

Updated Exhibit A

Chapter 4 - ALCOHOLIC BEVERAGES⁽¹⁾

Footnotes:

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~~**Editor's note**—Ord. No. 20-12-462, § 1(Exh. A), adopted Dec. 21, 2020, amended the Code by repealing ch. 4 in its entirety and enacting new provisions to read as herein set out. Former ch. 4, §§ 4-1-4-4, 4-10-4-16, 4-20-4-25, 4-30-4-35, 4-40-4-43, 4-50-4-52, 4-60-4-64, 4-70, 4-71, 4-75-4-85, 4-90-4-94, 4-100-4-102, 4-105-4-113, 4-120-4-122, 4-130-4-138, 4-140-4-143, 4-150-4-153, 4-160-4-166, 4-170-4-174, 4-180-4-182, pertained to similar subject matter, and derived from Ord. No. 20-07-438, § 1, adopted July 20, 2020; Ord. No. 20-09-453, § 1, adopted Sept. 21, 2020; and Ord. No. 20-10-455, § 1, adopted Oct. 5, 2020. See the Code Comparative Table for complete derivation.~~

~~**State Law reference**—Constitutional grant of home rule powers, Ga. Const. art. IX, § II; statutory grant of home rule powers, O.C.G.A. § 36-35-1 et seq.; Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; regulation of alcoholic beverages generally, O.C.G.A. § 3-3-1 et seq.; authority of local authorities to license and regulate alcoholic beverage sales, O.C.G.A. § 3-3-2; local regulation of sales on Sundays, O.C.G.A. § 3-3-7; prohibited acts on licensed premises, O.C.G.A. § 3-3-40 et seq.; malt beverages, O.C.G.A. § 3-5-1 et seq.; wine, O.C.G.A. § 3-6-1 et seq.; local licensing requirements for sale of malt beverages, O.C.G.A. § 3-5-40 et seq.; requirements for sale of wine, O.C.G.A. § 3-6-40; 3-4-49, 3-4-50, 3-4-80 et seq., 3-5-80 et seq., 3-6-60, 3-7-40 et seq.; Georgia Department of Revenue Regulations, Ga. Comp. R. & Reg. § 560-2-1 et seq.~~

ARTICLE I. - IN GENERAL

Sec. 4-1. - Purposes.

- (a) -Purposes. This chapter is adopted as part of a comprehensive plan designed for the purposes, among others, of:
- (1) Promoting the health and general welfare of the community;
 - (2) Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcoholic beverages;
 - (3) Protecting and preserving schools and churches; and
 - (4) Giving effect to land use and preserving certain residential areas, with reasonable consideration being given to, among other factors, the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and the promotion of desirable living conditions and sustained stability of neighborhoods and property values.
- (b) -Because the purposes of this chapter are not advanced when alcoholic beverages are provided to the general public under an appearance that such alcoholic beverages are not being sold but are being given away as part of a business operation or other activity, any person providing alcoholic beverages to the general public, whether for sale or otherwise, must be licensed by the city.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-2. - Definitions.

~~(a)~~—Unless a contrary intention is clearly apparent from the context, any term used in this chapter shall have the same meaning as when used in a comparable provision of the Georgia Alcoholic Beverage Code (O.C.G.A. § 3-1-1 *et seq.*, as amended) or the Georgia Department of Revenue Regulations (Ga. Comp. R. & Reg. § 560-2-1 *et seq.*, as amended). Any terms used in this chapter not specifically

(a) defined herein shall be defined as set forth by state law or the Department of Revenue Regulations.

(b) —As used in this chapter, the singular and the plural shall each include the other, the masculine and feminine shall each include the other, and any verb tense may include any other verb tense.

(c) As used in this chapter the term "may" is permissive and the term "shall" is mandatory.

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

Adult entertainment and *adult entertainment establishment* shall have the same meanings as set forth in section 64-1. Adult entertainment establishments are prohibited from holding an alcoholic beverage license in the city.

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

Alcoholic consumable means any product intended for human consumption that contains any measurable amount of alcohol as defined in this section, regardless of whether such consumable is in liquid or solid form. Alcohol consumables will be regulated by the city and shall be deemed to be included in any reference to any type of alcoholic beverage.

Alcoholic beverage means and includes all alcohol, malt beverages, wine, or distilled spirits intended for human consumption. Any reference to alcoholic beverages in this chapter shall be deemed to include alcoholic consumables, regardless of whether such consumables are in liquid or solid form.

Alcoholic beverage caterer means any standard on-premises consumption retailer or off-premises package retailer properly licensed to provide alcohol for consumption at private functions on private property, public functions on private property, at city sponsored events, at special events, or at special events facilities.

Ancillary tasting license means a license that is available to the holder of a retail package license that allows for on-premises tastings under limited conditions as provided for in this chapter.

Applicant means the person, partner, firm, or corporation, as owner, or other entity (individually or collectively) making the application for the alcohol license, whether compensated or not. The term "applicant" shall include a licensee agent.

Bar means an establishment whose primary business is the provision of alcoholic beverages and not the consumption of food. A place that derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages for consumption on-premises and does not meet the definition of any other establishment qualified to hold a license under this chapter will be presumed to be a bar. Bars are specifically prohibited in the city. This provision does not preclude a business that otherwise qualifies as an eating establishment or restaurant from including the word "bar" in its name, provided that the name must also be indicative of food service, such as "Joe's Sports Bar & Grille".

Barrel, with respect to a microbrewery, means a vessel that is used to age, condition, and/or ferment malt beverages which is 31 gallons or such other size authorized by the U.S. Alcohol and Tobacco Tax and Trade Bureau ("TTB").

Barrel, with respect to a microdistillery, means a vessel that is used to age/condition/ferment distilled spirits; a standard unit of measure is 53 gallons.

Brewer means a manufacturer of malt beverages, cider and/or similar alcoholic beverages.

Brewpub means any brewer that also qualifies as an eating establishment as defined in this chapter in which malt beverages, wine, and/or distilled spirits may be licensed to be sold for consumption on-premises and malt beverages and wine may be sold by the package for off-premises consumption. Malt beverages manufactured or brewed on-premises shall be limited to **XXXX** barrels per calendar year, of which no more than 5,000 barrels may be sold to licensed wholesale dealers.

Bring your own beverage (BYOB) license means a license issued for any place of business open to the public or any private club that allows guests, patrons or members to bring their own beer and/or wine onto the premises for the guests' consumption. A BYOB license may be issued to establishments that hold a standard consumption on-premises licenses as well as to approved establishments that are not licensed to sell or serve alcoholic beverages.

Building code means and includes all building, plumbing and electrical codes and any similar technical code of the city.

Building official means the building official of the city as such position presently exists, or by whatever name the position may be designated in the future. The term building official will also be deemed to include any designee of the building official.

Catered event means an event where alcoholic beverages will be sold/served by a licensed alcoholic beverage ~~eater~~caterer or nonprofit organization and does not meet the threshold of a special event as defined in chapter 34 of the Milton Code of Ordinances.

Chief of police means the chief of police of the city as such position presently exists, or by whatever name the position may be designated in the future. The term chief of police will also be deemed to include any designee of the chief of police.

Church means any place of permanent public religious worship and shall exist if a building permit therefore has been obtained and construction of the church building has commenced or substantial materials, or supplies for its construction, have been moved to the site.

City means the City of Milton, and when used in a geographical sense, means the territorial limits of the City of Milton.

City manager means the city manager as such position presently exists, or by whatever name the position may be designated in the future. The term city manager will also be deemed to include any designee of the city manager.

College means only those state, county, city, church, or other higher education institutions that teach the subjects commonly taught in the common colleges of this state and shall not include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations, and other special subjects are taught.

Conviction means adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture

of a bond when charged with a crime, but shall not include a discharge under provisions of the State of Georgia First Offender Act.

County means Fulton County, Georgia, and, when used in a geographical sense, means the territorial limits of Fulton County, Georgia.

Craft beer means a malt beverage brewed by an independent brewer with annual production not exceeding 6,000,000 barrels.

Craft beer and/or *wine market* means a retail establishment whose primary purpose must be the sale of craft beers and/or wine for consumption off-premises in conjunction with the sale of prepared food and/or groceries. Sales of craft beers and wines may be for consumption on-premises and/or by the package.

Distance means the distance requirements, as prescribed by state law, for the sale of alcoholic beverages and the manner in which distances are measured.

Distilled spirits, liquor, or spirituous liquor means any alcoholic beverage obtained by distillation or containing more than 24 percent alcohol by volume, including, but not limited to, all fortified wines. Any reference to distilled spirits, liquor, or spirituous liquor shall be deemed to include alcoholic consumables that contain distilled spirits or spirituous liquor. The terms distilled spirits, liquor, or spirituous liquor, when used in this chapter, shall all carry the same meaning.

Distiller means a manufacturer of distilled spirits.

Eating establishment means an establishment which may be licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food. Provided, however, that when determining the total annual gross food and beverage sales for a brewpub, barrels of malt beverages sold to licensed wholesale dealers or to the public for consumption off the premises shall not be used.

Employee means any person acting in the capacity of a server, waiter, waitress, cashier, or clerk at the business of an alcohol license holder wherein the person's job function requires that they engage in sales transactions involving alcohol. The licensee shall be deemed an employee of the permitted business.

Entertainment or live entertainment means music, comedy, readings, dancing, acting, organized fighting, or other entertainment, excluding adult entertainment, performed on the premises of a licensed establishment. This classification includes dancing by patrons to live or recorded music.

Events facility or *Special events facility* shall have the same meaning as "assembly hall" or "rural or agricultural event facility" as set forth in chapter 64 of the Milton Code of Ordinances. For the purposes of this chapter, an events facility must be available to public or private groups of persons for monetary consideration on a rental fee, percentage, or similar basis, be used primarily for special occasions, including but not limited to, receptions, meetings, banquets, conventions, parties, catered events or similar gatherings. The establishment must be open to or attended by invited or selected guests. Any establishment licensed as an events facility shall not provide adult entertainment either regularly or occasionally; nor shall any such establishment operate as a bar or nightclub.

Farm winery or *Georgia Farm Winery* shall have the same meaning as set forth by state law. Provided that a license is issued as required by the state and under this chapter, a farm winery licensed by the city, and in compliance with all provisions of chapter 64 of the Milton Code of

Ordinances, is authorized to sell Georgia wine at its premises by the package or for consumption on-premises as authorized by Georgia law.

Fire marshal means the fire marshal of the city, as such position presently exists, or by whatever name the position may be designated in the future. The term fire marshal will also be deemed to include any designee of the fire marshal.

Food caterer means any person that prepares food for consumption off the food caterer's premises.

Full-service kitchen means a kitchen that consists of a commercial sink, a permanently installed stove, grill or other similar heating device that adequately and completely cooks prepared meals, and a refrigerator. Said kitchen must be approved by the county health department and city fire marshal.

Golf course means a golf facility consisting of a clubhouse or a professional golf shop and a regulation or executive length golf course of at least nine holes, as recognized by the United States Golf Association, the Professional Golfers Association of America, and the Georgia State Golf Association. The term "golf course" does not include miniature golf.

Groceries or grocery means saleable food products including meats, dairy, vegetables, fruit, dry good, and non-alcoholic beverages.

Grocery store means a retail establishment which has a total retail floor space of at least 10,000 square feet of which at least 85 percent is reserved for the sale of food and other nonalcoholic items, conducts all of its sales inside the building containing its retail floor space, and meets such other criteria as may be required by the local governing authority of the county or city.

Growler means a glass, ceramic, or metal container not to exceed 64 ounces that is filled by a licensee or employee of a licensee with craft beer from a keg and securely sealed for off-premises consumption.

Hotel as applied in this chapter means any hotel, inn, or other establishment which offers overnight accommodations to the public consisting of 50 or more rooms used for sleeping accommodations for guests or patrons for adequate pay for fewer than 30 days. The establishment must contain one or more public dining rooms with adequate and sanitary full-service kitchen facilities as defined in [this section-4-2](#). A hotel may consist of a single building or two or more buildings located on the same premises and used in connections with the hotel operation.

Housing Authority Property means any property containing 300 housing units or fewer owned or operated by a housing authority created by Article 1 of Chapter 3 of Title 8, the "Housing Authorities Law."

Incidental service license means an on-premises alcoholic beverage license for an establishment that does not sell food that was prepared on the premises and does not charge for any alcoholic beverage. An establishment that holds an incidental service license is limited to wine and malt beverages; and is prohibited from allowing any individual to consume more than 16 ounces of wine or 24 ounces of malt beverages on premises in a calendar day. The amount of money spent on alcoholic beverages by such establishment shall not exceed two percent of gross receipts (gross receipts shall have the same meaning as provided in chapter 12).

Interest means any pecuniary interest and any ownership interest, whether present or future, whole or partial, legal or beneficial, contingent or vested, direct or indirect, and any right,

power, or authority of control.

License means the authorization by the governing authority of the city to engage in the sale, consumption, or provision of alcoholic beverages as provided in this chapter. Where required by context, the word "license" includes a permit issued for a specific event or activity.

Licensee means a person, real or artificial, to whom a license is issued, or, in the case of a partnership or corporation, the term includes both the partnership or the corporation and the individual designated by such legal entity to serve as its license representative.

Licensee agent means an individual person designated by a partnership or corporation to act as its representative/applicant and on its behalf on all matters related to the alcohol license. A licensee agent must have sufficient involvement with the partnership or corporation to have supervisory authority over the day-to-day operations of the licensed premises. For the purposes of this chapter, any reference to the term applicant or licensee also includes the licensee agent.

Limited food service restaurant means any establishment that meets all of the requirements of a restaurant but does not meet the requirements of an eating establishment. A limited food service restaurant must derive at least 30 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

Limited tap license means an on-premises alcoholic beverage license for an establishment that does not sell food prepared on the premises and that provides a limited selection of craft beer on tap for consumption on premises only. An establishment with a limited tap license is limited to having five or fewer malt beverage taps. Establishments with a limited tap license must limit consumption for any individual to a maximum of 48 ounces within a calendar day and must obtain approval from the fire marshal and building official in accordance with applicable codes.

Liter means the metric measurement currently used by the United States.

Live entertainment or entertainment means music, comedy, readings, dancing, acting, organized fighting, or other entertainment, excluding adult entertainment, performed on the premises of a licensed establishment. This classification includes dancing by patrons to live or recorded music.

Major shareholder means a person that owns or controls a 20 percent or more interest in a business establishment.

Malt beverage means 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 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, also known as Japanese rice wine, which shares a similar manufacturing process to malt beverages but which typically has more than 14 percent of alcohol by volume. The term malt beverage is used interchangeably with beer. Throughout this chapter, any reference to malt beverage shall be deemed to include beer and/or alcoholic consumables that contain malt beverages.

Manufacturer means any maker, 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; provided that a vintner that blends wine and distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits; but will be considered a vintner;

- (2) In the case of malt beverages, any brewer; and
- (3) In the case of wine, any vintner.

Microbrewery means a small-scale malt beverage manufacturing facility in which malt beverages manufactured on-premises or at another of the brewer's licensed premises under common ownership as defined in [OCGAO.C.G.A. § 3-5-24.1](#) may be sold for consumption on-premises or by the package for off-premises consumption. Malt beverages manufactured or brewed on-premises shall be limited to **XXXX** barrels per calendar year, of which no more than 6,000 barrels may be sold at retail for on premises consumption or by the package for off-premises consumption.

Microdistillery means a small-scale distilled spirit manufacturing facility in which distilled spirits manufactured on-premises or at another of the distiller's licensed premises as defined in [OCGAO.C.G.A. § 3-4-24.2](#) may be sold for consumption on-premises or by the package for off-premises consumption. Distilled spirits manufactured or distilled on-premises shall be limited to **XXXX** barrels per calendar year, of which no more than 750 barrels may be sold at retail for on premises consumption or by the package for off-premises consumption.

Moral ~~turpitude~~turpitude means, in relation to a criminal offense, a crime that is contrary to justice, honesty, modesty, good morals, or a ~~person's~~person's duty to other people. ~~Misdemeanors~~Misdemeanors that are crimes of moral turpitude for the purpose of this ~~Chapter~~chapter include, but are not limited to, theft, bad checks, shoplifting, making terroristic threats, giving a false name to a police officer, false swearing, forgery, fraud, and extortion.

Nightclub means an establishment whose primary business is the provision of alcoholic beverages and live entertainment or patron dancing and not the consumption of food. A place that derives 75 percent or more of its total annual gross revenue from the sale of alcoholic beverages for consumption on-premises and cover charges or entry fees and does not meet the definition of any other establishment qualified to hold a license under this chapter will be presumed to be a nightclub. Nightclubs are prohibited in the city.

Nonprofit civic organization means an organization which is an exempt organization under Section 501(c) or (d) of the Internal Revenue Code of 1986, as amended.

Open container area means a specified area adjacent to and designated for common use by multiple eating establishments, food vendors or restaurants for their patrons. Unless otherwise provided, open container areas are restricted to the city's special districts and allow for limited outside consumption of alcoholic beverages.

Outdoor dining area means an outdoor dining space in which an on-premises licensee serves food and beverages as part of the operation of the licensed premises. Except as otherwise provided, the outdoor dining area must be located immediately adjacent to the licensed premises. An outdoor dining area may include a patio, city approved sidewalk seating, or a designated dining area within the exclusive control of the licensee, and may be separated from the licensee's premises, if at all, only by a sidewalk.

No part of an outdoor dining area shall be located within any public right-of-way without permission of the city.

Outlet means the definite structure, whether a room, store, building, restaurant, or club, in which activities permitted by this Ordinance are conducted.

Package means a bottle, can, keg, barrel, or other original consumer container. The term "retail package alcoholic beverages" includes all alcoholic beverages in their original containers or in a growler and sold at retail to the final consumer and not for resale.

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

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

Police department means the chief of police and any police officers.

Premises means the definite, closed, or partitioned-in location (whether room, shop, or building) wherein alcoholic beverages are sold, provided, or consumed pursuant to this chapter and in accordance with state law. Premises also includes any area (such as a sidewalk café, outdoor dining area, courtyard, or patio) immediately adjacent to the main licensed facility and located on property owned or leased by such licensee.

Prepared food or meals means food that is sold in a heated state by the seller ~~(or)~~ food with two or more ingredients mixed or combined by the seller for sale as a single item ~~(or)~~ food sold with eating utensils provided by the seller. Prepared food or meals shall not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry and foods containing these raw animal foods requiring cooking by the consumer.

Registered agent means a natural person age 21 years or older and residing in Fulton County, or any county that borders Fulton County, who is designated by a licensed establishment to receive service of process on its behalf. Notice or demand required or permitted by law or under this chapter may be served upon the licensee, registered agent, or owner.

Restaurant means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are actually and regularly served to patrons, without sleeping accommodations, including a cafeteria, with such place being provided with an adequate and sanitary full-service kitchen and dining room equipment, having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its patrons. 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 those meals shall be a principal portion of the business conducted, with the serving of alcoholic beverages as only incidental thereto. The restaurant seating area must be at least 40 percent of the gross square footage of the restaurant facility. Seating space located outside of the main structure (i.e. patios, decks, etc.) shall not be included in calculating seating space. In order to be considered a "full-service" restaurant, the business must also meet the requirements of an eating establishment as defined in this chapter.

Retail package distilled spirit store means any person that sells or provides to the public distilled spirits in unbroken packages, not for consumption on premises and not for resale.

Retail package malt beverage/wine store means any person that sells or provides to the public malt beverages and/or wine in unbroken packages or growlers, not for consumption on premises and

not for resale.

School, school building, or educational building for the purposes of determining distance requirements for the sale of alcoholic beverages shall mean a state, county, city, or church school building, or such buildings at such school in which are taught subjects commonly taught in the common schools and colleges of the state and which are public schools and private schools as defined in O.C.G.A.

§ 20-2-690(b). The term "school building" includes only those structures in which instruction is offered.

Seller/server permit means an authorization granted to an individual by the city to cork, dispense, sell, serve, take orders, and/or mix alcoholic beverages in the city.

Special district has the same meaning as provided in section 4-146 of this chapter.

Special event has the same meaning as provided in chapter 34 of the Milton Code of Ordinances.

Special/catered event alcohol permit means an alcoholic beverage permit issued for a specific location for a limited amount of time and a limited number of days.

