions for inspection of inventories contained elsewhere in this chapter shall apply hereto and all other procedures shall be in accordance as hereinafter set forth.
 - b. No retail dealer license shall be issued to an applicant who cannot provide satisfactory proof that the sale of packaged alcoholic beverages shall not constitute more than 49 percent of total sales.
 - c. No retail dealer license shall be issued for other than package sales of malt beverages or wine and the package sale of alcoholic beverages other than malt beverages and wine is expressly prohibited by this chapter.
 - d. No retail dealer license shall be issued to a business engaged solely in the sale of automotive supplies and/or services.
 - e. No retail dealer license shall issue for the sale of any packaged malt beverages or wine in a container holding less than 32 ounces.
- (5) [Combined licenses.] No combined licenses i.e. on premises consumption/package sales, shall be permitted or issued.

(Ord. No. 96-05, § 1, 5-28-96; Ord. No. 2004-04, § 1(C), (D), 2-10-04; Ord. No. 2009-12, § 3, 10-13-09; Ord. No. [2014-06](#), § 1, 6-24-14)

Sec. 9-2-30. - License fees.

- (a) An annual license fee for the privilege of engaging in the business of selling alcoholic beverages in addition to any other business taxes levied in title 3, chapter 2, shall be as follows:
 - (1) Restaurant, serving malt beverages, wine and distilled spirits, whether an independent facility or whether part of a motel or hotel, the sum of \$5,000.00.
 - (2) Restaurant, serving malt beverages and wine, whether an independent facility or whether part of a motel or hotel, the sum of \$3,000.00.

- (3) Lounge or banquet facility, located in a hotel serving malt beverages, wine and distilled spirits, the sum of \$5,000.00.
 - (4) Lounge or banquet facility, located in a hotel serving malt beverages and wine, the sum of \$3,000.00.
 - (5) Hotels, giving complementary drink tickets, not for sale to the public, the sum of \$1,000.00.
 - (6) Package sales, malt beverage only, the sum of \$1,000.00.
 - (7) Package sales, wine only, the sum of \$500.00.
 - (8) Package sales of malt beverages and wine, the sum of \$1,500.00.
 - (9) Sales off-premises for catered functions, the sum of \$200.00.
- (b) The fee for any licensee obtaining an initial license for less than a full license year shall be prorated on a quarterly basis. Annual licenses in excess of \$3,000.00 may be paid in quarterly installments provided each installment is received prior to the commencement of the quarter for which said license fee is due. Failure to make a scheduled quarterly payment by its due date shall result in the remainder of the license fee for that calendar year being due and payable in its entirety. Except as otherwise provided in this subsection, neither proration nor refund shall be made of license fees for licenses issued by the city.
 - (c) The sum of \$500.00 shall be paid at the time an original application is filed to cover investigating costs which shall be credited against the first annual license fee and business tax upon the grant of a license. A transfer fee of \$250.00 shall be paid at the time application is made of intent to take in new partners or stockholders. These fees are not refundable.
 - (d) Reserved.
 - (e) All license fees shall be paid by January 1 of each year or within ten days of the granting of an application for a license, except for those fees in excess of \$3,000.00 for which installment payments are permitted as provided in subsection (b). Any person failing to pay the license fee for an alcoholic beverage license on or before January 1 or before the first of each calendar quarter in the event of installment payments shall be subject to a delinquent penalty of \$25.00. General business taxes for each business regulated by this chapter shall also be due and payable in addition to any license fees in accordance with the city business tax ordinance.
 - (f) Records and reports from licensee; form. Every licensee for the sale of alcoholic beverages shall keep such records, receipts, invoices and other pertinent papers in such form as the city manager may require. On or before the 10th day of the month, a return for the preceding calendar month shall be filed with the zoning administrator in such form as he or she may prescribe by every licensee or agent liable for the payment of the excise taxes levied in sections 9-2-91 and 9-2-92 and for reporting the sale of food during the same period of the return.

Those businesses and/or persons that are licensed to sell malt beverages and/or wine by the package shall file an annual report no later than the 20th day of January to verify their compliance with section 9-2-29(3).

Additionally, those businesses and/or persons licensed to sell malt beverages and/or wine only by the drink and not required to remit excise taxes shall file an annual report no later than the 20th day of January.

- (g) All returns shall show the gross receipts from the sale of all alcoholic beverages, amount of alcoholic beverages sold and tax collected or authorized due from the sale of alcoholic beverages only, for the related period; and, the amount of revenue received from the sale of food during the same period of the return.
- (h) Every retail consumption licensee shall, at the time of collecting for food and drinks served, give to the purchaser a receipt on which the price of alcoholic beverages served shall be itemized separately. Where the charges for food and drink are satisfied by credit or deferred payment, the

payment of the tax to the licensee may be deferred in a like manner; however, the licensee shall be liable therefor at the time to the extent that such credits are incurred.

(Ord. No. 90-04, § 2, 5-8-90; Ord. No. 94-01, § 1, 1-11-94; Ord. No. 96-05, § 1, 5-28-96; Ord. No. 2000-02, § 1(A), 2-8-00; Ord. No. 2005-11, 1-10-06; Ord. No. 2009-12, §§ 4, 5, 10-13-09; Ord. No. 2011-34, § 3, 10-25-11)

Sec. 9-2-31. - Standards to determine sleeping or seating capacity.

