

**CITY OF CHICKAMAUGA**

**STATE OF GEORGIA**

**ORDINANCE NO. 2019-389**

**AN ORDINANCE TO REGULATE THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR ADOPTION AND EFFECTIVE DATES; AND FOR OTHER PURPOSES ALLOWED BY LAW.**

**Amended December 2<sup>nd</sup>, 2019**

**WHEREAS**, the duly elected governing authority of the City of Chickamauga, Georgia is authorized under Article IX, Section 2, Paragraph 3, of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, welfare, and aesthetics of the citizens of the City of Chickamauga, Georgia;

**WHEREAS**, the duly elected governing authority of the City of Chickamauga, Georgia is the Mayor and Council thereof; and

**WHEREAS**, the Mayor and Council of the City of Chickamauga, Georgia have determined that there is a need for a new comprehensive alcohol beverage ordinance.

**NOW, THEREFORE**, the Mayor and Council of the City of Chickamauga, Georgia, hereby ordain:

**Section 1.**

**ARTICLE I. - GENERALLY**

**Sec. 1-1. - Definitions.**

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

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

*Alcoholic beverage caterer.* Any retail dealer licensed pursuant to this chapter who provides alcohol at authorized events or functions, special events, or special events facilities.

*Alcoholic beverage.* Includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.

*Authorized catered function.* An event at a location not otherwise licensed for consumption of alcoholic beverages by the drink at which alcoholic beverages are furnished, for consideration, and sold, dispensed or provided free of charge to persons present at the event, by the drink, pursuant to a permit obtained under this ordinance.

*Beer or malt beverage.* Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than six percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "nonalcoholic beer" which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

*Brown bagging.* Brown bagging refers to the practice of customers, patrons, or guests bringing alcoholic beverages into an establishment that is open to the public; this practice is commonly referred to as "bring your own bottle".

*Distilled spirits.* Any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.

*Eating establishment.* Any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. An eating establishment shall be prepared to serve food every hour the establishment is open and derives at least 65 percent of gross receipts quarterly from the sale of prepared meals or food.

*Fortified wine.* Any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy.

*Full service kitchen.* A full service kitchen shall, at minimum, consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator; all of which must be approved by the health and fire departments.

*Hotel and motel.* Any building or other structure or combination of buildings or structures which is kept, used, maintained, advertised and held out to the public as a place where sleeping accommodations are offered for pay to travelers and guests, whether transient, permanent or residential. Such hotels shall have 50 or more rooms used for the sleeping accommodations of such guest and one or more public dining rooms that include seating capacity of at least 20 guests. The sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith are considered to be on the same premises and are a part of the operation. The establishment has the privilege of granting franchises for the operation of an eating establishment in their premises and the holder of the franchise shall be included in the definition.

*License.* Authorization granted by the city to operate as a retail consumption dealer, retail package dealer or wholesale dealer.

*Licensed alcoholic beverage caterer.* Any person licensed for the sale of alcoholic beverages by the State of Georgia who possesses a license by a local government in the State of Georgia

authorizing such person to sell or dispense alcoholic beverages by the drink off licensed premises and in connection with an authorized catered function.

*Licensee.* A person, as defined herein, holding any class of license issued under this article.

*Manager.* Any person who supervises the regular operations of a business licensed under this ordinance.

*Manufacturer.* Any maker, producer, or bottler of an alcoholic beverage. It would also include a brewer of beer or malt beverages.

*Minor.* When used in this ordinance, minor shall refer to any person or persons under the legal age for consumption or possession of alcoholic beverages as defined in O.C.G.A. § 3-3-23, and any subsequent amendment thereto.

*Outdoor dining area.* A space in which a licensee serves food and beverages as part of the operation of the licensed premises as a sidewalk cafe.

*Package.* A bottle, can, keg, barrel, box or other original consumer container. Retail package alcoholic beverages shall include all alcoholic beverages in their original container, sold at retail to the final consumer, and not for resale.

*Premises.* The space or area owned, leased and/or controlled by a licensee and used for the purpose of operating under the license; except in the case of hotels and motels. A premise is further defined as one physically identifiable place of business consisting of one room, or two or more contiguous rooms operating under the same trade name. This would also include parking areas. Any premises outlets which cannot be determined as one identifiable place of business shall require additional licenses regardless of such establishment having the same trade name, ownership or management.

*Retail consumption dealer.* Any person who sells alcoholic beverages for consumption on the premises at retail only to consumers and not for resale.

*Retail package dealer.* Any person who sells unbroken packages at retail only to consumers and not for resale.

*Wholesaler or wholesale dealer.* Any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

*Wine.* Any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

## **Sec. 1-2. - Inspection of licensed establishments.**

The city shall have the authority to inspect establishments licensed under this 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 ordinance and state law. This section is not intended to limit the authority of any other county or city officer to conduct inspections authorized by other provisions of this ordinance.

**Sec. 1-3. - Closure of licensed establishments in cases of emergency.**

- (a) The chief of police, or his designee, may immediately close an establishment licensed under this ordinance in case of emergency, for the safety of the public or to investigate a crime, for a period of time not to exceed 24 hours.
- (b) Additionally, the mayor is authorized to suspend any license issued under this ordinance for any emergency situation such as civil disorders or natural disasters or in any situation that the mayor deems such immediate suspension necessary for the protection of the health and welfare of the citizens of the city, and such suspension may be made effective immediately and shall remain in force until the mayor and council determines the emergency is over or until the next regular meeting of the mayor and council or at a meeting called prior to the next regular meeting. When a license is suspended or revoked, the city shall not be required to refund any portion of the license tax to the holder of such suspended or revoked license.

**Sec. 1-4. - Brown bagging.**

Brown bagging is prohibited within the city.

**Sec. 1-5. - Permit for special event sales at city facilities.**

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

Special event. An event approved and sanctioned by the city occurring on city or public property, or an event in which the city's personnel oversees such event.

- (b) Any entity maintaining an alcohol beverage license in good standing with the State of Georgia may obtain a temporary special event permit for the sale of beer and/or wine at a city special event under the following terms and conditions:
  - (1) Such applicant must complete in a timely manner, the respective application and submit the respective fee as set forth in the license fee schedule. The applicant shall submit, as may be required by the city manager or designee, a plan or rendering which details operational matters.
  - (2) The application must be reviewed and duly approved by the city manager or designee.
  - (3) When safety consideration and/or effective traffic circulation issues exist, it may be deemed necessary by the city to require enclosed structures providing restricted public ingress/egress.
  - (4) Unless otherwise approved, no more than one entity/organization shall be allowed to sell beer or wine during the course of any one event. The city reserves the right to permit or to refuse any permit for a special event, as deemed in the best interest of the city.
  - (5) The possession of any open glass container for the consumption of any beverage is prohibited.

