

Ordinance No. _____

AN ORDINANCE TO AMEND AND REPLACE THE ALCOHOL REGULATIONS FOR THE CITY OF REMERTON KNOWN AND DESIGNATED AS CHAPTER _____ OF THE CODE OF THE CITY OF REMERTON; AND FOR OTHER PURPOSES

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OR REMERTON, GEORGIA AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME AS FOLLOWS:

The alcohol ordinance of the City of Remerton shall be deleted in its entirety and replaced with the new alcohol ordinance attached hereto as "Exhibit A" and by this express reference made a part hereof. Said alcohol ordinance shall be made and designated as Chapter _____ of the ordinance of the City of Remerton, Georgia.

SO ORDAINED, this ____ day of _____, 2008.

By: _____

Honorable Cornelius Holsendolph, Mayor

Attest: _____

City Clerk

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Sec. 6-1. Definitions.

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

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

Brown bagging means the bringing of alcoholic beverages into business establishments licensed for the retail sale of malt beverages, wine or distilled spirits by the drink for the purpose of drinking such alcoholic beverages at any such establishment.

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

Fixed salary means the amount of compensation paid to any member, officer, agent or employee of a private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include any council on any profits from the sale of alcoholic beverages. For the purposes of this definition, tips or gratuities which are added to bills of members and their guests under club regulations shall not be considered as profits from the sale of alcoholic beverages.

Food caterer means any person who prepares food for consumption off the premises.

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

Grocery store means a business which holds a grocery store retail business license issued by the city, and which:

- (1) Is engaged primarily in the retail sale of food and beverage items by the package designed for non-premises consumption; and
- (2) Maintains at no time a retail inventory of alcoholic beverages which in more than 30 percent, valued at its retail sales price, of the total retail inventory of merchandise of such business, valued at its retail sales price.

Legal age means the age established by O.C.G.A. § 3-3-23, as amended from time to time, as the age below which alcoholic beverages may not lawfully be sold to, furnished to, purchased by or possessed by a person.

License means the authorization granted by the city to engage in the sale of specified alcoholic beverages upon the premises so licensed for a calendar year, or the remaining portion of a calendar year.

Licensed alcoholic beverage caterer means any retail dealer who has been licensed pursuant to article VI of this chapter.

Licensee means a person holding a license issued pursuant the terms of this chapter.

Lounge means a separate room connected with a part of and adjacent to the premises of a restaurant or its adjacent lobby or reception area, with all booths, stools, and tables located therein being open to view only from within the lounge, with a seating capacity of at least 20 persons, and with all access and all exits to and from the lounge opening into such restaurant or the lobby or reception area adjoining such restaurant except for emergency exits or exits used solely as service doors.

Malt beverages means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt hops or any other similar product, or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer provided that the term "malt beverage" does not include sake, also known as Japanese rice wine.

Manager means the individual who supervises the regular operations of a business licensed under this chapter and who is physically present on site at such business (a) at least 35 hours per week, or (b) at least 90 percent of the hours such business is open to the public, whichever is less.

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

Premises means the space or area owned, leased, or controlled by the licensee and used by the licensee for the purpose of operating under the license and shall include that area circumscribed by the property lines of the property for which an alcoholic beverage license is issued by the city; except that in the case of hotels and motels, the term "premises" shall include only that portion of the property where alcoholic beverages are sold, delivered, or served.

Private club means a nonprofit organization which is organized under state law which meets each of the following requirements:

- (1) Has either a tax exempt status under section 501 of the United States Internal Revenue Code or operates pursuant to a charter from a state or national parent organization which has such tax exempt status;
- (2) Has been in existence at least one year prior to the filing of its application for an alcoholic beverage license to be issued pursuant to this chapter;
- (3) Has at least 50 members paying dues on a regular periodic basis;
- (4) Is organized and operated exclusively for the pleasure and recreation of its members and their guests or for other nonprofit purposes;
- (5) Has facilities which are available for use only by the membership thereof and their guests and not by the general public;
- (6) Owns, rents or leases a building or space within a building for facilities for the use of its members and their guests;
- (7) Maintains kitchen and dining room space, equipment and items necessary to appropriately provide food service of full course meals for its members and their guests;
- (8) Is staffed with a sufficient number of employees for the preparation and service of meals for its members and their guests;
- (9) Has no member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits, beyond a fixed salary, from the sale of alcoholic beverages to the club or to its members or their guests; and

(10) Has such licenses as are required for the operation thereof.

Restaurant means a business kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly prepared and served for a period of at least five hours per day on at least five days per week with the exception of (i) holidays, (ii) vacations not exceeding two weeks duration, and (iii) periods of redecorating not exceeding 30 calendar days duration except to the extent extended by the city council in its discretion upon request therefore; and which meets all of the following requirements:

(1) Meets all health and sanitation requirements for food service establishments required under applicable federal, state and local laws, codes, ordinances, rules and regulations;

(2) Maintains upon the premises thereof in operative condition cooking and kitchen facilities and equipment appropriate to accommodate the preparation of meals for 10 food service customers at one time;

(3) Maintains upon the premises thereof seating facilities, at booths or tables designed for food service, sufficient for at least 10 food service customers at one time, including seating provided by counters and stools, with booths and tables for purposes hereof being large enough to adequately accommodate at least two place settings of cutlery and dishes;

(4) Maintains at all times such additional facilities, equipment and items as well as employees as shall be necessary for the cooking, preparation and service of meals for consumption at tables or booths located upon the premises for at least 10 food service customers at one time;

(5) Is at all times during the hours of operation thereof prepared to serve a menu of food , chosen by food service customers from a printed menu available to all food service customers at prices which are competitive with other restaurants in the community whether or not such other restaurants engage in the sale of alcoholic beverages; and

(6) Derives at least the following percentages of its monthly total gross food and beverage sales (which shall be reported quarterly pursuant to Section 6-161) from the sale of food prepared, served and consumed upon the premises thereof:

(a) 10 percent for each month of the first calendar quarter of 2009 (January, February and March);

(b) 20 percent for each month of the second calendar quarter of 2009 (April, May and June); and

(c) 30 percent for all subsequent months during the term of any license held hereunder.

Retail sale means the sale or offer of sale of any alcoholic beverage to any member of the public.

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines,

champagnes, combination of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

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

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

Sec. 6-2. Activities are privileges.

The manufacture, distribution, sale and possession of alcoholic beverages within the city are privileges and not rights with any privilege with respect thereto granted pursuant to this chapter to the holder of any alcoholic beverage license being held and enjoyed only for so long as the holder of such license issued pursuant to this chapter shall fully and completely comply with all provisions of this chapter.

Sec. 6-3. Compliance required.

No person shall:

(1) Distribute, sell, or offer to sell, either at retail or wholesale, any alcoholic beverage in the city except to the extent permitted pursuant to a current alcoholic beverage license issued by the city;

(2) Distribute, handle, possess, sell, or offer to sell any alcoholic beverage in the city in violation of any provisions of this chapter or any provision of any law or regulation of the state relative to any alcoholic beverage;

(3) Distribute, handle, possess, sell or offer to sell any alcoholic beverage in the city except in compliance with the provisions of this chapter.

Sec. 6-4. Sales permitted.

The sale of malt beverages, wines and distilled spirits, subject to the provisions of this chapter, as this chapter may be amended from time to time, are permitted in the city.

Sec. 6-5. Consumption in public places.

Except to the extent otherwise specifically permitted, no person shall consume any alcoholic beverage while such person is located in or upon any public street, road, alley, lane or sidewalk of the city or upon the premises of any building owned or leased by the city or upon the premises of any other property, either real or personal, owned or leased by the city.

Sec. 6-6. Open containers.

Except to the extent otherwise specifically permitted, no person shall have in such person's possession any package which contains an alcoholic beverage which has been opened or the seal of which has been broken while such person is located in or upon any public street, road, alley, lane, or sidewalk of the city, upon the Premises of any building owned or leased by the city or upon the Premises of any other property, either real or personal, owned or leased by the city. No person shall likewise have any open container of alcoholic beverage outside of the Premises where purchased unless on Property owned by, rented by, or upon which said person is an invited guest. The penalty for violation of this section shall be a maximum fine of \$1,000.00 and/or up to twelve (12) months imprisonment.