Where a minimum sleeping or seating capacity is prescribed herein, the requirement shall be judged by existing ordinances of the county or state regulations.

Sec. 9-2-32. - Term of license.

No license under this chapter shall be issued for less than a calendar year period except for initial licenses as provided in section 9-2-30(b) and, in case of the revocation or surrender of the license before expiration of the calendar year period, the holder shall not be entitled to receive any refund of any fees or taxes whatsoever.

Sec. 9-2-33. - Transferability of license.

- (a) Licenses shall not be transferable, except as otherwise provided herein. In the case of the death of any person holding a license, or any interest therein, the same may, in the discretion of the city manager, be transferred to the administrator, executor, or the lawful heir of the decedent. The executor, administrator, or lawful heir shall have a 30-day grace period to apply for a license transfer.
- (b) Nothing in this section, however, shall prohibit one or more partners in a 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.
- (c) Should a transfer of location be approved, there shall be no pro rata return of any license fee or business tax and the new location shall be considered as a new license hereunder.
- (d) All applications for transfer of locations shall comply with the provisions herein set forth governing new licenses.
- (e) This chapter is in no way to be construed to conflict with any federal or state bankruptcy or receivership laws.

Sec. 9-2-34. - Protection of minors in movie theaters.

- (1) Purpose. The purpose of this section is to protect minors and to protect against underage drinking in movie theaters licensed for on-premises consumption.
- (2) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - a. Adequate security measures means security measures that are adequate for the policing and enforcement of this section. Movie theaters licensed to serve alcoholic beverages shall:
 - 1. Ensure that the bar areas are adequately lit so as to ensure compliance under this subsection;
 - 2. Segregate bar areas, which areas are limited to persons 21 years of age and above. Bar areas must be physically separated from non-bar areas by a partition or wall sufficient to control access, and access points to licensed areas must be controlled by management in a manner sufficient to exclude persons under the legal drinking age from admittance;

3. Require every person who requests to purchase an alcoholic beverage to present identification;
4. Utilize a distinctive set of translucent cups in which alcoholic beverages are sold;
5. Require servers of alcoholic beverages to be at least 21 years of age;
6. Provide a course of instruction for its servers of alcohol that must include subjects dealing with alcoholic beverages as follows:
 - a. The importance of not selling or serving alcoholic beverages to underage customers or visibly intoxicated persons.
 - b. Classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle.
 - c. Effects of alcohol when taken with commonly used prescription and non-prescription drugs.
 - d. Guidelines for recognizing underage customers or visibly intoxicated persons.
 - e. Guidelines for checking and verifying age identification, and for recognizing false or altered identification.
 - f. Guidelines for refusing sales of alcoholic beverages to underage customers and visibly intoxicated persons.
 - g. State of Georgia laws and regulations regarding the sale and service of alcoholic beverages.
 - h. City of Morrow ordinances and regulations regarding the sale and service of alcoholic beverages.
7. Provide an alcohol server management course for managers. The course must include subjects on alcoholic beverages as follows:
 - a. State of Georgia laws and regulations and City of Morrow ordinances and regulations governing the service of alcoholic beverages and the operation of establishments serving alcoholic beverages.
 - b. Development of standard operating procedures for dealing with under-aged customers and visibly intoxicated persons.
 - c. Development of standard operating procedures for reporting to law enforcement customers and employees who use or distribute illegal drugs at the licensed premises.
 - d. Methods of assisting employees in dealing with underaged customers and visibly intoxicated persons, and in maintaining records that relate to such incidents.
 - e. Development of standard operating procedures for recognizing underage customers and visibly intoxicated persons.
 - f. Development of guidelines for checking and verifying age identification, and for recognizing false or altered identification.
8. Require each nonmanagerial employee who is employed to serve alcoholic beverages to complete the employee training course specified in subsection (6) within 30 days after commencing employment. The licensee must provide for the supervision of such an employee in the service of alcoholic beverages until the employee has received such training.
9. Require each managerial employee to complete the managerial training course specified in subsection (7) within 15 days after commencing employment.
10. Require all employees who handle or serve alcoholic beverages to attend at least one meeting every four months that must include the dissemination of information covering the

applicable subjects specified in this section and an explanation of the licensee's policies and procedures relating to those subjects.

11. Maintain employment records of applications, acknowledgements, and training of its employees required by this section.
 12. Post signs on the licensed premises informing customers of the licensee's policy against serving alcoholic beverages to under-aged persons and informing customers that the purchase of alcoholic beverages by an under-aged person will result in ejection from the premises and prosecution.
 - b. Adequately lit means ambient lighting that is adequate for the purposes of observing the operation of or patrons within the bar area. A bar area is to be adequately lit at all times that alcoholic beverages are being sold, served and consumed.
 - c. Bar area means a discrete area, that is within the same building as and that is under common ownership or, possession, and control of a movie theater, from which alcoholic beverages are dispensed and sold to customers of a movie theater for on-premises consumption.
- (3) Movie theaters to take adequate security measures. All movie theater licensees shall ensure that adequate security measures are employed to prevent the unlawful sale to or possession of alcoholic beverages by a person under the legal drinking age throughout the movie theater, including the bar areas.
- (4) Pre-approval of premises.
 - a. The chief of police, or his designee, is authorized to require any movie theater to submit for approval plans evidencing compliance with the provisions of this section which includes plans regarding adequate security measures. In such event, failure to follow or operate in accordance with the approved plans shall constitute a violation of this section.
 - b. A movie theater may request of the chief of police, or his designee, a pre-approval of plans evidencing compliance with the provisions of this section which includes regarding adequate security measures. In such event, failure to follow or operate in accordance with the approved plans shall constitute a violation of this section.
- (5) Preservation of alcoholic beverage laws. Nothing in this section shall be construed to allow activity which is contrary to state or local alcoholic beverage control laws.