- (6) The chief of police or designee shall be authorized to suspend or terminate a special event at any time, if he/she determines that it is necessary for the health, safety and welfare of the residents of the city.
- (7) Notwithstanding the provisions of subsections (b)(1) thru (b)(6) above, nothing in this section shall relieve applicants from complying with all other provisions of this ordinance and state law.

**Sec. 1-6. – Alcohol Beverage Commission.**

- (a) There is hereby created the Alcohol Beverage Commission of the city which shall consist of five residents of the city appointed by the mayor and approved by the council. Each member of the Commission shall serve a three-year term. In order that the terms of the members shall be staggered, the initial appointment by the city shall be two persons for a three-year term, two persons for a two-year term and one person for one-year term. The members shall serve until their successors are duly appointed and qualified. Members of the authority may serve up to two consecutive five-year terms. The mayor and council shall appoint a chairperson of the Commission who shall serve one year as chairperson. Three members shall constitute a quorum and the affirmative vote of three members shall constitute action of the Commission..

**ARTICLE II. - LICENSES**

**Sec. 2-1. - Sale in incorporated area of city; license a privilege.**

- (a) Alcoholic beverages may be sold in the incorporated area of the city under a license granted by the city upon the terms and conditions provided in this ordinance.
- (b) All licenses in this ordinance shall be a mere grant of privilege to carry on the business during the term of the license and is subject to all terms and conditions imposed by the city ordinances and state law.
- (c) No applicant shall be allowed to hold both an on premises consumption and an off premises consumption license for the same business.
- (d) All licenses under this ordinance shall have printed on the front these words: “This license is a mere privilege subject to being revoked and annulled, and is subject to any further ordinances which may be enacted.”
- (e) Any holder of a license issued pursuant to this ordinance is required to apply for and obtain an alcoholic beverage license from the state before any sales commence and are required to abide by all applicable state regulations and laws.

**Sec. 2-2. - Compliance with rules and regulations; license fee.**

Before a license shall be granted under this ordinance, the applicant shall comply with all rules and regulations adopted by the mayor and council regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the fee scale adopted by the mayor and council from time to time and kept on file in the office of the city manager.

**Sec. 2-3. - Sale or possession for sale without license or beyond boundaries of premises covered by license.**

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage where the person does not have a license granted by the city to sell or possess for sale these alcoholic beverages, or to sell or make deliveries beyond the boundaries of the premises covered by the license.

**Sec. 2-4. – License Fees enumerated.**

License fees applicable to this ordinance are set out as follows:

- (a) Retail consumption dealers:
  - (1) Beer: \$500.00 per year
  - (2) Wine: \$500.00 per year
  - (3) Distilled spirits: initial licensing fee \$500.00, second year \$1500.00 & \$2500.00 each year after.
- (b) Retail package dealers:
  - (1) Beer: \$500.00 per year
  - (2) Wine: \$500.00 per year
- (c) Off premises license: \$100.00 per year
- (d) License fees are pro-rated the first year that the license is issued based on the date issued as follows:
  - (1) January 1 to June 30: The full amount of the license fee designated is due.
  - (2) June 30 to December 31: One-half of the full amount of the license fee designated is due.

**Sec. 2-5. - Multiple locations for sale of alcohol.**

Separate applications must be made for each location and separate licenses must be issued for the sale of alcoholic beverages.

**Sec. 2-6. - License application forms.**

- (a) All persons desiring to sell alcoholic beverages shall complete the application forms prescribed by the city manager or designee.
- (b) The application shall include, but shall not be limited to, the name and address of the applicant; the proposed business to be carried on; location; if a partnership, the names and residence addresses of the partners; if a corporation, the names of the officers, the names of the managers, and the names of all shareholders holding more than ten percent of any class of corporate stock; if a limited liability company (LLC) the names of all managers, members holding more than ten percent of any units; 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.
- (c) If the establishment manager changes, the applicant must furnish the city manager or designee, the name and address of the new manager within ten days of such change.
- (d) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

- (e) All applicants shall furnish data, fingerprints and other records as required by the city manager or designee to ensure compliance with the provisions of this ordinance. Failure to furnish such data, fingerprints and other records within 30 days from the date of such request shall automatically serve to dismiss the application with prejudice.
- (f) In instances in which an application is denied under the provisions of this ordinance, the applicant may not reapply for a license for at least three months from the final date of such denial. The city manager or designee shall provide written notice to any applicant whose application is denied under the provision of this ordinance. Such written notification shall set forth the reasons for such denial and shall advise the applicant of the appeal rights under the provisions of this ordinance.

**Sec. 2-7. - Supporting documents to be filed with application.**

Those applying for a license under this ordinance shall submit in support of the application for license the following documents:

- (a) A certificate from a registered land surveyor showing a scale drawing of the location of the proposed premises and the shortest straight line distance from the premises to any, alcoholic treatment center building, school building, educational building, school grounds, college building, or college campus located within a radius of 200 yards of the premises.
- (b) The SAVE affidavit of each applicant as required by state law.
- (c) A copy of a deed showing the applicant to be the owner of the premises for which the license is sought or a copy of a lease showing any interest the owner of the premises has in the business for which the license is sought.
- (d) Each applicant shall submit to the police department such information as may be required by the Georgia Crime Information Center and by the Federal Bureau of Investigation, including classifiable sets of fingerprints, and such fees as may be set by the Georgia Crime Information Center and by the Federal Bureau of Investigation for a records check comparison by the Georgia Crime Information Center and by the Federal Bureau of Investigation. An application for a license under this ordinance shall constitute consent for performance of a records check comparison.
- (e) Other appropriate information may be required as determined by the city manager.

**Sec. 2-8. - Licensing qualifications.**

- (a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or to any person who cannot provide documentation of their ability to be lawfully employed in the United States.
- (b) Where the applicant is a partnership, limited liability company or corporation, the provisions of this section shall apply to all its partners, members, officers, managers, and majority stockholders. In the case of a corporation or limited liability company, the license shall be issued jointly to the entity and the majority equity holder; where the majority equity holder, is not an individual, then the license shall be issued jointly to the entity and its license applicant under the provisions of this ordinance. In the case of a partnership the license will be issued to one of the partners owning at least ten percent of the partnership. If no partner owns ten

percent of the partnership then the general partner, managing partner or the partner with the greatest ownership will be licensed.

