

Section 3-20A ARTICLE II. LICENSES

Section 3-21 Required; consideration and approval; subsequent issuance; conditional approval.

(a) No alcoholic beverages shall be manufactured or warehoused except under license granted by the city council as provided in this article, but the properly licensed sale of such alcoholic beverages is hereby declared lawful.

(b) Each application provided for in this article shall be considered and passed upon by the city council in regular or special session, legally assembled. No license shall be granted to any person unless it is made to appear to the city council that the applicant is a suitable and fit person to carry on such business, and that the business will be conducted in an orderly manner and in compliance with all laws, municipal, state and federal. Upon approval of the application and payment of the required license fee, the applicant shall be entitled to the issuance of the license; provided, however, the council reserves the right to approve such issuance of the license conditioned upon full and final compliance by the licensee with all applicable city ordinances.

Section 3-22 Disqualification provisions.

When contrary to the public interest and welfare no original application shall be considered and no license to sell alcoholic beverages of any kind shall be issued by the city council to or for:

- (1) Any person as determined by the city council by reason of such person's business experience financial standing, moral character mental capacity, trade associations, personal associations, record of arrest, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
- (2) Any person who shall have been convicted or who shall have entered a plea of nolo contendere, or forfeited a bond, to any felony within a period of ten (10) years immediately prior to the filing of any such application, or to any misdemeanor within a period of five (5) years immediately prior to the filing of any such application, for any felony or misdemeanor of any state, or of the United States, or any municipal ordinance except a traffic violation not involving a DUI, particularly, but not limited to, those involving force or violence, prostitution, alcoholic beverages, gambling or tax law violations, if such conviction, plea or forfeiture tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations. The term "conviction" shall include an adjudication of guilt or plea of guilty, or a plea of nolo contendere or the forfeiture of a bond by a person charged with a crime. Notwithstanding this provision, the city council, in their sole discretion, may direct the issuance of a license to persons who have in the past been convicted of, or plead guilty to, or entered a plea of nolo contendere, or forfeited a bond on any crime, and the city council after a thorough investigation of all the facts, including parole or probation officer's reports, judge's recommendations, and any other evidence bearing on the character of the applicant have determined that such action is in keeping with the public good and ends of justice, or the public interest and welfare.
- (3) A location not suitable in the judgment and discretion of the city council because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties, or on the neighborhood.
- (4) A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the city council, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.
- (5) Any person who is an elected official (or that person's spouse) of, or employee (or that person's spouse) of, the city.

Section 3-23 Application forms; license not to issue under certain conditions.

(a) All applications for licenses shall be made on forms furnished the applicant by the city clerk and shall indicate, along with all reasonable information necessary to complete the form, which of the following is to be considered for licensing of the applicant to conduct:

- (1) Retail package beer;
- (2) Retail beer--consumption on the premises;
- (3) Retail package wine;
- (4) Retail wine--consumption on the premises;
- (5) Package liquor;
- (6) Liquor pouring.

(b) Upon approval by the city council of an original or renewal application for license of one (1) or more of the above types of sales of alcoholic beverages, such sales of alcoholic beverages may be made by the applicant after a license is issued for all or the remaining part of the calendar year in which the license is issued unless the license is revoked or suspended for due cause as provided in section 3-25. All applications for renewal of licenses to sell alcoholic beverages shall be filed with the city clerk no later than 5:00 p.m. on December 31st of the year preceding the year for which the application renewal is made. The annual fee for the license sought to be renewed shall be paid the city at the time the application for renewal is filed. Failure of any holder of a license to sell alcoholic beverages to file the application for renewal by the date and time specified shall render the license void, effective the last legal hour on December 31st of that year for such sales. In order to sell alcoholic beverages a license holder who has allowed the license to lapse shall file a new application for license as if a license had never been held and pursuant to the provisions of this article. Where an application for renewal is timely filed as provided in this article, the license holder shall be permitted to continue selling alcoholic beverages under the previous year's license until the city council has acted upon the license holder's application for renewal. Wholesale sales of alcoholic beverages in the city by wholesalers licensed by the state are hereby declared legal, subject to the right of the city to charge a wholesaler for violation of state law or regulation, and to request a hearing thereon before the state revenue commissioner.