Specialty gift shop means any retail shop that deals in the sale of foods, specialty foods and gifts that derives not more than 15 percent of its gross sales from the sale of packaged gift baskets containing non-

alcohol related items such as flowers, plants, food or similar items which also contain unbroken containers of malt beverages ~~and/or, wine-, or distilled~~ spiritmalt beveragesspirits.

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Standard on-premises consumption retailer means any licensee holding a malt beverage/wine/distilled spirits consumption on-premises license or a malt beverage/wine consumption on-premises license.

Tap room means a place on the premises of an establishment with a manufacturer license, where the beverages manufactured on-site are offered for sale for consumption on premises.

Tasting room means an outlet for the promotion of wine produced by a Georgia Farm Winery by providing samples of such wine to the public and for the sale of such wine at retail for consumption on- premises and for sale in closed packages for consumption off-premises. Samples of wine may be given complimentary or for a fee. The tasting room must be located 50 feet from any adjacent residential property lines and no larger than 2,500 square feet in size.

Tax means the tax imposed by the city upon any dealer in alcoholic beverages for each calendar month of the year.

Temporary alcoholic beverage license means a license provided to an applicant that applies for an alcoholic beverage license, complies with the requirements set forth in this chapter, and who, in the city manager's discretion, appears to meet the criteria for receiving a license. Temporary licenses are intended to aid the applicant in opening for business within a short time after passing all required inspections. A temporary license is only valid for 90 days and may be revoked at any time.

Underage person means an individual who is less than 21 years of age.

Vendor means any establishment licensed to provide or sell alcoholic beverages at retail under this chapter.

Wholesaler or wholesale dealer means any person that sells alcoholic beverages to other wholesale dealers, off-premises retail dealers, or on-premises consumption retailers.

Wine or vinous beverage means any alcoholic beverage containing not more than 24 percent alcohol by volume made from fruits, berries, grapes, or honey either by natural fermentation or by natural fermentation with brandy added. These terms include, but are not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, and special natural wines, rectified wines, other like products, and sake, which is an alcoholic beverage often manufactured through a process similar to that of malt beverages but produced from rice and often containing greater than 14 percent alcohol by volume. These terms do 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 the point in the manufacturing process when it conforms to this definition. Throughout this chapter, any reference to wine shall be deemed to include alcoholic consumables that contain wine.

Zoning shall mean the zoning classifications as approved for the City of Milton.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-3. - Jurisdiction.

This chapter shall apply to the corporate limits of the city and outside the city limits in all territories to which the jurisdiction of the city extends.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-4. - Severability.

~~#Should~~ any provision, clause, sentence or paragraph of this chapter, or the application thereof to any person or circumstances, ~~shall~~ be held, deemed, or construed to be invalid ~~and/or~~ unconstitutional, such ~~invalidity decision~~ shall not affect the other provisions remaining portions thereof or application of the provisions of this chapter which can be given effect without the invalid provisions or application and, to this end, the provisions of this chapter are hereby declared to be severable.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-5. - Effective date and Repealer Provision.

This ordinance shall become effective immediately upon its adoption and any and all existing or pre-existing City of Milton alcohol ordinances, amendments and resolutions are thereby repealed.

Secs. 4-6—4-9. - Reserved.

ARTICLE II. -LICENSING²²

Footnotes:

~~**State Law reference**— Powers of local governing authorities as to granting, refusing, suspension or revocation of licenses generally, O.C.G.A. § 3-3-2; display of license, O.C.G.A. § 3-3-3; local authorization and regulations for manufacture, distribution, and package sales of distilled spirits, sales near churches, schools, O.C.G.A. § 3-3-21; O.C.G.A. § 3-3-40 et seq.; maximum license fee for distilled spirits, O.C.G.A. § 3-4-48; local licenses for sale of distilled spirits by the drink, O.C.G.A. § 3-4-110; local license requirements and regulations for manufacture, distribution, and sale of malt beverages, O.C.G.A. § 3-5-40 et seq.; municipal licenses for the sale of malt beverages, O.C.G.A. § 3-5-42; restrictions on wholesale license fee, O.C.G.A. § 3-5-43; O.C.G.A. § 3-7-40; local licensing requirements for the sale of wine, O.C.G.A. § 3-6-40; local authorization and regulation of the sale of alcoholic beverages in private clubs, O.C.G.A. § 3-7-40 et seq.; false swearing, O.C.G.A. § 16-10-71.~~

DIVISION 1. - GENERALLY

Sec. 4-10. - License is a privilege.

- (a) *-Granted by city council.* Alcoholic beverages may be sold, provided or consumed to or by the public in the city under a license or permit granted by the city council or its designee upon the terms and conditions provided in this chapter.
- (b) *-Privilege.* All licenses in this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all the terms and conditions imposed by this Code and state law.
- (c) *-Compliance with local, state and federal law required.* Any holder of any alcoholic beverage license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, city licensees are required to display the license prominently at all times on the premises for which the license is issued and abide by all applicable local, state, and federal regulations and laws.

~~([Ord. No. 20-12-462](#), § 1(Exh. A), 12-21-2020)~~

Sec. 4-11. - License requirement; prohibitions for non-licensed premises.

- (a) -The manufacturing, distributing, and selling by wholesale or retail of alcoholic beverages shall not be conducted without a permit or license issued by the city.
- (b) -It shall be prohibited for any person that performs or undertakes any type of operation or activity for which an occupation tax certificate is required to keep, possess, store, sell (at wholesale or retail), to provide to others, or to allow alcoholic beverages or consumables on the premises without appropriate, valid and current state and local licenses for such alcoholic beverages and/or consumables. This prohibition shall apply without regard to whether the alcoholic beverages or consumables are intended to be provided free of charge, as a part of any promotion by the owner of the premises or operator of the business, to be given as prizes in connection with any type of contests or raffles (which is prohibited under state law), or intended to be given as bonuses or inducements offered in connection with employment or the purchase of goods and/or services.
- (c) It shall be prohibited for any person to provide alcoholic beverages or consumables to the

general public under the appearance that such alcoholic beverages or consumables are not being sold but are being given away. The sale to any member of the public of any ticket or the charging of any cover charge or fee, for admission to any event or premises where alcoholic beverages are available without further charge, as well as the sale of any ticket, stamp, token or similar item which may be redeemed or exchanged for alcoholic beverages or consumables is considered a "retail sale" of alcohol under this chapter and requires an alcoholic beverage license.

- (d) -Any owner or tenant of a location or business, as well as any individual employed by such owner, tenant or business who is present at the time when alcoholic beverages or consumables are being provided by a non-licensed premises or location as described in this section, may be charged with violating the provisions of this chapter.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-12. - Unlicensed sales or deliveries prohibited.

- (a) -It shall be prohibited for any licensee under this chapter to make deliveries of any alcoholic beverage by the package beyond the boundaries of the premises covered by the license except as allowed by state law (O.C.G.A. § 3-3-10). Pursuant to O.C.G.A. § 3-3-10, any city-issued license that allows a retailer to sell alcoholic beverages in unbroken packages for consumption off the premises shall include the right to deliver malt beverages, wine, or distilled spirits in unbroken packages lawfully sold to and purchased by an individual for personal use and not for resale, to the limited extent permitted by the provisions of O.C.G.A. § 3-3-10. Any violation of this provision may be enforced as an ordinance violation under this chapter, subject to the restrictions in O.C.G.A. § 3-3-10(h)(2).
- (b) -It shall be prohibited for any licensee under this chapter to allow the sale or delivery of any alcoholic beverage by the drink to any area other than the premises covered by the license.
- (c) It shall be prohibited for unlicensed individuals to sell alcoholic beverages.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-13. - Display of license required.

The city alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the licensed premises.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-14. - Licensee and employees to be familiar with terms.

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

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-15. - Joint responsibility.

Each partnership, corporation or entity shall be jointly responsible for the actions of its named licensee, its employees while acting in the scope of their employment, and the conduct of the licensed business.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-16. - Effect on licenses held at time of adoption.

All licensees holding a valid license for the manufacture, sale or provision of alcoholic beverages issued by the city at the time of the enactment of the ordinance from which this chapter derives shall be deemed to have complied with all requirements as to application and issuance of licenses under this chapter for the year of issuance. The licensees shall, however, meet all other requirements as to regulation and control as set forth in this chapter.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-17—4-19. - Reserved.-

DIVISION 2. - QUALIFICATIONS

Sec. 4-20. - Locations where permitted/prohibited.

- (a) -No alcoholic beverages or consumables may be kept, possessed, stored, sold, provided, consumed, or allowed on the premises of an establishment licensed to conduct business in the city except at establishments holding an alcoholic beverage license under this chapter.
- (b) -No person, entity or organization may provide alcoholic beverages or consumables to the general public, whether for sale or otherwise, without first obtaining an alcoholic beverage license under this chapter.
- (c) -No license for alcoholic beverages shall be issued within the city for any establishment, event or location at which patrons are handling deadly weapons, including but not limited to, guns, knives, axes or arrows as a part of the business or event for which a permit is sought.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-21. - Architectural and zoning standards.

All premises for which an alcoholic beverage license is sought or has been issued shall comply with all state and/or city ordinance requirements regarding architectural and zoning standards. Failure to comply with said standards will subject the license to non-issuance, suspension or revocation. The city shall not be held responsible for licenses that are erroneously issued where architectural and zoning standards were not satisfied, and any fees paid by the licensee will be forfeited.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-22. - Distance requirements.

(a) No person knowingly and intentionally may sell or offer to sell:

- (1) -Any distilled spirits by the package in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus.
- (2) -Any malt beverages or wine by the package within 100 yards of any school building, school grounds, or college campus. This subparagraph shall not apply at any location for which a license has been issued prior to July 1, 1981, nor to the renewal of such license. Nor shall this subparagraph apply at any location for which a new license is applied for if the sale of malt beverages or wine was lawful at such location at any time during the 12 months immediately preceding such application.

Nothing in this subparagraph shall prohibit a grocery store as defined in section 4-2 of this chapter licensed for the retail sale of only malt beverages or wine by the package from selling malt beverages or wine within 100 yards of any school building, school grounds, or college campus,

- (3) -Any malt beverages, wine, or distilled spirits by the package within 100 yards of an alcoholic treatment center owned and operated by this state or any county or city government therein. This paragraph shall not apply to any business having a license in effect on July 1, 1981.
- (4) No person knowingly and intentionally may sell any alcoholic beverages for consumption on the premises within 100 yards of any housing authority property as defined in section 4-2 of this chapter.

~~(b) Nothing contained in this section shall prohibit the licensing of the sale or distribution of alcoholic beverages for on-premises consumption by:~~

- ~~(1) Hotels of 50 rooms or more which have been in continuous operation for a period of at least five years preceding July 1, 1981;~~
- ~~(2) —~~

~~(e)(b) For purposes of this section, distances shall be measured by the most direct route of travel on the ground, and shall be measured in the following manner:~~

~~(d) —~~

- ~~(1) — In a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale.~~
- ~~(2) To the front door of the building of a church, government-owned treatment center or a retail package store, or;~~
- ~~(3) To the nearest property line of the real property being used for school or educational purposes.~~

~~(e)(c) New church or schools or other restricted use. As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any alcoholic beverage license, the subsequent opening and operation of a church or school or other restricted use facility within the distance prohibited in this section shall not prevent the continuance of an existing license or the issuance of a new license to any subsequent owner of such property.~~

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-23. - Applicant standards.

- (a) -No license for alcoholic beverages issued pursuant to this chapter shall be granted to any person who is not:
 - (1) At least 21 years of age; and
 - (2) -A United States citizen, legal permanent resident of the United States; or a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.
- (b) -If the applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers, and majority stockholders. Issuance of the license shall be as follows:
 - (1) -In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. If the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its designated applicant or licensee agent under the provisions of this chapter.
 - (2) -In the case of a partnership, the license shall be issued to the partnership and all the partners owning at least 20 percent of the partnership. 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 shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the city manager that neither such individual nor any person with 20 percent or more ownership in the entity, nor any officer or director of the corporation shall have been convicted of, entered a guilty plea or a plea of nolo contendere, or been released from parole or probation within a period of ten years immediately prior to the filing of such application, for:
 - (1) Moral turpitude;
 - (2) Illegal gambling;
 - (3) Felony possession or sale of controlled substances;
 - (4) -Illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law;_
 - (5) Keeping a place of prostitution;
 - (6) Pandering;
 - (7) Pimping;
 - (8) Public indecency;
 - (9) Prostitution;_
 - (10) Solicitation of sodomy; or
 - (11) Any sexually related crime.

An applicant may establish the required lack of criminal history listed by providing an official Federal Clearance Letter from the Federal Court of the individual's state of residence or a criminal history report from a police department, sheriff's department or the official state crime investigation

center in the individual's state of residence. The city manager may also require a criminal history consent form and/or an affidavit of criminal history to be completed and submitted by any individual.

- (d) -It shall be prohibited for any city employee directly involved in the issuance of alcoholic beverage licenses or enforcement of the regulations under this chapter to have any whole, partial, or beneficial interest in any license to sell alcoholic beverages in the city.
- (e) -No license for alcoholic beverages issued pursuant to this chapter shall be granted to any person who has had any alcoholic beverage license issued by any jurisdiction within the state revoked within two years prior to the filing of the application.
- (f) The city manager or city council may decline to issue an alcoholic beverage license when any person having any ownership interest in the operation of such place of business or having control over such place of business does not meet the same character requirements as set forth in this section for the licensee.
- (g) Corporate or business applicants shall be of good business reputation.
- (h) -An alcoholic beverage 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, where the applicant or the licensee agent does not have sufficient control over the operations of the business to assure compliance with the provisions of this chapter, or where it appears that the application is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-24. - Effect of prior criminal history; exceptions.

- (a) An applicant or licensee agent's first-time conviction for illegal possession of alcohol as a misdemeanor or violation of a city ordinance shall not, by itself, make an applicant/licensee agent ineligible for an alcoholic beverage license.
- (b) For purposes of this chapter, a conviction or plea of guilty or nolo contendere shall not be considered as to any offense for which a defendant was allowed to avail themselves of this state's first offender provisions, O.C.G.A. § 42-8-60 et seq.; provided, however, that any such offense may be considered 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 the defendant had previously been sentenced as a first offender.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-25. - Pending application for business on prior licensed premises.

Where there is a pending application for a new licensee or a change of ownership for a business that is to be located in premises that have been licensed within a year prior to the pending application, the new applicant may continue to sell alcohol in the same capacity as previously licensed pursuant to a management agreement with the existing licensee for a maximum period of 30 days beyond the

sale or transfer of the licensed premises. However, the 30 days of operation under the management agreement shall be counted as the first month of sales for the purposes of calculating the alcohol license fees that are due. If a violation of this chapter occurs during the 30 days that the business is operating under a management agreement pursuant to this section, both the prior licensee and the new applicant can be charged and held liable. Moreover, any such violation may serve as grounds for denial of the new license.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-26—4-29. - Reserved.

DIVISION 3. - APPLICATION REQUIREMENTS

Sec. 4-30. - Application requirements.

- (a) ~~City form.~~ All persons desiring to sell alcoholic beverages or any other license or permit provided for in this chapter shall make an application on the form prescribed by the city manager or his or her designee.
- (b) *Contents.* The application shall include, but not be limited to:
 - (1) The name and address of the applicant/licensee agent;
 - (2) The proposed business to be carried on and type of license desired;
 - (3) If a partnership, the name and residence address of each partner;
 - (4) If a corporation, the names of the officers;
 - (5) The name and address of the registered agent for the service of the process;
 - (6) The name of the manager;
 - (7) ~~The names 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; and evidence of compliance with any prior notice requirements, including but not limited to O.C.G.A. § 3-4-27 where applicable.~~
- (c) ~~Grand opening/annual promotion permits.~~ For grand opening/annual promotion permits, the detailed requirements of this section will not be applied and the only information required will be the name and address of the business, the name and address of the applicant, and the date, time and location of the event. ~~If a catered event,~~ refer to Article IX of this chapter.
- (d) *Financial information.* All applicants shall furnish such financial and other information and records as may be required by the city manager to ensure compliance with the provisions of this chapter. Failure to furnish information and records pursuant to such request shall automatically serve to dismiss the application with prejudice.
- (e) *Agreements.* All agreements between and among any persons or stockholders of corporations or partners of partnerships applying for a license to sell or dispense any alcoholic beverages and which agreements reflect or control ownership, division of profits, sharing of revenues of any kind, including payment of rents, or which agreements reflect any other arrangements in connection with ownership, rents, profit sharing or income shall be in writing, and copies of all these agreements shall, upon request, be furnished to the city manager.

- (f) *-Survey.* For businesses engaged in package sale of alcohol for off-premises consumption, the application shall have attached a survey (dated no more than 180 days prior to submission of the application to the city), certified by a registered surveyor of this state, showing a scaled drawing of the premises, the location on the premises where the applicant desires to operate an alcoholic beverage establishment, and the distance in linear feet measured pursuant to state law and section 4-22 of this chapter to the nearest church building, school building, educational building, school grounds or college grounds or college campus building. If the applicant is a new owner of an establishment at a location where the sale of alcoholic beverages was lawful at any time during the 12 months immediately preceding such application, a survey is not required. The city manager has the discretion to waive the survey requirement if it can otherwise be confirmed with clear evidence that there is no school, church, or other restricted facility in proximity to the proposed licensed premises.
- (g) *-Notary.* All applications shall be sworn to by the applicant/licensee agent before a notary public or other officer empowered by law to administer oaths.
- (h) *-Consent.* Each applicant/licensee agent authorizes the city and its agents to secure from any court, law enforcement agency, or other public agency his criminal and civil history and to use such information in determining whether the license applied for shall be issued. Each applicant, as a consideration of the application, further authorizes the city and its agents to use such information in any public hearing with respect to the license applied for, either before or after the issuance of the license. Each applicant waives any right that he or she would otherwise have to preclude the city or its agents from obtaining and using such information, and each applicant further waives any liability of the city or its agents for obtaining and using such information.
- (i) *License fees.* The application shall be accompanied by the prerequisite application non-refundable processing fee and license/permit fee(s) as established by the city council. Except for applications for permits, all licenses granted under this chapter shall be for the months remaining in the calendar year after application is made. License fees for new licenses granted shall be based on the number of months remaining in the calendar year; a partial month shall be counted as a full month.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-31. - Separate application for each location and license type required.

A separate license application is required for each location of sale and must identify the license category for which application is made. A separate license shall be obtained for each separate location.

Locations will be deemed separate if they have different addresses or different entrances with separate trade names. The city may allow an applicant to utilize the same form for multiple alcoholic beverage license types at the same establishment or may require a separate application for the different license types. Under either circumstance, the city manager and city council will act upon each license type as a separate application.

~~Pursuant to Ga. Comp. Rules and Regs. 560-2-3-15, no establishment licensed to sell malt beverages, wine, and/or distilled spirits for consumption on premises shall hold any license to sell distilled spirits by the package for the same location. However, on premises consumption retailers may, subject to the provisions of this chapter, also apply for and obtain a malt beverage and/or wine package license, provided that all additional requirements are met and additional fees paid.~~

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-32. - Accurate application required; consequences for false or misleading statements or omissions.

An applicant shall provide complete and accurate information in support of an application. Any material omission, false or misleading information contained in or omitted from an original, renewal or transfer application for an alcoholic beverage license under this chapter shall be cause for the denial thereof and, if any license has previously been granted, such circumstances shall constitute cause for revocation.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-33. - Registered agent required.

All licensed establishments must have and continuously maintain in Fulton County, or any county that borders Fulton County, a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter required to be served upon the licensee or owner may be served. This person must be a resident of one of the aforesaid counties. The licensee shall file the name of such designated registered agent, along with the written consent of such individual to serve as the registered agent for the licensee, with the city manager on such form as he or she may prescribe.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-34. - Non-refundable processing fees.

Each application or renewal for an alcohol license under this chapter shall be accompanied by non-refundable processing fees in an amount to be determined by the city council to defray processing, administrative, and investigative costs. Processing fees shall be paid at the time the application is filed. Any person applying for more than one license on a given application, to the extent that such is authorized by the city manager, shall pay only one set of processing fees.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-35. - Withdrawal by applicant; refund of license fee deposit.