- (c) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within ten years prior to the filing of application for such license.
- (d) Should any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverages, after a license has been granted, be convicted under any federal, state or local law of any felony, the license shall be immediately revoked and canceled by the city.
- (e)
- (f) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued by the city previously revoked within two years prior to the filing of the application.
- (g) Any written notice or demand required by the city, permitted by law or under this ordinance, will be served by hand delivery to the establishment and signed for by the licensee or manager on duty. If the licensee or manager is not onsite to be served by hand delivery, service may be perfected by certified mail to the licensee.
- (h) A license application may be denied to any applicant for any alcoholic beverage license where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- (i) No new or renewal license for the sale of alcoholic beverages within the city shall be issued for a location that fails to meet all applicable state and local fire, life safety, building, health and zoning codes. A license for the sale of alcoholic beverages may be issued for a location prior to the completion of the building or tenant space indicated on the license application, provided no alcoholic beverages may be sold under the license until said building or space is completed as determined by the city planning and inspection department.
- (j) No new or renewal alcoholic beverage license shall be issued to any applicant who is delinquent in the payment of city taxes or fees, including, but not limited to property taxes, alcoholic beverage excise taxes, occupational tax certificate fee, hotel/motel excise taxes or any other taxes or fees which are owed to the city by the applicant.
- (k) Payment for new or renewal alcoholic beverage license that is returned by a financial institution will be considered a non-payment and the alcoholic beverage license will be invalid. The licensee has seven days from the date the payment was returned by the financial institution to provide payment by cash or certified check. If the appropriate payment is not received within seven days, the license will be invalid. Once a license is invalid, the licensee would need to re-apply for a new license.

**Sec. 2-9. - Advertising in official gazette.**

A notice of each application for an alcohol beverage license shall be advertised in the official gazette of Walker County, once a week for two weeks immediately preceding consideration of the application.

**Sec. 2-10. - Action by city manager.**

Within seven days from the time a complete application and supporting documentation are filed, the city manager shall notify the chief of police, who shall investigate the proposed location and the criminal background of the applicant and such officers, directors and owners subject to such investigation under this chapter and make a full report to the city manager. The city manager shall within 30 days of the receipt of the investigation of the applicant and proposed location issue the license or make a recommendation within 30 days to the Alcohol Beverage Commission to refuse to issue the license and give the applicant written notice of the refusal and the reasons therefore. The issuance of the license shall be conditioned upon payment of the appropriate fee. The written notice denying an application shall advise the applicant of his right to a hearing before the council as provided for in Sec. 2-11 of this ordinance

**Sec. 2-11. – Appeal and hearing on denial of license or permit.**

The decision of the Alcohol Beverage Commission to deny an alcohol beverage license or any permit permitted under this ordinance shall be final unless the applicant files a notice of appeal to the city manager within 30 days of receiving notice of said decision. Any such appeal shall be subject to de novo review by the mayor and council. A hearing before the mayor and council shall be scheduled within 60 days following the receipt by the city manager of the applicant's notice of appeal. Applicants shall be given written notice of the date, time, place, and purpose when the matter at issue will be heard. The applicant shall be afforded the opportunity to be heard and present evidence. Ten days' notice shall be deemed reasonable. Upon close of the public hearing, the mayor and council shall reach a decision on the matter before it, and the decision of the mayor and council shall be final unless the appellant applies to the Walker County superior court by filing a petition for writ of certiorari within 30 days of the decision rendered by the mayor and council.

**Sec. 2-12. - Display at place of business.**

The city alcoholic beverage license shall at all times be kept plainly in view at the premises whereby it may be easily viewed by patrons.

**Sec. 2-13. - Transferability of license.**

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.
- (b) All transferred licenses, noted below, are subject to a \$150.00 administrative fee only.
- (c) In the case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 90 days from the date of the death of the licensee. During the 90-day period, a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for a new license with the city manager. After said application has been made, the establishment shall be allowed to continue to sell alcoholic beverages until such time that the estate is settled and a new application has been filed or ownership is transferred and a new license has been issued. No additional license fees shall be required during the period for which the original license was issued.
- (d) If a licensee severs his association with a licensed establishment, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 90 days from the date of surrender. During the 90-day period, a new application for a license is required. No additional license fees shall be required during the period for which the original license was issued.

- (e) Nothing in this section, however, shall prohibit one or more of the partners holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. Such a withdrawal shall not serve to bring any new ownership into the partnership. 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 does not result in any person increasing his stock holdings to a total of ten percent or more of any class of stock.
- (f) Any licensee who desires to transfer the location of an establishment licensed to sell alcoholic beverages within the city shall notify the city manager or designee prior to any transfer of location. The city manager or designee shall determine whether the new location is in compliance with all provisions of this ordinance and other city ordinances. No change in the location of a licensed establishment shall be permitted unless the new location complies within all provisions of this ordinance. The city shall have the authority to approve or deny the transfer of location in the same manner that it may approve or deny issuance of a new license. Should a transfer of location be approved, with no change of ownership of the business, the license fee paid for the old location shall be applied to the new location.
- (g) Any licensee who desires to change the name of an establishment licensed to sell alcoholic beverages within the city shall so notify the city manager or designee prior to any change of name, and the city manager or designee shall direct the issuance of a corrected license in replacement of the original license. No administrative fee is required for a change in name.
- (h) Any licensee who changes the manager of an establishment licensed to sell alcoholic beverages within the city shall so notify the city manager or designee within five days of the effective date of such change and shall file, with the city manager or designee, the change in manager form, which includes a background check on the new manager.
- (i) Except as provided in this section, any change in the ownership of any entity owning a licensed establishment shall be cause to cancel and revoke any license issued under this ordinance. The establishment shall be allowed to continue to sell alcoholic beverages for a period of 90 days from the date of change. No such transfer period shall be authorized until such time as a new application for a license is made. Upon authorization of a new licensee, all applicable license fees are required.

**Sec. 2-14. - Automatic license forfeiture for nonuse.**

Any holder of any license under this ordinance who shall for a period of six consecutive months after the license has been issued cease to operate the business and sale of the product or products authorized shall after the six-month period automatically forfeit the license without the necessity of any further action.

**Sec. 2-15. - Expiration and renewal.**

- (a) All licenses granted under this ordinance shall be valid from the date issued until December 31 of the license year.
- (b) All licenses granted under this ordinance shall expire on December 31 of each year. Renewal packages will be sent to all current licensees by November 1. It is the licensee's responsibility to return renewal paperwork along with the required fee, to the city manager or designee by November 30 of each year. Any renewal paperwork submitted or renewal paperwork

submitted without the required fee after November 30 but before 4:00 p.m. on December 31, if December 31 should be on a Saturday or Sunday, the last renewal date would be the last Friday in the month of December, shall pay, in addition to the annual fee, a late charge of 20 percent.