(Ord. No. [2014-06](#), § 2, 6-24-14)

Secs. 9-2-35—9-2-40. - Reserved.

ARTICLE C. - REGULATION OF CONSUMPTION ON PREMISES

Sec. 9-2-41. - Hours and days of sale.

- (a) No retail consumption dealer located outside the Olde Town Morrow District and/or the Morrow Conference Center shall sell, give away or otherwise dispense alcoholic beverages by the drink between the hours of 1:55 a.m. Sunday and 12:30 p.m. Sunday, and between 11:30 p.m. Sunday and 9:00 a.m. Monday, and between the hours of 2:00 a.m. and 9:00 a.m. on other days, nor permit their places of business to be open for the sale of alcoholic beverages on Christmas Day or any other day prohibited by federal or state law.
- (b) No retail consumption dealer in the Olde Town Morrow District and/or the Morrow Conference Center shall sell, give away or otherwise dispense alcoholic beverages by the drink between the hours of 1:55 a.m. Sunday and 12:30 p.m. Sunday, and between the hours of 11:30 p.m. Sunday and 9:00

a.m. Monday, and between the hours of 2:00 a.m. and 9:00 a.m. on other days, nor permit their places of business to be open for the sale of alcoholic beverages on Christmas Day and any other day prohibited by federal or state law.

- (c) In all restaurants meeting the standards of section 9-2-2, the sale of alcohol is permitted on Sundays between the hours of 12:30 p.m. and 12:00 midnight where such establishment derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.
- (d) The sale of alcoholic beverages on election days is specifically permitted in the city.

(Ord. No. 92-14, § 1, 12-8-92; Ord. No. 2009-12, § 6, 10-13-09)

Sec. 9-2-42. - License number to be displayed.

Each retail consumption dealer shall have printed on the front window adjacent to the main entrance of the licensed premises the inscription "City License No. _____" in uniform letters not less than three inches and not more than four inches in height.

Sec. 9-2-43. - Signs.

No sign of any kind, painted or electric, advertising the fact that alcoholic beverages may be purchased on the premises shall be permitted on the exterior, or in the window, of any licensed premises. No placard or sign of any kind which is visible from the exterior of the licensed premises shall make reference to the price of any alcoholic beverages sold therein.

Sec. 9-2-44. - Condition of premises.

All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the conditions or premises used for the storage and sale of food for human consumption.

Sec. 9-2-45. - Nude dancing and obscene expressions prohibited.

- (a) Findings; public purpose. Based on the experience of other urban counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; College Park, Georgia; Smyrna, Georgia; Richmond County, Georgia; Ft. Lauderdale and Palm Beach, Florida; which experiences we believe are relevant to the problems faced by the City of Morrow, Georgia, we take note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country. Moreover, it is the finding of the city council that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "adult entertainment," begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequent of the criminal behavior hereinabove described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and it is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments which serve alcohol and also allow and/or encourage nudity. To that end, this section is hereby adopted.
- (b) Enactment. The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or dispense alcoholic beverages:

- (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 male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.
- (2) Live entertainment where any person appears in the manner described in subsection (b)(1) or where such person(s) perform(s) acts of or acts which simulate any of the following:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.
 - b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.
 - c. The displaying of the male or female pubic hair, anus, vulva or genitals.
- (3) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsection (b)(1) and (2) above.

(Ord. No. 91-01, § 1, 2-12-91; Ord. No. 93-08, §§ 1, 2, 9-14-93)

Editor's note— Ord. No. 91-01, § 1, adopted Feb. 12, 1991, repealed former §§ 9-2-45 and 9-2-46, and enacted in lieu thereof new provisions designated as § 9-2-45, herein set out. Prior to repeal, § 9-2-45 prohibited disturbances and obscenities, and § 9-2-46 prohibited nudity. Such sections bore no history notes.

Sec. 9-2-46. - Reserved.

Note— See the editor's note following § 9-2-45.

Sec. 9-2-47. - Reserved.

Editor's note— Ord. No. 94-15, § 1.D, adopted Dec. 13, 1994, provided for the deletion of § 9-2-47, which prohibited amusement devices, slot machines, pinball machines, etc., on premises of retail consumption dealers. Such section bore no history note.

Sec. 9-2-48. - Machines used for the purpose of musical entertainment and cigarette dispensing permitted.

Machines or central systems used for musical entertainment are permitted, provided that the machines or systems may be controlled by the individual user or maintained by the licensee in such a manner so as to assure proper decorum at all times. Loud or otherwise abusive sounds are specifically prohibited.

Sec. 9-2-49. - Sales outside of licensed premises.

It shall be made unlawful for any sale to be made outside of the building, premises or place of business licensed for sale or for any patron of such businesses to carry alcoholic beverages outside the licensed premises except as specifically permitted herein. Consumption-on-premises licensees located within the Olde Town Morrow District shall be permitted to make sales of alcoholic beverages which may be carried within the boundaries of the district, but which may not be carried outside the boundaries of that district or carried into any motor vehicle. Such licensees within the Olde Town Morrow District are further permitted to make sales of alcoholic beverages on the porches or patio areas of their respective premises at any time in which alcohol sales may be lawfully made.