- (a) Any license application made pursuant to this chapter may be withdrawn by the applicant at any time.
- (b) -If the application is withdrawn before the license is issued, any sums deposited as license fees will be refunded (without interest), less non-refundable processing fees. After issuance of the license, no refund will be made. No refunds shall be made under any circumstances for investigative and administrative expenses required in this chapter.
- (c) -No license shall be renewed for less than a calendar year, and if an issued license is revoked or surrendered before the expiration of a calendar year, the licenses shall not be entitled to any refund.

- (d) Notwithstanding the foregoing provisions, the city council may approve a partial refund of the license fee paid to the city if the licensed business cannot continue to be operated due to any action taken by the city beyond the licensee's control (excluding a suspension, revocation or other disciplinary action). If a refund is approved by the city council, the refund shall be calculated as follows:
- (1) Three-fourths of the license fee if the licensee goes out of business during the first quarter of the calendar year.
 - (2) One-half of the license fee if the licensee goes out of business during the second quarter of the calendar year.
 - (3) One-fourth of the license fee if the licensee goes out of business during the third quarter of the calendar year.
 - (4) No refund if the licensee goes out of business during the fourth quarter of the calendar year.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-36 - Notice requirements.

(a) Posting on premises to be licensed.

~~(1)~~ *Required; specifications.* The applicant for an original license under this chapter shall, at his or her own expense, post a notice on the premises to be licensed. The notice shall be posted for at

~~(2)~~(1) ~~_____~~ east least 15 days prior to the date of the public hearing. The notice shall be on a sign having a surface of not less than 12 square feet. The notice shall be painted or printed in black letters at least three inches in height against a white background. The notice shall state:

- a. That an application for a license related to the sale or consumption of alcoholic beverages on the premises under this chapter has been filed with the city;
- b. The type of license applied for;
- c. The time and place of the public hearing to be held on such license application; and
- d. The name(s) in which the license is to be issued.

~~(3)~~(2) *Placement.* The advertisement shall be placed with the base of the sign not more than three feet from the ground on the most conspicuous part of the premises, facing the most frequently traveled road, street or highway abutting same, and not more than ten feet therefrom.

(b) Publication.

(1) *Contents.* The ~~City Manager~~city manager or his or her designee shall prepare and cause to be published a notice of each pending application, which notice shall include:

- a. The date the application will be considered by the city council;
- b. The location or street number of the premises where the applicant proposes to conduct activities permitted by this chapter; and
- c. The applicant's name.

- (2) *Costs.* The applicant shall pay the publication costs.
- (3) *Newspaper of general circulation.* The notice shall be published in a newspaper of general circulation within the city and shall appear once a week for two weeks immediately preceding consideration of the application by the city council.

Secs. 4-37—4-39. - Reserved.

DIVISION 4. - GRANT OR DENIAL OF APPLICATIONS; APPEALS

Sec. 4-40. - Consideration of applications by chief of police and city manager.

- (a) *Chief of police.* Each application for an alcoholic beverage license shall be referred to the chief of police or his or her designee for investigation. The chief of police or his or her designee shall report the findings to the city manager. Such findings shall include a recommendation as to the qualifications of the applicant. At the discretion of the city manager or his/her designee, this step may be omitted for grand opening/annual promotion permits.
- (b) *City manager.* The city manager shall have the authority to:
 - (1) -Request additional written or investigative information from the applicant or city staff deemed necessary to consider an application prior to a decision;
 - (2) -Grant an applicant a temporary alcoholic beverage license, ~~conditional licenses~~ or any special event, catered event, or grand opening/annual promotion permit, consistent with the provisions of this chapter;
 - (3) -Submit an applicant's completed license application to the city council for hearing, along with a recommendation for approval;
 - (4) -Deny any application on the grounds that it is incomplete, fails to show the applicant has satisfied the qualifications set forth in this chapter or other provisions of this Code; shows the applicant, location, or application would not qualify under State law or Georgia Department of Revenue Regulations; or for other due cause; and
 - (5) -Receive and submit an applicant's appeal of the city manager's decision to deny the application to the city council for hearing, along with a copy of the city manager's decision; and
 - (6) -Receive an applicant's appeal of the police chief's decision to deny an alcohol/server permit under section 4-172(d) and submit such appeal to the city council for hearing, along with a copy of the police chief's decision.
 - (7) -With the exception of temporary alcoholic beverage licenses and all permits, no application for an original license shall be granted until a public hearing has been held before the city council as scheduled by the city manager or his or her designee.
- (c) *Notice required.* The city manager shall provide written notice to any applicant whose application is denied. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to an appeal before the city council with a right to present evidence and cross examine witnesses. Such notice shall be mailed by certified mail to the registered agent at the address provided and to the named licensee at the licensed premises. Delivery shall be deemed to take place on the third day following deposit in the United States mail.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~(d) Appeals from decisions of the city manager. In the event the city manager denies an application for a temporary alcoholic beverage license or special event, catering, grand opening/annual promotions permit, the individual or applicant may appeal to the city council for reconsideration of the denial by filing a written request for an appeal hearing with the city manager within 15 days of the written notice informing of the denial. Any such appeal hearings concerning a denial shall be conducted according to the procedures set in section 4-41.~~

Sec. 4-41. - City council's consideration of applications; appeals.

- (a) ~~Public hearings.~~ The city council shall hold public hearings to (i) consider license applications and recommendations submitted from the city manager for action, and (ii) consider applicant appeals from decisions of the city manager to deny license applications or applicant appeals from decisions of the police chief to deny seller/server permits. Witnesses and evidence shall be presented by the city manager or his or her designee, and the licensee shall be entitled to present evidence and witnesses and cross-examine the city's witnesses.
- (b) ~~Ten days' prior notice.~~ Public hearings shall be scheduled by the city manager, who shall give at least ten days' prior written notice of the time, place, and purpose of the hearing, and a statement of the charges upon which the hearing before the city council shall be held. If to the licensee or licensee's agent, service of such notice shall be by personal service on the registered agent by the police department, code enforcement officer, or other city designee. If personal service fails, the notice shall be mailed by certified mail to the registered agent at the address provided, to the licensee, and to the licensee's employee. Delivery shall be deemed to take place on the third day following deposit in the United States mail.
- (c) ~~City council actions.~~ During or following the hearing, the city council may:
 - (1) ~~Request additional written or investigative information from the applicant, city manager, or city staff deemed necessary to consider an application prior to a decision;~~
 - (2) ~~Consider an application recommended for approval by the city manager and render a final determination approving or denying the application;~~
 - (3) ~~Hear any appeal from a decision of the city manager to deny an application and render a final determination upholding or overturning the city manager's decision;~~
 - (4) ~~Deny any application on the grounds that it is incomplete, fails to show the applicant has satisfied the qualifications set forth in this chapter or other provisions of this Code; shows the applicant, location or application would not qualify under state law or Georgia Department of Revenue Regulations; or~~
 - (5) For other due cause.
- (d) ~~Notice required.~~ The city council shall provide written notice to any applicant whose application is denied. Such written notification shall set forth in reasonable detail the reasons for such denial. Service of such notice shall be by personal service on the registered agent by the police department or code enforcement officer or other designee of the city manager. If personal service fails, the notice shall be mailed by certified mail to the registered agent at the address provided and to the named licensee at the licensed premises. Delivery shall be deemed to take place on the third day following deposit in the United States mail.

- (e) *–Appeal.* Any decision by the city council denying an application shall be final unless the applicant applies to the Superior Court of Fulton County by filing a petition for writ of certiorari within 30 days of the decision rendered by the city council.
- (f) *Reapplication permitted after one year.* In all instances in which denial of an application is final under the provisions of this chapter, the applicant may not reapply for a license for the same location for at least one year from the date of such final denial.
- (g) *–Return of license fee upon denial.* If the application is finally denied, and the applicant did not temporarily operate licensed premises under any provision of this chapter, the license fee, if paid at the time of application, shall be refunded. However, non-refundable processing fees and temporary license fees will not be refunded. If the applicant operated on prior licensed premises under section 4- 25 of this chapter while the application was pending, and the application is denied, the applicant shall be entitled to a pro rata refund of the license fee, if a license fee was paid at the time of application.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-42. - Exercise of discretion.

- (a) *–The city manager and city council, in their discretion, shall consider the evidence, including any extenuating, aggravating or mitigation facts or circumstances that may affect or reflect upon the applicant, the application, and/or the proposed location of the business in light of this chapter.*
- (b) *–If, after consideration of the evidence, the city council determines that stipulations or conditions should attach to a decision to approve an application, the city council shall provide for such conditions in its action.*
- (c) *–In addition to all other authority to grant or deny a license, any application for a license may be denied by the city to safeguard the health, safety and welfare of the community. In making such a determination, the city council shall assess the extent to which the granting of the license or the continued holding of the license would contribute to issues, including but not limited to, littering, loitering or public consumption of alcoholic beverages in the area of the establishment, and the exposure of minors to the sale of alcoholic beverages because of the number of minors who frequent the establishment.*

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-43. – Temporary alcoholic beverage license.

- (a) The city manager is authorized to issue temporary licenses for the sale of alcoholic beverages subject to the conditions set forth in this section.
- (b) Temporary licenses may be issued for such period as may be determined by the city manager, not to exceed 90 days. No such license shall be issued unless:
 - (1) ~~A complete~~ application for a license is filed with the city manager and payment in full of the fee thereof has been deposited with, and cleared, the city's financial institution;
 - (2) The city manager is satisfied that the location for the proposed license substantially complies with the provisions of this chapter authorizing such license in the city;

(3) The city manager finds that the applicant has satisfied all the qualifications for having a temporary license as specified in this Code.

~~(3)~~(4) The denial of a temporary license would create undue hardship upon the applicant, such as the closing of an existing business or delaying of the opening of a new business; and

~~(4)~~(5) There is an agreement by the applicant that the temporary license may be revoked, with or without cause, by the city manager at any time.

- (c) The fee for issuance of a temporary license under this section shall be established from time to time by the city council.
- (d) If, at least three business days prior to the expiration of a temporary license, the applicant requests and explains why an extension is needed, and the city manager finds the factual circumstances surrounding the request to support the granting of an extension; the city manager is authorized to extend the period of the temporary license up to an additional 60 days and charge an additional temporary license fee. Should an applicant have reason to seek an extension beyond the first extension of an additional 60 days and the city manager finds the factual circumstances surrounding the additional extension request to support the granting, then the city manager shall present the request to city council for consideration and approval or denial at the next regular session of city council.
- (e) The grant or denial of a temporary license under the provisions of this section shall not affect or have any bearing upon the grant or denial of a license. The city shall not be liable to the applicant if, for any reason, a license is not issued either prior to the expiration of the temporary license or not issued at all.
- (f) Any alcoholic beverage license that requires a use permit as identified with Division 5 of chapter 64 of the Milton Code of Ordinances must have said use permit approved by the City Council prior to applying for a temporary alcoholic beverage license.

Secs. 4-44—4-49. - Reserved.

DIVISION 5. - EXPIRATION, RENEWAL, FORFEITURE, AND TRANSFER

Sec. 4-50. - Annual expiration; renewal requirements.

- (a) -All licenses granted under this chapter shall expire on December 31 of each year. Licensees shall be required to file a renewal application accompanied by the requisite fee with the city manager on the form provided for a renewal license for the ensuing year.
- (b) -The applicant for renewal shall be required to comply with all rules and regulations for the granting of licenses each year, including the submittal of the required forms, reports or other requested data establishing compliance with criminal history requirements of this chapter.
- (c) -Alcoholic beverage license renewal applications and payments are due on or before November 15 of each year. Renewal applications and payments received between November 16 and December 15 are subject to a ten percent late fee, plus interest.
- (d) -Licensees failing to renew their alcoholic beverage licenses on or before December 15 must reapply for an alcoholic beverage license. In such cases, the application will be treated as if no previous license had been held, including the need to review the investigative, zoning, and

distance requirements. Under this situation, the applicant shall be required to pay the ten percent penalty, plus interest, along with other fees associated with a new application.

The city shall not be responsible for the consequences of delays in the issuance of any license under this chapter.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-51. - Automatic forfeiture of license for nonuse.

- (a) -All holders of licenses under this chapter must, within six months after the issuance of said license, open for business the establishment referred to in the license. Failure to open the licensed establishment within six months after the issuance of such license shall serve as cause for the revocation of such license, and no refund of license fees or other related fees shall be made. A three- month extension to the original six-month period may be granted by the city manager if requested within the said six-month period in compliance with other sections of this chapter.
- (b) -Any licensee under this chapter who shall for a period of three consecutive months after the license has been issued cease to operate the business and sale or service of the products authorized shall automatically forfeit the license without the necessity of any further action.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-52. - Transferability of license.

No alcoholic beverage license shall be transferable, except as otherwise provided in this section.

- (a) —In the event of the death of a licensee, the establishment shall be allowed to continue to sell or serve alcoholic beverages, or otherwise continue to operate with a BYOB license, in accordance with this chapter, for a period of 45 days from the date of death, or until the expiration of the license, or until approval of a new licensee, whichever shall first occur; provided that no sale or on-premises consumption of alcoholic beverages shall be allowed until such time as a new application for a license is made. The application shall indicate that no change of ownership has occurred, except as allowed for in this section. Upon issuance of a new license, the authorization related to alcoholic beverages 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.

~~No additional license fees shall be required during the period for which the original license was issued.~~

- (b) —If a license is surrendered or a licensee severs his or her association with a licensed establishment but there is no change in ownership, the establishment may continue to sell or serve alcoholic beverages, or otherwise continue to operate with a BYOB license or other license issued under this chapter, in accordance with this chapter, for a period of 45 days from the date of surrender, or from the date determined by the city manager to be the date of severance; provided that no such establishment may sell or serve alcoholic beverages or otherwise operate pursuant to any license under this chapter until such time as a new application for a license is made. The application shall indicate that no change of ownership has occurred, except as allowed

for in this section. Upon issuance of a new license, the authorization related to alcoholic beverages 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.

- (c) —Nothing in this section shall prohibit one or more of the partners, members or shareholders holding a license from withdrawing from the partnership, corporation or entity in favor of one or more of the partners, members or shareholders who held an ownership interest at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporation at the time of issuance of the license nor shall it prohibit transfers of stock which do not result in any person increasing his or her stock holdings to a total of ten percent or more of any class of stock.
- (d) —Except as provided in subsections (a) through (c) of this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license pursuant to this chapter automatically, without the necessity of any hearing.
- (e) Violation of this section may result in the suspension or revocation of the license being used and/or a fine on the new ownership and the old ownership as provided in this chapter.
- (f) —If a violation of this section results in revocation of the license, no license will be issued to the old or the new owner in the city for one year from the date of such violation.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-53—4-59. - Reserved.

DIVISION 6. - SUSPENSION, REVOCATION, OTHER PENALTIES

Sec. 4-60. - Suspension or revocation of license or permit; other penalties authorized.

- (a) -The city council shall be authorized to suspend or revoke an alcoholic beverage license or permit or impose other penalties upon the licensee, licensee's employee, or licensee's agent under the conditions set forth in this chapter. However, no revocation, suspension or other penalty shall be imposed without first providing the notice, hearing, and appeal rights as more specifically provided in this chapter.
- (b) -No alcoholic beverage license or permit, after having been issued, shall be suspended or revoked except for due cause. Sufficient grounds, or due cause, for the suspension or revocation of a license or the imposition of other penalties include, but are not limited to, the following:
 - (1) The violation of the laws or ordinances regulating the business;
 - (2) The violation of any local, state or federal law;
 - (3) The violation of provisions of this chapter;
 - (4) Any reason which would authorize the city to refuse the issuance of a license or permit;
 - (5) -Where a licensee has failed to open for business within six months after approval of the license; provided however, that prior to the expiration of such period, the city manager may extend the time in which a licensee is required to open for business by up to three months, upon the timely receipt of a written request from a licensee for such an extension;
 - (6) -After opening, where a licensee has ceased to operate the business for a period of three

consecutive months;

- (7) –Where a licensee's state license or permit for the sale of alcoholic beverages has been suspended or revoked;
- (8) –Where a licensee or such licensee's employee or agent, has sold or served alcoholic beverages or allowed patrons to bring their own alcohol to the premises during a period of suspension;
- (9) –Where a licensee has provided incomplete, fraudulent or untruthful information in the original application or renewal process for an alcoholic beverage license;
- (10) –Where a licensee has failed to file necessary reports, failed to cooperate in any matter related to the license, failed to pay any fee, license fee, tax, fine or other amount due to the city under this chapter or any other licensing ordinance of the city, has failed to file a required return or to pay taxes imposed, or has failed to maintain any and all of the general qualifications applicable to the initial issuance of a license as set forth in this chapter;
- (11) –Where a licensee, or such licensee's employee or agent, has served or sold any alcoholic beverage to any person that the licensee or the licensee's employee or agent knew or should have known to be under the age of 21 years;
- (12) –Where a licensee, or such licensee's employee or agent, has served or sold any alcoholic beverage to any person that the licensee or the licensee's employee or agent knew or should have known to be in a state of intoxication at the time of service;
- (13) –Where a licensee, or such licensee's employee or agent, has allowed any person to consume alcohol pursuant to a BYOB license when the licensee, licensee's employee or agent knew or should have known that such person was in a state of intoxication;
- (14) –Where a licensee has violated any other law, ordinance or regulation governing the operation of establishments licensed to sell alcoholic beverages or which is reasonably related to the operation of such establishments;
- (15) –Where a licensee, or such licensee's employee or agent, has violated any other provision of this alcoholic beverage chapter or state law;
- (16) –Where a licensee or an individual or person with 20 percent or more ownership in the entity, or any officer or director of the licensee shall have a conviction for any of the following subsequent to issuance of the license: moral turpitude, illegal gambling, felony 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; keeping a place of prostitution; pandering; pimping; public indecency; prostitution; solicitation of sodomy; or any sexually related crime.
- (17) –In addition to all other authority to suspend or revoke a permit or license, any license may be suspended or revoked to safeguard the health, safety and welfare of the community. In making such a determination, the city council shall assess the extent to which the continued holding of the license would contribute to issues, including but not limited to, littering, loitering or public consumption of alcoholic beverages in the area of the establishment, and the exposure of minors to the sale of alcoholic beverages because of the number of minors who frequent the establishment.

(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)

Sec. 4-61. - Notice of violations; city manager's authority.

- (a) *-Chief of police and finance director.* The chief of police and finance director shall notify the city manager of violations by licensees, licensee's employees, or licensee's agents related to enforcement and administration of this chapter that reflect the failure to comply with the requirements of this chapter or state or federal law.
- (b) *-City manager.* Upon information known to or received by the city manager that creates a reasonable belief that a licensee, licensee's employee, or licensee's agent has violated law or otherwise failed to comply with requirements of this chapter, the city manager shall have the responsibility and authority to:
 - (1) *-Evaluate the severity of the situation and immediately ensure appropriate measures are taken with regard to any health, safety or welfare concerns to address any immediate threat of harm or damage based upon the information received;*
 - (2) *-Authorize any investigation needed on the part of appropriate persons, requesting additional written or investigative information from the licensee, city staff, or other authorities or persons deemed necessary to consider the actions or inactions of the licensee, licensee's employee, or licensee's agent;*
 - (3) *-After providing the licensee, licensee's employee, and/or licensee's agent with notice of violations and the opportunity to respond to the charges, and following the receipt and consideration of any response, the city manager shall determine whether due cause exists to recommend action against the licensee, licensee's employee or licensee's agent, up to and including revocation of the license or permit.*
 - (4) *-Upon a finding of due cause, the city manager shall provide written notice to the licensee, licensee's employee, and/or licensee's agent, as appropriate, setting forth in reasonable detail the facts upon which due cause exists to take action, the nature of the proposed action, and advising of the scheduling of a public hearing before the city council with a right to present evidence and cross examine witnesses. Such notice shall be mailed by certified mail to the registered agent at the address provided, to the named licensee at the licensed premises, and to any person alleged to have committed the violation. Delivery shall be deemed to take place on the third day following deposit in the United States mail. A copy of the notice shall also be provided to the city council.*

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-62. - Conduct of public hearing by city council.