- (c) Any renewal paperwork received after 4:00 p.m. on December 31, if December 31 should be on a Saturday or Sunday the renewal date would be the last Friday in the month of December, shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. This will include a reassessment of investigative and administrative fees and no alcohol sales will be permitted during the reapplication process.

**Sec. 2-16. - Audits.**

- (a) If the city manager or designee deems it necessary to conduct an audit of the records and books of the licensee, the licensee shall be notified and an agreed upon date, time and place of the audit shall be arranged. The city manager or designee may designate the city's auditor or other designated person to perform any audit authorized in this ordinance. The licensee shall cooperate with the audit or forfeit any license issued under this ordinance. Failure to arrange an agreed upon date within three months of an audit request will be deemed as an uncooperative act and the licensee will forfeit any licenses issued.
- (b) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises:
  - (1) Monthly income or operating statements.
  - (2) Daily sales receipts showing food sales separate from liquor, beer and wine sales. This requirement applies to retail consumption on premises licensees only.
  - (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 1099's. The city manager or designee can waive all or some of the requirements of this requirement if the city manager or designee finds that no such records exist and it is not financially practical based on the net income of the licensed establishment to require them to keep such records.
- (c) If a licensed establishment is unable to provide the records, or does not meet the required food consumption percentage, another audit shall be performed within 90 days at the licensee's expense. If after two, or more, consecutive audits a licensed establishment is unable to provide the records, or does not meet the required food consumption percentage, the licensed establishment license will be suspended for 30 days. During the 30-day suspension period, no alcoholic beverages will be allowed on the premises.
- (d) If an audit is triggered by a violation of this ordinance, then the cost of the audit shall be the responsibility of the licensee. The failure of the licensee to timely pay the city for its audit after being invoiced shall result in the automatic suspension of all licenses of the licensee until all deficiencies found by the audit are corrected and the audit expense is paid to the city.

**Sec. 2-17. - Tax delinquent on 21st day.**

The tax imposed under this ordinance shall, for each month, become delinquent on the 21st day of each succeeding month. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year and a penalty of ten 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.

**Sec. 2-18. - Suspension or revocation of license.**

No license to sell alcoholic beverages shall be suspended without the opportunity for a hearing. Section 2-15 of this ordinance details the licensee rights to a hearing.

- (a) A license may be suspended or revoked by the city manager or designee:
  - (1) When the licensee furnishes fraudulent or untruthful information in the application for a license or omits information required in the application for a license, or for failure to pay all fees, taxes or other charges imposed under the provisions of this ordinance.
  - (2) Whenever the state shall revoke any permit or license of any licensee to sell at wholesale or retail any alcoholic beverages, the city license to sell alcoholic beverages shall thereupon be automatically revoked.
  - (3) Where the establishment has been found in violation of employment of underage persons to dispense, serve, sell or take orders for any alcoholic beverage.
  - (4) Where the establishment has been found in violation of sales to underage persons.
  - (5) Where alcoholic beverages have been sold or distributed during a period of suspension.
  - (6) When any establishment which does not meet the licensing qualifications set forth in this ordinance any time such knowledge becomes known to the city.
  - (7) By an act or omission by a licensee, owner of more than ten percent interest in the licensed establishment, willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this ordinance.
  - (8) By an act of omission by an employee of a licensee, where such acts of the employee were known to or under reasonable circumstances should have been known to the licensee, which constitutes a violation of federal or state laws or of any provision of this ordinance.
- (b) A license may be revoked by the city manager or designee if a license has been suspended two or more times in any consecutive 12-month period.
- (c) An application for renewal of a license may be denied by the city manager or designee when a licensee has been chronically delinquent or chronically in default in monthly excise tax reporting and remittance. Chronically is deemed to be five months of the same 12-month calendar.

- (d) A license may be suspended by the city manager or designee when the chief of police or designee deems a business to be operating or conducting business in a manner contrary to the public welfare, safety, health, or in such a manner as to constitute a nuisance. Any combination totaling three or more of the following occurrences within any 30-day period shall constitute prima facie evidence as to constitute a nuisance:
  - (1) Breach of the peace, disturbance or altercation resulting in violence occurring on the premises.
  - (2) Permitting the solicitation of patrons on the licensed premises for prostitution or any other unlawful act where the license holder or the license holder's employee knew or should have known of such conduct.
  - (3) The selling or serving of any alcoholic beverage to any person that the license holder or the license holder's employee knew or should have known to be in a state of intoxication.
  - (4) The violation of any state law or regulation governing the manufacture, sale, distribution or transportation of alcoholic beverages.
- (e) Whenever a license is suspended or revoked, a cease and desist notification shall be delivered to the licensed premise by the chief of police or designee. This notification will include the reasons for suspension or revocation, outline the licensee rights to a hearing, and detail the dates of suspension or revocation. The chief of police or designee shall take the necessary steps to see that signs are removed and that all alcoholic beverage sales cease as outlined in the cease and desist notification letter.
- (f) Wherever this ordinance permits the city manager or designee to suspend any license issued under this ordinance but does not mandate the period of such suspension the suspension period shall be 14 days (two weeks).

**Sec. 2-19. - Hearings.**

- (a) No license to sell alcoholic beverages shall be suspended or revoked without the opportunity for a hearing before the Alcohol Beverage Commission.
- (b) The city manager or designee shall provide written notice to the applicant or licensee of the decision to deny, suspend or revoke the license. Such written notification shall set forth the reasons for such action and shall notify the applicant or licensee of the right to appeal under the provisions of this ordinance.
- (c) Any licensee may choose to appeal the decision to suspend, or to revoke the license to the Alcohol Beverage Commission. Such appeal shall be by written petition, filed in the office of the city manager within ten days after receipt of the written notice provided by the city manager or designee. In order to defray administrative costs, the written petition must be accompanied by a filing fee of \$100.00. If the filing fee is not submitted with the written petition, the petition shall not be considered to be filed. The Alcohol Beverage Commission may, at the request of the appellant, refund the filing fee by a majority vote.
- (d) A hearing shall be conducted on each appeal within 45 days of the date of filing of the licensee's written petition with the office of the city manager or designee unless a continuance of such date is agreed to by the appellant and the Alcohol Beverage Commission or designee.