(Ord. No. 2009-12, § 7, 10-13-09)

Sec. 9-2-50. - Employee registration for on-site consumption.^[4]

- (a) Alcoholic beverages by the drink shall be sold, served, distributed and dispensed only by employees of the licensee, who are 18 years of age or older. No licensee shall employ for the purposes of selling, serving, distributing or dispensing alcoholic beverages within the premises any person who, by reason of such person's personal associations, records of arrests, or reputation in the community where he has resided, is not likely to maintain the operation in conformity with federal, state or local laws. Convictions or pleas of guilty, in this or any state, or by the United States or any other country, of any offenses involving sexual misconduct, drug possession (felony) or distribution, keeping a disorderly place, gambling, or offenses related to the manufacture or sale of alcoholic beverages, or other felony offenses related to the illegal possession or use of alcoholic beverages, within ten years immediately prior to the date of employment would render such applicant ineligible for registration. Employment of such person subjects the licensee to suspension or revocation of the license.
- (b) Employees who are involved in the sale and/or dispensing of alcoholic beverages are required to register with the city on a form provided by the city for that purpose. A dispensing permit with a photo affixed will be issued and a fee will be charged to all applicants for the same. Such fee may be changed from time to time by resolution of the mayor and council. Reregistration shall be accomplished annually on the anniversary of initial registration in the same manner as previously stated. Such permits allow an employee who dispenses or sells alcoholic beverages to work in any retail consumption establishment in the city. Such permits must be worn, clearly visible to the public, at all times when the holder of the permit is engaged in the dispensing and/or sale of alcoholic beverages.
- (c) Persons under the age of 18 years may be employed in or about places of business where alcoholic beverages are sold, provided such persons shall be prohibited from selling, taking orders for, dispensing or serving alcoholic beverages.
- (d) Alcoholic beverages by the drink shall be served only by employees of the establishment.
- (e) Employee permits allowing the sale of alcoholic beverages may be revoked or suspended by the city manager following ten calendar days' notice, hearing and a determination that such employee has violated any provision of this Code regulating alcoholic beverages or upon a finding that the employee no longer possesses the qualification for holding of such permit. The decision of the city manager with respect to suspension or revocation shall be a final decision of the city and may be appealed by writ of certiorari to the Superior Court of Clayton County as provided by law.

(Ord. No. 2001-18, § 1.B., 9-11-01; Ord. No. 2012-42, § 3, 11-13-12)

Cross reference— Other offenses involving minors and alcoholic beverages, § 11-1-21.

Footnotes:

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Editor's note—Ord. No. 2001-18, adopted Sept. 11, 2001, repealed former section 9-2-50, employee registration, and enacted a new section 9-2-50 as set out herein. Former section 9-2-50 pertained to similar subject matter and derived from Ord. No. 86-05, adopted June 10, 1986, Ord. No. 88-05, adopted June 30, 1988, and Ord. No. 97-01, adopted January 14, 1997.

Sec. 9-2-51. - Price information.

- (a) All retail consumption dealers, except private clubs, shall maintain a schedule of prices for alcoholic beverages and shall display in prominent places their current prices of alcoholic beverages, and admission and cover charges. Such schedule shall be effective for not less than one calendar week.
- (b) Licensees shall file a copy of their price list with the investigating officer of the police department and shall furnish to any customer who desires it, an itemized bill of charges which shall not exceed the price list furnished to the police department. Upon any increase or decrease of prices, a new list must be filed with the police department.
- (c) No licensee or employee or agent of a licensee shall:
 - (1) Offer or deliver any free alcoholic beverage to any person or group of persons, except in accordance with section 9-2-29(2)c;
 - (2) Deliver more than two alcoholic beverages to one person at one time;
 - (3) 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;
 - (4) 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;
 - (5) Sell, offer to sell, or deliver alcoholic beverages including malt beverages, by the pitcher, except to two or more persons at any one time;
 - (6) 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;
 - (7) 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.
- (d) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (c).
- (e) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, provided all patrons are allowed equal access to such free food, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person, or to prohibit any hotel or motel from offering room services to registered guests. Otherwise no food and alcoholic beverage package may be offered by any licensee.

Sec. 9-2-52. - Service in back rooms prohibited.

The sale of alcoholic beverages for consumption by persons in any back room or side room which is not normally open to the general public use is prohibited, except that private parties or conventions, which have been scheduled in advance, may be served in public or private dining rooms or meeting rooms, and, provided further, that this prohibition shall not apply to the sale of alcoholic beverages for consumption hereunder to the registered guests of any hotel or motel in their designated rooms.

Sec. 9-2-53. - Copy of provisions to be maintained on licensed premises; effect of violation by employee or agent of licensee.

It shall be the duty of the licensee hereunder to maintain a copy of this chapter on the premises and to instruct each and every employee of the terms thereof. A violation of the chapter by an employee or agent of the licensee shall be deemed a violation of the licensee.

Sec. 9-2-54. - Reserved.

ARTICLE D-1. - REGULATION OF SALES OFF-PREMISES FOR CATERED FUNCTIONS

Sec. 9-2-55. - Event permits.