- (a) *-Public hearings.* The city council shall hold public hearings to consider recommendations submitted from the city manager for action based on due cause for violations of a licensee, licensee's employee, or licensee's agent, based on due cause as described in of this chapter. Witnesses and evidence shall be presented on behalf of the city by the city manager or his or her designee, and the licensee, licensee's employee, or licensee's agent shall be entitled to present evidence and witnesses and to cross-examine the city's witnesses.
- ~~(b)~~ *-Ten days' prior notice.* Public hearings shall be scheduled by the city manager, who shall give at least ten days' prior written notice to the licensee of the time, place, and purpose of the hearing, and a statement of the charges upon which the hearing before the city council shall be held in accordance with this section. If to the licensee or licensee's agent, service of such

notice shall be by personal service on the registered agent by the police department, code enforcement officer, or other city designee. If to the licensee's employee, personal service shall be upon the employee. If personal service fails, the notice shall be mailed by certified mail to the registered agent at the address provided,

~~(e)(b)~~ to the licensee, and to the licensee's employee. Delivery shall be deemed to take place on the third day following deposit in the United States mail.

~~(d)(c)~~ ~~Decision by city council~~. Upon hearing the matter, the city council, shall render a decision as to whether due cause exists for action against the licensee, licensee's employee, or licensee's agent. If due cause exists, the city shall determine the appropriate penalty, up to and including suspension and/or revocation of a permit or license.

~~(e)(d)~~ *Appeal*. Any decision by the city council denying an application shall be final unless the applicant applies to the Superior Court of Fulton County by filing a petition for writ of certiorari within 30 days of the decision rendered by the city council.

~~(f)(e)~~ *Reapplication permitted after one year*. In all instances in which a license is revoked, the licensee may not reapply for a license for the same location for at least one year from the date of such final denial.

~~(g)(f)~~ *No return of license fee upon revocation*. If the license is revoked, the licensee shall not be entitled to the return of all, or any portion of, the license fee.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-63. - Exercise of discretion; consideration of mitigating factors.

- (a) -Nothing in this section shall be deemed to require suspension or revocation of a license, and each violation should be considered at the discretion of the city council on a case by case basis. The city manager and city council, in their discretion, shall consider the evidence, including any extenuating, aggravating or mitigation facts or circumstances that may affect or reflect upon the applicant, the application, and/or the location of the business in light of this chapter.
- (b) -Penalties for the licensee may be mitigated by the city council upon presentation of evidence that the licensee established practices and procedures to prevent the violation from occurring. Such mitigating factors may include:
 - (1) -Attendance at a responsible alcohol sales and service (RASS) workshop by the licensee and/or managers;
 - (2) Implementation and components of written policies;
 - (3) Evidence that employees have or do not have alcohol seller/server permits;
 - (4) -Evidence that the licensee conducts its own "secret shopper" or internal "sting" operations and the results therefrom;
 - (5) Implementation and components of an employee training program;
 - (6) Length of time in business;
 - (7) Whether the ID was requested;
 - (8) -The degree to which the licensee has other procedures in place to monitor its alcohol servers/sellers for compliance;

- (9) -Whether the licensee enforces a zero-tolerance policy in which employees are terminated for any knowing violation of this chapter; and
- (10) —Other evidence demonstrating the licensee's efforts to comply with the ordinance and prevent illegal alcohol sales or service in the licensed establishment and the community at large.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-64. - Consideration of progressive actions; mandatory penalties for sale or service to persons under 21; criminal penalties.

- (a) -If a licensee is found to have violated any provision of this chapter, excluding selling or serving underage persons, the city shall ordinarily give consideration to the following progressive actions:
 - (1) -The first alleged violation in a 12-month period shall result in a mandatory hearing before the city council and the issuance of a warning or a license suspension for a period of up to 30 days if the violation is sustained.
 - (2) -The second alleged violation within a consecutive 12-month period shall result in a mandatory hearing before the city council and the issuance of a license suspension for a period of up to 60 days if the first and second violations were sustained.
 - (3) -The third alleged violation within a consecutive 12-month period shall result in a mandatory hearing before the city council and cause the revocation of the license and the inability of the licensee to obtain a license from the city for a term of up to three years from the date of revocation if the first, second, and third violations were sustained.
- (b) -If a licensee or employee of such licensee has a conviction (including for purposes of this paragraph, a plea of nolo contendere or the forfeiture of bond) for the violation of O.C.G.A. § 3-3-23 or any section of this chapter relating to the sale or service of alcoholic beverages to any person under 21 years of age, the following minimum penalties shall apply:
 - (1) The first conviction shall result in a mandatory hearing before the city council, a minimum fine of ~~\$500.00, and may result in a license suspension for a period of up to 30 days.~~ \$500.00, and may result in a license suspension for a period of up to 30 days.
 - (2) -The second conviction within a consecutive 24-month period shall result in a mandatory hearing before the city council, a minimum fine of \$750.00, and a license suspension for a minimum period between seven and 60 days.
 - (3) -The third conviction within a consecutive 24-month period shall result in a mandatory hearing before the city council, a minimum fine of \$1,000.00, and revocation of the license absent a showing of mitigating circumstances deemed sufficient in the discretion of the city council to allow retention of the license.
- (c) -Nothing contained in this chapter shall be construed to preclude the city council from suspending or revoking an alcoholic beverage license or alcohol seller/server permit for a period exceeding those described in this section if the city council determines in its discretion that such action is necessary and in the best interest of the public health, safety and welfare of the city.
- (d) -For any license suspension of less than 30 days, the licensee will not be required to remove alcoholic beverages from the premises, but shall be required to secure with lock and chain, or similar locking mechanism, all refrigeration units containing alcoholic beverages, and remove

non-refrigerated alcoholic beverages to an on-premises locked storage area or otherwise secure such beverages so that they are out of view and access of the public.

- (e) -Actions taken by the city council shall be in addition to any criminal citation and prosecution by the city. Each violation of this chapter shall constitute a separate offense subject to a separate citation and penalties. Criminal penalties may result in a fine not to exceed \$1,000.00, imprisonment not to exceed 60 days, or both.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-65—4-69. - Reserved.

ARTICLE III. – ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

DIVISION 1. - GENERALLY

Sec~~GENERALLY~~Sec. 4-70. – Locations where prohibited.

 No alcoholic beverages may be sold for consumption on-premises except in establishments which hold the following licenses or license types:

- (a) Standard consumption on premises;
- (b) Nonstandard consumption on premises;
- (c) Hybrid;
- (d) Manufacturer; and
- (e) Craft beer and/or wine markets;

Sec. 4-71. - Open area, sidewalk, deck and patios sales.

The consumption and/or sale of alcoholic beverages may be allowed in a licensed establishment's open areas, sidewalks, decks, patios or similar unenclosed spaces on, about or adjacent to the premises of an establishment licensed to sell alcohol for consumption on-premises under such conditions as the city manager, or his or her designee, may deem appropriate for the protection of public health, safety and welfare including, but not limited to, maximum capacity, ingress and egress. The provisions of this article shall not be deemed to abrogate or otherwise impact any state law or local ordinance pertaining to public drunkenness, disorderly conduct, or similar laws.

Sec. 4-72. – Happy hour discounts or promotions prohibited.

- (a) ~~No consumption on the premises~~ licensee, or employee or agent of ~~at~~the licensee, shall engage in any of the following practices~~in connection with the sale or other disposition of alcoholic beverages for consumption on the premises:~~
 - (1) The giving away of any alcoholic beverage in conjunction with the sale of any other alcoholic beverage;

- (2) The sale of two or more alcoholic beverages for a single price, including the sale of all such beverages a customer can or desires to drink at a single price;
 - (3) Selling, offering to sell or delivering to any person any alcoholic beverage at a price less than one-half the price customarily charged for such alcoholic beverage, provided, nothing contained herein shall be construed to prohibit reducing the price of a drink by up to one-half the price customarily charged;
 - (4) Requiring or allowing the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the first such beverage has been consumed, by any one person;
 - (5) Increasing the volume of alcoholic beverage contained in a drink without proportionately increasing the price customarily charged for such beverage.
- (b) It is the intent of this section to prohibit activities typically associated with discounts or promotions referred to as "happy hour."
 - (c) As used in this section, the phrase "customarily charged" means the price regularly charged for such alcoholic beverage during the same calendar week.

Sec. 4-73. – Sunday sales of alcoholic beverages prohibited.

- (a) No alcoholic beverages may be sold for consumption on the premises on Sundays except in establishments which hold the following licenses or license types:
 - (1) Standard consumption on premises;
 - (2) Hybrid;
 - (3) Manufacturer; and
 - (4) Craft beer and/or wine markets;
 - (b) No alcoholic beverages may be sold for consumption on premises without an approved Sunday sales license except for establishments qualifying as a farm winery as defined in section 4-2 of this chapter.
 - ~~(e)~~ To qualify for a Sunday sales license, an establishment must derive a minimum of 50% percent of its total annual gross sales from the sale of prepared foods and meals as defined in this chapter.
- ~~(d)~~(c) Microbreweries, ~~microdistilleries~~microdistilleries, and farm wineries as defined and described in this chapter are exempt from this requirement ~~and may receive or~~ Microbreweries and microdistilleries must apply for a Sunday sales license for consumption on-premises.

Sec. 4-74

– Carry out of alcoholic beverages prohibitions.

- (a) Except as otherwise provided in this chapter, all alcoholic beverages sold or otherwise dispensed for consumption on the licensed premises shall be consumed only on the licensed premises.
- (b) Except as otherwise provided in this chapter, it shall be prohibited for any person to remove from the licensed premises any alcoholic beverages sold for consumption on-premises, and it

shall be prohibited for the licensee to permit any person to remove from the licensed premises any alcoholic beverages sold for consumption on-premises except as otherwise permitted under this chapter. When prohibited, the licensee shall be responsible for ensuring that no person removes any alcoholic beverages from the premises in any type of container.

- (c) It shall be prohibited for any person purchasing alcoholic beverages for consumption on-premises to leave the premises without paying for such alcoholic beverages.
- (d) Except as otherwise provided in this chapter, it shall be prohibited for patrons to gather outside the establishment of a consumption on-premises licensee and consume alcoholic beverages.
- (e) Except as otherwise provided in this chapter, it shall be prohibited for the manager or any employee of a consumption on-premises licensee to allow patrons to gather outside the establishment and consume alcoholic beverages.

Division 2. - STANDARD CONSUMPTION ON PREMISES LICENSE

Sec. 4-80. – Permitted consumption on premises

- (a) A standard consumption on-premises license permits the sale of malt beverages, wine, and distilled spirits by the drink. An establishment that wishes to apply for this license must first meet the applicable zoning requirements.
- (b) ~~Sec. 4-80.~~ Types of establishments where consumption on premises sales permitted.
 - (1) Restaurant;
 - (2) Hotel and in-room service;
 - (3) Golf course;
 - (4) Event facility

Sec. 4-81. – Hours of sale.

No alcoholic beverages may be sold for consumption on premises except:

- (a) Monday through Saturday, from 9:00 a.m. until 2:00 a.m. of the following day; and
- (b) On Sunday, from 11:00 a.m. until 2:00 a.m. on Monday, provided the establishment has also applied for and received an approved Sunday sales license.

Sec. 4-82. – Restaurant

- (a) A restaurant must meet the requirements as defined in section 4-2 of this chapter.

~~(b) Removal of wine from restaurant by patron.~~

- (e)(b) Notwithstanding any other contrary provision of law, any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed

bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises. A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container. If transported in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

~~(d)~~(c) Restaurants shall not be required to apply for or pay additional fees for a BYOB license and shall be included in its standard consumption on-premises.

Sec 4-83. – Hotels and in-room service

- (a) As used in this chapter, the term “in-room service” means:
- (1) The delivery of alcoholic beverages in unbroken packages by an employee of the hotel to a registered guest's room or to a registered guest at any other location in the same building as the hotel when such alcoholic beverages have been ordered by the guest and when the guest shall be billed for the cost of such alcoholic beverages at the time of delivery and when the sale of such alcoholic beverages is completed at the time of delivery; and
 - (2) The provision of a cabinet or other facility located in a hotel's guest room which contains alcoholic beverages, and which is provided upon written request of the guest and ~~which~~ is accessible by lock and key only to the guest and for which the sale of the alcoholic beverages contained therein is deemed to be final at the time requested except for a credit which may be given to the guest for any unused portion.
- (b) As used in this chapter, the term “registered guest” means the lessor or tenant of one or more hotel rooms; the lessor, tenant, or owner of a condominium unit located in the same building as one or more hotel rooms; or the lessor, owner, or tenant of a commercial space located in the same building as one or more hotel rooms, provided that the name of such lessor, owner, or tenant appears on a guest registry maintained by the hotel.
- (c) Except as otherwise provided in this section, in-room service of alcoholic beverages shall be subject to all restrictions and limitations in this chapter relative to the sale of alcoholic beverages. In-room service sales shall be authorized only on such days and only during such hours as provided for in this chapter for on-premises consumption. It shall be the responsibility of the licensee and its employees to ensure that any cabinet key for alcoholic beverages and any alcoholic beverages delivered to a room are provided only to someone who is above the legal drinking age of 21 years.
- (1) Distilled spirits sold pursuant to this section shall not be sold in packages containing less than 50 milliliters each.
 - (2) All alcoholic beverages sold pursuant to this section shall be purchased from a licensed wholesale dealer and shall be subject to all taxes imposed under this chapter, including the excise tax on the retail sale of the drink of alcoholic beverages containing distilled spirits.

- (3) A hotel may grant a franchise for the operation of a restaurant on its premises; such a franchised operation may be granted a consumption on the premises license if it meets the other applicable requirements of this chapter.

Sec 4-84. – Golf course.

~~(a)~~ A golf course as defined in section 4-2 of this chapter can obtain a license for the sale of alcoholic beverages for on-premises consumption, provided that it derives no more than ten percent of its annual gross revenues from the sale of alcoholic beverages.

For the purposes of this section only, premises shall include the grounds of the establishment.

Sec. 4-85. – Event facility.

- (a) An event facility as defined in section 4-2 of this chapter, where staff for a special events facility, or contractors hired by that facility who are not separately licensed alcoholic beverage caterers, will be dispensing or serving alcohol, the special events facility must obtain a separate license for on-premises consumption.
- (b) Where a caterer is hired and separately licensed, and where that caterer will be the only entity dispensing or serving alcohol, the special events facility need not obtain a separate license for on-premises consumption.
- (c) The sale of alcoholic beverages is prohibited at all times except during a prescheduled event as described in the definition of event facility within section 4-2 of the chapter.

Division 3. – NON-STANDARD CONSUMPTION ON PREMISES LICENSES

A non-standard consumption on-premises license may permit the sale of distilled spirits, malt beverages and wine by the drink subject to specific conditions and limitations for each license. No new applications for any non-standard licenses will be accepted and only yearly renewals for establishment that held this license before January 1, 2022 will be considered.

Sec. 4-87. - Limited food service restaurant license.

- (a) An establishment that serves food but does not meet all of the requirements of a restaurant as defined in section 4-2 of this chapter, is a limited food service restaurant. A limited food service restaurant must derive at least 30 percent of its total annual gross food and beverage sales from the sale of prepared meals or food as defined in section 4-2 of this chapter.
- (b) A limited food service restaurant license authorizes the holder of such license to sell distilled spirits, wine, and malt beverages for on-premises consumption subject to the following limitations:
 - (1) The establishment must derive a minimum of 30 percent of its total annual gross food and beverage sales from the sale of prepared meals or food as defined in section 4-2 of this chapter;

- (2) It may not operate as a nightclub as defined in section 4-2 of this chapter. Nightclubs are strictly prohibited.
- (3) Limited food service restaurants are prohibited from applying for a Sunday sales or ancillary tasting license.
- (4) Limited food service restaurant licenses are only available by renewal and to those establishments that received its initial license from the City of Milton prior January 1, 2022.

~~(b) Hours of sale of alcoholic beverages-~~

- (c) for a limited food service restaurant are Monday through Saturday, from 9:00 a.m. until 11:00 p.m. except for any limited food service restaurant that received its initial license from the City of Milton prior to October 18, 2021. These establishments' hours will be limited to Monday through Saturday, from 9:00 a.m. until 2:00 a.m. of the following day.

Sec. 4-88. – Limited tap license.

- (a) An establishment that does not sell food prepared on the premises and that provides a limited selection of craft beers on tap for consumption on premises only. An establishment with a limited tap license is limited to having five or fewer craft beer taps.
- (b) A limited tap license authorizes the holder of such license to sell distilled craft beer on tap for on-premises consumption subject to the following limitations:
 - (1) May have five or fewer beer taps;
 - (2) Consumption is limited to 48 ounces for any individual within a calendar day;
 - (3) The establishment must obtain approval from the fire marshal and building official in accordance with applicable codes;
 - (4) Limited tap license holders are prohibited from applying for a Sunday sales license;
 - (5) Limited tap licenses are only available by renewal and to those establishments that received its initial license form the City of Milton prior January 1, 2022.
- (c) Hours of alcoholic beverage sales are Monday through Saturday, from 9:00 a.m. until 10:00 p.m.
~~(b) Monday through Saturday, from 9:00 a.m. until 10:00 p.m.~~

Article IV. PACKAGE SALES OF ALCOHOLIC BEVERAGES.

Division 1. IN GENERAL

Sec. 4-90. – Locations where prohibited.

- (a) No alcoholic beverages may be sold by the package at retail except in:
 - (1) Distilled spirit package stores as defined in section 4-2 of this chapter;
 - (2) Malt beverage package stores as defined in section 4-2 of this chapter;
 - (3) Wine package stores as defined in section 4-2 of this chapter
 - (4) Craft beer and/or wine markets as defined in section 4-2 of this chapter and only as

- outlined in section 4-135 of this chapter;
- (5) Microbreweries as defined in section 4-2 of this chapter and only as outlined in Article VI, Division 2 of this chapter;
 - (6) Microdistilleries as defined in section 4-2 of this chapter and only as outlined in Article VI, Division 3 of this chapter;
 - (7) Brewpubs as defined in section 4-2 of this chapter and only as outlined in section 4-106 of this chapter; and
 - (8) Restaurants as defined in section 4-2 of this chapter and only as outlined in section 4-80 of this chapter.

Sec. 4-91. – Package sales only.

- (a) Except as may be otherwise expressly provided in this chapter, establishments holding a license to sell alcoholic beverages by the package shall not hold a license for the sale of alcoholic beverages for on-premises consumption.
- (b) The foregoing prohibition, however, shall not apply with respect to the following:
 - (1) Craft beer and/or wine markets as defined in section 4-2 of this chapter and only as outlined in section 4-135 of this chapter;
 - (2) Microbreweries as defined in section 4-2 of this chapter and only as outlined in Article VI, Division 2 of this chapter;
 - (3) Microdistilleries in section 4-2 of this chapter and only as outlined in Article VI, Division 3 of this chapter;
 - (4) Brewpubs as defined in section 4-2 of this chapter and only as outlined in section 4-106 of this chapter.
- (c) For the purposes of this chapter, where a person holds a license to sell alcoholic beverages by the package, including distilled spirits, at one establishment, and a license to sell alcoholic beverages for consumption on the premises at a contiguous establishment, and the licensed premises of each establishment are physically separate from the other, with the only interconnectivity between the establishments (if any) being an inside connecting service door or passageway, such establishments shall be considered separate and distinct establishments, provided that:
 - (1) Each establishment operates under a trade name different from the other;
 - (2) All business transactions are kept separate;
 - (3) Each establishment must operate in compliance with all other provisions of this chapter and all other laws and regulations applicable to such business;
 - (4) The inside connecting service door or passageway (if any) must be located behind the service counter of each establishment or otherwise so situated or maintained as to be reasonably accessible only to the licensee or employees of the establishments, and only the licensee and employees of the establishments may use such door or passageway; and
 - (5) All other conditions required by state regulations applicable to such contiguous

operations are met.

Sec. 4-92. - Further prohibitions on package sales.

~~(a)~~ Coin-operated or amusement machines are prohibited.

~~(b)~~(a) Establishments and establishments licensed ~~under this section~~ for package sales shall not permit on ~~such person's~~ the premises any slot machines of any kind or character or any coin-operated machines or any machine operated for amusement purposes.

~~(c)~~(b) Alcohol consumption near retail package stores.