- (e) The appellant at the hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, such request must be made at least three days prior to such hearing. The appellant shall be solely responsible for the cost of the takedown and preparation of the official transcript. The appellant shall have the burden of proof on any such appeal.
- (f) Should the Alcohol Beverage Commission be unable to reach a decision by majority vote, the action taken by the city manager or designee shall be upheld automatically.
- (g) The findings of the Alcohol Beverage Commission shall be forwarded to the city manager or designee within 15 days after the conclusion of the hearing, and it shall be the duty of the city manager or designee to notify the appellant of the action of the alcohol beverage board.
- (h) The findings of the Alcohol Beverage Commission shall not be set aside unless found to be:
  - (1) Contrary to law or ordinances;
  - (2) Unsupported by substantial evidence on the records as a whole; or
  - (3) Unreasonable.
- (i) The findings of the Alcohol Beverage Commission shall be final unless the applicant files a notice of appeal to the city manager within 15 days of receiving notice of said decision. Any such appeal shall be subject to de novo review by the mayor and council. A hearing before the mayor and council shall be scheduled within 60 days following the receipt by the city manager of the applicant's notice of appeal. Applicants shall be given written notice of the date, time, place, and purpose when the matter at issue will be heard. The applicant shall be afforded the opportunity to be heard and present evidence. Ten days' notice shall be deemed reasonable. Upon close of the public hearing, the mayor and council shall reach a decision on the matter before it, and the decision of the mayor and council shall be final unless the appellant applies to the Walker County superior court by filing a petition for writ of certiorari within 30 days of the decision rendered by the mayor and council.

**Sec. 2-20. - Withdrawal of application.**

Any license application made pursuant to this ordinance may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as an administrative processing fee shall not be refunded. After issuance of the license, no refunds will be made.

**Sec. 2-21. - Hotel-motel in-room service license.**

- (a) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom 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 contained therein is final at the time requested.
- (b) Any hotel-motel that acquires this in-room service shall also be required to obtain a license for consumption on the premises and meet all of the requirements of this ordinance.

- (c) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this ordinance.

**Sec. 2-22. - Alcoholic beverage caterers.**

- (a) License requirements—Resident caterers.

- (1) Any caterer who possesses a valid city license from the city, to sell or otherwise dispense malt beverages or wine by the drink for consumption on the premises within the city may apply for an off premises license that permits sales of the same off premises at authorized catered event(s) or function(s).
- (2) Any caterer who possesses a valid license from the city, to sell malt beverages or wine by the package for consumption off the premises within the city may apply for an off premise license that permits sales of the same class of alcoholic beverages by the drink off premises at authorized catered event(s) or function(s).
- (3) Each off-premises catering license, authorized herein, shall be valid through December 31 of the year for which they are issued.
- (4) In order to distribute or sell malt beverages or wine at an authorized catered function, a licensed alcoholic beverage caterer shall file an application for an off-premises event permit to the city and shall pay a nonrefundable fee in an amount of \$50.00. The application shall include the name of the caterer, the date, address and time of the event, the caterer's license number and any other information the city deems necessary to review a request for such permit.

- (b) Permit requirements—Nonresident caterers.

- (1) A nonresident alcoholic beverage caterer shall submit an application for an off-premises event permit to the city manager or designee. The fee for each such permit shall be \$50.00 as authorized by O.C.G.A. § 3-11-3 (or such fee as may be authorized by any future amendment or revision thereto).
- (2) An application for an off-premises event permit shall include the name of the caterer, the date, address, time, the licensed alcoholic beverage caterer's state and local license number and expiration date, and name of the event and the quantity and type of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event or functions.
- (3) The original off-premises event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function.
- (4) It shall be unlawful for a licensed alcoholic beverage caterer to distribute, sell, or otherwise dispense alcoholic beverages off-premises except as authorized by the off-premises event permit.

- (c) A licensed alcoholic beverage caterer may sell or otherwise dispense only that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell or otherwise dispense only malt beverages at the authorized catered event or function.

- (d) Excise taxes are imposed upon the sale of alcoholic beverages by a resident caterer as provided in Article VIII of this ordinance.
- (e) Excise taxes are imposed upon the total of individual alcoholic beverage drinks served by a nonresident caterer in the amounts set forth in Article VIII of this ordinance and shall be paid within 30 days after the conclusion of the catered event or function.

**Sec. 2-23. - Nonprofit civic organization temporary permit.**

- (a) As used in this section, the term “bona fide nonprofit civic organization” means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. Sections 501(c), 501(d), or 501(e).
- (b) To be eligible to apply for a temporary permit to sell alcoholic beverages at an authorized event, a bona fide nonprofit civic organization must be the applicant; a nonprofit authorization letter must be produced; any required event permit must be obtained; and the authorized event for which the event permit is issued must be associated with and benefit the cause of a charitable or civic organization.
- (c) Pursuant to state law, a temporary permit shall authorize the organization to sell beer and wine for consumption on the premises or to sell wine at retail for off-premises consumption, or both, for a period not to exceed three days, subject to all laws and ordinances regulating the time for selling such beverages; the temporary permit shall be valid only for the place specified in the permit; and no more than six such permits may be issued to the applicant organization in any one calendar year.
- (d) Each application for such a temporary permit shall be accompanied by a nonrefundable fee in an amount of \$50.00, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the mayor and council.
- (e) It shall be unlawful for any person to engage in, carry on, or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained a license and event permit(s) as provided herein.

**Sec. 2-24. – Serving hours for caterers and nonprofit civic organizations.**

The serving hours under any permit issued under Sec 2-22 and Sec. 2-24 shall be between the hours of 9:00 a.m. and 12:00 a.m. unless different serving hours are set forth on the permit.

**ARTICLE III. - REGULATIONS**

***Division 1. - Generally***

**Sec. 3-1. - Building requirements.**

- (a) No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of such building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with city ordinances, state law and regulations. The proposed building shall also be subject to final inspection and approval by the building inspector.

- (b) Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building.
- (c) Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application.

**Sec. 3-2. - Distance requirements.**

- (a) A license to sell packaged alcoholic beverages shall not be granted to any establishment within 300 feet of any school building, school grounds, or college campus, or an alcoholic treatment center owned and operated by this state or any county or municipal government.
- (b) The term “school building” referred to in this section shall apply only to state, county, city or church school buildings. It includes only those structures in which instruction is offered. The term "instruction" refers to subjects commonly taught in the schools and colleges of this state.
- (c) Licensees for the retail sale of alcoholic beverages for consumption on the premises only shall not be subject to the distance requirements of this section.
- (d) For the purposes of this section, distance shall be measured in a straight line from front door of the structure from which alcoholic beverages are sold or offered for sale, to the front door of the building of a church, government-owned treatment center or a retail package store.
- (e) Any location licensed to sell alcoholic beverages on the effective date of the ordinance from which this ordinance is derived, shall not be denied continued operation under an existing license, denied any renewal of such license or no new owner of such location may be denied a new license based upon the measurements set forth in this section.
- (f) As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and or operation of a school within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

**Sec. 3-3. - Retailer to purchase from licensed wholesaler only.**

- (a) No retailer shall purchase alcoholic beverages from any person, firm or corporation other than a wholesaler licensed by the State of Georgia. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this ordinance. However, 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.
- (b) The city manager or designee may request, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.