Sec. 6-7. False and misleading statements.

No person shall make, cause to be made, or present to the city any application for issuance, application for renewal, report, or other notification with respect to any alcoholic beverage license issued or sought to be issued or renewed by the city or any tax on alcoholic beverages due to the city which contains as of the date made or presented, any untrue or misleading statement or representation.

Sec. 6-8. Knowledge of chapter.

The holder of any alcoholic beverage license as well as all employees, agents and servants of any business in which such alcoholic beverage license is utilized shall be conclusively presumed, for purposes of this chapter, to have at all times complete and full knowledge of all provisions of this chapter.

Sec. 6-9. Notification to state revenue department of violations.

Upon determination of the existence of circumstances which are required pursuant to the provisions of O.C.G.A. § 3-3-21 to be reported to the state department of revenue, the City Manager shall promptly report the existence of such circumstances to the state department of revenue as required.

Sec. 6-10. Criminal conviction not required.

Any proceeding or action which may be taken by the city with respect to the suspension or revocation of any alcoholic beverage license or the grant, denial or renewal of any such license shall be and are administrative in nature with respect to the privileges of the holder of such license and the right of such holder to continue to engage in the sale of alcoholic beverages in accordance with the provision of this chapter. No conviction, dismissal, acquittal, other plea or other disposition with respect to any criminal violation involving the sale, distribution or possession of alcoholic beverages or any other alleged criminal conduct shall be necessary for any action by the city pursuant to the provisions of this chapter relative to any such license or otherwise effect any action taken by the city relative thereto.

Sec. 6-11. Violation and penalties.

- (a) It shall be unlawful for any person to violate any of the provisions of this chapter.
- (b) The following guidelines for the disposition of alcoholic beverage license violations are hereby adopted. It is emphasized that these are guidelines only and can be altered based upon the facts of any individual case. The guidelines for disposition of alcoholic beverage license violations are as follows:
 - (1) First offense within past two years: 30 days suspension and \$150.00 reinstatement fee;
 - (2) Second offense within past two years: 90 days suspension and \$250.00 reinstatement fee; unless
 - (3) Second offense within past 12 months: Revocation;
 - (4) Third offense within past two years: Revocation.

Sec. 6-12. Effective Date.

This Ordinance shall be effective for all licenses issued for 2009 and thereafter and otherwise on January 1, 2009, except for the provisions of Sections 6 – 138 ad 6 –139 which shall be effective July 1, 2009.

ARTICLE II. MINIMUM AGE

Sec. 6-31. Consumption by persons not of legal age.

No person, who is the holder of any alcoholic beverage license issued by the city nor any agent, servant or employee of the business in which any such license is utilized, shall in connection with the operation of the business in which such license is utilized, permit or allow any person who has not attained legal age to consume any alcoholic beverage upon the premises licensed.

Sec. 6-32. Possession by persons not of legal age.

No person, who is the holder of any alcoholic beverage license issued by the city nor any agent, servant, or employee of any business in which any such license is utilized, shall in connection with the operations of the business in which such license is utilized, except as otherwise specifically provided in this chapter, permit or allow any person who has not attained legal age to possess any alcoholic beverage upon the premises licensed.

Sec. 6-33. Furnishing to persons not of legal age.

No person, who is the holder of any alcoholic beverage license issued by the city nor any agent, servant or employee of the business in which any such license is utilized, shall in connection with the operation of the business in which such license is utilized sell, provide, give, furnish or distribute any alcoholic beverage to any person who has not attained legal age, except for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state. Notwithstanding the foregoing, no person shall be in violation of the provisions hereof in the event that (i) such person has been furnished with identification showing that the person who is being furnished with alcoholic beverages has attained legal age and (ii) under the surrounding circumstances the person so furnished such identification could reasonably conclude that the person furnishing such identification had attained legal age. For purposes of this section, the term "identification" means any document issued by a governmental agency containing a description of the person such as the person's photograph or other written description of and providing the person's date of birth, and shall include, without being limited to, a passport, a military identification card, or a driver's license.

Sec. 6-34. Acquiring for persons not of legal age.

No person, who is the holder of any alcoholic beverage license issued by the city nor any agent, servant or employee of the business in which any such license is utilized, shall in connection with the operation of the business in which such license is utilized purchase or acquire any alcoholic beverage for or on behalf of any person who has not attained legal age, or otherwise procure for or furnish to any person who has not attained legal age any alcoholic

beverage, except for medical purpose upon the prescription of a physician duly licensed under the laws of the state.

Sec. 6-35. Employment of persons not 18 years of age.

(a) No holder of an alcoholic beverage license nor any agent, servant or employee of any business in which such license is utilized shall permit or allow any person who has not attained 18 years of age and who is employed by any business operated upon premises for which an alcoholic beverage license is issued by the city to engage in the sale, distribution, or acceptance of orders for alcoholic beverages; provided, however, that the provisions hereof shall not apply to nor prohibit persons who have not attained 18 years of age who are employed by a business in connection with the operation at such premises of a grocery store, as such term is defined in this chapter from engaging in the sale, distribution, and handling of alcoholic beverages at such premises in connection with employment in the operation of such business.

(b) No holder of an alcoholic beverage license nor any agent, servant or employee of any business in which such license is utilized shall permit or allow any person who has not attained 18 years of age to be employed by any business operated upon premises for which a license for the consumption of alcoholic beverages upon such premises is issued by the city; provided, however, that the provisions of this subsection shall not apply to nor prohibit the employment of persons who have not attained 18 years of age in connection with the operation upon such premises of a restaurant, provided further, that persons who have not attained 18 years of age shall not engage in the sale, service, or acceptance of orders of alcoholic beverages in connection with the operation of any such restaurant.

Sec. 6-36. Failure to check identification.

No person who is the holder of any alcoholic beverage license issued by the city nor any agent, servant or employee of the business in which any such license is utilized shall in connection with the operation of the business in which such license is utilized fail to require or check the identification of the person to whom any alcoholic beverage is sold or furnished prior to the sale, furnishing or distribution of any alcoholic beverage or any person who has not attained legal age, except for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in the state. No person shall be in violation of the provisions hereof in the event that (i) such person has been furnished with identification showing that the person who is being furnished with alcoholic beverages has attained legal age and (ii) under the surrounding circumstances the person so furnished such identification could reasonably conclude that the person furnishing such identification had attained legal age. For purposes of this action, the term "identification" means any document issued by a governmental agency containing a description of the person such as the person's photograph or other written description and providing the person's date of birth, and shall include, without being limited to, a passport, a military identification card, or a driver's license.

ARTICLE III. LICENSES

Sec. 6-61. License required for sales.

No person shall sell or offer to sell any alcoholic beverages which is permitted to be sold in the city pursuant to the provisions of this chapter unless such sale is made or is to be made pursuant to the authority of a current effective alcoholic beverage license issued by the city pursuant to the provisions of this chapter.

Sec. 6-62. Classification of licenses.

Alcoholic beverage licenses authorized to be issued by the city and required pursuant to the provisions of this chapter to be held for the sale of alcoholic beverages are classified as follows:

- (1) Wholesale malt beverage license;
- (2) Retail malt beverage package license;
- (3) Retail malt beverage consumption license;
- (4) Wholesale wine license;
- (5) Retail wine package license;
- (6) Retail wine consumption license;
- (7) Wholesale distilled spirits license;
- (8) Retail distilled spirits package license; and
- (9) Retail distilled spirits consumption license.

Sec. 6-63. Activities authorized pursuant to licenses.