(1) It shall be prohibited for any person to open or to consume all or any part of any type of alcoholic beverage within 100 feet of any retail store where alcoholic beverages are sold in package form or within the boundary lines of the property on which such retail store is located, whichever constitutes the greater distance.

~~(2)~~ ~~Alcohol consumption near retail package stores;~~ An exception.

~~(3)~~(2) Within to this prohibition is within open container areas as defined in section 4-2 of this chapter and within special districts as described in section 4-146 of this chapter.

Division 2. PACKAGE DISTILLED SPIRITS.

Sec. 4-95. Retail package distilled spirit license

(a) A retail package distilled spirit license permits the sale of distilled spirits by the package. An establishment that wishes to apply for this license must first meet the applicable zoning requirement.

~~Sec. 4-95. Types of establishments where retail sale permitted.~~

(b) No distilled spirits by the package may be sold at retail except in the following type of retail establishment, subject to such establishments holding a license to sell distilled spirits by the package:

(1) Retail establishments devoted exclusively to the retail sale of alcoholic beverages by the package; or

(2) Retail establishments in which space has been set aside devoted exclusively to the retail sale of distilled spirits by the package, with ingress and egress provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building in which the facility is located.

(c) Nothing in this section shall prohibit the retail sale within these establishments of malt beverages, wine, alcohol consumables, liquid commodities and/or mixes normally used in the preparation and serving of distilled spirits.

(d) Off-premises distilled spirits retailers shall indicate plainly, by tag or labels on the bottles or containers or on the shelf immediately below where the bottles or containers are placed, the

prices of all distilled spirits exposed or offered for sale. The retailer shall not display prices or brand names in such a way as to be visible from the outside of the establishment.

Sec. 4-96. Further prohibitions for retail package distilled spirit licenses.

(a) Establishments licensed under this section shall not sell or offer to sell:

- (1) Any cannabidiol (CBD), vape products as described with the definition of vape shop in section 64-1 of the Milton Code of Ordinances, or any prohibited substances as defined in section 32-114 of the Milton Code of Ordinances.
- (2) Any games of chance including but not limited to those identified in O.C.G.A. § 50-27-3.

Sec. 4-97. Hours of sale.

No distilled spirits by the package may be sold at retail except during the following hours:

- (a) Monday through Saturday, from 8:00 a.m. until 11:45 p.m.; and
- (b) Sunday, from 11:00 a.m. until 12:00 a.m. (midnight) provided the retailer has also applied for and received an approved Sunday sales license.

Sec. 4-98. Distance requirements.

Minimum distance requirements apply to this use as defined in section 4-22 of this chapter.

Division 3. – PACKAGE MALT BEVERAGES AND WINE.

A retail package malt beverage or retail package wine license permits the sale of malt beverages or wine by the package. An establishment that wishes to apply for this license must first meet the applicable zoning requirement.

Sec. 4-100. Types of establishments where retail sale permitted.

- (a) No package malt beverage or wine shall be sold at retail except in the following types of retail establishments, subject to such establishments holding a license to sell malt beverages or wine (as applicable) by the package:
 - (1) Establishments which meet the same requirements applicable to establishments where distilled spirits may be sold as described in section 4-95 of this chapter;
 - (2) Establishments maintaining 80 percent of the floor space and storage area in a manner which is devoted principally to the retail sale of other products foods, groceries, and general merchandise and located in zoning districts in which these establishments are permitted;
 - (3) Grocery stores as defined in section 4-2 of this chapter;
 - (4) Craft beer and wine markets as defined in section 4-2 of this chapter and only as outlined in section 4-135 of this chapter;
 - (5) Microbreweries as defined in section 4-2 of this chapter and only as outlined in Article VI,

Division 2 of this chapter;

- (6) Brewpubs as defined in section 4-2 of this chapter and only as outlined in section 4-106 of this chapter; and
- (7) Restaurants as defined in section 4-2 of this chapter and only as outlined in section 4-80 of this chapter.

Sec. 4-101. - Hours of sale.

No package malt beverages or wine may be sold at retail except during the following hours:

- (a) Monday through Saturday, from 8:00 a.m. until 12:00 a.m. (midnight); and
- (b) Sunday, from 11:00 a.m. until 12:00 a.m. (midnight) provided the retailer has also applied for and received an approved Sunday sales license.

Sec. 4-102. – Distance requirements.

Minimum distance requirements apply to this use as defined in section 4-22 of this chapter.

Sec. 4-103. – Growlers.

~~(a) Types of establishments where retail sale permitted.~~

- (a) No growlers as defined in section 4-2 of this chapter shall be sold at retail except in the following types of retail establishments, subject to such establishments holding a license to sell growlers:
 - (1) Retail malt beverage or wine package store;
 - (2) Microbreweries as defined in section 4-2 of this chapter and only as outlined in Article VI, Division 2 of this chapter; and
 - (3) Brewpubs as defined in section 4-2 of this chapter and only as outlined in section 4-106 of this chapter,
- (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 this section.
- (c) Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler.
- (d) Only professionally sanitized and sealed growlers may be filled and made available for retail sale.
- (e) Each growler must be securely sealed and removed from the premises in its original sealed condition.

Sec. 4-104. -- Ancillary tastings

Ancillary tastings are permitted with a valid ancillary tasting license pursuant section 4-138 of this chapter.

ARTICLE V. HYBRID LICENSES

Sec. 4-106. – Brewpub license.

- (a) A brewpub is an eating establishment as defined in section 4-2 of this chapter that permits the manufacture and sale of malt beverages for on premises consumption and by the package for off premises consumption. An establishment that wishes to apply for this license must first meet the applicable zoning requirements.
- (b) *Exception for brewpubs.* A limited exception to the provisions of this chapter which implement and enforce the three-tier system for the manufacture, distribution and sale of malt beverages established under state law shall exist for owners and operators of brewpubs, subject to the following terms and conditions:

(1) A brewpub license authorizes the holder of such license to:

- a. Manufacture on the licensed premises not more than 10,000 barrels of malt beverages in a calendar year solely for retail sale;
- b. Operate an eating establishment that shall be the sole retail outlet for manufactured malt beverages;
- c. Sell directly to the public on its licensed premises up to **XXXXXX** barrels of malt beverages manufactured on such licensed premises per year provided that any such sales by the package directly to consumers shall not exceed a maximum of 288 ounces per consumer per day.
- d. Operate an eating establishment that may offer for sale for consumption on the premises any other alcoholic beverages produced by other manufacturers which are authorized for retail on-premises consumption under this chapter, including wine, distilled spirits, and malt beverages, provided that such alcoholic beverages are purchased from a licensed wholesaler; and, provided, further, that in addition to draft malt beverages manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers; and
- e. Notwithstanding any other provision of this paragraph, sell up to a maximum of 5,000 barrels annually of such malt beverages to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brewpub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale.

(b) In calculating the total annual gross food and beverage sales for any such establishment for the purpose of determining whether the establishment constitutes an eating establishment as defined herein and by state law, neither barrels of malt beverages sold to licensed wholesale dealers for distribution to retailers, as authorized pursuant to O.C.G.A. § 3-5-36(2)(D), or retail sales by the package or growler, shall be included.

(c) A brewpub licensed under this chapter may engage in the retail sale of malt beverages for off-premises consumption, so long as malt beverages sold by the package by the brewpub are manufactured on site, subject to the limitations of state law and this section.

~~(d)~~ *Hours of sale.*

~~(e)~~(d) No alcoholic beverages may be sold for on-premises consumption or by the package for off-premises consumption at a brewpub as defined in section 4-2 of this chapter except:

(1) Monday through Saturday, between the hours of 9:00 a.m. and 2:00 a.m. of the following

day; and

- (2) On Sunday, from 11:00 a.m. until 2:00 a.m. on Monday provided the establishment has also applied for and received an approved Sunday Sales license.

~~(a)~~ *Distance requirements*

~~(e)~~ . Minimum distance requirements apply to this use as defined in section 4-22 of this chapter.

Sec. 4-107. – Farm winery license.

- (a) A Farm winery is a winery which makes at least 40 percent of its annual production from agricultural produce grown in the state of Georgia. It is located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery (or) is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production. An establishment that wishes to apply for this license must first meet the applicable zoning requirements.
- (b) A farm winery license authorizes the holder of such license to:
 - (1) Make retail sales for on-premises consumption of its wine and by the package for off-premises consumption, other Georgia wines, and wines produced or shipped from out of state as permitted under state law in an approved tasting room on the premises of the farm winery without additional license requirements;
 - (2) For the purposes of this section only, “premises” shall be limited to the tasting room and 20 feet beyond the tasting room in all directions.
 - (3) Conduct tastings in a tasting room as defined in section 4-2 of this chapter on the premises of the farm winery.
 - (4) This establishment is prohibited from selling distilled spirits or malt beverages by the drink or package.
 - (5) Be granted a wholesale license for sale and distribution as provided by O.C.G.A. § 3-6-21.1. Such license shall be issued upon application and payment of established fees and upon presentation of a receipt for payment of the state annual license tax as provided by the referenced code provisions in this section.
 - (6) Acquire and receive deliveries and shipments of wine in bulk from out-of-state producers and shippers in an amount not to exceed 40 percent of its annual production, provided that the Georgia farm winery licensee receiving any such shipment or shipments files timely reports with the commissioner and keeps such records of the receipt of such shipment or shipments as may be required by the commissioner.
- (c) Nothing in this section shall be deemed to prohibit a farm winery from obtaining appropriate licenses or permits to allow special events on its premises and provide alcohol in conjunction with such licenses or permits as permitted by state law and city ordinances.
- (d) Hours of sale.
 - (1) Monday through Saturday, from 11:00 a.m. until 8:00 p.m.; and
 - (2) Sunday, from 12:30 p.m. until 7:00 p.m. ~~provided the farm winery has also applied for and received an approved Sunday sales license.~~

- (e) Applicable provisions. The provisions of this chapter regarding qualifications of the licensee and other matters shall apply to the issuance of the license for sale by a farm winery tasting room and the operation thereof.
- (f) Licensing limitations. The tasting license created in accord with this article shall be limited to the approved farm winery tasting room on-site, licensed by the State of Georgia in accord with O.C.G.A. § 3-6-21.1 et seq., and the licensee shall be permitted to perform only acts allowed in accord with such statutes. No license is hereby created authorizing any other tasting use.
- (g) Renewals. All applications for renewal of a farm winery license or licenses shall be accompanied by a copy of the current state license. Failure to present a valid copy of a current and valid state license may result in a refusal to renew the license. In addition, the licensee must provide a copy of the renewed State license by January 31st annually.

Article VI. MANUFACTURING OF ALCOHOLIC BEVERAGES.

Division I. IN GENERAL

Sec. 4-110. - Locations where prohibited.

- (a) No alcoholic beverages may be manufactured for sale except in:
 - (1) Microbreweries as defined in section 4-2 of this chapter and only as outlined in Article VI, Division 2 of this chapter.
 - (2) Microdistilleries as defined in section 4-2 of this chapter and only as outlined in Article VI, Division 3 of this chapter; and
 - (3) Brewpubs as defined in section 4-2 of this chapter and only as outlined in section 4-106 of this chapter.

Division 2. – MICROBREWERY LICENSE.

Sec. 4-115. – Microbrewery license permit

- (a) A microbrewery license permits the manufacture and sale of malt beverages at retail for both on-premises consumption and by the package for off-premises consumption. An establishment that wishes to apply for this license must first meet the applicable zoning requirements.
- (b) ~~Sec. 4-115. – Exceptions for~~ Special provisions related to microbreweries.
 - (1) As a limited exception to the provisions of state law which implement and enforce the three-tier system for the manufacture, distribution and sale of malt beverages, a microbrewery license authorizes the holder of such license to sell directly to the public on its licensed premises for personal use and not for resale, subject to following terms and conditions:
 - (2) The brewer may only make sales of malt beverages to an individual while the individual is physically on the brewer's licensed premises where the brewer produces malt beverages;

- (3) The brewer may only make sales of malt beverages for which the brewer is the sole owner of the brand and brand label;
- (4) Sales for consumption off the premises shall not exceed a maximum of 288 ounces of malt beverages per individual per day; and
- (5) The maximum amount of malt beverages the brewer may sell pursuant to this chapter at retail each calendar year shall be 6,000 barrels in the aggregate among all brewer's licensed premises making such sales.

Sec. 4-116. - Hours of sale.

(a) No malt beverages by the package or dink may be sold at retail except during the following hours:

- (1) Monday through Saturday, from 9:00 a.m. until 10:00 p.m.; and
- (2) Sunday, from 11:00 a.m. until 10:00 p.m. provided the retailer has also applied for and received an approved Sunday sales license.

~~(b) Ancillary tasting will be subject to the same hours.~~

Sec. 4-117– Distance requirements.

Minimum distance requirements apply to this use as defined in section 4-22 of this chapter.

Division 3. MICRODISTILLERY LICENSE.

Sec. 4-120. – Microdistillery license permit

(a) A microdistillery license permits the manufacture and sale of distilled spirits at retail for both on-premises consumption and by the package for off-premises consumption. An establishment that wishes to apply for this license must first meet the applicable zoning requirements.

Special provisions applicable to

~~(b) Sec. 4-120. – Exceptions for~~ microdistilleries.

- (1) As a limited exception to the provisions of state law which implement and enforce the three-tier system for the manufacture, distribution and sale of distilled spirits, a microdistillery license authorizes the holder of such license to sell directly to the public on its licensed premises for personal use and not for resale, subject to following terms and conditions:
- (2) A distiller may only sell up to 750 barrels of distilled spirits at retail per calendar year;
- (3) The distiller may only make retail sales of distilled spirits to an individual while the individual is physically on the distiller's licensed premises;
- (4) Such distiller shall only make such retail sales of distilled spirits that such distiller has distilled, rectified, blended, aged, or bottled at one or more of its licensed premises;
- (5) The distiller may only make sales of distilled spirits for which the distiller is the sole owner of the brand and brand label;

~~(6) Sales for consumption off the premises shall not exceed a maximum of 4,500 milliliters of distilled spirits per individual per day.~~

Sec. 4-121. Hours of sale.

(a) No distilled spirits by the package or dink may be sold at retail except during the following hours:

(1) Monday through Saturday, from 9:00 a.m. until 10:00 p.m.; and

(2) Sunday, from 11:00 a.m. until 10:00 p.m. provided the retailer has also applied for and received an approved Sunday sales license.

~~(b) Ancillary tasting will be subject to the same hours.~~

Sec. 4-122– Distance requirements.

Minimum distance requirements apply to this use as defined in section 4-22 of this chapter.

Article VII. SPECIALTY LICENSES

Sec. 4-127. – Specialty gift shop.

(a) A specialty gift shop is a retail gift shop that derives not more than 15 percent of its gross sales from the sale of packaged gift baskets or similar items containing unbroken containers of wine or malt beverages.

~~(a) Types of establishments that qualify as a specialty gift shop.~~

(b) To qualify as a specialty gift shop, a retail shop must:

(1) Deal in the sale of foods, specialty foods and gifts that derives not more than 15 percent of its gross sales from the sale of packaged gift baskets containing non-alcohol related items such as flowers, plants, food or similar items which also contain unbroken containers of malt beverages and/or wine;

(2) Have an interior floor area of not more than 5,000 square feet (inclusive of storage), of which more than 60 percent of interior floor area is devoted to the display for sale of non-alcoholic beverages; and

(3) Only offer packaged wine or malt beverages for sale in gift baskets or similar items.

(c) Specialty gift shops; prohibitions:

(1) On-premises consumption in any manner is strictly prohibited.

(2) Check cashing services shall not be offered.

(3) Sales of malt beverages with an alcohol content by volume greater than six percent is prohibited.

(4) Sales of gasoline, diesel fuel, tires, and tobacco products.

(5) Sale of any cannabidiol (CBD), vape products as described with the definition of vape shop in section 64-1 of the Milton Code of Ordinances, or any prohibited substances as defined in

section 32-114 of the Milton Code of Ordinances.

(6) Any games of chance including but not limited to those identified in O.C.G.A. § 50-27-3.

~~(b) Hours of sale.~~

(d) No package malt beverages or wine may be sold at retail ~~except~~at a specialty gift shop except during the following hours:

(1) Monday through Saturday, from 8:00 a.m. until 12:00 a.m. (midnight); and

(2) Sunday, from 11:00 a.m. until 12:00 a.m. (midnight) provided the retailer has also applied for and received an approved Sunday sales license.

Sec. 4-102. – Distance requirements.

Minimum distance requirements apply to this use as defined in section 4-22 of this chapter.

Sec. 4-128. Incidental service.

(a) Incidental service is the gratis provision of malt beverages or wine to patrons.

(b) An incidental service license authorizes the holder of such license to provide, free of charge, limited quantities of malt beverages and wine to patrons in qualified establishments.

(c) Incidental service; limitations.

(1) Service is limited to malt beverage and wine;

(2) There can be no charge to the patron for malt beverages or wine served;

(3) No individual can consume more than 16 ounces of wine or 24 ounces of malt beverages on premises in a calendar day;

(4) The amount of money spent on alcoholic beverages by such establishment shall not exceed two percent of gross receipts and defined in section 12-20 of the Milton Code of Ordinances.

(5) Holders of other city alcoholic beverage licenses are ineligible; and

(6) Establishments, as designated by the community development director, with advice and assistance from staff and council, as providing a use or service that is not compatible with complimentary service of alcohol (i.e., gas stations, convenience stores) are not eligible.

~~(b) Hours.~~

(b) The Community Development Director shall have the authority to:

(1) Request additional written or investigative information from the applicant or city staff deemed necessary to consider an application for an incidental service license prior to a decision;

(2) Grant an applicant an incidental service license, consistent with the provisions of

this chapter;

- (3) Deny any application on the grounds that it is incomplete, fails to show the applicant has satisfied the qualifications set forth in this chapter or other provisions of this Code; shows the applicant, location, or application would not qualify under State law or Georgia Department of Revenue Regulations; or for other due cause; and

(c) Notice required. The Community Development Director shall provide written notice to any applicant whose application is denied. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to an appeal before the city council with a right to present evidence and cross examine witnesses. Such notice shall be mailed by certified mail to the registered agent at the address provided and to the named licensee at the licensed premises. Delivery shall be deemed to take place on the third day following deposit in the United States mail.

(d) Appeals from decisions of the Community Development Director. In the event the Community Development Director denies an application for an incidental service permit, the individual or applicant may appeal to the city council for reconsideration of the denial by filing a written request for an appeal hearing with the Community Development Director within 15 days of the written notice informing of the denial. Any such appeal hearings concerning a denial shall be conducted according to the procedures set in section 4-41.

~~(4)~~ No malt beverages or wine may be served pursuant this license except:

- (d) Monday through Saturday, from 9:00 a.m. until 10:00 p.m.
(e) Distance requirements; none.

Sec. 4- 129. – Bring your own beverage (BYOB) license.

(a) No patrons may bring alcoholic beverages into any establishment for the purposes of consumption except:

- (1) A restaurant as defined in section 4-2 of this chapter;
- (2) Establishments with a Council-issued festivals or events, indoor/outdoor use permit as defined in Section 64-1812 in the Milton Code of ordinances; or
- (3) Establishments, as designated by the community development director, with advice and assistance from staff and council.

~~(b)~~ BYOB is prohibited, except:

~~(e)~~(b) Monday through Saturday, from 9:00 a.m. until one hour before close, but no later than 1:00 a.m. Sunday from 11:00 a.m. until one hour before close, but no later than 10:00 p.m. if the establishment possesses an approved Sunday sales license. Hours for establishments with no existing alcohol beverage license are limited to Monday through Saturday from 9:00 a.m. until one hour before close, but no later than 10:00 p.m.

~~(d)~~(c) Further requirements and prohibitions for an establishment holding a BYOB license include the following:

- (1) The establishment may not sell distilled spirits by the package.
- (2) The licensee must have an established policy pertaining to BYOB practices and may in its discretion charge a corkage fee and have available, either for a fee or not, barware such as glasses, ice buckets and bottle openers for the patrons' use.
- (3) BYOB beverages are limited to malt beverages and wine.
- (4) No alcohol may be brought onto the premises of a BYOB licensed establishment or consumed by a patron under 21 years of age.
- (5) No alcohol may be brought onto the premises by a patron less than one hour prior to closing.
- (6) All alcohol brought onto the premises by a patron must be removed from the premises or disposed of by the patron.
- (7) Any malt beverages or wine opened and not completely consumed at a business establishment pursuant to a BYOB license shall be properly disposed of and not kept on the premises.
- (8) Employees of the establishment/licensee are prohibited from handling any patron's alcohol unless removing it to dispose of it. If a patron leaves the alcohol on the premises, it must be disposed of and not allowed to remain on the premises.