**Sec. 3-4. - Retail consumption dealers to store inventory only on premises.**

No retail consumption dealer licensed under this ordinance shall keep any beer, wine or other alcoholic beverages at any place except the licensed place of business.

**Sec. 3-5. - Licensees to maintain a copy of this ordinance; employees to be familiar with terms.**

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

**Sec. 3-6. - No adding to contents.**

No one shall add to or permit the adding to any alcoholic beverage or refill any alcoholic beverage manufacturer's container in any manner.

**Sec. 3-7. - Sale on election days.**

Licensees may sell alcoholic beverages on election days, provided that such sale is not within 250 feet of any polling place or the limitations imposed by this section shall be in effect beginning with the opening of the polls and ending with the closing of the polls.

**Sec. 3-8. - Order required.**

- (a) Owners, managers, and employees of a licensed business shall be responsible for keeping an orderly place and shall not permit any employee, patron, or other person to cause a disturbance or engage in loud, boisterous, lewd, or obscene conduct or practice within the establishment.
- (b) The owner and manager of any alcoholic beverage establishment shall be responsible for monitoring parking lots and other outside areas around the establishment and prohibiting patrons and other persons associated with the establishment from standing, sitting, mingling, or assembling outside the licensed premises in a manner which causes or contributes to disturbances and/or illegal acts.

**Sec. 3-9. - Removal of a partially consumed bottle of wine.**

- (a) Any restaurant which is licensed to sell wine for consumption on premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off premises under the following conditions:
  - (1) The patron has purchased a meal from the restaurant and consumed a portion of the bottle of wine which has been purchased on the premises with such meal.
  - (2) The partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee before removal from the premises.
  - (3) 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 tampered with or opened.
  - (4) A dated receipt for the meal and the purchase of the bottle of wine shall be provided by the licensee and attached to the container.

**Sec. 3-10. – Serving alcoholic beverages in the downtown commercial district.**

In the downtown commercial district alcoholic beverages shall be served in glasses or non-transparent plastic cups only. Service by bottle, and aluminum cans is prohibited.

***Division 2. - Minors***

**Sec. 3-11. - Employment of underage persons.**

- (a) No person shall allow or require a person in employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.
- (b) The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets or convenient stores from selling or handling alcoholic beverages which are sold for consumption off the premises.

**Sec. 3-12. - Failure to require and properly check identification.**

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

**Sec. 3-13. - Sales to underage person prohibited.**

- (a) No holder or employee of the holder of a license authorizing the sale of alcoholic beverages, shall do any of the following upon the licensed premises:
  - (1) Sell or offer to sell any distilled spirits, wines, malt beverages, or any other alcoholic beverage to any person under the age of 21 years.
  - (2) The prohibition in subsection (1) of this section shall not apply with respect to the sale of distilled spirits to a person when such person has furnished proper identification showing that the person to whom the distilled spirits are being sold is 21 years of age or older. For the purpose of this subsection, the term “proper identification” in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth shall include, without being limited to, a passport, military ID card, driver's license, or state issued ID card. Proper identification shall not include a birth certificate.
  - (3) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.
  - (4) No person who holds a license to sell alcoholic beverages by the drink shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment or lounge unless such minors are accompanied by a parent, legal guardian, or custodian. However, such minors shall be permitted in eating establishments, indoor commercial

recreational establishments, or private clubs as defined in this ordinance without being accompanied by a parent, legal guardian, or custodian; and, provided further, this subsection shall not apply to minors who are employees under the terms of this ordinance.

- (b) The penalty for violation of this section by an individual shall be a fine not to exceed \$1,000 for each violation.
- (c) Any licensed establishment where three or more violations of this section, or O.C.G.A. § 3-3-23 have occurred within any 36-month period shall be punished as follows:
  - (1) For the second offense within any 36-month period, a minimum 30-day suspension.
  - (2) For the third violation within any 36-month period, a minimum 90-day suspension.
  - (3) For the fourth offense within any 36-month period, the license will be revoked.
- (d) If there is a change in a majority of the licensed establishment's owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

**Sec. 3-14. - Purchase or possession of alcoholic beverages by underage persons.**

- (a) No person under the age of 21 years shall purchase or possess any alcoholic beverage.
- (b) No person under the age of 21 years shall attempt to purchase any alcoholic beverage or misrepresent their age in any manner for the purpose of obtaining alcoholic beverages.

***Division 3. – Consumption on premises***

**Sec. 3-15. - Poured alcohol transported by employees.**

Poured alcoholic beverages will be transported from point of dispensing to the customer by the licensee's employees only.

**Sec. 3-16. - Open area and patio sales.**

- (a) Alcoholic beverage sales can be made by a licensed, consumption on premises, establishment in a patio/open area type environment if the establishment has been approved only after the city manager or designee's recommendation to the Alcohol Beverage Commission.
- (b) The requirement for approval of a patio/open area type environment is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.
- (c) The height of the structure required in subsection (b) of this section shall be a minimum of three and one-half feet above ground level. It does not have to be solid nor does it have to restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the city's building inspection department and the county's fire department as required by their governing regulations or codes.

- (d) The only exit from this type area is to be through the licensed establishment's main premises or through an approved fire exit (not for general public use unless an emergency exists). The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.
- (e) If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by Alcohol Beverage Commission. Interior type patio/open sales areas must also meet the requirements of the city's building, development and fire codes.
- (f) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. "Patio areas," as that term is used in this subsection, do not have to conform to the standards in this section.

**Sec. 3-17. - No outside consumption.**

- (a) It is prohibited for customers to leave an alcoholic beverage establishment premises, with open alcoholic beverages and it is the licensee's responsibility to ensure that no open alcoholic beverages are carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption at a golf course.
- (b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.
- (c) It is prohibited for the manager or any employee of an alcoholic beverage establishment to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

**ARTICLE IV. - DISTILLED SPIRITS CONSUMPTION**

**Sec. 4-1. - Locations.**

- (a) Distilled spirits sold by the drink for consumption on the premises are permitted only in eating establishments regularly serving prepared food with a full service kitchen, regularly serving food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits, and located in the portion of the C-1 neighborhood Commercial Zoning Classification known as State Route 27 Corridor/Lafayette Highway Corridor as outlined on a map attached to Ordinance 279, which is incorporated herein by reference.
- (b) Distilled spirits sold by the drink for consumption on the premises are NOT permitted in the downtown business district more particularly described as:

Beginning at the intersection of the railroad tracks now or formerly known as The Central of Georgia Railway tracks and West 10th Street, then along the railroad tracks in a southwesterly direction to the intersection of W. 14th Street; then along W. 14th Street in a westerly direction to the intersection of Cove Road (also known as State Highway 341) and Crescent Avenue;

then along Crescent Avenue in a northerly direction to its intersection with Pearl Street; then along Pearl Street in a northerly direction to its intersection with W. 6th Street; then along W. 6th Street in an easterly direction to its intersection with Lee Avenue; then along Lee Avenue in a northerly direction to its intersection with Simonton Drive; then along Simonton Drive in a southeasterly direction to its intersection with Thomas Avenue; then along Thomas Avenue in a southerly direction to its intersection with W. 7th Street; then along W. 7th Street in an easterly direction to its intersection of Crittenden Avenue; then along Crittenden Avenue in a southerly direction to its intersection with W. 10th Street; then along W. 10th Street in a westerly direction to its intersection with the railroad tracks, which is the point of beginning.