The holder of an alcoholic beverage license issued by the city, as well as the employees of such holder, shall be authorized subject to the provisions of this chapter, the laws of the state relative thereto and the rules, regulations and requirements of the state department of revenue relative thereto to engage in the following respective activities but none other than those which are specifically authorized with respect to each such license:

- (1) Wholesale malt beverage license, wholesale sale only of malt beverage in original unbroken and sealed containers to the holders of effective retail malt beverage licenses issued by the state department of revenue for the purpose of resale only;

- (2) Retail malt beverage package license, retail sale only of malt beverages in original unbroken and sealed containers to consumers for take out only and not for consumption upon the licensed premises;
- (3) Retail malt beverage consumption license, retail sale only of malt beverages to consumers for consumption only upon the licensed premises;
- (4) Wholesale wine license, wholesale sale only of wine in original unbroken and sealed containers to the holders of current retail wine licenses issued by the state department of revenue for the purpose of resale only;
- (5) Retail wine package license, retail sale only of wine in original unbroken and sealed containers to consumers for take out only and not for consumption upon the licensed premises;
- (6) Retail wine consumption license, retail sale only of wine to consumers for consumption only upon the licensed premises.
- (7) Wholesale distilled spirits license, wholesale sale only of distilled spirits in original unbroken and sealed containers to the holders of effective retail distilled spirits beverage licenses issued by the state department of revenue for the purpose of resale only;
- (8) Retail distilled spirits package license, retail sale only of distilled spirits package in original unbroken and sealed containers to consumers for take out only and not for consumption upon the licensed premises;
- (9) Retail distilled spirits consumption license, retail sale only of distilled spirits to consumers for consumption only upon the licensed premises.

Sec. 6-64. Qualifications for license.

No alcoholic beverage license required by the provisions of this chapter shall be issued to any person or for any location unless and until it has been successfully demonstrated to the satisfaction of the city council that:

- (1) Such person, or the person who shall actually and actively be in charge and management of the day to day operation of the business in which such license shall be utilized is a citizen of the United States of America;
- (2) Such person by reason of such person's business experience, financial standing, moral character, mental capacity, physical capacity, trade associations, record of arrest, and reputation in communities in which he has lived is, in the opinion of the city council, likely to operate the business in which the license will be utilized in conformity with federal, state and local laws, ordinances, rules, regulations, and requirements, including particularly the provisions of this chapter and the laws, rules and regulations of the state and the United States relative to the manufacture, sale, and distribution of alcoholic beverages, and, in making such determination, the city council shall, in addition to the other and further provisions of this section, consider all information that would be considered by the city council if this person was being denied a renewal license pursuant to the requirements of section 7-82 or, if this person was

having his license suspended or revoked pursuant to the requirements of section 7-86; provided further that no license shall be issued to or for:

a. Any person whose business in which the license will be utilized is conducted by a manager or agent unless such manager or agent possessed and meets all of the qualifications required hereunder for the holder of an alcoholic beverage license and would not be prohibited from being the holder of such a license;

b. A partnership unless all partners, members and managers of such partnership, as well as the manager of the business in which the license will be utilized, possess and meet all of the qualifications for the holder of an alcoholic beverage license and would not be prohibited from being the holder of such a license;

c. A corporation or other entity unless all officers or managers thereof, all directors or members thereof and all shareholders thereof who shall either directly or beneficially as such word is defined and utilized in the Internal Revenue Code of the United States and regulations issued pursuant thereto own more than 20 percent of the outstanding shares of stock or membership interests thereof, as well as the manager of the business in which the license will be utilized, possess and meet all of the qualifications for the holder of an alcoholic beverage license and would not be prohibited from being the holder of such a license;

d. Any person who has been convicted, has entered a plea of nolo contendere or has forfeited a bond with respect to any felony within ten years prior to the filing of any such application or with respect to any misdemeanor within five years prior to the filing of any such application including particularly but not being limited to those offenses involving force or violence, prostitution, gambling, or tax law violations in the event that such conviction, plea or bond forfeiture tends to indicate, in the opinion of the city council, that the applicant may not maintain or operate the business in which the alcoholic beverage license sought by the applicant would be utilized in conformity with federal, state or local laws, rules and regulations. The terms "felony" and "misdemeanor" as used in this subsection shall include the violation of any criminal law of the United States of America, the state, or any other state of the United States of America; provided that the term "misdemeanor" shall not include those violations which are commonly referred to as "traffic violations." The term "conviction" as used in this subsection shall include an adjudication of guilt, plea of guilty, a plea of nolo contendere or the forfeiture of a bond by a person charged with a crime. Notwithstanding the foregoing, the city council, in its sole discretion, may decide to authorize the issuance of a license to a person who has in the past been convicted of, plead guilty to, entered a plea of nolo contendere to, or forfeited a bond on any crime when, 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, it has determined, in the sole discretion of the city council, that such action is in keeping with the ends of justice and the public interest and welfare;

e. Any person who has been convicted of, has entered a plea of nolo contendere to, or forfeited a bond to any charge of violation of any state, federal, or local law involving the manufacture, sale, distribution, or possession of alcoholic beverages, contraband, or any "controlled substances" as such term is utilized under laws of the state, or any other substance, the control or possession of which is controlled or prohibited under laws of the state or the United States of America, or any other state of the United States. The term "conviction" shall include an adjudication of guilt, plea of guilty, a plea of nolo contendere or the forfeiture of a bond by a person charged with a crime. Notwithstanding the foregoing, the city council, in its

sole discretion, may decide to authorize the issuance of a license to a person who has in the past been convicted of, plead guilty to, entered a plea of nolo contendere or forfeited a bond on any crime when, 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, it has determined, in the sole discretion of the city council, that such action is in keeping with the ends of justice and the public interest and welfare;

f. Any person who as either the previous holder of any alcoholic beverage license issued by any authority, or as a party interested in any business in which any alcoholic beverage license issued by any authority was utilized, either conducted, or allowed the conduct of, the business with respect to which such license was issued in such a manner as to cause, in the opinion of the city council, greater than normal police activity, observation or inspection in order to prevent the violation of any law or regulation either relating to such license or the business associated therewith or in order to maintain public order;

g. Any location not suitable therefore, in the opinion of the city council, because of either traffic congestion or the general character of the neighborhood or by reason of the effect which the utilization of such license at such location would have upon adjacent and surrounding properties or upon adjacent neighborhoods;

h. Any location with respect to which any alcoholic beverage license issued by the city or by the state department of revenue was revoked within one year immediately prior to the date of the filing of an application for a license for such location;

i. Any person who has not attained the age of 21 years;

j. Any person who either held any alcoholic beverage license issued by any authority which was revoked by such authority within a one-year period immediately prior to the date of the filing of an application or was a party interested in any business in which any alcoholic beverage license issued by any authority was revoked by such authority within the one-year period prior to the date of the filing of an application;

k. Any location that is within 300 feet, as measured in a straight line from the nearest point on the property which will be the location of the business in which the alcoholic beverage license will be utilized to the nearest point on the property upon which is located a church, school, college, or alcohol or drug treatment center operated by any governmental agency, with the terms "school" and "college" as used in this subsection meaning those institutions which are both (i) operated either by a governmental or church entity and (ii) are engaged in courses of instruction which are commonly taught in public primary or secondary schools or colleges in the state or that is 300 feet from a church or synagogue;

l. Any location at which the utilization of the licensee would cause or create any violation of the zoning ordinance of the city or of the building code or fire code of the city;

m. Any location at which an alcoholic beverage license has previously been suspended or revoked by either the city or the state department of revenue and where, in the opinion of the city council, there exists the likelihood that the utilization of such license at such location would cause or necessitate greater than normal police activity, observation or inspection in order to either prevent violation of laws and regulations relating to such location or to maintain public order, due to the history of either (i) violations of the provisions of this chapter or of the laws,

rules and regulations of the state relative to alcoholic beverages by the holder of the previous license at such location or agents, servants or employees thereof or (ii) activities or conduct of patrons of the business in which such previous license was utilized at such location, all as compared to the locations of other licenses, or would cause or tend to cause, in the opinion of the city, council, greater than normal community problems or conflict as compared to the locations of other licenses;

n. Any location at which an alcoholic beverage license has previously been suspended or revoked by either the city or the state department of revenue and where, in the opinion of the city council, problems associated with the utilization of a prior alcoholic beverage license at such location were such that it would not be in the best interest of the public health, safety or welfare to grant any other alcoholic beverage license for such location;

o. Any person or any location with respect to which the granting or utilization of a license would constitute a violation of laws, rules or regulations of the state; or

p. Any person with respect to whom information is required under subsection 7-66(2), (3) or (4) who has not paid or satisfied any tax or other financial obligation due to the city which is not then the subject of appeal or litigation.

q. Any person or business who does not have and maintain a land-line telephone number, operable at all times, for which an alcoholic beverage license of any type is issued for the premises.