(d) The Community Development Director shall have the authority to:

- (1) Request additional written or investigative information from the applicant or city staff deemed necessary to consider an application for a BYOB license prior to a decision;
- (2) Grant an applicant an BYOB license, consistent with the provisions of this chapter;
- (3) Deny any application on the grounds that it is incomplete, fails to show the applicant has satisfied the qualifications set forth in this chapter or other provisions of this Code; shows the applicant, location, or application would not qualify under State law or Georgia Department of Revenue Regulations; or for other due cause; and

(e) Notice required. The Community Development Director shall provide written notice to any applicant whose application is denied. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to an appeal before the city council with a right to present evidence and cross examine witnesses. Such notice shall be mailed by certified mail to the registered agent at the address provided and to the named licensee at the licensed premises. Delivery shall be deemed to take place on the third day following deposit in the United States mail.

(f) Appeals from decisions of the Community Development Director. In the event the Community Development Director denies an application for a BYOB service permit, the individual or applicant may appeal to the city council for reconsideration of the denial by filing a written request for an appeal hearing with the Community Development Director

within 15 days of the written notice informing of the denial. Any such appeal hearings concerning a denial shall be conducted according to the procedures set in section 4-41.

Article VIII. – ADD-ON ALCOHOLIC BEVERAGE LICENSES.

Sec.-4-135. – Craft beer and/or wine market license.

- (a) No alcoholic beverages may be sold for on-premises consumption at a craft beer and wine market as defined in section 4-2 except:
 - (1) Monday through Saturday, between the hours of 9:00 a.m. and 10:00 p.m.; and
 - (2) On Sunday from 11:00 a.m. until 10:00 p.m. provided the establishment has also applied for and received an approved Sunday Sales license.
- (b) A craft beer and wine market as defined in section 4-2 of this chapter can obtain a license for the sale of alcoholic beverages limited to craft beer and wine for on-premises consumption and package sales of craft beer and wine for off-premises consumption. This establishment is prohibited from selling distilled spirits by the drink or package.
- (c) The primary purpose of the establishment must be the sale of craft beers and/or wine for consumption off-premises in conjunction with the sale of prepared food and/or groceries. The establishment shall:
 - (1) Have an interior floor space of which 60 percent or more is devoted to retail sales of craft beers and/or wine for consumption off-premises, food preparation, or grocery sales including shelving and displays; and
 - (2) Maintain 60 percent of gross sales derived from retail package craft beer and or wine for off-premises consumption, prepared food and meals, groceries, or any combination thereof.
- (d) The establishment shall offer a minimum of 50 different craft beer and/or wine selections.
- (e) The establishment must meet the quantity restrictions and/or requirements as set forth in this chapter and specified by state law. The establishment shall meet all distance requirements for a consumption on-premises license as well as an off-premises beer and/or wine package license as described in section 4-22 of this chapter.
- (f) Craft beer and wine markets are permitted to sell growlers as defined in chapter 4-2 of this section. The filling of growlers with craft beer drawn from a tap on a barrel, cask, tank, or keg on the premises shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or other provisions of this chapter.
- (g) Craft beers and wine consumed on the premises of a craft beer and/or wine market shall only be opened by the licensee or an employee of the craft beer and/or wine market. Craft beers and wine to be consumed on-premises shall not include growlers or packaged craft beer.
- (h) No open containers of craft beer or wine shall be removed from the licensed premises unless otherwise specifically permitted by this chapter.
- (i) The sale of food is expressly permitted in a craft beer and/or wine market provided all applicable laws and regulations are complied with.
- (j) The craft beer and/or wine market license is a supplement to, and not a substitute for, the off-premises package sales license that would be required for such establishment. An ancillary

tasting license will also be required if tasting events will be held.

- (k) The establishment must gain approval from the fire marshal and building official in accordance with applicable codes.
- (l) Minimum distance requirements apply to this use as defined in section 4-22 of this chapter.

Sec. 4-136. - Resident alcoholic beverage caterer license.

- (a) A resident alcoholic beverage caterer as defined in section 4-2 of this chapter is City of Milton ~~restaurant as defined in section 4-2 of this chapter~~ standard consumption on premises licensed holder for on-premises consumption by the drink or any Milton licensed package alcoholic beverage retailer as identified in Article IV of this chapter.
- (b) A resident alcoholic beverage caterer license authorizes the holder of such license to transport and sell alcoholic beverages for service and consumption at private functions on private property, at duly licensed special events and at assembly halls or special events facilities.
- (c) Additional requirements for a resident alcohol beverage caterer license:
 - (1) Must be a licensed business with the limits of the City of Milton which holds the appropriate occupational tax certificate.
 - (2) In order to distribute or sell malt beverages, wine or distilled spirits to or at a catered function within the city, a licensed alcoholic beverage caterer shall file an application for a special/catered event alcohol permit as defined in section 4-2 of this chapter and described in section 4-140 of this chapter. with the city manager or his or her designee.
 - (3) A copy of the local and state alcoholic beverage catering licenses as well as the original catered event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function.
 - (4) It shall be prohibited for a licensed alcoholic beverage caterer to distribute, sell, or otherwise dispense alcoholic beverages off-premises except as authorized by the resident alcoholic beverage catering license and event alcohol permit. A licensed alcoholic beverage caterer may sell or otherwise dispense only that which is authorized by its alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, it may sell or otherwise dispense only malt beverages at the authorized catered event or function.
 - (5) Bartenders and/or servers for licensed alcoholic beverage caterers must meet all state and local laws, age restrictions, and must possess a valid server/seller alcohol permit as described in section 4-172 of this chapter.
 - (6) Sunday sales. An alcoholic beverage caterer wishing to cater an event or function on Sunday must possess a valid Sunday sales license and comply with the requirements of state law with respect to the service of alcoholic beverages on Sunday.
 - (7) Excise taxes are imposed upon the sale of alcoholic beverages by resident caterers as provided in this chapter. Excise taxes are imposed upon the total of individual alcoholic beverages served by a non-resident caterer in the amount set forth in this chapter and shall be paid within 30 days after the conclusion of the catered event or function.

Sec. 4-137. – Sunday sales license.

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- (a) A Sunday sales license requires compliance with the requirements of state law with respect to the sale of alcoholic beverages on Sunday, and a payment of the applicable fee. A separate Sunday sales license will be required for qualified licensed establishments wishing to sell alcoholic beverages on Sunday.
- (b) The holder of the following alcohol beverage licenses may apply for a Sunday sales license pursuant to the conditions contained herein:
 - (1) A standard consumption on premises license or a craft beer and wine market license as defined in this chapter; provided, however, no Sunday sales license shall be issued unless the establishment derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food as defined in section 4-2;
 - (2) A packaged distilled spirit, malt beverages or wine license;
 - (3) A manufacturing license; and
 - (4) A specialty license.
- (c) Incidental service license holders are prohibited from applying for or obtaining a Sunday sales license.
- (d) The hours for Sunday sales shall be subject to those identified for each use and may be further restricted by zoning conditions or requirements.

Sec. 4-138. – Ancillary tasting license.

- (a) Ancillary tasting license. The holder of a package malt beverage or wine license may be eligible for a separate ancillary tasting license to provide samples of malt beverages and/or wine it offers for sale by the package to patrons upon meeting all of the requirements specified in this chapter and paying the required fees. An ancillary tasting license may be utilized at an approved establishment only under the following conditions:
 - (1) Sampling in a retail package store shall be on limited occasions when a patron requests a sample offered for sale within the premises or in conjunction with education classes and sampling designed to promote malt beverage and/or wine appreciation and education.
 - (2) Malt beverage and/or wine tasting for patrons in a retail package store shall only be conducted at a counter area constituting no more than ten percent of the entire floor area of the premises. This does not apply to restaurants, microbreweries, microbreweries, or brewpubs.
 - (3) Sampling for patrons shall not exceed two ounces per sample of malt beverage for wine and no patron shall consume more than eight ounces of malt beverage for wine during a calendar day.
 - (4) Distilled spirit tastings are prohibited in retail package stores.
 - (5) No patron shall consume more than one type of alcohol at a tasting during a calendar day.
 - (6) Bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.

- (7) No open containers of malt beverages and/or wine shall be removed from the licensed premises.
- (b) The holder of an ancillary tasting license may conduct educational classes and sampling for classes. 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.
- (c) The hours during which tastings shall be conducted are limited to Monday through Saturday, from 9:00 a.m. until 10:00 p.m.
- (d) This section is intended to be interpreted as a supplement to, and not to interfere with the requirements of, O.C.G.A. § 3-15-2.

Article IX. – Event alcoholic beverage permits.

Sec. 4-140. Special/catered event alcohol permits.

(a) For existing consumption off-premises and/or on-premises establishments that hold an alcoholic beverage catering license.

(1) A special/catered event permit may be issued to any licensed alcoholic beverage caterer to allow the sale of alcoholic beverages for consumption within the fixed boundaries of the physical area where an approved special event pursuant to chapter 34 of the Milton Code of Ordinances or city-approved catered event is held and only for the time period approved pursuant to the special/catered event permit.

(2) The licensee must submit an application and pay the required non-refundable fee, and, in relation to the special/catered event permit, shall be required to comply with all licensing requirements associated with its consumption off-premises or on-premises license with the exception of the full-service kitchen requirement. Notwithstanding any other term or prohibition in this chapter, the holder of the special/catered event alcohol permit may be authorized, upon terms and conditions identified by the city manager, to pour alcohol at the special event and allow open container consumption within the fixed boundaries of the physical area where the special event is to be held.

~~(1)~~(3) An establishment that holds a current on-premises consumption license may not receive a special/catered event alcohol permit for package sales for off-premises consumption.

~~(2)~~(4) Alcohol seller/server permits required.

(b) For non-profit civic organizations.

(1) A special/catered event alcohol permit may be issued to any non-profit organization for a period not to exceed the time permitted pursuant to the special/catered event alcohol permit.

(2) The applicant must submit an application and pay the required non-refundable processing fee and shall be required to comply with all licensing requirements for a consumption on-premises establishment with the exception of the full-service kitchen requirement. Notwithstanding any other term or prohibition in this chapter, the holder of a special/catered event alcohol permit may be authorized, upon terms and conditions identified by the city manager, to pour alcohol at the event, sell sealed packaged malt beverages and/or wine for off-premises consumption, and allow open container consumption within the fixed

boundaries of the physical area where the event is to be held.

- (3) In the event that open container consumption is so authorized within the fixed boundaries of the physical area where the special event is to be held, any other holder of a consumption on-premises license whose licensed premises is located entirely within the fixed boundary of the special event site shall likewise be authorized to allow open container alcohol consumption within the special event boundary. This open container consumption accommodation shall only be authorized, if at all, during the term of the event.
- (4) Alcohol seller/server permits are not required. Any employee or volunteer of a non-profit special/catered event alcohol permit, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain an alcohol seller/server permit for the special event, provided that no person under 18 years of age may dispense, serve, or take orders for alcoholic beverages.
- (5) The event must be associated with and benefit the cause of a non-profit charitable or civic organization with an approved special event permit pursuant to chapter 34 of the Milton Code of Ordinances or a city-approved catered event.

~~(b)~~(c) *Not to be issued for BYOB.* BYOB is not allowed at any event or special event as defined within the Milton Code of Ordinances.

~~(e)~~(d) *Chief of police's authority to revoke.* The chief of police or his or her designee may immediately revoke any event alcohol permit if it is determined continued alcohol sales may endanger the health, welfare, or safety of the public.

~~(d)~~(e) *Indemnification required.* As a condition on the issuance of an event alcohol permit, the licensee shall indemnify and hold the city harmless from any and all claims, demands, or causes of action that may arise from activities associated with the special event.

~~(e)~~(f) *Number of events permitted.* Catered events shall be limited to six per location. Outdoor auditoriums and special event facilities as defined in Chapter 64 of the Milton Code of Ordinances are exempt from this limitation. Special events shall be limited as outlined in Chapter 34 of the Milton Code of Ordinances.

Sec. 4-141. - Grand opening/annual promotion alcohol permit.

- (a) Any establishment licensed to do business in the city and meeting all other location requirements to be open to the public may apply for a grand opening/annual promotion permit. Such permit allows the holder to provide malt beverages and wine for consumption on-premises of its business establishment for a single four-hour period in any given year for the purpose of celebrating the business whether for a grand opening, anniversary, or other event. The establishment must abide by all other provisions of this chapter, including prohibitions against providing alcohol to minors and intoxicated patrons. The establishment may not receive money or donations for the alcohol served in accordance with such a permit.
- (b) Employees or volunteers of the grand opening/annual promotion permit, working the event in any position in any position dispensing, serving, taking orders, or mixing alcoholic beverages shall not be required to obtain an alcohol seller/server permit for the special event, provided that no person under 18 years of age may dispense, serve, or take orders for alcoholic beverages.

Sec. 4-142 – Public facilities event alcohol permit.

- (a) Notwithstanding any other provision of this chapter to the contrary, a limited exception to allow the consumption of alcoholic beverages on public property shall exist for that person or entity possessing a public facilities event alcohol permit, as hereinafter defined.
- (b) For all purposes of this section, "public facilities" shall mean all facilities owned or leased by the city, except:
 - (1) Any fire station; and
 - (2) Any public safety facility.
- (c) Any person or entity desiring to engage in activities licensed by this section, shall make written application to the city manager or his or her designee for the appropriate public facilities event alcohol permit on forms prescribed by the city. All applications shall be accompanied by a public facilities event alcohol permit fee as established by the city council. Further, all applicants shall be required to provide a release and meet any other requirements established by the city manager as conditions of obtaining the public facilities event alcohol permit.
- (d) The city manager or his or her designee shall consider the following factors in determining whether to approve or deny an application for a public facilities event alcohol permit:
 - (1) Expected time period in which the event will occur;
 - (2) Whether the event will occur during daylight hours;
 - (3) The number of people expected to attend the event;
 - (4) Other activities scheduled to occur in the structure, facility or property at the time of the event; and
 - (5) Any other factor weighing upon the health, safety or welfare of others.
- (e) If the application is denied, which denial shall be based upon the factors described above, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded. The application shall include but shall not be limited to: The name and address of the applicant, the date, address and times of the proposed event and the location of the public facility. All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths.
- (f) If such public facilities event alcohol permit is granted by the city manager or his or her designee, it shall be good only for the specified event at the specified address and times set forth in the application, not to exceed two days for a public park and one day for any other public facility.
- (g) A public facilities event alcohol permit for a public park shall permit the permit holder to serve and sell alcoholic beverages in a hospitality tent or similar structure previously approved by the fire marshal, and the alcoholic beverages may only be consumed on-premises of such hospitality tent or similar structure.
- (h) A public facilities event alcohol permit shall license the holder to serve and sell alcoholic beverages within the premises of the public facility.
- (i) A public facilities event alcohol permit shall only be issued to a caterer licensed under the provisions of this chapter, or to an individual who meets the character requirements of this chapter; provided, however, that no more than two permits per calendar year shall be issued to an individual who is not a licensed caterer.
- (j) The city manager shall have authority to prescribe forms for applications. Failure to furnish any

requested data shall automatically serve to dismiss the application with prejudice.

- (k) Any untrue or misleading information contained in, or material statement omitted from, an original or renewal application for a public facilities event alcohol permit shall be cause for the denial or revocation thereof.
- (l) Except as set forth above in this section, a public facilities event alcohol permit holder must comply with all of the provisions set forth in this chapter.

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~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~(a)~~

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~microdistilleriesmicrodistilleries~~ARTICLE ARTICLE.X. - OPEN CONTAINER AREAS IN SPECIAL DISTRICTS

Sec. 4-145. - General provisions.

The provisions of this article are intended to set forth exceptions and provisions applicable only to licensees whose establishments are located within the areas identified in the Crabapple District, Deerfield District, and Birmingham Crossroads District (as hereinafter defined) holding licenses to sell alcoholic beverages for consumption on-premises. Except as specifically set forth in this article, all such licenses remain subject to all other provisions of this chapter.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-146. - Definition of special districts.

For the purposes of this article only, the city's special districts are designated as follows: the Crabapple District, Deerfield District, and Birmingham Crossroads Districts (as shown in the attached maps) and are defined as follows: The area of the city identified as C1, MIX, T4, T4 Open, T4 Restricted, T5, T6, and adjacent CS transect zones in the applicable Form Based Code, excluding, in the Crabapple District, those parcels fronting Green Road and Arnold Mill Road.

In the case of a licensed establishment whose main entrance is inside a special district, the entire licensed establishment shall be considered part of the special district, regardless of whether any portion of the licensed establishment is in a zoning district not included in the special district.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-147. - Open container areas allowing outside consumption of alcoholic beverages.

Notwithstanding any other provisions in this chapter, the following activities are specifically

allowed within open container areas in the city's "special districts."

- (a) *-One drink on-street limit.* Any establishment licensed to sell alcoholic beverages by the drink for consumption on-premises whose entrance is located in a special district 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.
- (b) *-Size limited to a maximum of 16 ounces.* No container in which an alcoholic beverage is dispensed and removed from the licensed premises 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 any open alcoholic beverage container which exceeds 16 fluid ounces in size.
- (c) *-Drinking from can, bottle, or glass prohibited.* It shall be prohibited 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.
- (d) *Purchase from licensed premises within defined districts.* Alcoholic beverages consumed pursuant to this provision must be purchased from a licensed consumption on-premises establishment within the defined districts. A licensed premises will be deemed to be within the defined district if the entrance to the licensed premises is located within the district.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-148. - No abrogation of other laws.

The provisions of this article shall not be deemed to abrogate or otherwise impact any state law or local ordinance pertaining to public drunkenness, disorderly conduct, driving with an open container or under the influence of alcohol, or similar laws.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-110—4-115. - Reserved.

ARTICLE XI. - ENFORCEMENT, REGULATIONS AND PROHIBITIONS, SELLER/SERVER PERMITS DIVISION 1. - ENFORCEMENT.

Sec. 4-150. - Enforcement by police department.

Except as otherwise provided, the police department shall be responsible for the enforcement of the provisions of this chapter and applicable state law.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-151. - Emergency suspension of sale and/or provision of alcoholic beverages.

The city manager and chief of police are each authorized to suspend the sale and/or provision of alcoholic beverages under any license for any emergency situation when the official deems such suspension necessary for the protection of the public health, safety, or welfare. Such suspension may be made effective immediately and shall remain in force until the city manager or chief of police determines the emergency no longer exists or until the next meeting of the city council, at which time the city council shall decide whether the suspension shall cease or be extended.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-152. - Inspection of licensed establishments.

- (a) -Sworn officers of the police department shall have the authority to inspect establishments licensed under the city's alcoholic beverages ordinance 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.
- (b) -This section is not intended to limit the authority of any other city officer to conduct inspections authorized by other provisions of this chapter.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-119—4-124. - Reserved.

DIVISION 2. - OPERATING REGULATIONS

Sec. 4-155. - Hours and days of sale.

- (a) Alcoholic beverages shall only be permitted during the following hours and days of the week contained within this chapter or chapter 64 of the Milton Code of Ordinances.
- (b) ~~(b)~~ Unless otherwise provided for in this chapter, licensed premises shall close their premises to the public and clear the premises of patrons within 30 minutes after the time set in this section for discontinuance of the sale of alcoholic beverages on the premises. The licensed business shall open its business each day it is open by not later than 5:00 p.m.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~State Law reference—Georgia Dept. of Rev. Regulations 560-2-3-.02.~~

Sec. 4-156. - Maintenance and compliance of premises.

- (a) -The licensed premises shall be kept clean and shall be in full compliance with all city regulations governing the conditions of the premises, including but not limited to, compliance with the applicable sections of this Code governing the conditions of premises used for the storage and sale of food for human consumption.
- (b) -The licensee is required to maintain the exterior of the licensed premises, parking lot and all parts of the premises abutting public rights-of-way during all hours the business is open and to do

an inspection of the premises within three hours after closing. The term "maintain" means keeping the defined areas free of bottles, cans, cups, trash and other litter.