**Sec. 4-2. - Investigative and administrative costs.**

- (a) Each application for a license under this ordinance shall be accompanied by a check or cash in the amount of \$150.00 for investigative and administrative costs. This amount may be changed by the mayor and council from time to time by ordinance.
- (b) The fee shall not be refundable if the license is denied or if the licensee withdraws the application.
- (c) Anyone applying for more than one license shall pay only one investigative and administrative fee.
- (d) Any applicant for a new license under this ordinance that already holds an existing license, shall have the investigative and administrative fee waived.

**Sec. 4-3. - Hours and days of sale.**

- (a) Distilled spirits shall only be sold for consumption on the premises between the hours of 11:00 a.m. and 11:00 p.m., Monday through Friday. Saturday & Sunday sales shall be between the hours of 9:00 a.m. and 11:00 p.m.
- (b) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the mayor and council.
- (c) Distilled spirits may be sold for consumption on the premises from 11:00 pm to 2:00 a.m. on January 1st of any year.

**Sec. 4-4. - Consumption on premises sales only.**

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or bottle.

**ARTICLE V. - BEER AND WINE CONSUMPTION**

**Sec. 5-1. - Permitted locations.**

Beer and/or wine sold for consumption on the premises is permitted only at the following locations, with the noted limitations:

- (1) In eating establishments located in the downtown business district and zones permitting the sale of beer and wine by the drink as conditional uses regularly serving prepared food with a full service kitchen regularly serving food every hour they are open and deriving at least 65 percent of gross receipts annually from the sale of prepared meals or food as it derives from the sale of beer and/or wine.
- (2) An event approved and sanctioned by the city occurring on city or public property, or an event in which the city's personnel oversees such event if properly permitted.
- (3) An event of a bona fide nonprofit civic organization if properly permitted.

**Sec. 5-2. - Investigative and administrative costs.**

- (a) Each application for a license under this ordinance shall be accompanied by a check or cash in the amount of \$150.00 for investigative and administrative costs. This amount may be changed by the mayor and council from time to time by ordinance.
- (b) The fee shall not be refundable if the license is denied or if the licensee withdraws the application.
- (c) Anyone applying for more than one license shall pay only one investigative and administrative fee.
- (d) Any applicant for a new license under this ordinance that already holds an existing license shall have the investigative and administrative fee waived.

**Sec. 5-3. - Hours and days of sale.**

- (a) Beer and/or wine shall only be sold for consumption on the premises between the hours of 9:00 a.m. and 11:00 p.m., Monday through Sunday.
- (b) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the mayor and city council.
- (c) Beer and/or wine may be sold for consumption on the premises from 11:00pm to 2:00 a.m. on January 1st of any year.

**ARTICLE VI. - PACKAGE STORE LICENSING; REGULATIONS**

**Sec. 6-1. - Type of retail establishment.**

No beer and wine shall be sold at retail, except in establishments located in zoning districts in which these establishments are permitted as a conforming use or in districts where an existing establishment exists as a nonconforming use.

**Sec. 6-2. - Hours and days of sale.**

- (a) Retail package licensees may engage in the sale of beer and wine between the hours of 7:00 a.m. Monday through 11:59 p.m. Saturday.
- (b) Retail package beer and wine shall not be sold at any time in violation of any local ordinance or regulation or of any special order of the mayor and city council.

- (c) Retail package licensees may engage in the sale of beer and wine on Sundays between the hours of 12:30 p.m. and 11:30 p.m.

**Sec. 6-3. - Investigative and administrative costs.**

- (a) Each application for a license under this ordinance shall be accompanied by a check or cash in the amount of \$150.00 for investigative and administrative costs. This amount may be changed by the mayor and council from time to time by ordinance.
- (b) The fee shall not be refundable if the license is denied or if the licensee withdraws the application.
- (c) Anyone applying for more than one license shall pay only one investigative and administrative fee.
- (d) Any applicant for a new license under this ordinance that already holds an existing license, shall have the investigative and administrative fee waived.

**Sec. 6-4. - Delivery by retailer beyond licensed premises.**

It shall be unlawful for any person issued a license under this ordinance to make deliveries of any alcoholic beverages by the package beyond the boundaries of the premises covered by the license.

**ARTICLE VII. - WHOLESALER LICENSING**

**Sec. 7-1. - Special provisions applicable to wholesale purchases.**

- (a) Any person desiring to sell at wholesale any alcoholic beverages in the city shall be licensed by the State of Georgia and maintain on file with the city manager or designee a copy of their current state wholesaler license.
- (c) No wholesaler shall sell any alcoholic beverage to any person other than a retailer licensed under this ordinance. Provided, however, 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.
- (d) No alcoholic beverage shall be delivered to any retail sales outlet in the city except by a duly State of Georgia licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

**Sec. 7-2. - Hours and days of sale.**

Wholesalers shall not engage in the sale of alcoholic beverages except between 7:00 a.m. and 6:00 p.m., Monday through Saturday. There shall be no sales of alcoholic beverages on Sunday.

**ARTICLE VIII. – EXCISES TAXES**

**Sec. 8-1. - Tax levied, amount, payment; duties of dealers and wholesalers.**

- (a) *Scope of section.* In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the city in the business of selling distilled spirits, malt beverages

and/or wine, there is imposed and levied upon all hereinafter described dealers within the city an excise tax to be computed and collected as hereinafter set forth. The taxes imposed by this section shall not be levied with respect to the following:

- (1) Wine sold to and used by established and recognized churches and synagogues for use in sacramental service only;
- (2) Any sale of wine which is exempt from taxation by the state or under the Constitution of the United States;
- (3) Wine sold to persons outside the state for resale or consumption outside the state; or
- (4) Wines or malt beverages which contain less than one-half of one (0.5) percent alcohol by volume.