(3) In addition to the other qualifications set forth herein, an applicant for any type consumption license must meet all of the requirements of either the following subsection a. , subsection b. if a licensed alcoholic beverage caterer or subsection c. if a private club:

a. No license will be issued unless the license applicant likewise operates a restaurant upon the proposed licensed premises and such restaurant:

1. Sells food prepared, served and consumed on the premises; and

2. Such sales of food prepared, served and consumed on the premises constitutes at least 50 percent of the gross income of all food and beverage sales on the premises if Applicant is open on Sunday and sells alcohol on Sunday. The term "gross income" shall not include tips or gratuities which may be added to the base food bill; and

3. Has permanent seating capacity at tables and booths, including bar stools, for at least 10 persons; and

4. Meets all of the definitional requirements of "restaurant" set forth in section 6-1 of this chapter.

b. No license will be issued unless the license applicant is a food caterer that:

1. Holds a valid license from the city authorizing such applicant to sell alcoholic beverages by the drink for consumption on the premises; and

2. Sells food prepared, served and consumed on either the premises or off-premises at an authorized catered function; and
 3. Such sales of food prepared, served and consumed on the premises or off-premises at an authorized catered function constitutes at least 50 percent of the gross income of all food and beverage sales of the food caterer. The term "gross income" shall not include tips or gratuities which may be added to the base food bill; and
 4. Meets all of the requirements set forth in article VI of this chapter.
- c. No license will be issued unless the license applicant likewise operates a food service facility upon the proposed licensed premises which is a private club and such private club:
1. Sells food prepared, served and consumed on the premises and such food sales constitute at least 50 percent of the gross income of all food and beverage sales on the premises. The term "gross income" shall not include tips or gratuities which may be added to the base food bill; and
 2. Meets all the definitional requirements of "private club" set forth in section 6-1 of this chapter.

Sec. 6-65. Location.

Notwithstanding any other provision of this article, the location with respect to which an alcoholic beverage license has been issued by the city shall remain eligible for issuance of alcoholic beverage licenses by the city notwithstanding subsequent changes which would otherwise render the locations nonlicensable under subsection 6-64(2)k for so long as an alcoholic beverage license remains issued for such location by the city and further provided that in the event of the termination of any such license issued with respect to such location the location itself shall thereafter remain eligible for the issuance of alcoholic beverage licenses if within six months following such termination an alcoholic beverage license is issued by the city for such location.

Sec. 6-66. Applications.

Prior to the issuance of any alcoholic beverage license, the applicant therefore shall file with the city a written application, in such form and substance as shall from time to time be determined by the city manager, together with separate certified checks payable to the city or cash for both the application fee provided for in this article and for the licensee fee provided for in this article. Applications for alcoholic beverage licenses shall be presented to the City Manager or his designee, shall be signed by the applicant if any individual, or by all partners if a partnership, or by a duly authorized agent if a corporation, shall be verified by oath or affidavit, shall contain the following statements and information and shall otherwise meet the following requirements:

- (1) In the case of an individual applicant who will actually and actively be in charge and management of the day to day operation of the business in which the license applied for will be utilized, then the name, age, sex, height, weight, birth date, social security number, current

residence address, business addresses, and all previous such addresses of the applicant within the last ten years;

(2) In the case of an individual applicant who will not actually and actively be in charge and management of the day to day operation of the business in which the licensee applied for will be utilized, then the name, age, sex, height, weight, birth date, social security number, current residence address, business addresses, and all previous such addresses within the last ten years of both the applicant and the person who will actively manage such business;

(3) In the case of a partnership, then the name, date and location of formation, federal tax identification number, current principal business address, and all prior business addresses within the past ten years of such partnership as well as the name, age, sex, height, weight, birth date, social security number, current business address, current residence address, and all prior such addresses within the past ten years of all partners, members and managers of such partnership and the manager or managers of the business in which the license applied for will be utilized;

(4) In the case of a corporation or entity, then the name, date and location of incorporation or formation, federal tax identification number, current principal business address, name and address of registered agent in the state for service of process, and all prior business addresses within the last ten years of such corporation as well as the name, age, sex, height, weight, social security number, current business address, current residence address, and all prior such addresses within the last ten years of all officers or managers thereof, all directors thereof, and all shareholders or members thereof who own either directly or beneficially, as such word is defined and utilized in the Internal Revenue Code of the United States and regulations issued pursuant thereto, more than 20 percent of the outstanding shares of stock or membership interests thereof, and of the manager or managers of the business, in which the license applied for will be utilized;

(5) A statement with respect to whether the applicant or any person with respect to whom information is required under subsection (2), (3) or (4) of this section has made at any prior time any application to any governmental entity for any alcoholic beverage license of any nature and, if so, the circumstances thereof, including the disposition and current status thereof, all in sufficient detail to evaluate such application;

(6) A statement with respect to whether the applicant or any person with respect to whom information is required under subsection (2), (3) or (4) of this section has ever held any alcoholic beverage license issued by any governmental entity, the circumstances thereof, and the present status of such license all in sufficient detail to evaluate such application;

(7) A statement with respect to whether the applicant or any person with respect to whom information is required under subsection (2), (3) or (4) of this section has ever held any alcoholic beverage license issued by any governmental entity which has been suspended or revoked and, if so, the circumstances thereof, all in sufficient detail to evaluate such application;

(8) A statement with respect to whether the applicant or any person with respect to whom information is required under subsection (2), (3) or (4) of this section has ever been convicted of, entered a plea or nolo contendere to, or forfeited a bond on, any crime other than traffic violations and, if so, the nature and circumstances thereof, all in sufficient detail to evaluate such application;

(9) A statement with respect to whether any person or entity other than the applicant and those persons with respect to whom information is required under subsection (2), (3) or (4) of this section is or will be either directly or indirectly interested in the profits or losses of the business in which the license applied for will be utilized and, if so, the circumstances thereof, all in sufficient detail to evaluate such application;

(10) The classification of license applied for;

(11) The location with respect to which the license will be utilized and the name and nature of the business in which the license will be utilized, all in sufficient detail to evaluate such application;

(12) A statement that both the applicant and all other person's with respect to whom information is required under subsection (2), (3) or (4) of this section are fully qualified in all respects under this chapter to be the holder of an alcoholic beverage license issued by the city and that all such persons are entitled to have the license requested issued in accordance with the provisions of this chapter;

(13) A statement that the location with respect to which the licensee is sought meets all conditions, qualifications and criteria established in this chapter for the location of a business utilizing the alcoholic beverage license applied for;

(14) Such other information and statements as shall from time to time be required by the city manager or the city council;

(15) A complete set of fingerprints administered by the police department of the applicant and all persons with respect to whom information is required under subsection (2), (3) or (4) of this section;

(16) A head and shoulder photograph, such as is contained on a state driver's license, taken within the past three years of the applicant and all persons with respect to whom information is required under subsection (2), (3) or (4) of this section; and

(17) Written consents of the applicant and all persons with respect to whom information is required under subsection (2), (3) or (4) of this section that the city has the continuing permission and authority of all such persons to monitor the public records of the city, county, the state and of the United States to ensure on-going compliance with the statements set forth in subsections (7) and (8) of this section. Any license granted upon an application that does not contain such written consent shall automatically expire at midnight on December 31 of the year in which issued. Such license cannot be renewed under the provisions of sections 6-77 and 6-79. Rather, the city shall treat the request for renewal for such license as an application for a new license under section 6-66.

Sec. 6-67. Designation of agent.

All applicants for alcoholic beverage licenses made by a corporation, other entity or a partnership shall name in the application one or more persons as the agent and representative for the corporation, entity or partnership to receive all communications, notices, service of process or other papers or documents on behalf of the corporation or partnership in connection

with any matter arising out of or connected with the issuance, holding, suspension, revocation or other action with respect to any such license. The application shall give the mailing address of such person, or persons, with the mailing of any notice to any such person at the address so furnished being sufficient notice to the corporation or partnership. If any such person shall cease to be the agent and representative of such corporation or partnership, another person shall immediately be appointed by the license holder and written notice shall be given the city stating the name and address of such new agent and representative.