- (a) In order to distribute or sell distilled spirits, malt beverages, or wine at an off-premises catered function, the licensed alcoholic beverage caterer shall apply to the city manager for an event permit. The application for the event permit shall include the name of the caterer, the date, address, and time of the event, and the licensed alcoholic beverage caterer's license number. For alcoholic beverage caterers licensed by the city, no further event permit fee is required, and all alcoholic beverage excise and sales taxes attributed to the sale or use of alcohol at the catered event shall be reported through the alcoholic beverage caterer's primary alcoholic beverage license.
- (b) For alcoholic beverage caterers licensed by political subdivisions in the state other than the City of Morrow, in addition to the information required of city event caterers, the applicant for the event permit shall provide proof of its state and local primary alcoholic beverage license and of a valid licensed alcoholic beverage caterer's license from its home jurisdiction. The non-local alcoholic beverage caterer shall pay an event permit fee of \$50.00 per event to cater events within the city, and in addition, shall collect and remit local excise and sales taxes on the total quantity of alcoholic beverages brought into the city by the caterer.

(Ord. No. 2011-34, § 4, 10-25-11; Ord. No. 2012-42, § 4, 11-13-12)

Sec. 9-2-56. - Records and reports.

All licensed alcoholic beverage caterers shall maintain all records and reports required by state law and the city, and shall make those records and reports available for inspection by the city upon demand.

(Ord. No. 2011-34, § 4, 10-25-11)

Sec. 9-2-57. - Familiarity with alcoholic beverage regulations.

All licensed alcoholic beverage caterers shall be familiar with the alcoholic beverage regulations of the city and all state laws governing the sale and distribution of alcoholic beverages. It shall be the responsibility of the licensed alcoholic beverage caterer to ensure that all agents and employees serving alcoholic beverages under its event permit are familiar with those ordinance requirements and state regulations and shall comply with same.

(Ord. No. 2011-34, § 4, 10-25-11)

Sec. 9-2-58. - Days and times of alcoholic beverage catering.

No sales or distribution of alcoholic beverages pursuant to an event permit obtained by a licensed alcoholic beverage caterer shall be made on any day or at any time during which alcoholic beverages may not lawfully be sold within the city.

(Ord. No. 2011-34, § 4, 10-25-11)

Sec. 9-2-59. - Employees of licensed alcoholic beverage caterers.

No licensed alcoholic beverage caterer shall employ any person or allow any person under the age of 21 years of age to handle, sell, or distribute alcoholic beverages under its event permit. All employees of licensed alcoholic beverage caterers, whether licensed by the city or by other jurisdictions, shall obtain a city registration, as required by section 9-2-69 of this Code.

(Ord. No. 2011-34, § 4, 10-25-11)

Sec. 9-2-60. - Penalties.

- (a) In addition to the penalties provided in Article E of this chapter, in the event that a licensed alcoholic beverage caterer licensed by a jurisdiction other than the city violates any of the alcoholic beverage regulations of the city or state law, such licensed alcoholic beverage caterer shall not be permitted another event license within the city for a period of 12 months.
- (b) In the event that a licensed alcoholic beverage caterer licensed by the city commits a violation of any regulation of this chapter or of state law governing the sale, furnishing, or distribution of alcoholic beverages, such violation shall count as a violation on its underlying license issued by the city, and shall be handled in accordance with the provisions of Article E of this chapter.

(Ord. No. 2011-34, § 4, 10-25-11)

ARTICLE D. - REGULATION OF PACKAGE SALES OF MALT BEVERAGES AND WINE

Sec. 9-2-61. - Hours and days of sale.

No retail dealer shall sell or give away any malt beverages and/or wine except between the hours of 8:00 a.m. and 12:00 midnight, Christmas Day, or any other day prohibited by state law. The package sales by retailers of malt beverages and wine on Sundays is authorized between the hours of 12:30 p.m. and 11:30 p.m.

(Ord. No. 2013-43, § 1, 2-12-13)

Note— The above provisions were approved at a referendum held on November 4, 2013.

Sec. 9-2-62. - Sales outside of licensed premises.

It shall be unlawful for any sale to be made outside of the building, premises or place of business licensed for sales except as permitted herein.

Sec. 9-2-63. - Signs advertising products.

No sign of any kind, painted or electric, advertising any brand or price of malt beverages or wine shall be permitted on the exterior, or in the window, of any licensed premises. No placard or sign of any kind which is visible from the exterior of the licensed premises shall make reference to the price of any malt beverages or wine sold therein.

Sec. 9-2-64. - License number to be displayed.

Each person licensed to sell malt beverages and wine by the package shall have printed on the front window adjacent to the main entrance of the licensed premises the inscription "City License No. _____" in uniform letters not less than three inches and not more than four inches in height.

Sec. 9-2-65. - Signs concerning prohibited acts.

- (a) The retail licensee shall post in a conspicuous place where the actual transaction takes place within the licensed premises a sign stating that no malt beverages or wine shall be sold to or purchased by any person under 21 years of age and that it shall be unlawful for any minor to falsely misrepresent

his or her age in any manner whatsoever to a licensee. Such sign shall be printed in uniform letters not less than one inch in height.

- (b) The retail dealer licensee shall display at any entrances or exits to the licensed premises a sign which shall state that it is unlawful to consume any malt beverages or wine or to open any container of such beverages on the licensed premises or in any parking area adjacent thereto. Further, such signs shall also be placed in such a manner as to be visible from any parking area adjacent to the licensed premises.
- (c) It shall be unlawful for any retail dealer to permit, allow or acquiesce in the consumption of any malt beverages or wine or the opening of any container of alcoholic beverages on the licensed premises or in any parking area adjacent thereto.
- (d) All signs required by this section shall be clearly visible and lettering shall be dark and unfaded.