(c) No person, or his spouse, who has a direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any license or have an interest in any other license issued under the terms of this chapter.

(d) The city clerk of the city shall cause an inquiry to be made into the records of the City to determine if any applicant or other parties interested in an application have any outstanding taxes or special assessments that are delinquent or any other monies owing to the city. No license shall be issued nor shall a license be renewed until all such debts are paid in full.

(e) All applications required by this chapter shall be investigated by the city police department and the report of investigation presented to the city council for consideration with the application.

(f) Each applicant for a license to sell alcoholic beverages in the city, who has not heretofore been licensed by the city to sell alcoholic beverages at retail, shall be required to submit to a complete fingerprinting record and test, pursuant to the rules and regulations established by the city from time to time, such fingerprinting record to be used by the city to supplement the information contained on the application and to make available to the city any records of criminal offenses, either federal or state, from other jurisdictions.

Section 3-24 Fees.

(a) The following annual fees shall be paid the city before any license to sell alcoholic beverages is issued:

- (1) Retail package beer (with no beer to be consumed outside the building on the licensed location except as provided in section 3-115), or retail beer for consumption only inside the building on the licensed location except as provided in section 3-49, Consumption-on-premises establishments:

Either

\$ 400.00

	Both consumption and package	500.00
(2)	Retail package wine (with no wine to be consumed outside the building on the licensed location except as provided in section 3-115), or retail wine for consumption only inside the building on the licensed location except as provided in section 3-115.	
	Either	350.00
	Both	450.00
(3)	Retail package liquor	4,000.00
(4)	Liquor pouring	2,000.00
(5)	Beer wholesalers (licensed by the state)	100.00

(When applicable, such wholesalers shall be prorated or refunded pro rata, on a monthly basis)

(b) Upon filing an original application or reapplication (except renewals) with the city clerk of the city, the applicant shall deposit in cash or by a check a processing fee of sixty dollars (\$60.00) for beer and/or wine only, or one hundred twenty-five dollars (\$125.00) total, for all licenses applied for, to cover the expense of investigation and processing the application, which fee shall not be refundable and shall not apply against any license granted hereunder. Applicant shall also submit to the city clerk at the time such application is filed, in addition to the city processing fee, a separate cashiers check or money order made payable to the GBI-GCIC, to cover the cost of a GBI-GCIC background check, in an amount specified by the GBI. There will be no investigation fee charged wholesalers licensed by the state.

(c) On subsection (a)(1) through (5), the fees shall be prorated on a monthly basis (all or any part of a month) for new licenses granted during the calendar year.

Section 3-25 Suspension; revocation; denial of renewal or transfer.

(a) *Notice, hearing.* Any license which has been applied for or which has been issued or which may hereafter be issued by the City to an licensee may be denied, suspended, revoked or transfer refused, as applicable, by the city council pursuant to the provisions of this chapter. In the event the city council shall deny any application for a license or for the transfer of any license, or shall revoke or suspend any existing license, the applicant or licensee shall be given notice in writing from the city clerk with the reasons for the actions stated and which notice shall be mailed or delivered to the applicant. Within 15 business days of the date of the notice of the action denying any application or suspending, revoking or refusing the transfer of any license, the party affected shall have the right to give notice in writing to the city council of a request for a hearing with respect to the action taken by the city council. Thereafter, and within 30 days of the notice of the application for hearing by the applicant or the licensee, the city council shall set a hearing for the party affected. The hearing provided for in this section need not be at a regular meeting of the city council but may be at such time and place as shall be fixed by the city council in the notice given to the applicant or licensee. Provided further, that at any hearing as provided for in this section, the party afforded the hearing shall have the opportunity to present evidence, to cross-examine opposing witnesses, to have an attorney present to represent the party's interest, and to have testimony recorded at that party's expense.