Sec. 6-68. Application fee.

The application for an alcoholic beverage license shall be accompanied by a certified check payable to the city or cash in an amount as set forth in the schedule of fees and charges on file in the office of the city clerk as an application fee to cover the cost of processing the application and conducting necessary investigations, which fee shall be nonrefundable upon denial of the application and shall not apply toward any licensee fee or excise tax payable by the licensee if the application is granted.

Sec. 6-69. Investigation of application.

Upon receipt by the City Manager or designee of any application for an alcoholic beverage license, such application shall be forwarded to the chief of police for investigation, who, following such investigation, shall report his findings with respect thereto in writing and shall attach thereto the police record, if any, of every person named in the application.

Sec. 6-70. Recommendation.

The City Manager shall conduct investigation and study with respect to an application for the issuance of an alcoholic beverage license as he shall deem necessary and shall report the investigation and study to the city council with his recommendation as to what action should be taken with respect to the grant or denial of the application for such license.

Sec. 6-71. Grant or denial of application.

(a) Following receipt by the city council of an application for an alcoholic beverage license together with the written report of the chief of police and the written recommendations relative thereto, the city council shall either:

(1) Grant such application and direct issuance of a license in connection therewith subject to compliance with the provisions of this chapter; or

(2) Table action on such application pending a hearing on such application as provided in this section.

If such application is so tabled by the council then the city manager shall cause a written citation to be issued to the applicant requiring such applicant to show cause, if any the applicant can, at

a hearing at a time and place specified therein which shall not be less than five nor more than 30 days from the date of service of the citation by mail or otherwise upon the applicant as to why the application should not be denied as well as written notice of the findings of the chief of police, the recommendation of the City Manager relative to such application, if any, and the recommendation of the city manager relative thereto.

(b) The hearing provided for above, which need not be a regular meeting of the city council, may be continued by announcement at such time and place due to the lack of a quorum of the city council or request of the applicant or for good cause shown. At such hearing the applicant shall have the opportunity to show cause why the application should be granted and should not be denied and shall be entitled to the opportunity to present evidence, to present witnesses, to cross examine witnesses presenting evidence against granting of the application, to be represented by an attorney, and to have the proceedings transcribed or recorded at the applicant's expense, all in accordance with such rules and procedures as may be adopted from time to time by the city council relative thereto.

(c) Following the conclusion of such hearing the city council shall, at a regular or called meeting thereof within 30 days of the date of such hearing, render its decision regarding the grant or denial of such application.

(d) Upon the denial of such application, the city manager shall cause the applicant to be notified in writing within ten days of such decision of the nature of the decision and the reasons therefor and shall cause to be returned to the applicant the licensee fee tendered in connection with the application but not the application fee which shall be nonrefundable.

(e) Upon the grant of such application the city manager shall promptly notify the applicant thereof and the City Manager shall promptly proceed to cause the license applied for to be issued.

Sec. 6-72. Issuance of license.

Upon the approval of an application for an alcoholic beverage license by the city council, the City Manager, or his designee, shall cause to be issued to the applicant the license applied for with respect to the location listed in the application upon payment of all fees and charges required therefore and subject to the conditions and limitations imposed in this chapter relative thereto.

Sec. 6-73. Conditions and limitation of license.

The grant and issuance of an alcoholic beverage license to an applicant shall be conditioned upon:

- (1) Payment of all fees, charges and taxes applicable thereto;
- (2) Obtaining and maintenance of a license issued by the state department of revenue to the applicant for the location listed in the application for the same type activity which is authorized in the alcoholic beverage license issued by the city;

(3) Obtaining and maintaining a business license issued by the city with respect to the business in which such alcoholic beverage license is to be utilized;

(4) All statements, representations and information contained in the application for such license and all renewal and amended applications relative thereto continuing to remain materially unchanged except to the extent contained in amended application which have been granted pursuant to the provisions of section 7-89; and

(5) Compliance with all requirements and provisions of this chapter and all laws, rules and regulations of the state relative to the sale, distribution and possession of alcoholic beverages.

Sec. 6-74. License fees.

(a) In addition to all other charges, taxes, and fees relative thereto, annual alcoholic beverage license fees as set forth in the schedule of fees and charges on file in the office of the city manager are imposed (which, consistent with city policy, are set by the city manager with the informal consent of city council) and shall be paid prior to the issuance of or renewal of any alcoholic beverage license;

(b) License fees for the sale of alcoholic beverages are due and payable immediately upon issuance thereof and immediately as of the date of renewal thereof;

(c) Any license issued at any time during a year shall require payment in full of the total amount of the annual license fee therefore with there being no proration whatsoever with respect to the issuance of any such license; and

(d) All license fees payable under this section shall be paid either in lawful currency of the United States of America or by certified or cashier's check payable to the city.

Sec. 6-75. Duration.

No alcoholic beverage license shall be issued for a period of time less than the remainder of such calendar year. In the event of the revocation, suspension, termination, lapse or surrender of a license before the expiration of a calendar year there shall not be any refund therefore.

Sec. 6-76. Expiration.

All alcoholic beverage licenses shall expire at midnight on December 31 of the year in which issued with all applications for a renewal of the license for the ensuing year to be treated as applications for new licenses except to the extent otherwise provided in this chapter.

Sec. 6-77. Application for renewal.

The holder of any alcoholic beverages license who desires to renew such license shall annually file with the City Manager, or his designee, an application therefore in such form and

content as shall be determined from time to time by the city manager on or before 12:00 noon on December 15 of the year preceding the year for which the application for renewal is made. Such application for renewal shall be accompanied by the applicable annual license fee for the ensuing year. Failure of any holder of any alcoholic beverage license to file such application for renewal by such time and to pay together therewith the required applicable annual license fee for the ensuing year shall render the license void, lapsed, and nonrenewed effective as of the last minute of December 31 of that year; provided however, that for providential cause shown to the satisfaction of the City Council, the City Council may, in its sole discretion, extend the time for filing of such application for renewal and payment of such license fee for a period of time not later than January 31 of such ensuing year.

Sec. 6-78. Lapse of license.

(a) If the holder of any alcoholic beverage license fails to timely file an application for renewal or to pay such annual license fee, as the time therefore may be extended pursuant to this chapter, then such license shall automatically become nonrenewed and lapsed.

(b) In such event, in order to obtain an alcoholic beverage license, such former licensee shall be required to file an application for another alcoholic beverage license in accordance with the provisions of this chapter.

(c) In such event, pending receipt of other such alcoholic beverage license, such former licensee shall not be entitled to engage in the sale of the alcoholic beverages formerly authorized pursuant to such lapsed license and shall immediately cease and desist in conducting such sales.

Sec. 6-79. Operation pending renewal.

Upon the timely filing of an application for renewal of any alcoholic beverage license and the payment of the required license fee therefore pursuant to the provisions of section 6-77, the holder of such license shall be entitled to continue to engage in the activity authorized pursuant to the license issued for the previous year, subject to the provisions of this article, pending action on the application for renewal of such license.

Sec. 6-80. Review of application for renewal.

All applications for renewal of alcoholic beverage licenses shall be reviewed by the city manager and/or his designees prior to the January regular meeting of the city council and the city manager shall submit a written recommendation to the city council with respect to the renewal or nonrenewal of each such alcoholic beverage license. Recommendations for renewal may be summary in form and may be collective; however, any recommendation for nonrenewal shall be made individually and shall specify the reasons for recommendation for nonrenewal.

Sec. 6-81. Grant or denial of renewal.

(a) On or before the regular February monthly meeting thereof, the city council shall with respect to each application for renewal either (i) grant such application for renewal or (ii) table action on such application pending a hearing on such application for renewal as provided in this section.

(b) If an application for renewal is so tabled then the city manager shall cause a written citation to be issued to the applicant requiring the applicant to show cause why the application for renewal should be granted at a hearing at a time and place specified therein which shall not be less than five days nor more than 30 days from the date of service of the citation by mail or otherwise upon the applicant as well as written notice of the recommendation and reasons of the city manager relative to nonrenewal of such license or the recommendation of the city manager for renewal of such license, as the case may be.