- (c) -All eating establishment and restaurant areas, including all tables, booths, and other areas where patrons are served and including all passageways for patrons, shall be kept clean and shall be sufficiently well illuminated so that they may be viewed by those on or about the premises.
- (d) -The Fulton County Health Department is authorized to regularly inspect such licensed premises to determine that such licensed premises are in compliance with all county and state health rules and regulations and report any violations to the city manager or his or her designee.
- (e) -City fire personnel are authorized to regularly inspect the premises to see that they are in compliance with all city, county, and state fire regulations and report any violation to the city manager or his or her designee.
- (f) The city community development department is authorized to regularly inspect the licensed premises to determine if the premises are in compliance with all technical codes of the city and county and report any violation to the city manager or his or her designee.
- (g) -City police personnel shall periodically inspect the premises to determine if the licensed premises are in compliance with all provisions of this chapter and report any violation to the city manager or his or her designee.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-157. - Advertising; signs; pricing.

- (a) -No outdoor advertising or signs with respect to the promotions of the sale or service of alcoholic beverages, or the prices of such beverages, shall be permitted:
 - (1) On the exterior of any retail package outlet;
 - (2) On the premises of an on-premises consumption dealer; or
 - (3) In the windows of any licensed establishment that may be viewed from outside.
- (b) -No signs shall be erected anywhere in the city advertising or promoting the sale of alcoholic beverages, except that a store displaying its merchandise may in the same manner as such other merchandise is displayed, erect a sign indicating the counter on which the merchandise is displayed; provided the lettering of such signs does not exceed in size the lettering of such signs on other counters where other products are sold. The name, brand or type of alcoholic beverage served and the price per serving may be provided to patrons on a regular printed menu.
- (c) -Alcoholic beverages may not be priced in any manner except as to single units or unbroken package quantities.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-158. - Wholesaler and distributor registration and delivery requirements.

All wholesalers or distributors shall register and pay appropriate fees with the city and comply with this chapter before they can sell or deliver any alcoholic beverages to any establishment in the city.

Deliveries shall be made in a conveyance owned and operated by a wholesaler or distributor registered as set out in this chapter and shall at all times when deliveries are being made be subject to inspection by any and all duly authorized authorities of the city. Deliveries of any alcoholic beverages shall be limited to premises that are covered by a valid retail license.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-159. - Storage of alcoholic beverages by retailers.

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

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-160. - Conflicts with wholesaler or manufacturer prohibited.

No financial aid or assistance to any retail licensee hereunder from any wholesaler or manufacture of malt beverage, wine or other alcoholic beverages shall be permitted.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-161. - Requests for additional information.

The city manager or his or her designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-162. - Single cans/bottles or other containers permitted for sale.

Single cans or bottles or other containers of alcoholic beverages may be sold at retail.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-163. - Tasting of samples by employees.

Notwithstanding any contrary term or prohibition in this chapter, in any retail package distilled spirits store in which alcoholic beverages are legally sold in unbroken packages, tasting of alcohol samples by retail dealers and their employees is permitted to the extent allowed by O.C.G.A. § 3-3-26.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-134—4-139. - Reserved.

DIVISION 3. - REGULATION OF EMPLOYEES; SELLER/SERVER PERMITS

Sec. 4-170. - Licensee to identify employees involved with alcoholic beverages.

It shall be the duty of the licensee to file with the city a list of the names, driver's license numbers, addresses and telephone numbers of all present employees who are involved with the sale and/or handling of alcoholic beverages. The list is due twice annually during the month of June and again during the month of December.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-171. - Restrictions on employment of underage persons.

- (a) -No licensee shall allow or require a person in such person's employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverages. It shall be prohibited for any person under the age of 18 years of age to dispense, serve, sell or take orders for any alcoholic beverages. All employees of retail package distilled spirits establishments must be at least 21 years of age.
- (b) -This section shall not prohibit persons under 18 years of age who are employed in off-premises malt beverage and/or wine package stores from selling or handling alcoholic beverages which are sold for consumption off-premises if there is, at all times during which any person under 18 years of age is working and during hours within which alcoholic beverages are sold, either the licensee or at least one employee over the age of 21 who has a valid alcohol permit and who is serving in a managerial capacity on the premises inside the building within which the alcoholic beverages are sold.
- (c) -In the event a licensee employs persons under 21 years of age who will or may sell or handle alcoholic beverages, all such employees shall require proper age identification of any person attempting to purchase alcoholic beverages.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-172. - Alcohol seller/server permits required; application process and conditions; appeals; training.

- (a) The following regulations shall apply to all establishments holding an alcoholic beverage license other than non-profit special event alcohol permits and grand opening/annual promotion permits:
 - (1) —No person shall be employed or allowed to dispense, sell, serve, take orders, mix alcoholic beverages, or serve in any managerial position, by an establishment holding a license under this chapter until such person has been cleared by the chief of police or his or her designee, indicating that the person is eligible to hold an alcohol seller/server permit.
 - (2) —This section shall not be construed to include volunteer groups with nonprofit tax-exempt status from the Internal Revenue Service whose volunteer efforts financially benefit a nonprofit organization with no direct financial benefit, either by wages, tips or donations, to the individual volunteer. However, no volunteer under the age of 18 years shall be allowed to dispense, sell, serve, take orders or mix alcoholic beverages. Employees of a licensed establishment whose duties are limited solely to those of busboy,

cook, or dishwasher shall also be excluded from this section.’

(3) —No alcohol seller/server permit shall be issued until such time as a signed application has been filed with the city police department and upon paying a fee which shall be established by the city council, and a search of the criminal record of the seller/server is completed. The application shall include, but not be limited to, name, date of birth, and social security number. These applications and the resulting criminal investigative report shall be regarded as confidential and shall not be produced for public inspection without a court order.

(4) —Any individual seeking an initial alcohol seller/server permit shall submit to fingerprinting as part of a background investigation by the police department in connection with the application for the permit. Renewals will require a non-fingerprint background check every two years. Seller/server permits must be active at the time of renewal, otherwise it will be deemed an initial permit application. No

(4)(5) The chief of police or his or her designee shall have a complete search made relative to any police record of the seller/server seeking a permit. If there is no record of a violation that would preclude the individual from selling or serving alcohol under this chapter, the chief of police or his or her designee shall approve the issuance of a permit to the person, stating that the person is eligible for sales and service of alcohol at the licensed location. If it is found that the person is not eligible, the chief of police or his or her designee shall notify the person, in writing, that he or she not eligible for an alcohol seller/server permit from the city, of the cause of such denial, and of the individual's right to appeal. Appeals shall be filed with the city manager and heard by the city council.

(b) Crimes preventing the possession of an alcohol seller/server permit:

(1) ~~Any individual seeking an initial alcohol seller/server permit shall submit to fingerprinting as part of a background investigation by the police department in connection with the application for the permit. Renewals will require a non-fingerprint background check every two years. Seller/server permits must be active at the time of renewal, otherwise it will be deemed an initial permit application.~~ No person shall be granted an alcohol seller/server permit who has, within five years of the date of applying for said permit, been convicted of or pled guilty or entered a plea of nolo contendere to any crime involving: moral turpitude, illegal gambling, felony possession or sale of controlled substances, illegal possession or sale of alcoholic beverages (including sale or transfer of alcoholic beverages to minors in manner contrary to law), keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime. No person shall be granted an alcohol seller/server permit who, at the time of applying for an alcohol seller/server permit, is then on parole or probation for any of the criminal offenses identified in this subsection.

(2) No person shall be granted an alcohol seller/server 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. For purposes of this chapter, a conviction or plea of guilt or nolo contendere shall not be considered as to any offense for which defendant who was allowed to avail himself or herself of the state first offender provisions, O.C.G.A. § 48-8-98 et seq.; provided, 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) An alcohol seller/server permit shall be issued for a period of two calendar years from the date of the initial or renewal application and shall be valid for use at any licensed establishment. The alcoholic beverage seller/server permit must be in the possession of the employee while the employee is working at the licensed establishment and shall be available for inspection by members of the police department or the city manager's staff.
- (d) —No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the city for an alcohol seller/server permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from the date of notification per certified mailing before a new application and fee may be resubmitted.
- (e) —All permits issued through administrative error can be terminated and seized by the chief of police or his or her designee or the city manager or his or her designee.
- (f) A replacement permit will be issued within 30 days of the original date, upon paying one-half of the fee charged for an original alcohol seller/server permit. After 30 days of original application date, a new application and fee must be submitted.
- (g) All permits issued under this chapter remain city property and shall be produced for inspection upon demand of any city police officer or code enforcement officer.
- (h) No licensee shall allow any employee or manager required to hold an alcohol seller/server permit to work on the premises unless the employee or manager has in his or her possession a current valid city alcohol seller/server permit. For new employees, an application for a permit must be made within five calendar days of date of initial employment. Licensees are required by this chapter to inspect and verify that each employee has in his or her possession a valid city alcohol seller/server permit.
- (i) Training of permit holders:
 - (1) —Licensees shall provide regular information, the establishment's alcohol sale/service policies, and training to all permit holders on the methods, procedures and measures to be taken in order to request, obtain and examine proper identification of patrons to be certain that such patrons are of legal age to purchase alcoholic beverages and do not appear to be legally intoxicated. Training shall also include the methods, procedures and measures to be taken in order to refuse sale/service to underage or intoxicated patrons. Training shall provide information to all permit holders on provisions of the law of this state and the city's ordinances regarding the prohibitions against providing alcoholic beverages to intoxicated and underage persons and the penalties for violating such laws and ordinances.
 - (2) —Detailed records of such training, including the content, date, time, persons attending and copy of any pre/post-test, shall be maintained for a minimum of 36 months after the training. Evidence of such training records shall be made available upon request for inspection by the city.
- (j) —Any establishment that has agents or employees acting in violation of this section may receive a fine and/or license suspension or revocation as set forth in this chapter for violations of this chapter.

- (k) Any individual working in a licensed establishment without the required permit may be charged with a misdemeanor and penalized accordingly and may also be prohibited from applying for an alcohol seller/server permit within the city for a period of time up to 60 days in the discretion of city council.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-143—4-149. - Reserved.

DIVISION 4. - SALES AND CONSUMPTION REGULATIONS AND PROHIBITIONS

Sec. 4-180. - Sales and consumption on public property.

- (a) Except as provided in this chapter, it shall be prohibited for any person to sell, serve, or otherwise dispense any alcoholic beverage in a street, sidewalk, alleyway, parking area, mall or other place commonly used by the public or in any other public place or on public property.
- (b) Private parties and organizations may secure a permit from the city manager as set forth in this chapter to serve, sell, or otherwise dispense alcoholic beverages on property owned or leased by the city to the extent authorized.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-181. - Drinking in public places.

- (a) -It shall be prohibited for any individual to drink or consume all or any part of an alcoholic beverage in or on any street, sidewalk, alleyway, parking area, mall, or other place commonly used by the public unless the place has been licensed or permitted for consumption or is located in a special district, subject to the limitations of the license, permit, or provisions of this chapter.
- (b) -It shall be prohibited for any individual to drink or consume all or part of any alcoholic beverage while in any city park except during licensed special events or at licensed locations within such parks.
- (c) -Nothing in this section shall be construed to (i) prohibit the sale and consumption of any alcoholic beverage at any duly licensed sports club, assembly hall, special event facility, or golf course owned or operated by the city, or (ii) prevent a licensee from preparing and serving alcoholic beverages to be consumed within an approved outdoor dining area as part of the operation of its business. To the extent that an approved outdoor dining area is located on a portion of a city sidewalk or is separated from the interior dining portion of the licensed premises by a city sidewalk, open containers of alcoholic beverages shall only be transported into or out of such outdoor dining area by the licensees' working employees as part of their work duties.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-182. ~~-Alcohol consumption near retail package stores.~~

~~It shall be prohibited for any person to open or to consume all or any part of any type of alcoholic beverage within 100 feet of any retail store where alcoholic beverages are sold in package form or within the boundary lines of the property on which such retail store is located, whichever constitutes the greater~~

distance. See Article X for exceptions within open container areas in the city's "special districts".

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~Sec. 4-183. Open areas and patio sales regulations.~~

~~The consumption and/or sale of alcoholic beverages may be allowed in a licensed establishment's open areas, sidewalks, decks, patios or similar unenclosed spaces on, about or adjacent to the premises of an establishment licensed to sell alcohol for consumption on premises under such conditions as the city manager, or his or her designee, may deem appropriate for the protection of public health, safety and welfare including, but not limited to, maximum capacity, ingress and egress. The provisions of this article shall not be deemed to abrogate or otherwise impact any state law or local ordinance pertaining to public drunkenness, disorderly conduct, or similar laws.~~

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~Sec. 4-184. Carry-out of alcoholic beverages prohibitions.~~

- ~~(a) Except as otherwise provided in this chapter, all alcoholic beverages sold or otherwise dispensed for consumption on the licensed premises shall be consumed only on the licensed premises.~~
- ~~(b) Except as otherwise provided in this chapter, it shall be prohibited for any person to remove from the licensed premises any alcoholic beverages sold for consumption on premises, and it shall be prohibited for the licensee to permit any person to remove from the licensed premises any alcoholic beverages sold for consumption on premises except as otherwise permitted under this chapter. When prohibited, the licensee shall be responsible for ensuring that no person removes any alcoholic beverages from the premises in any type of container.~~
- ~~(c) It shall be prohibited for any person purchasing alcoholic beverages for consumption on premises to leave the premises without paying for such alcoholic beverages.~~
- ~~(d) Except as otherwise provided in this chapter, it shall be prohibited for patrons to gather outside the establishment of a consumption on premises licensee and consume alcoholic beverages.~~
- ~~(e) Except as otherwise provided in this chapter, it shall be prohibited for the manager or any employee of a consumption on premises licensee to allow patrons to gather outside the establishment and consume alcoholic beverages.~~

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~Sec. 4-185. Prohibited sales to persons under 21 or intoxicated persons; Sunday and election day provisions.~~

- ~~(a) No licensee shall permit on the licensed premises, the sale, barter, exchange, giving, providing or furnishing of alcoholic beverages to any person under 21 years of age.~~
- ~~(b)(a) No licensee shall permit on the licensed premises the sale, barter, exchange, giving, providing or furnishing of alcoholic beverages to any person who is in a state of noticeable intoxication.~~
- ~~(c)(a) No licensee shall permit the sale of alcoholic beverages on Sunday, except as otherwise provided by law or in this chapter.~~
- ~~(d)(a) No licensee shall permit the sale of alcoholic beverages on election days within 250 feet of any polling place or of the outer edge of any building within which such polling place is established~~

~~on primary or election days. The sale of alcoholic beverages on election days is permitted to the extent authorized by state law, pursuant to O.C.G.A. § 3-3-20.~~

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

~~Sec. 4-186.-- 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-premises, shall:
- (1) —Offer or deliver any free alcoholic beverage to any person or group of persons. For the purpose of this section, "free" means free to the patron on behalf of the establishment. Offer or deliver any free alcoholic beverage to any person or group of persons. For the purpose of this section, "free" means free to the patron on behalf of the establishment. Notwithstanding this provision, consumption on-premises licenses may provide a sample tasting to guests of the alcohol it has for sale provided, however, that such tasting shall not exceed 8 ounces of malt beverages, or 8 ounces of wine, or 2 ounces of distilled spirits per person.
 - (2) —Deliver more than two alcoholic beverages to one person at a time. For the purposes of this section, one alcoholic beverage shall be the equivalent of one 16-ounce malt beverage, or one six-ounce glass of wine or one ounce of 100 proof spirits.
 - a. Nothing herein shall prohibit a licensed establishment from offering a sampler of malt beverages in containers not exceeding eight ounces. Each sampler shall not exceed four different types of malt beverages.
 - b. Nothing herein shall prohibit a licensed establishment from offering a sampler of wine in containers not exceeding three ounces. Each sampler shall not exceed four different types of wine.
 - c. Nothing herein shall prohibit a licensed establishment from offering a sampler of distilled spirits in containers not exceeding one-half ounce. Each sampler shall not exceed four different types of distilled spirits.
 - (3) —Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than 50 percent of the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not open to the public.
 - (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 open to the public.
 - (5) —Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverages on any one day at prices less than those charged the general public on that same calendar day, except at private functions not open to the public.
 - (6) —Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (0.947 liters), except to two or more legally aged persons at any one time.
 - (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) This ~~subsection~~section shall not apply to incidental service licenses, ancillary tasting licenses, farm wineries, or as otherwise provided by law or in this Code.
- (c) —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 schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less than one calendar week.
- (d) —No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- (e) No provision of this section shall be construed to prohibit:
- (1) Offering free food or entertainment at any time;
 - (2) Including an alcoholic beverage as part of a meal package; or
 - (3) Selling or providing wine by the bottle or carafe when sold with meals or to more than one person.
- (f) The police department shall have the responsibility for the enforcement of this section.
- (g) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and services, the alcoholic beverages must be priced separately and all patrons must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted, provided, however, that this section shall not apply to incidental service licenses.
- (h) —It shall be prohibited for any sales to be made outside of the area on or about the premises licensed for such sale except as permitted herein. For the purpose of this section, the term "sale" shall refer to the point at which there is an exchange of money for alcoholic beverages or when alcoholic beverages are left in the sole possession or control of a patron. Nothing in this section will be deemed to prohibit alcoholic beverages from being sold through a window of the premises when any such practice is otherwise permitted by state law.
- (i) —It shall be prohibited for any person except a licensee, his or her manager, or agent in charge of the licensed premises, to carry into or have in his or her possession on any licensed premises, any alcoholic beverages provided that this section shall not apply to beverages sealed in their original container being brought onto the premises of private clubs or establishments with a BYOB license by a patron.

Sec. 4-183.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-159. - Prohibited sales to persons under 21 or intoxicated persons; Sunday and election day provisions.

- (a) No licensee shall permit on the licensed premises, the sale, barter, exchange, giving, providing or furnishing of alcoholic beverages to any person under 21 years of age.
- (b) No licensee shall permit on the licensed premises the sale, barter, exchange, giving, providing or furnishing of alcoholic beverages to any person who is in a state of noticeable intoxication.

- (c) No licensee shall permit the sale of alcoholic beverages on Sunday, except as otherwise provided by law or in this chapter.
- (d) No licensee shall permit the sale of alcoholic beverages on election days within 250 feet of any polling place or of the outer edge of any building within which such polling place is established on primary or election days. The sale of alcoholic beverages on election days is permitted to the extent authorized by state law, pursuant to O.C.G.A. § 3-3-20.

Sec. 4-184. - Sec. 4-189. - Reserved.

DIVISION 5. - "UNDER 21" PROHIBITIONS

Sec. 4-190. - Furnishing to, purchasing of alcoholic beverages by persons under 21 years of age prohibited; maintaining place where persons under 21 may purchase, drink, or possess alcoholic beverages prohibited.

Refer to section 32-135 of the City of Milton Code of Ordinances, prohibited acts by persons under 21 years of age.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-191. - Purchase, consumption, possession by or for underage persons.

- (a) -It shall be prohibited for any person under 21 years of age to purchase, drink, consume or possess any alcoholic beverages except as provided under state law.
- (b) -It shall be prohibited for any person to keep or maintain a place where persons under 21 years of age are knowingly allowed to come and purchase, drink, consume or possess any alcoholic beverage.
- (c) -It shall be prohibited for any parent or other person to buy any alcoholic beverages and furnish such beverage for consumption by any person under 21 years of age except as permitted under state law.
- (d) -It shall be the responsibility of the alcoholic beverage licensee and his or her agents and employees to examine proper identification of patrons to be certain that such patrons are of legal age.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-192. - Under-age persons on licensed premises, employment of minors.

No licensee who holds a license to sell or serve alcoholic beverages by the drink or who holds a BYOB license shall permit any person under 21 years of age to be in, frequent or loiter about the licensed premises unless such person is accompanied by a parent, legal guardian or spouse who is 21 years of age or older; provided, however, that such person shall be permitted in eating establishments or private clubs as defined herein without being accompanied by a parent, legal guardian or custodian, and provided further, that this section shall not apply to persons who are

employees under this chapter.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-193. - Misrepresentation of age by underage persons.