(b) *Basis for computation of tax.*

- (1) The tax levied hereunder shall be computed on the basis of twenty-two cents (\$0.22) per liter for distilled spirits and wine sold or delivered as hereinafter set forth. The twenty-two cents (\$0.22) per liter shall be pro-rated down on fractional parts of liters, so that each bottle or each individual size container shall be taxed on the basis of twenty-two cents (\$0.22) per liter. It shall be unlawful and a violation of this article for any such licensee to possess, own, hold, store, display or sell any liquor or wine on which such tax has not been paid.
- (2) Where malt beverages, commonly known as tap or draft beer, are sold from a barrel or bulk container, the tax levied hereunder shall be computed at the rate of six dollars (\$6.00) on each container sold containing not more than fifteen and one-half (15½) gallons and a proportionate tax at the same rate on all fractional parts of fifteen and one-half (15½) gallons; where malt beverages are sold in bottles, cans or other containers except barrel or bulk containers, a tax of five cents (\$0.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces shall be imposed.

(c) *Computations, payment, duties of wholesale dealer and distributor.* The tax imposed shall be computed and payable monthly. Each wholesale dealer or distributor selling, shipping, or delivering distilled spirits or wine and/or malt beverages to any retail dealer in the city shall, as a condition to the privilege of conducting said business in the city:

- (1) Keep and maintain true and correct records of all sales, shipments or deliveries of spirituous liquors and wine and malt beverages to each retail dealer in the city. Such records are to be preserved for a period of not less than one (1) year and made available on request for the inspection of any duly authorized representative of the city.
- (2) Collect from each retail dealer in the city at time of delivery of distilled spirits or wine or malt beverages, the amount of tax due under the terms of this section and hold the same in trust for the city until such tax is remitted to the city as herein provided.
- (3) On or before the tenth day of each calendar month, each wholesaler shall make a verified and comprehensive report to the city which shall correctly show and reflect all sales and deliveries of alcoholic beverages to or for retail dealers in the city for the calendar month immediately preceding the date of said report. Said report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount of

excise tax collected under the terms of this section, and such other reasonable information as may be requested by the city. Said report shall be accompanied by remittance payable to the city for all taxes collected or due, as shown on said report.

- (4) The excise tax levied in this section is hereby levied upon the retailer licensed to do business in the city and it is the intent of this article to so levy this tax as to require the payment of the tax at the time of delivery by the retailer to the wholesaler, who shall have the responsibility of remitting the tax to the city on behalf of the retailer on or before the tenth day of each calendar month, as hereinbefore required. hereunder is not paid on or before the tenth day of each calendar month, a ten (10) percent penalty on the gross tax plus delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus 3 percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.
- (d) *Noncompliance by wholesale dealer; distributor.* If any wholesale dealer or distributor fails or refuses to make the reports required herein, the city shall notify such dealer or distributor in writing and if the reports are not made and the taxes are not remitted within five (5) days from the date of such notice, such wholesale dealer or distributor shall be prohibited from making any further deliveries in the city and the retail licensees served by such wholesale dealer or distributor for whom the taxes have not been paid shall be subject to having their license suspended or revoked as herein provided.
- (e) *Unlawful retail sales.* It shall be a violation of this article for any person, or entity to sell at retail within the city alcoholic beverages, malt beverages or wine on which the taxes herein provided for have not been paid.
- (f) *Unlawful deliveries.* It shall be unlawful and a violation of this article for any wholesale dealer or distributor to deliver any alcoholic beverages, malt beverages or wine to any retail dealer in report and pay any tax levy hereunder to keep and preserve suitable records of the sales taxable under this section,
- (g) *Violations and penalties.* Any person violating any of the provisions of this article or who shall assist any retail dealer in alcoholic beverages s in the city to evade or avoid the payment of the taxes herein provided for shall be guilty of a violation of this ordinance and on conviction thereof in the municipal court shall be punished by a fine not to exceed \$1,000, and any such person so convicted shall also be subject to having his license suspended or revoked.

**Sec. 8-2. - Excise tax on sale of distilled spirits by the drink.**

- (a) In addition to all other taxes or license fees imposed upon retail dealers engaged in the sale of distilled spirits by the drink there is imposed an excise tax upon the sale of said drinks in the amount of three (3) percent of the total cost of such drink which is charged to the public. Such taxes shall be collected by the licensee under this article and any such licensees shall remit the same to the city manager on or before the tenth day of the succeeding month along with the appropriate returns showing a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink. Gross sales shall include all credit card sales and those sales shall be reported and taxes collected thereon shall be submitted to the city clerk to the same extent as required of cash sales. It shall be duty of each licensee required to make a report and pay

any tax levy hereunder to keep and preserve suitable records of the sales taxable under this section, and such other books or accounts as may be necessary to determine the amount of the tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three (3) years and to provide such returns and reports as may be required by the city manager. Licensees collecting the tax provided for 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 deduction should be the same rate authorized for deductions from state tax under chapter 8 of title 48 as provided in O.C.G.A. § 3-4-133. The city manager is hereby authorized to create such reports and returns as may be necessary to adequately provide for the collection of the excise tax provided in this section.

- (b) In the event the city manager deems it necessary to verify the excise tax submitted to the city pursuant to this section, for any month, he or she shall notify the licensee of such need for verification and the licensee shall submit a verified comprehensive report to the city manager, prepared by an auditor, reflecting all sales under this section by the licensee and the taxes submitted to the city. The licensee shall have thirty (30) days to submit such a report to the city clerk following such a request.
- (c) Any person violating any of the provisions of this section shall be guilty of a violation of this ordinance and on conviction thereof in the municipal court shall be punished by a fine not to exceed \$1,000, and licensees failing to remit excise taxes due and payable to the city as outlined in of this section shall be charged a ten (10) percent penalty and interest shall accrue at the rate of one (1) percent per month (twelve (12) percent per annum) until all fees are collected by the city.

#### **Section 2.**

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

#### **Section 3.**

In the event any section, subsection, paragraph, sentence, clause or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no matter affect or invalidate the other sections, subsections, paragraphs, sentences, clauses, or phrases of this ordinance, unless it clearly appears that such other parts are wholly and necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the intent in adopting this ordinance, that each section, subsection, paragraph, sentence, clause, or phrase herein is enacted separately and independently of each other.

#### **Section 4.**

This amended ordinance shall take effect and be in force from and after January 1<sup>st</sup>, 2020

This ordinance is hereby adopted on this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF CHICKAMAUGA, GEORGIA**

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**Mayor**

**Attest:** \_\_\_\_\_  
**City Clerk**