(c) The hearing provided for in subsection (b) of this section, which meeting need not be a regular meeting of the council, may be continued by announcement at such time and place due to the lack of a quorum of the city council or at the request of the applicant or for good cause shown. At such hearing the applicant shall have the opportunity to show cause why the application for renewal should be granted and shall be entitled to the opportunity to present evidence, to present witnesses, to cross examine witnesses presenting evidence against granting the application for renewal, to be represented by an attorney, and to have the proceeding transcribed or recorded at the applicant's expense, all in accordance with such rules and procedures as may be adopted from time to time by the city council relative thereto.

(d) Following the conclusion of such hearing the city council shall, at a regular or called meeting thereof within 30 days of the date of such hearing, render its decision regarding the granting or denial of such application for renewal.

(e) Upon the denial of such application the city manager shall cause the applicant to be notified in writing within ten days of such decision of the nature of such decision and the grounds therefor and shall cause to be returned to the applicant the license fee tendered in connection with the application for renewal whereupon, effective 30 days following notification by the city manager to the applicant thereof, all rights of the applicant to operate under the license for the preceding year shall lapse and terminate and the applicant shall cease and desist from all activity authorized under the prior alcoholic beverage license sought to be renewed.

(f) Upon the grant of such application for renewal the city manager shall promptly notify the applicant thereof and the City Manager shall promptly proceed to cause the license applied for to be renewed.

Sec. 6-82. Grounds for denial of application for renewal.

The city council shall be entitled to deny renewal of any alcoholic beverage license upon a finding by the city council, following the hearing prescribed in connection therewith, of the existence, in the opinion of the city council, of any of the following:

(1) Any violation by the holder of the alcoholic beverage license or by any other person required under this chapter in connection with such license to meet the qualifications required for the issuance of such license of any of the following:

- a. Any federal or state law, rule or regulation relative to the manufacture, distribution, sale or possession of alcoholic beverages;
- b. Any provision, condition, requirement or limitation contained in this chapter;
- c. Any criminal law which is classified as a felony; or
- d. Any criminal law involving moral turpitude;

(2) Any violation by the holder of the alcoholic beverage license or by any employee, agent, or servant of the holder of such license or the business in which such license is utilized, in connection with the maintenance or operation of any business in which an alcoholic beverage license issued by the city is utilized, of any of the following:

- a. Any federal or state law, rule or regulation relative to the manufacture, sale, distribution or possession of alcoholic beverages;
- b. Any provision, condition, requirement, or limitation contained in this chapter;
- c. Any other ordinance of the city; or
- d. Any ordinance, rule, regulation or law of any governmental entity otherwise regulating the business in which such alcoholic beverage license is utilized;

(3) The initial application for issuance of such alcoholic beverage license, any application for renewal thereof, or any amended application relative thereto contained, as of the time made, material false or misleading statements or information or was otherwise misrepresentative or misleading;

(4) Failure of the applicant for renewal, or any other person required under this chapter in connection with such license to meet the qualifications required for the issuance of such license, to meet, as of the time of the application for renewal, the requirements established in this chapter for the initial issuance of such license;

(5) Suspension or revocation during the period of time that the alcoholic beverage license issued by the city has been issued for such location by the state department of revenue of any alcoholic beverage license issued for the location of the business in which alcoholic beverage license issued by the city is utilized;

(6) Failure of the holder of the license or any employee or agent of the business in which such license is utilized to promptly report to the police department of the city:

- a. Any violation of this chapter;
- b. Any other violation of law;
- c. Any violation of any other city ordinance; or

d. Any breach of the peace, disturbance or alteration which occurs upon the premises of the business in which such alcoholic beverage license is utilized;

(7) Repeated failure of the holder of the license or the employees, agent and servants of the business in which such license is utilized to promptly control and prevent upon the premises of such business any of the following activities or conduct:

a. Fighting;

b. Disorderly conduct;

c. Utilization of controlled substances;

d. Gambling;

e. Indecent conduct;

f. Excessive noise; or

(8) Failure of the holder of the license or any other person required under this chapter in connection with such license to meet the qualifications required for the issuance of such license to promptly pay and satisfy all taxes and other financial obligations due to the city which are not the subject of appeal or litigation.

(9) Failure of the holder of the license to comply with occupancy limits for the Premises.

Sec. 6-83. Transfer of licenses.

(a) All alcoholic beverage licenses issued by the city shall be personal to the person to whom issued and are applicable only to the location for which application therefore is made and accordingly no license shall be transferable to any person or entity or to any other location.

(b) Notwithstanding the provisions of subsection (a) of this section, in the event of the death of any person holding a license, or any interest therein, then upon application and approval by the City Council subject to the terms of this section, an alcoholic beverage license may be utilized by the administrator, executor or personal representative of such deceased person, or by the heirs at law of the deceased person, in the event that such administrator, executor, personal representative or heirs meet all of the qualifications contained in this chapter for the issuance of such alcoholic beverage license, with the license of such deceased person to be so utilized by the administrator, executor, personal representative, or heirs of such deceased person only for the time necessary to complete administration of the estate of such deceased person, but in no event longer than six months from the date of the death of such deceased person, with such license to lapse upon the earlier of such six-month period, completion of such administration, or December 31 of the year in which death shall occur.

(c) Notwithstanding the provisions of subsection (a) of this section, in the event that the person to whom an alcoholic beverage license is issued certifies under oath in writing to the city manager that the business served by such alcoholic beverage license is relocating to another physical location within the city, the City Council may, upon payment to the city of an application

amendment fee, provide for an amended license specific to the new location if such new location meets all of the requirements of this chapter. In no event shall any holder of an alcoholic beverage license operate under that license at more than one location at any time.

(d) Notwithstanding any other provision of this chapter, any change in the ownership interests of a partnership or corporation which holds any alcoholic beverage license, as reflected in the initial application for such license, shall cause the immediate cessation of sales of any alcoholic beverages and no sales of alcoholic beverages shall be made until such change in the ownership interests is approved by the city council based upon the qualification of all persons then interested therein in accordance with the provisions hereof or until the issuance of another license to such corporation or partnership upon a new application therefore; provided, however, that this provision shall not apply in a situation in which one or more individuals who have existing interest in the entity which holds the license cease to have such interest and the remaining ownership interest in such entity remains unchanged except as to the division of the remaining interests therein.

Sec. 6-84. Emergency suspension.

Notwithstanding any other provision of this chapter:

(1) The chief of police shall be authorized, upon concurrence with respect thereto by the city manager, to suspend the right of the holder of any alcoholic beverage license to sell or otherwise distribute any alcoholic beverage, and to close the business in which such license is utilized, for such period of time as shall be determined to be necessary, but in no event in excess of 24 hours duration, in the event of:

- a. Any national, state or local emergency;
- b. Any riotous or violent circumstances either with respect to such location only or the community generally; or
- c. Any circumstances which require such action in order to prevent conditions which are contrary to public health, welfare or safety.

(2) The city council may, in its sole discretion, and either with or without notice or hearing, suspend the right of the holder of any alcoholic beverage license to sell or otherwise distribute any alcoholic beverage for such period of time as it may deem necessary, but in no event in excess of 30 days duration, in the event of:

- a. Any national, state or local emergency;
- b. Any riotous or violent circumstances either with respect to such location only or the community generally; or
- c. Any circumstances which require such action in order to prevent conditions which are contrary to public health, welfare or safety; provided, however, that in no event shall such period of suspension exceed ten days duration without an opportunity to be heard being afforded to the holder of such license in connection with the continuance thereafter of such emergency

suspension, with notice thereof and such hearing hereon being the same as provided in section 6-85 for suspension of alcoholic beverage licenses generally.

Sec. 6-85. Suspension or revocation of license.

(a) Upon a preliminary determination by the city manager that a ground or grounds exist for the suspension or revocation of an alcoholic beverage license pursuant to the provisions of this chapter, then the city manager shall cause a written citation to be issued to the holder of such license requiring such holder to show cause, if any such holder can, at a hearing before the city council at a time and place specified therein which shall not be less than five days nor more than 30 days from the date of service of the citation, by mail or otherwise, upon such holder as well as written notice of the reasons believed by the city manager to authorize possible suspension or revocation of such license.