Sec. 9-2-66. - Prices.

- (a) Each retail dealer shall have conspicuously displayed within the interior of the licensed premises not less than four copies of a printed price list of the malt beverages and wine offered for sale and one printed copy of these regulations; provided, that a licensee, in lieu of having four copies of a printed price list, may have the price placed on the bottles or on the bottom of the shelf where the alcoholic beverages are exhibited for sale.
- (b) Licensees shall file a copy of their price lists with the investigating officer of the police department and shall furnish to any customer that so desires an itemized bill of charges which shall not exceed the prices list furnished to the police department. Upon any increase or decrease of prices, a new list must be filed with the police department.

Sec. 9-2-67. - Broken seals.

It shall be unlawful for any person, except a licensee, his manager or agent in charge of licensed premises, to carry into or have in his possession on any premises any malt beverages or wine in the original package, the seal of which has been broken or the original package opened.

Sec. 9-2-68. - Reuse of bottles.

It shall be illegal for the licensee hereunder to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any malt beverage or wine.

Sec. 9-2-69. - Employee registration for off-site consumption. [\[5\]](#)

- (a) Alcoholic beverages by the package shall be sold or distributed only by employees of the licensee, who are 18 years of age or older. No licensee shall employ for the purposes of selling or distributing alcoholic beverages within the premises any person who, by reason of such person's personal associations, records of arrests, or reputation in the community where he has resided, is not likely to maintain the operation in conformity with federal, state or local laws. Convictions or pleas of guilty, in this or any state, or by the United States or any other country, of any offenses involving sexual misconduct, drug possession (felony) or distribution, keeping a disorderly place, gambling, or offenses related to the manufacture or sale of alcoholic beverages, or other felony offenses related to the illegal possession or use of alcoholic beverages, within ten years immediately prior to the date of employment would render such applicant ineligible for registration. Employment of such person subjects the licensee to suspension or revocation of the license.
- (b) Employees who are involved in the sale or distribution of alcoholic beverages are required to register with the city on a form provided by the city for that purpose. A permit with a photo affixed will be issued and a fee will be charged to all applicants for the same. Such fee may be changed from time to time by resolution of the mayor and council. Reregistration shall be accomplished annually on the anniversary of initial registration in the same manner as previously stated. Such permits allow an employee who sells or distributes alcoholic beverages to work in any retail package establishment in

the city. Such permits must be worn, clearly visible to the public, at all times when the holder of the permit is engaged in the sale or distribution of alcoholic beverages.

- (c) Persons under the age of 18 years may be employed in or about places of business where alcoholic beverages are sold, provided such persons shall be prohibited from selling or handling alcoholic beverages; provided, however, in supermarkets, convenience stores and drugstores, persons under 18 years of age may handle or sell alcoholic beverages for consumption off the premises.

(Ord. No. 2001-18, § 1.C., 9-11-01)

Footnotes:

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Editor's note—Ord. No. 2001-18, adopted Sept. 11, 2001, repealed former section 9-2-69, employees registration and replaced said section with a new section 9-2-69 as set out herein. The former section 9-2-69 pertained to similar subject matter and derived from Ord. No. 86-05, adopted June 10, 1986, Ord. No. 88-05, adopted June 30, 1988, and Ord. No 97-01, adopted Jan. 14, 1997.

Sec. 9-2-70. - Interior visibility.

No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or upon the doors of any retail dealer's store, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such retail store shall be so lighted that the interior of the store is visible day and night.

Sec. 9-2-71. - Copy of provisions to be maintained on licensed premises; effect of violation by employee or agent of licensee.

It shall be the duty of the licensee hereunder to maintain a copy of this chapter on the premises and to instruct each and every employee of the terms thereof. A violation of the chapter by an employee or agent of the licensee shall be deemed a violation of the licensee.

Sec. 9-2-72. - Security cameras required for certain establishments selling alcoholic beverages.

- (a) Any licensee which sells any alcoholic beverage packages to go, is hereby required to install a continuous video recording system dedicated to each register area with cameras and lens of a type, number and location approved by the chief of the police department. Such cameras must be capable of producing a retrievable and identifiable image on film or tape that can be made a permanent record and that can be enlarged through projection or other means. Provided, however, that any establishment governed by this section and having three or more employees on duty at all times during business hours is hereby exempted from the provisions of this section.
- (b) Cameras meeting the requirements of this section shall be maintained in proper working order at all times and shall be in operation at all hours in which such establishment is open for business. The camera shall be subject to periodic inspection by the chief of police or his designee along with the person on duty at the time of the inspection and in the event the primary system becomes inoperable, the licensee must have the camera repaired or have availability of a backup camera system within a ten-day period of time. In addition, in the event the camera becomes inoperable, the licensee must immediately notify the police chief or his designee. If a crime occurs or an employee believes a crime has occurred, the police department shall be contacted immediately and the film retrieved by a designated police officer.

- (c) Violation of any provisions under this section shall constitute an offense hereunder and shall be punishable as follows:
- (1) On a first offense there shall be a minimum fine of \$250.00.
 - (2) On the second offense, if within 12 months of the first, there shall be a minimum fine of \$350.00.
 - (3) Any conviction or acceptance of a plea of guilty or nolo contendere as well as any alternative sentencing imposed on a defendant appearing in municipal court for a violation of this chapter shall be reported by the judge to the city manager at the close of the court session.