(b) *Due cause generally.*

- (1) Due cause for the suspension, revocation or denial of the renewal or transfer of any license shall consist of an act or omission found to be by the city council, after a hearing as above provided, a violation of any law or ordinance regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any state or federal law, or for the violation of any city ordinances, other than traffic violations or ordinances, or failure of the licensee or his employee to promptly report to the police department any violation of the law or ordinance, breach of peace, disturbance or altercation, resulting in violence occurring inside the premises.
- (2) Due cause may also be found should the licensed establishment have become a trouble spot in the

judgment of the city council by reason of disturbances or acts of disorderly conduct or violence having occurred in the establishment or on the premises thereof, provided that when the license of any establishment has been revoked or renewal of license denied because such establishment has become a trouble spot, no further license shall be issued under this chapter to any person, firm or corporation at such location for a period of at least twelve (12) months from the date of revocation.

- (3) Due cause shall also consist of the business or the operation or location thereof, or the owner or any person connected therewith, ceasing to meet any of the qualifications for the issuance of license as stated in this chapter.
- (4) Due cause may also be found upon the revelation of any false statement or material misrepresentation in any application hereunder. Any material omission from or untrue or misleading information which is contained in an original, renewal or transfer application for license hereunder shall be cause for the denial or refusal of a license, and if any license has previously been granted under such circumstances, the same shall constitute due cause for revocation of such license.
- (5) Failure to control operation resulting in public nuisance. If the failure to control the operation either inside the building or outside on the property results in controlled substance abuse, prostitution, gambling, flagrant indecent conduct or obscenity, fighting, excessive noise, loitering or illegal parking, to the number of times and extent that the city council, after proper hearing, should find the establishment to have become a public nuisance, then such failure may be declared to be due cause for suspension or revocation of the alcoholic beverage license for such establishment, or the denial of renewal application for such license.

(c) *Emergency due cause; failure or refusal to cooperate with the city police acting in line of duty.* On evidence of failure or refusal of the licensee or employee hereunder to cooperate with any police officer on any reasonable request or action within such officer's duties, responsibilities or powers, including all police powers, rights and duties to investigate to determine any pertinent fact relating to the establishment, the licensee, any employees or corporate officers or partners, the chief of police shall immediately order all sales of any alcoholic beverages suspended until after a hearing as set out in the due cause hearing provided for in paragraph (a), such hearing to be concerning such failure or refusal to cooperate.

(d) *Refund of license fee.* When a license is so revoked or suspended, the city shall not be required to refund any portion of the license fee.

(e) *Effect of revocation by state.* Whenever the state shall revoke any permit or license to sell any alcoholic beverage at retail, the city license to deal in such product shall thereupon be automatically revoked without any action by the city council or any municipal officer. If the state has suspended the license or placed such license on probation, then the city license is automatically suspended or probated, as the case may be.

(f) *Emergency situation.* The mayor is the delegated authority to suspend any license hereunder in any emergency situation, and such suspension may be made effective immediately and remain in force until the next regular or called meeting of the city council. In addition, in any emergency situation, the chief of police is hereby authorized to cause the business in question to close temporarily until he decides the emergency or possible riotous situation to be at an end, or until such decision is made by the city council at its next regular meeting, whichever occurs first.

(g) *Penalties for sale of alcoholic beverages to underage persons.* Upon receipt of information by the city council that a sale of alcoholic beverages to an underage person has taken place by a license holder, including the license holder's agent or employee, the license holder shall be given notice in writing from the city clerk to show cause before the city council at a time and place specified therein not less than three (3) days no more than ten (10) days from the date of the service of the notice why a penalty should not be assessed against the license holder. At the appointed time and place the license holder shall have an opportunity to show cause, if any exist, why the license holder should not be penalized for the sale of alcoholic beverages to an underage person. At any hearing as provided in this subsection, the

license holder shall have the opportunity to present evidence, to cross-examine opposing witnesses, to have an attorney present to represent the license holder's interest, and to have testimony recorded at the license holder's expense. Thereafter, the city council shall take such action as it, in its judgment and discretion, shall deem warranted under the facts, and if a determination is made that the license holder or license holder's employee has sold alcoholic beverages to an underage person, the license holder shall be penalized according to the following schedules:

ALCOHOLIC BEVERAGE VIOLATORS--LICENSE HOLDERS SALES TO UNDERAGE PERSONS		
	<i>Disposition</i>	
<i>Violation/time frame</i>	<i>With training program</i>	<i>Without training program</i>
Issuance of license	Verbal warning	Warning--advise that training program is mandatory for all employees/clerks
First offense	Written warning to license holder \$500.00 fine or thirty (30) days suspension of license at the election of the holder	\$2,000 fine--require mandatory training program for employees/clerks and sixty (60) days suspension
Second offense within twelve (12) month period	\$1,500 fine and sixty (60) days suspension	\$2,000 fine and ninety (90) days suspension--require mandatory training program for all clerks/employees
Third offense within twelve (12) month period	\$2,000 fine and ninety (90) days suspension	\$2,000 fine and revocation of license for one (1) year

Alcoholic beverage license holders shall follow guidelines established by the city manager in conducting training programs mentioned in subsection (g).

ALCOHOLIC BEVERAGE VIOLATORS--EMPLOYEES OF LICENSE HOLDERS SALES TO UNDERAGE PERSONS	
Issuance of employee permit	Warning
First offense	\$200 fine and warning
Second offense	\$300 fine and revocation of permit for 30 days and warning
Third offense	\$300 fine and revocation of permit

Note: The City Council delegates to the judge of the Municipal Court of Thomasville, Georgia, the duty to conduct hearings with respect to the sale of alcoholic beverages to underage persons by employees of license holders, and the judge of Municipal Court, upon a finding that an offense has occurred, shall assess the appropriate penalty as set forth above.

Any monetary penalty established by the city council for the sale of alcoholic beverages to underage persons shall be paid by the license holder on or before the seventh working day following the establishment of such penalty.

(h) Conditions under which a suspended license may be reinstated:

When an alcoholic beverages license has been suspended because the licensed location has been found to be a “trouble spot” or nuisance under Section 3-25 of this Code, the following procedure shall be followed before the suspension of the alcoholic beverage license is lifted:

1) At a public hearing at a regular council meeting, the licensee shall be reminded of the problems and infractions which originally resulted in the suspension of the license;

2) Upon the assurance of the licensee that the problems for which the license was originally suspended have been corrected and that no other problems will occur upon reinstatement, Council may reinstate the license on a provisional basis for a probationary period of up to six months:

a) If, during the six month probationary period, there is no incident which Council, in its discretion, deems significant, and if all else is in order concerning the operation of the licensed establishment, Council may reinstate the suspended license with no conditions or with such conditions as the Council deems appropriate.

b) If, however, during the six month probationary period there is any incident which Council, in its discretion deems significant, Council shall have the option to continue the probationary period, to suspend the license again, or to revoke the license, following a hearing conducted pursuant to the provisions of Section 3-25(a), above.

Section 3-26 Transfers; changes of ownership; locations.

(a) Licenses hereunder shall not be transferable except as otherwise provided in this section.

(b) In the case of the death of any person owning a license, or any interest therein, with the approval of the city council and subject to the terms of this section, the license may be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such administrator, executor, personal representative or heirs meet all of the other qualifications contained in this section. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his estate and disposition of the license or his interest therein, but in no event to exceed six (6) months.

(c) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership holding a license from withdrawing from the partnership and assigning his interest in such partnership to one (1) or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this section are fully complied with, and then only upon the approval of the city council.