(b) The hearing provided for in subsection (a) of this section, which need not be a regular meeting of the council, may be continued by announcement at such time and place due to the lack of a quorum of the city council or at the request of the license holder or for good cause shown for a period of not longer than ten days. At such hearing the holder of the license shall have the opportunity to show cause why the license should not be suspended or revoked and shall be entitled to the opportunity to present evidence, to present witnesses, to cross examine witnesses presenting evidence in favor of suspension or revocation, to be represented by an attorney, and to have the proceeding transcribed or recorded at the license holder's expense, all in accordance with such rules and procedures as may be adopted from time to time by the city council relative thereto.

(c) Following the conclusion of such hearing the city council shall, at a regular or called meeting thereof within 30 days of the date of such hearing, render its decision regarding whether the license in issue should be suspended or revoked and, if suspended, then the duration of such suspension and the amount of license reinstatement fee which amount shall not be in excess of \$250.00, if any, as the city council shall in its sole discretion determine to be appropriate under the circumstances, which license reinstatement fee shall be paid as a condition to reinstatement of the license following suspension.

(d) Upon the suspension or revocation of such license then the city manager shall cause the license holder to be notified in writing within ten days of such decision of the nature of such decision and the grounds therefore and thereupon the license shall immediately become suspended or terminated in accordance with such decision and the license holder shall immediately upon receipt of such notice cease and desist from all activity authorized under such alcoholic beverage license in accordance with such decision and physically surrender such license to the City Manager.

(e) If the city council determines that grounds do not exist to suspend or terminate such license or decides to not suspend or terminate such license notwithstanding the existence of grounds therefore then the city manager shall promptly notify the license holder thereof.

Sec. 6-86. Grounds for suspension or revocation.

The city council shall be entitled, in its sole discretion, to either suspend or revoke any alcoholic beverage license upon a finding by the city council, following the hearing prescribed in connection therewith, of the existence of any of the following:

(1) Any violation by the holder of the alcoholic beverage license or by any other person required under this chapter in connection with such license to meet the qualifications required for the issuance of such license of and of the following:

- a. Any federal or state law, rule or regulation relative to the manufacture, distribution, sale or possession of alcoholic beverages;
- b. Any provision, condition, requirement or limitation contained in this chapter;
- c. Any criminal law which is classified as a felony; or
- d. Any criminal law involving moral turpitude;

(2) Any violation by the holder of the alcoholic beverage license or by any other person required under this chapter in connection with such license to meet the qualifications required for the issuance of such license or by any employee, agent, or servant of the holder of such license or the business in which such license is utilized, all in connection with the maintenance or operation of any business in which an alcoholic beverage license issued by the city is utilized, of any of the following:

- a. Any federal or state law, rule or regulation relative to the manufacture, sale, distribution or possession of alcoholic beverages;
- b. Any provision, condition, requirement, or limitation contained in this chapter;
- c. Any other ordinance of the city; or
- d. Any ordinance, rule, regulation or law of any governmental entity otherwise regulating the business in which such alcoholic beverage license is utilized;

(3) The initial application for issuance of such alcoholic beverage license, any application for renewal thereof, or any amended application relative thereto contained, as of the time made, material false or misleading statements or information or was otherwise misrepresentative or misleading;

(4) Failure of the holder of such license or any other person required under this chapter in connection with such license to meet the qualifications required for the issuance of such license, to meet, as of the time of the notice of hearing relative thereto, the requirements established in this chapter for the initial issuance of such license;

(5) Suspension or revocation during the period of time that the alcoholic beverage license issued by the city has been issued for such location by the state department of revenue of any alcoholic beverage license issued for the location of the business in which the alcoholic beverage license issued by the city is utilized;

(6) Failure of the holder of the license or any employee or agent of the business in which such license is utilized to promptly report to the police department of the city:

- a. Any violation of this chapter;
- b. Any other violation of law;
- c. Any other violation of any other city ordinance; or
- d. Any breach of the peace, disturbance or alteration which occurs within or upon the premises of the business in which such alcoholic beverage license is utilized;

(7) Repeated failure of the holder of the license or the employees, agent and servants of the business in which such license is utilized to promptly control and prevent within or upon the premises of such business any of the following activities or conduct:

- a. Fighting;
- b. Disorderly conduct;
- c. Utilization of controlled substances;
- d. Gambling;
- e. Indecent conduct;
- f. Excessive noise; or

(8) Failure of the holder of the license or any other person required under this chapter in connection with such license to meet the qualifications required for the issuance of such license to promptly pay and satisfy all taxes and other financial obligations due to the city which are not the subject of appeal or litigation.

(9) With respect to any consumption license, failure to derive at least 30 percent of its gross food and beverage sales, excluding tips and gratuities, from the sale of food prepared, served and consumed upon the licensed premises thereof unless the license holder serves alcoholic beverages on Sunday then the above applicable percentage of gross food and beverage sales shall be 50%.

(10) Failure of the license holder to comply with occupancy limits for the premises.

Sec. 6-87. Termination.

All rights and privileges of the holder of an alcoholic beverage license issued by the city shall terminate upon the first to occur of the following:

(1) Death of the holder of such license, except to the extent on any right to continue to utilize such license as provided in subsection 7-83(b);

- (2) Dissolution of a corporation, entity or partnership which are holder of such license;
- (3) The filing of any voluntary bankruptcy proceedings under the bankruptcy code by the holder of such license or the failure of the holder of such license to, within 60 days of the date of filing thereof, obtain dismissal of and involuntary proceeding filed under the bankruptcy code against the holder of such license;
- (4) Lapse of such license pursuant to the provisions of this chapter;
- (5) Denial by the city council of an application for renewal of such license;
- (6) Revocation thereof by the city council;
- (7) Surrender thereof by the licensee to the city;
- (8) Automatically without any action on the part of the city upon revocation by the state department of revenue of any alcoholic beverage license issued by the state department of revenue to the holder of the license in issue with respect to such location; or
- (9) The licensee ceases to be engaged in the sale of alcoholic beverages permitted with such license.

Sec. 6-88. License issued in error.

No rights with respect to any license which is issued in violation of the provisions of this chapter shall attach thereto in favor of any person and the city shall be entitled at any time subsequent to the issuance of such license in error to terminate and cancel any such license.

Sec. 6-89. Amended applications.

In the event that either (i) the business in which any alcoholic beverage license is utilized cease to be actively managed or operated on a day-to-day basis by the person so designated with respect thereto in the latest application relative to such license whether an initial, amended or renewal application; or (ii) any other material change occurs in any of the statements, representations or other information contained in any application relative to such license whether in an initial, amended or renewal application which has not otherwise been modified pursuant to an amended application previously granted pursuant to the provisions of this section, then:

- (1) Within 30 calendar days of such occurrence the licensee shall file with the City Manager an amended application with respect to such license, in such form and of such content as shall from time to time be prescribed therefore by the city manager, disclosing, in sufficient detail to evaluate the application, the nature and extent of such changes and, in the case of the cessation of management of such business as reflected in the latest such application, the full details and particulars relative to the person who is then actively managing or operating such business on a day-to-day basis, all to the same extent as required in an initial application;

(2) An amended application shall be accompanied by payment to the city by cashier's check or cash of an amended application processing fee which shall be nonrefundable regardless of the ultimate decision relative to such amended application;

(3) Upon receipt of an amended application, city officials shall conduct such investigations as shall be appropriate relative thereto and shall make recommendations relative thereto as in the case of an initial application;

(4) Upon receipt of recommendations relative thereto the city council shall proceed to act on such amended application as in the case of an initial application utilizing the same qualifications and criteria relative thereto as for an initial application and utilizing the same procedures with respect thereto;

(5) Grant or denial of an amended application shall be based upon a finding by the city council that, as of the date of the determination thereof by the city council, the amended application either meets or fails to meet the requirements, criteria and qualifications contained in this chapter which are necessary for the initial issuance of such alcoholic beverage license;

(6) Approval of an amended application by the city council shall constitute, effective as of the date of such approval, an amendment of the initial application;

(7) The licensee shall, following determination thereof by the city council, be notified by the city manager of such decision as in the case of an initial application; and

(8) Effective 15 days following notification by the city manager of denial of an amended application for such longer period of time as the city manager in his sole discretion determines appropriate under the circumstances, but in no event later than 30 days from the date of such notification: (i) such license shall lapse due to the failure of the licensee to continue to meet the qualifications, requirements and criteria for the grant of such license; (ii) all privileges relative to such license shall cease and terminate; (iii) such former licensee shall not be entitled to engage in the sale of the alcoholic beverages formerly authorized pursuant to such lapsed license; (iv) such former licensee shall immediately cease and desist from conducting such sales; and (v) in order to be authorized thereafter to engage in the sale of such alcoholic beverages the former licensee shall be required to file an application for another alcoholic beverage license and obtain approval thereof, all in accordance with the provisions of this chapter.