(Ord. No. 91-11, § 1, 9-24-91; Ord. No. 2012-42, § 5, 11-13-12)

Secs. 9-2-73—9-2-80. - Reserved.

ARTICLE E. - ENFORCEMENT

Sec. 9-2-81. - Inspection authority of city.

Sworn officers of the police department shall have the authority to inspect establishments licensed hereunder during the hours in which the premises are open for business. The inspections shall be made for the purpose of verifying compliance with the requirements of these regulations.

Before any alcoholic beverage license is issued, the code enforcement officer or other representative of the city designated by the city manager shall conduct an on-site inspection of each licensed establishment to ensure compliance with all city codes. The fee for an inspection shall be as set by the mayor and council from time to time. Any violations of the City Code of Ordinances must be corrected within a reasonable amount of time as determined by the city manager, or such establishment's alcoholic beverage license will not be issued until the establishment comes into compliance.

The applicant for an alcoholic beverage license whose license is not issued based on this Code section may file a written appeal with the city manager not later than five business days after receiving written notice from the city that the license will not be issued because of noncompliance with the City Code of Ordinances. The city manager shall render his decision in writing within five business days of the receipt of the appeal. In the event the appeal to the city manager is denied, the applicant for an alcoholic beverage license may appeal the city manager's decision to the mayor and council by filing written notice with the city clerk within five business days of the city manager's decision. Such appeal shall be heard and decided in accordance with the procedures established by section 9-2-84.

(Ord. No. 2000-02, § 1(B), 2-8-00; Ord. No. 2012-42, § 6, 11-13-12)

Sec. 9-2-82. - Automatic revocation in response to state revocation.

Whenever the state shall revoke any permit or license to sell alcoholic beverages, the city license to deal in that product, issued pursuant to these regulations, shall thereupon be automatically revoked without any action by the city.

Sec. 9-2-83. - Failure to begin or continue operation.

Whenever a holder of a license granted in the chapter shall fail to open for business the establishment referred to in the license and begin the sale of products or product authorized by the license within nine months from the date of issuance of the license, or whenever a holder of a license shall begin the operation of a business and sale of the product or products as authorized in the license but shall fail to operate the business for a period of nine consecutive months, the holder shall

automatically forfeit his license, which shall be cancelled or revoked without the necessity of any further action of the city.

Sec. 9-2-84. - Suspension and revocation.

- (a) Except as provided for herein, no license which has been issued or which may hereafter be issued by the city to any person under this chapter shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon the prior ten-day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charge upon which the hearing shall be held.
- (b) "Due cause" for the suspension or revocation of license shall consist of the violation of any laws or ordinances regulating the businesses, or violation of regulations made pursuant to authority granted for the purpose of regulating the businesses, or for the violation of any state, federal, or local law or ordinance relating to the use and sale of drugs and/or alcoholic beverages or any crime of moral turpitude.
- (c) The hearing may be conducted by the mayor and council or, alternatively, the mayor and council may appoint a hearing officer to conduct the hearing on its behalf. Any such hearing officer shall be either licensed to practice law in the State of Georgia and possess a minimum five years' experience involving local governments or have a minimum of five years' experience as a city manager within the State of Georgia. The hearing shall be held within 30 days of the date notice of appeal is received; provided, such hearing may be rescheduled for one additional 30-day period upon good cause. In the event the mayor and council appoints a hearing officer to conduct the hearing, the hearing officer shall conduct the hearing and make a recommendation to the mayor and council. Such recommendation shall include a statement of findings, and a recommended action to be taken. At any hearing conducted pursuant to this section, the licensee shall be entitled to present evidence and to cross examine witnesses. The city shall make a tape recording of proceedings. Should a licensee desire the availability of a court reporter, the licensee shall be responsible for making those arrangements and paying the costs thereof. The licensee shall present a list of city officers and employees it wishes to have present for hearing no later than five business days in advance of hearing. Provided such notice is timely received, the city shall produce such witnesses for hearing. Prior scheduled leave time for vacation, school or other legitimate purposes of a necessary witness is due grounds for continuance of a hearing at either party's request. If a hearing officer is used, such hearing officer shall reduce his recommendation to writing and provide it to the mayor and council within 14 days of conclusion of the hearing. Final determination of all appeals shall be made by the mayor and council by vote in regular session no later than the next regularly scheduled meeting at which a quorum is present after receipt of the hearing officer's recommendation or at the next meeting after close of the hearing if conducted by the mayor and council.
- (d) In the event of revocation, no refund or any portion of the license fee or business tax shall be returned.
- (e) Revocation of a license for violation of this chapter shall be for a minimum of six months and a maximum of 24 months, the period to be determined at the discretion of the mayor and council. A total of three separate and unrelated violations shall constitute grounds for permanent revocation.

(Ord. No. 2012-42, §§ 7, 8, 11-13-12)

State Law reference— Due process standards for denial, suspension or revocation of alcoholic beverage licenses, O.C.G.A., § 3-3-2.

Sec. 9-2-85. - Prevention of evasion; records; inspections; confidentiality of information.