(d) Any change in the ownership interests contained on the application shall cause the immediate cessation of sales of any alcoholic beverages and no sales of alcoholic beverages shall be made until any such change in the ownership interests are approved by the city council; provided, however, that this provision shall not apply in a situation where one (1) or more individuals who have ownership interests in the license cease to have such ownership interest, but the remaining ownership interest remains unchanged except as to the division of the remaining interests.

(e) Should a transfer of the location be desired, the location shall meet all requirements of a new license to be issued hereunder, except payment of the license fee. The investigation fee will accompany the application and the unearned portion of the license fee may be transferred to the new location in the event the transfer of location is approved by the city council.

(f) An application for a new license on an existing licensed location shall meet all requirements of a new license to be issued hereunder. Any unearned portion of the license fee for that licensing year may

not be transferred to the new owner in the event the transfer of ownership is approved by the city council, and will be forfeited by the original license holder.

Section 3-27 Zoning provisions.

(a) No license to engage in the sale of distilled spirits by the drink at retail shall be granted except in areas zoned C-1 or C-2 commercial or C-1A limited business districts. Existing private clubs which qualified and became licensed under the provisions of this chapter by January 1, 1977, are hereby exempt from this zoning requirement.

(b) No license shall be issued to a wholesaler of alcoholic beverages except where the wholesaler business is to be located in an area of the city which is zoned C-1 commercial, C-2 commercial or M manufacturing.

(c) No license to engage in the sale of packaged distilled spirits at retail shall be granted except in an area zoned C-1 commercial or C-2 commercial. This provision does not allow licensing of sale of packaged distilled spirits in a nonconforming use.

(d) Beer or wine may be licensed in any commercial establishment or private club not in violation of any zoning ordinance of the city.

Section 3-28 Distance provisions relating to the sale of alcoholic beverages; allowable proximities to schools, churches, residences.

(a) Special distance from residential property provisions:

(1) *Package liquor, liquor pouring or beer and wine consumption on premises.* No license hereunder shall be granted to any proposed location which is within fifty (50) feet of any private residence. The distance for the purpose of this section shall be measured in all directions from the nearest wall enclosing the proposed store where alcoholic beverages are to be sold to the nearest point of any residential property line, except that the provisions of this subsection shall not apply on residences located in areas of the city zoned C-1 commercial or C-2 commercial.

(2) *Private clubs.* Distance requirements of subsection (a)(1) are not applicable for private clubs that were in operation prior to September 1, 1975, operating as a corporation organized and existing under the laws of the state.

(b) General distance provisions:

(b) General distance provisions:

(1) *All beer and/or wine sales and liquor pouring sales; exceptions.* No beer or wine or liquor pouring mixed drinks may be sold at any location within one hundred (100) yards of any school building, school grounds, college campus, day care center, or alcoholic treatment center owned and operated by any branch of government. The school building or educational building referred to in this section shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which subjects commonly taught in the common schools and colleges of this state are taught. The daycare center referred to in this section shall apply only to a daycare center licensed as such by the state of Georgia.

(2) *Packaged liquor sales.* No packaged liquor may be sold at any location within one hundred (100) yards of any church building or an alcoholic treatment center owned and operated by any branch of government, or within two hundred (200) yards of any school building or educational building or school grounds or college campus or day care center. The school building or educational building referred to in this section shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which subjects commonly taught in the common schools and colleges of this state are taught. The daycare center referred to in this section shall apply only to a daycare center licensed as such by the state of Georgia.

(3) *Exceptions to subsections (b)(1) and (2) for the licensing of certain hotels or motels and certain private clubs.* Nothing contained in this section shall prohibit the licensing of the sale of alcoholic beverages by:

a. Hotels or motels of fifty (50) rooms or more which have been in continuous operation for a