It shall be prohibited for any person under the age of 21 years, to misrepresent his or her age in any manner whatsoever.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-164—4-169. - Reserved.

DIVISION 6. - ACTIVITIES PROHIBITED ON PREMISES

Sec. 4-200. - Contents of bottles.

It shall be prohibited for a licensee to add to the contents of distilled spirit bottles or to refill empty alcoholic beverage bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-201. - Solicitation prohibited.

No establishment licensed under this chapter shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for himself or herself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether an alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting his or her establishment or to his or her agent or manager to solicit for himself or herself or for the others, the purchase by the patron of any drink, whether an alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-202. - Employees prohibited from mingling with patrons.

- (a) —It shall be prohibited for any employees of a licensee under this chapter to dance or sit with patrons in the premises or for any patron to be permitted to purchase food or drink for such employees during such employees' working hours.
- (b) Alcoholic beverages shall only be served by the licensee or the licensee's employees or agents.
- (c) -It shall be prohibited for any employee or agent of any licensee to consume alcoholic beverages on the premises of the licensee during such employee's or agent's working hours.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-203. - Types of entertainment—Attire and conduct prohibited.

- (a) No person shall perform on a premises licensed hereunder acts of or acts which constitute or simulate:
 - (1) -Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
 - (2) The touching, caressing, or fondling of the breast, buttocks, anus, or genitals; or
 - (3) -The displaying of any portion of the female breast below the top of the areola or the displaying of any portion of any person's pubic hair, anus, cleft of the buttocks, vulva, or genitals.
- (b) -No person shall use on licensed premises artificial devices or inanimate objects to perform, simulate, or depict any of the prohibited conduct or activities described in this section.
- (c) -It shall be prohibited for any person to show, display, or exhibit, on licensed premises, any film, still picture, electronic reproduction, or any other visual reproduction or image of any act or conduct described in subsections (1) and (2) of this section.
- (d) -Failure to comply with this section shall be considered as due cause to suspend, revoke or refuse to renew any license issued by the city pursuant to this chapter.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-174—4-179. - Reserved.

ARTICLE XII. - REPORTING, AUDITS, AND EXCISE TAXES DIVISION 1. - GENERALLY

Sec. 4-210. - Administration and enforcement of article.

- (a) The finance director or his or her designee shall administer and enforce the provisions of this article.
- (b) The city manager may promulgate rules and regulations for the enforcement of this article.
- (c) -Every licensee engaging in the sale of mixed drinks shall keep such records, receipts, invoices, and other pertinent papers in such form as may be required by the city.
- (d) -The city manager or his or her designee may examine the books, papers, records, financial reports, equipment, and facilities of any licensee engaging in the sale of any alcoholic beverage, retail or wholesale, in order to verify the accuracy of any return, or if no return is made to ascertain the amount of tax due.
- (e) -In the administration of the provisions of this chapter, the city manager or his or her designee may require the filing of reports by any person or class of persons having in their possession or custody any information relating to purchases subject to taxation under this article.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-211. - Audits.

- (a) -If the city manager deems it necessary to conduct an audit of the records and books of a licensee, he or she shall notify the licensee of the date, time and place of the audit. The city manager may designate the city's finance director or other designee to perform any audit authorized in this Code. The licensee shall cooperate with the audit or forfeit any license issued under this chapter.
- (b) -All establishments licensed under this chapter must maintain the following records for five years and make them available for audit at the licensed premises:
 - (1) Monthly income or operating statements.
 - (2) -Daily sales receipts showing malt beverage, wine, distilled spirit and food sales separately (this requirement does not apply to package malt beverage and wine licensees).
 - (3) Daily cash register receipts such as Z tapes or guest tickets.
 - (4) Monthly state sales and use tax reports.
 - (5) Federal income tax return with all Form 1099s.
 - (6) Any and all records utilized in calculating excise taxes as set forth in this chapter.
- (c) The city manager can waive all or some of the requirements of subsection (b) of this section if the city manager finds reasonable evidence to support the waiver.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-212. - Reporting of food sales required.

- (a) -Each holder of any alcoholic beverage license for which minimum food sales requirements apply, shall maintain on the premises and available for inspection at any time during business hours, records that document the establishment's sales in even dollars and as a percent of total revenue. These numbers shall include gross food sales in even dollars and as a percent of the total sales, gross alcoholic beverage sales in even dollars and as a percent of the total sales, the amount of tax at the percent required under this division, and any other information reasonably related to the operation of the business required by the city. A report reflecting the same shall also be provided to the city manager upon request and no more than 20 days after such request.
- (b) -Failure to provide any and all of the information required by this section may result in penalties specified in this chapter, including but not limited to, penalties and interest on the amount of tax due and payable, suspension or revocation of the license, or fines.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-213. - Tax levied; reporting requirements; duties of dealers and wholesalers; prohibited sales and deliveries; bonds; penalties.

- (a) -*Scope of section.* In addition to all other taxes or license fees imposed upon retail dealers engaged in the city in the business of selling malt beverages, wine and distilled spirits, as defined under the laws of the state, there is imposed and levied upon all dealers described in this section within the city limits an excise tax, to be computed and collected as set forth in this article.
- (b) -*Amount of tax.* The excise taxes on malt beverages, wine, and distilled spirits are set forth below and may be modified by the city council with such modifications set forth in a schedule

of excise taxes on file in the city manager's office and the finance department.

- (c) *-Computation, payment, duties of wholesale dealer or distributor.* The tax imposed in this article shall be computable and payable monthly. Each wholesale dealer or distributor selling, shipping or delivering malt beverages, wine or distilled spirits to any retail dealer in the city shall, as a condition to the privilege of carrying on the business:
 - (1) *-Keep true and correct records of all sales, shipments or deliveries of such alcoholic beverages to any retail dealer in the city, such records to be for a period of five years for malt beverages, wine, and distilled spirits, and to be made available upon request to any duly authorized representative of the city.*
 - (2) *-Collect from each such retail dealer in the city limits at the time of delivery of the malt beverage, wine, and distilled spirit the amount of tax due under the terms of this article and to hold such amount in trust for the city until such amount is remitted to the city as provided in this section.*
 - (3) *-Except as provided in O.C.G.A. § 3-5-81 or other applicable state law, on or before the 20th day of each calendar month make a verified and comprehensive report to the city manager or his or her designee, which shall correctly show all sales and deliveries of malt beverages, wine, and distilled spirits to or for retail dealers in the city limits for the month immediately preceding such report. Such report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this article, and such other information as may be called for by the city. This report shall be accompanied by remittance to the city for all taxes collected or due as shown on the report.*
- (d) *-Noncompliance by wholesale dealer or distributor.* If any wholesaler dealer or distributor fails or refuses to make the report provided for in this section, the city shall notify the party in writing; and if the reports are not made and the taxes remitted within five days from the date of notice, the city may prohibit said wholesaler or distributor from doing business in the city until the acts of noncompliance are cured. In addition, such a wholesaler must pay a late payment charge of 15 percent per month for each month of delinquency together with interest on the total amount due (including late payment fee) equal to one percent per month.
- (e) *-Prohibited retail sales.* It shall be a violation of this section for any person to sell at retail within the city any malt beverage, wine, or distilled spirit on which the taxes provided for in this section have not been paid. This section shall also apply to farm wineries.
- (f) *Prohibited deliveries.* It shall be prohibited and a violation of this section for any wholesale dealer or distributor to deliver any malt beverage, wine, or distilled spirit to any retail dealer in the city without collecting the taxes provided for in this section at the time of delivery.
- (g) *-Violations and penalties.* Any person violating any of the provisions of this section, or who shall assist any retail dealer in malt beverage, wine, or distilled spirit in the city to evade or avoid the payment of the taxes provided for in this section shall be punished as provided in this chapter and shall also be subject to having his/her license revoked.
- (h) *-Farm wineries.* Wines sold at retail by a farm winery shall have levied thereon the excise tax that applies to wholesalers. farm wineries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale.

- (i) *Microdistilleries*. Distilled spirits sold at retail by a microdistillery shall have levied thereon the excise tax that applies to wholesalers. Microdistilleries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale.
- (j) ~~Microbreweries~~*Micro-breweries*. Malt beverages sold at retail by a microbrewery shall have levied thereon the excise tax that applies to wholesalers. Microbreweries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

State Law reference— O.C.G.A. § 3-3-41; employee solicitation of patrons for drinks on-premises, O.C.G.A. § 3-3-42; display of prices of distilled spirits, O.C.G.A. § 3-4-26; levy of tax on sale of distilled spirits by the package authorized, O.C.G.A. § 3-4-80; sale of distilled spirits by the drink, O.C.G.A. § 3-4-90 et seq.; imposition of excise tax on malt beverages required, O.C.G.A. § 3-5-80; authorization to levy tax on wine, O.C.G.A. § 3-6-60.

Sec. 4-214. - Per drink excise tax on distilled spirits to be collected and paid by on-premises consumption retailers.

- (a) -There is hereby levied and imposed a specific excise tax on the sale of distilled spirits in the amount of three percent of the charge to the public (or the patron in the case of a catered event) for the beverage that contains the distilled spirits; this does not include any sales tax.
- (b) -The excise tax imposed in this subsection does not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverages made in whole or in part from fruit, berries or grapes either by natural fermentation or fermentation with brandy or any similar fermented beverage.
- (c) -The excise taxes provided for in this section shall be imposed upon and shall be paid by the on- premises consumption licensee who sells distilled spirits by the drink.
- (d) -Each licensee selling distilled spirits by the drink within the city shall file a report with the city by the 20th day of each month showing the preceding calendar month summary of the licensee's gross sales derived from the sale of distilled spirits sold by the drink during the preceding month.
- (e) -Each such licensee shall remit to the city by the 20th day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this section.
- (f) Each licensee collecting the tax authorized by this section shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if the amount is not delinquent at the time of payment. The deduction amount authorized will be the rate authorized under O.C.G.A. § 48-8-50, as now written or hereafter amended; (currently the rate of deduction as authorized under O.C.G.A. § 48-8-50 is three percent of the total amount due).
- (g) -Excise taxes received after the tenth day of the month shall be charged a 15 percent penalty plus interest

- (h) -If the city manager or his/her designee deems it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee and an agreed upon date and time will be arranged. If a date and time cannot be agreed upon, the city manager or his/her designee may set the date and time to occur anytime during the licensee's normal business hours.
- (i) In addition to any penalties otherwise set forth in this chapter, failure to properly complete or submit the required reports shall subject the licensee to a late filing penalty of \$25.00 for each deficient reporting period.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-215. - Excise tax on alcohol produced by brewpubs, ~~micro~~breweries, and ~~micro~~distilleries.

- (a) -Every brewpub, ~~micro~~brewery, ~~and~~ ~~micro~~distillery located within the city shall file a monthly report with the city manager or designee no later than the 20th day of each month, on such forms as the city manager or designee may prescribe, setting forth all alcohol produced during such preceding calendar month, to include beginning and ending inventories. Such report shall also indicate the total production of alcohol during the report period and the proper tax remittance for such production. Failure to properly complete or submit the required reports shall subject the licensee to a deficient or late filing penalty of \$25.00 for each deficient reporting period.
- (b) -There is levied an excise tax on all malt beverages produced by a brewpub or microbrewery at the rate of \$6.00 per half barrel (15½ gallons) and \$12.00 per barrel (31 gallons). Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, the levied tax shall be \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.
- (c) -There is levied an excise tax on all distilled spirits produced by a microdistillery at the rate of \$0.22 per liter or [\$0.0065] per ounce.
- (d) -Such tax shall be paid to the city no later than the 20th day of each month for the preceding month's production. A late payment penalty of 15 percent of the tax otherwise due plus interest shall be added to the amount due for any payment not received by the due date.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-216. - Excise tax required on wholesalers.

- (a) -There is levied an excise tax computed at the rate of \$0.22 per liter or [\$0.0065] per ounce which shall be paid to the governing authority on all wine and distilled spirits sold by wholesalers to retailers in the city.

Such tax shall be paid to the city by the wholesale distributor on all wine and distilled spirits sold in the city as follows:

- (1) -Each wholesaler selling, shipping, or in any way delivering wine or distilled spirits to

any licensees under this chapter, shall collect the excise tax at the time of delivery and shall remit the same to the city together with a summary of all deliveries to each licensee on or before the tenth day of the following month.

- (2) -Excise taxes received after the 20th day of the month shall be charged a 15 percent penalty plus interest.
 - (3) -It shall be a violation of this chapter for any wholesaler to sell, ship or deliver in any manner any wine or distilled spirits to a retail dealer without collecting such tax.
 - (4) -Upon each and every delivery by a licensed wholesaler to a licensed retailer, written records in triplicate shall be prepared, showing the quantities and brands of distilled spirits delivered, together with the price thereof and the tax collected thereon. The original copy of such record shall be delivered by the wholesaler to the retailer simultaneously with each such delivery. The wholesaler shall retain the second copy of such record and shall keep it and have it available for inspection by authorized representatives of the city. If requested by an authorized representative of the city, a copy of such records shall be attached to any reports requested or required by the city.
 - (5) -It shall be a violation of this chapter for any retail dealer to possess, own, hold, store, display or sell any wine or distilled spirits on which such tax has not been paid. Wholesalers collecting the tax authorized in this section shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be at the same rate authorized for deductions from state tax under O.C.G.A. § 48-8-50, and any amendment thereto.
- (b) -There is levied an excise tax on all malt beverages sold by wholesalers to retailers in the city at the rate of \$0.05 per 12-ounce container and \$6.00 for each container of tap or draft malt beverages of 15½ gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

Size of Container	Tax Per Container
7-ounce	\$0.0291
8-ounce	0.0333
12-ounce	0.0500
14-ounce	0.0583
16-ounce	0.0666
32-ounce	0.1333

Half barrel (15½ gallons)	6.00
One barrel (31 gallons)	12.00

All provisions as to excise tax in this section shall apply to this tax on malt beverages except the tax rate which is set out in this subsection and the reimbursement of three percent of the taxes collected which shall not apply to malt beverage wholesalers.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-187—4-189. - Reserved.

DIVISION 2. - TAX RETURNS AND COLLECTION

Sec. 4-220. - Tax delinquent on 21st day.

The tax imposed under this chapter shall, for each month, become delinquent on the 21st day of each succeeding month. Any such delinquent tax shall bear interest at the rate of one percent per month, or fraction thereof, and a penalty of 15 percent of such delinquent tax shall be added and attached to the total amount of the fee. The city manager or designee is empowered to pursue any remedy or right of collection and payment of taxes lawfully levied by the city, as may be allowed under the laws of the state and the ordinances of the city.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

State Law reference— Authority to impose excise tax on sale of distilled spirits by the drink, O.C.G.A. § 3-4-131; Local excise tax on sale of distilled spirits, O.C.G.A. § 3-4-80; local excise tax on sale of malt beverages, O.C.G.A. § 3-5-80 et seq.; local excise tax on wine, O.C.G.A. § 3-6-60 et seq.

Sec. 4-221. - Deficiency assessment.

- (a) -If the city has cause to believe that a return or the amount of tax paid to the city by a licensee is not proper, the city may compute and determine the amount due on the basis of any information available. One or more deficiency determinations may be made of the amount due for any month.
- (b) -The amount of deficiency determination shall bear interest at a rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical review release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly from the 20th day of the month after the close of the period for the tax due, which the amount or any portion thereof should have been returned until paid, in addition to any other penalties which may be imposed. Such annual interest rate shall be determined for each

calendar year based on the first weekly posting of statistical release H.15 on or after January 1 of each year. For the purposes of this section, any period of less than one month shall be considered to be one month.

- (c) -For any deficiency which is determined to be made due to fraud, or an intent to evade any provisions of this Article, a penalty of 25 percent of the deficiency shall be added thereto.
- (d) -The city shall give notice of a deficiency determination to the licensee. The notice shall be served by personal service on the registered agent by a city police officer or code enforcement officer. If personal service fails, the notice shall be mailed by certified mail to the registered agent at the address provided and to the named licensee at the licensed premises. Delivery shall be deemed to take place on the third day following deposit in the United States mail.
- (e) -Except in the case of fraud, intent to evade this chapter, or failure to make a return, every notice of deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-222. - Failure to file return.

- (a) -If any licensee fails to make a return, the city may make an estimate of the amounts of the gross receipts of the licensee, or as the case may be, of the amount of the total sales in the city which are subject to the tax. The estimate shall be made for the period in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the city's possession. Upon the basis of this estimate, the city shall compute and determine the amount required to be paid the city. One or more determinations may be made for each period.
- (b) -If the failure of any person to file a return is due to fraud or intent to evade this chapter, a penalty of 25 percent of the amount required to be paid by the party shall be added thereto in addition to any other penalties which are imposed under this chapter.
- (c) -The city shall promptly give to the party written notice of the deficiency in the manner specified by this chapter.
- (d) -In the event that any person holding a retail license shall fail to file the required return or to pay the taxes imposed by this chapter, it shall be grounds for suspension or revocation of any retail license to sell alcoholic beverages in the city.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-223. - Penalties and interest.

- (a) -Any party who fails to pay the tax herein imposed by the city, or fails to pay any amount of such tax required to be paid by the party shall, in addition to the tax, pay interest on the outstanding tax obligation at the rate of one percent per month, or fraction thereof, from the date the tax payment was last due until payment is made.
- (b) -Any party who fails to pay the tax herein imposed by the city, or fails to file any required

tax return to the city, within the time required, shall pay a penalty of 15 percent of the tax and interest due the city.

- (c) -In the event that any person holding a retail license shall fail or refuse to pay to the wholesaler selling to him or her alcoholic beverages the tax imposed by the city, the wholesaler shall immediately report such failure to pay to the finance department and shall make no further sales of any alcoholic beverages whatsoever to said retailer until receipt of written notification to do so from the city. In such event, the tax may be collected by the city by an action at law against the retailer.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-224. - Actions for collections; overpayment.

- (a) -At any time within three years after the delinquency of any amount due under this chapter, the city may bring an action in the courts of this state, any other state, or the United States in the name of the city to collect the amount delinquent, together with penalties, interest, court fees, filing fees, attorneys' fees, and other legal fees incident thereto.
- (b) -Whenever any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the city, it may be offset against any future liability for the tax.
- (c) -If the licensee determines that he has overpaid or paid more than once and such fact has not yet been determined by the city, the licensee shall have three years from the date of payment to file a claim with respect to such overpayment or double payments. Such claim shall be in writing and shall state the specific grounds upon which it is based. The claim shall be audited. If the city approves the claim, the excess amount paid may be credited against other amounts due from the licensee or refunded.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-195—4-199. - Reserved.

ARTICLE XIII. - WHOLESALERS

DIVISION 1. - GENERALLY

Sec. 4-225. - License required.

- (a) -Any wholesale dealer in alcoholic beverages who is licensed by the State of Georgia and who has a place of business in the city shall procure a license under the same distance requirements and required hours and days of operation applicable to retail package licensees. The license fee for a resident wholesale dealer's license shall be set by the city council and approved by resolution.
- (b) -Any wholesale dealer in alcoholic beverages who is licensed by the State of Georgia, who does not have a place of business in the city but who does business in the city, shall be registered in the city and subject to excise tax due from wholesale dealers pursuant to article

VIII. Such registration shall be renewed annually with:

- (1) Submittal of annual renewal affidavit;
- (2) -The presentation of satisfactory evidence that he understands the alcoholic beverage rules and regulations of the city and the conditions under which retail licenses are issued; and
- (3) A registration fee of \$100.00 as authorized by O.C.G.A. § 3-5-43.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-226. - Special provisions applicable to wholesale license.

- (a) -Except as may be authorized under state law, no person who has any direct financial interest in any license for retail sale of any alcoholic beverages in the city shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the city.
- (b) -No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this chapter. No wholesaler shall sell any alcoholic beverage to any person other than a retailer licensed under this chapter; provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.
- (c) -No alcoholic beverage shall be delivered to any retail sales outlet in the city except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Sec. 4-227. - Audits.

If the city manager deems it necessary to conduct an audit of the wholesaler licensee's records and books, he or she shall notify the licensee of the date, time and place of the audit.

~~(Ord. No. 20-12-462, § 1(Exh. A), 12-21-2020)~~

Secs. 4-203—4-222. - Reserved.