- (a) Upon demand by the city manager and/or the mayor and council it shall be the duty of any licensee to throw open to these city officials or their designee, during regular business hours, all portions of the place of business for the purpose of enabling these city officials to ascertain and gain any

information as may be necessary for determination of the percentage of gross receipts from the sale of food and the percentage of gross receipts from the sale of alcoholic beverages. Upon demand by these city officials, it shall also be the duty of any licensee to furnish the city officials during regular business hours at the licensee's place of business all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information, from which the correct percentages of gross receipts from the sale of food as opposed to alcoholic beverages, including exhibition of bank deposit books, bank statements, copies of sales tax receipts to the State of Georgia, copies of Georgia income tax reports and federal income tax reports.

- (b) It shall be the duty of any licensee of the city to secure, preserve, maintain and keep for a period of three years the records and documents enumerated and referred to in the previous subsection.
- (c) It shall be unlawful for any licensee or for any servant, employee, or agent of the licensee to fail or refuse to perform any duty herein imposed upon the licensee or to obstruct or interfere with any city officials in obtaining information necessary for determination of the aforesaid percentages of sales.
- (d) Except in the case of judicial proceedings or other proceedings necessary to collect the license fee or business tax provided in this code, it shall be unlawful for any officer, employee, agent or clerk of the city or any person to divulge or make known in any manner the information required to be submitted in the registration and application for license, or otherwise submitted under the terms of this chapter and the rules and regulations promulgated in connection therewith. All information so submitted shall be confidential and open only to the officials, employees, agents or clerks of the city using the information for the purpose of the administration of this chapter. Independent auditors or bookkeepers employed by the administrator shall be classed as employees. Nothing herein contained shall prevent the disclosure of the license fee or business tax levied and assessed upon any person subject thereto, the name, address, and type of business of the license holder. Nothing herein contained shall be construed to prohibit publication by the city officials of statistics, so classified as to prevent the identification of particular reports or returns on the items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia or of the United States.

Sec. 9-2-86. - Penalties for violation of chapter; application irregularities.

Any person who acquires a license or a renewal thereof, in violation of this chapter by any misrepresentation or fraudulent statement, or who, after acquiring a license, is found to have violated any of the provisions of this chapter, shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-1-8 of this Code in addition to any suspension or revocation of the license. Each day's continuance of a violation shall be considered a separate offense.

Secs. 9-2-87—9-2-90. - Reserved.

ARTICLE F. - EXCISE TAXES

Sec. 9-2-91. - Malt beverages and wine.

- (a) Licensed wholesale dealers in malt beverages and wine shall pay to the city an excise tax in accordance with the following schedule:
 - (1) \$0.05 per 12-ounce container of malt beverages sold in bottles, cans or other containers, except barrel or bulk containers as specified in subsection (2). Fractional parts of 12-ounce containers shall be computed proportionately.
 - (2) \$6.00 for each container of malt beverages containing not more than 15½ gallons and at a like rate for fractional parts, where the beverage is sold in or from a barrel or bulk container, that beverage commonly known as tap or draft beer.

- (3) \$0.22 per liter of vinous beverages, and a proportionate amount in like rates on all fractional parts of a liter.
- (b) The excise tax imposed by this section shall be paid by the wholesale dealers to the city by the 10th of the month, based upon the units of beer and wine sold during the previous month.
- (c) When any person required to file a report as provided by this article fails to file the report within the time prescribed, the person shall be assessed a penalty of \$50.00 for each failure to file.
- (d) When any person fails to pay the tax due as provided in this article, the person shall be assessed a penalty of ten percent of the tax due and not paid on or before the time prescribed, together with interest on the principal amount at the rate of one percent per month from the date the tax is due until the date the tax is paid. Any period of less than one month shall be considered to be one month.

(Ord. No. 93-12, 10-26-93)

State Law reference— Local excise tax on malt beverages, O.C.G.A., § 3-5-80, 3-5-81; tax on wine, O.C.G.A., § 3-5-60.

Sec. 9-2-92. - Distilled spirits.

There is hereby imposed an excise tax on the sale of distilled spirits by the drink, which tax shall be three percent of the charge to the public for the beverages. Such taxes are to be collected at the time of sale by licensee, and such licensee shall be permitted a three percent deduction of the amount collected as compensation for his effort, providing that the account is not delinquent at the time of payment. This tax does not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage. Such taxes are due and payable to the city on or before the 10th day of every month next succeeding each respective calendar month. This tax is in lieu of that portion of gross revenue reportable as gross receipts and may be itemized as a deduction on application for the annual business license, whereupon the gross receipts are reported in accordance with section 3-2-52. Such exclusion from other business tax is authorized in section 3-2-52(b)(2)b.2.

(Ord. No. 92-02, § 1, 2-11-92; Ord. No. 2000-02, § 1(C), 2-8-00)

Sec. 9-2-93. - Enforcement.

Each wholesaler or retail licensee required to report and remit the excise tax to the city shall accompany such report with a sworn statement that the report is a true and correct report of all sales and shipments made within the city. Upon demand by the mayor and council, or their designee, it shall be the duty of any wholesaler/licensee to throw open to the city officials or their designee all portions of the place of business for the purpose of enabling the city officials to ascertain and gain any information as may be necessary for the determination of quantities of alcoholic beverages sold in order to determine the amount of excise tax due and/or payable to the city.

Cross reference— Reporting procedure combined with food/beverage ratio reporting, § 9-2-30(f), (g); administrative powers of the city, § 9-2-85.