- period of at least five (5) years preceding the effective date of this chapter;
- b. Bona fide private clubs licensed under the provisions for licensing liquor pouring in such clubs.
- (4) *Distance measurement methods.* Unless otherwise provided in this chapter, all measurements to determine distances for the requirements of subsections (b)(1) and (b)(2) shall be measured by the most direct unimpeded route of travel on the ground and shall be measured in the following manner:
- a. From the front door of the structure from which alcoholic beverages are sold or offered for sale;
 - b. In a straight line to the nearest public sidewalk, walkway, street, road or highway;
 - c. Along such public sidewalk, walkway, street, road or highway by the nearest route;
 - d. To the front door of the building, or the nearest portion of the grounds, whichever is applicable to the language of subsections (b)(1) and (b)(2).
- (5) Distance provisions outlined in this ordinance will not apply when an establishment has previously been granted a license to sell alcoholic beverages and when that establishment is already licensed and in place prior to a school, church, residence, child care center, or other establishment specified in Section 3-28 locating within the distance prohibited by this same section 3-28.

Section 3-29 Temporary permit for charitable organizations authorized.

(a) Bona fide charitable and nonprofit civic organizations desiring to sell alcoholic beverages may apply, on forms furnished by the city clerk, for a permit authorizing the organization to sell alcoholic beverages for consumption only on the premises for a period not to exceed one (1) day. Applications for such temporary permit must include a copy of an official document such as a nonprofit certification by the Internal Revenue Service, or constitution and bylaws of the organization, or corporate charter which clearly states the purpose of the organization as being charitable or nonprofit whereupon a permit will be issued by the city conditioned upon the applicant's obtaining a like permit from the Georgia Department of Revenue, Alcohol and Tobacco Tax Unit. Following the issuance of the conditional permit from the city as contemplated hereunder, the applicant shall apply for a permit for such sale from the Georgia Department of Revenue, Alcohol and Tobacco Tax Unit, under the provisions of O.C.G.A. section 3-9-3 and O.C.G.A. section 560-2-2-.43 of the rules of the Department of Revenue, Alcohol and Tobacco Tax Unit. The permit issued by the city as contemplated hereunder shall not be effective until such time as a permit has been obtained by the applicant from the Georgia Department of Revenue, Alcohol and Tobacco Tax Unit.

(b) There shall be no application fee for the permit issued by the city.

(c) It shall be unlawful for any organization obtaining a permit under the provisions of this section to sell or brown-bag alcoholic beverages except from 5:00 a.m. to 2:00 a.m., Monday through Saturday at 2:00 a.m. and from 5:00 a.m. to midnight on Saturday.

(d) The provisions of section 3-47 pertaining to sale or brown-bagging of alcoholic beverages to persons under twenty-one (21) years of age shall apply to organizations selling alcoholic beverages under the provisions of this section.

(e) In all other respects, organizations selling or brown-bagging alcoholic beverages under the provisions of this section will be governed by state law.

(f) Bona fide charitable and nonprofit civic organizations desiring to allow the brown-bagging of alcoholic beverages to a specified event may also apply, on forms furnished by the city clerk, for a temporary one day permit authorizing the "brown-bagging" of alcoholic beverages for consumption only on the premises for a period not to exceed one (1) day, for a maximum of twice a calendar year. "Brown-bagging" is hereby defined as allowing attendees of an event sponsored by a charitable or nonprofit civic organizations at which tickets are sold for the purpose of fundraising, but at which no alcoholic beverages are sold, to bring alcoholic beverages to that event for their personal consumption only and not for sale to

other attendees of the event. Applications for such temporary permit must include a copy of an official document such as a nonprofit certification by the Internal Revenue Service, documentation of registration with the State of Georgia as a non-profit organization, and constitution and bylaws of the organization or corporate charter which clearly states the purpose of the organization as being charitable or nonprofit.

Final approval of temporary permits to “brown-bag” shall be contingent upon the approval of the police chief or his designee.

No location that has had an alcoholic beverage sales license suspended shall be approved as a permitted location under the provisions of this ordinance during the period of such suspension.

No organization that has had an alcoholic beverage sales license suspended shall be approved for a temporary alcoholic beverage permit under the provisions of this ordinance during the period of such suspension.

Section 3-30--3-45. Reserved