Sec. 6-90. Waiting period before reapplication.

Notwithstanding any of the provisions of this article, any unsuccessful applicant must wait 90 days from the date of final decision before reapplying.

Sec. 6-100. One-day license for charitable organizations.

(a) *Definitions.*

(1) To qualify as a "charitable organization" as used herein, an organization must:

- a. Either be incorporated as a nonprofit corporation, or must be formally organized, with a constitution and bylaws, and with a central governing body such as a board of trustees or directors to be directly responsible for the one-day license; and
- b. Said organization must also have been granted approved tax-exempt status by United States Internal Revenue Service.

(2) The term "charitable purposes" as used herein shall include the following: relief of the indigent, medical research, provision of medical equipment, education, including youth education; historical preservation, preservation and encouragement of the fine arts; crime prevention and rehabilitation; libraries; zoos; scientific research and development; community development; industrial and commercial recruitment; and recreation.

(3) The term "proceeds" as used herein means the gross proceeds from the event in connection with which the license is issued after payment of all of the expenses of the event.

(b) *License; fee.* In addition to the other alcoholic beverage licenses provided for in this chapter, the city council may issue a consumption license valid for one day only to any charitable organization, authorizing the holder to dispense, at one location only, distilled spirits, alcoholic beverages, wines and malt beverages, by the drink for consumption only on the premises; provided, that:

- (1) The proceeds from the event shall be used only for charitable purposes; and
- (2) The city has permitted the event consistent with the event permit requirements of section 6-175 of this chapter; and
- (3) No alcoholic beverages are sold at the event, i.e., open bar only as an emolument of the donation or fund raising ticket received by the charitable organization.

If alcoholic beverages are to be sold at the event, then this section shall not apply.

The provisions of section 6-74 of this chapter shall apply with respect to license fees.

(c) *Application.* Any charitable organization desiring to obtain a one-day alcoholic beverage license shall make application with sufficient evidence to satisfy the city council that the organization is a nonprofit charitable organization and that the proceeds will be used for charitable purposes. The organization shall designate one person who is a resident of the city who shall be responsible for the lawful and proper conduct of the alcoholic beverage license, giving the name, address and other information sufficient to identify such person.

(d) *Excise tax not applicable.* The excise tax imposed by article V of this chapter shall not be applicable to the one-day license inasmuch as the sale of alcoholic beverages is not involved.

(e) *Final report.* Within 30 days after the conclusion of the event, the license holder shall file a final report and accounting with the city council, said report and accounting to include a statement of the gross receipts, the amount of expenses paid, the net proceeds remaining, and how and to whom and for what purpose said net proceeds are to be distributed. Failure to

comply with this reporting requirement shall make such charitable organization ineligible for the issuance of any subsequent license.

(f) *Suspension or revocation.* The city manager shall have the right at any time to suspend or revoke the one-day license on any ground which constitutes a ground for suspension or revocation of licenses generally under sections 6-85 and 6-86 of this chapter. Any aggrieved organization shall have the right of appeal to the city council.

(g) *Applicability of chapter.* The charitable organization and the responsible person identified pursuant to subsection (c) hereinabove shall be in charge and responsible for the event and shall be subject to the laws of the State of Georgia and the City of Remerton with respect to any violation of any license or permit issued by the City of Remerton.

ARTICLE IV. OPERATIONAL REGULATIONS

Sec. 6-121. Hours during which sales prohibited.

The sale of any alcoholic beverage by the holder of any alcoholic beverage license or by any employee of any business in which such license is utilized is prohibited during the following periods of time:

- (1) From 2:00 a.m., prevailing time, on Sunday until 12:30 p.m. prevailing time on Sunday; and
- (2) From 2:00 a.m., prevailing time, on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday until 6:00 a.m., prevailing time, in that same day.
- (3) The holder of any alcoholic beverage license shall close its business and have all patrons out of the business no later than 2:30 a.m. and may reopen no earlier than 6:00 a.m. that same day.

Sec. 6-122. Hours during which other activities prohibited.

Neither any holder of any alcoholic beverage license nor any employee of any business in which such license is utilized shall allow or permit any alcoholic beverage to be handled in any manner upon the premises of the business in which such license is utilized or any alcoholic beverage to be located upon any table, counter, or other such customer service area upon such premises, either in the form of the original container therefore or otherwise, from one hour after the last time permitted to sell an alcoholic beverage as set forth in section 6-121 until such time as alcoholic beverages may again be sold as set forth in section 6-121.

Sec. 6-123. Sales on election day.

The sale of alcoholic beverages shall be permitted and is authorized during polling hours of any local, state or federal election; provided that the foregoing shall not authorize the sale of any alcoholic beverage within 250 feet of any polling place during the period of time that polls are open for voting.

Sec. 6-124. Consumption prohibited upon premises of package licensee.

No holder of a license only for the package sales of any alcoholic beverage nor any employee, agent or servant of any business in which only a license for package sales is utilized shall knowingly allow or permit the breaking of any package containing any alcoholic beverage upon the premises where sold, or intentionally allow or permit the consumption of any of the contents of any package containing any alcoholic beverage upon the premises where sold.

Sec. 6-125. Sales prohibited beyond premises.

No holder of any alcoholic beverage license or any employee, agent or servant of any business in which any alcoholic beverage license is utilized shall sell or distribute any alcoholic beverage at any location other than within the interior of the building located upon premises so licensed in which such sales are authorized.

Sec. 6-126. Furnishing alcoholic beverages to intoxicated person.

Notwithstanding any other provisions of this chapter, no person who is the holder of any alcoholic beverage license issued by the city nor any agent, servant or employee of any business in which any alcoholic beverage license is utilized shall sell, give, provide, distribute, or furnish any alcoholic beverage to any person who is then in an obvious state of intoxication.

Sec. 6-127. Assisting other in violations.

No person who is the holder of any alcoholic beverage license issued by the city nor any agent, servant or employee of any business in which any alcoholic beverage license is utilized shall promote, encourage, or assist any other person in conducting or engaging in any activity or action which is in violation of any provision of this chapter.

Sec. 6-128. Misrepresentation of beverages.

No person who is the holder of any alcoholic beverage license issued by the city, nor any agent, servant or employee of any business in which any alcoholic beverage license is utilized shall add to or otherwise adulterate the contents of a package or refill any empty package, or in any other manner misrepresent the quantity, quality or brand name of any alcoholic beverage.

Sec. 6-129. Specific rules for consumption on premises.

(a) *Rules applicable to all alcoholic beverages.* No person who is the holder of any alcoholic beverage license issued by the city or any agent, servant or employee of any business in which any alcoholic beverage license is utilized shall sell or distribute alcoholic beverages for consumption upon the premises under any of the following circumstances:

- (1) Offer all a person can drink for a set price;
- (2) Selling or furnishing alcoholic beverages at reduced prices based upon redemption or surrender of coupons, receipts, or other devices authorizing the serving of alcoholic beverages drinks on a subsequent day.;
- (3) Require the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the first such beverage is consumed.

(4) Allow or permit any unconsumed alcoholic beverage sold for consumption on the premises to be removed from the licensed premises.

(5) Nothing contained in this section shall be construed to prohibit the dispensing of malt beverages in pitchers or in jumbo sizes which are available at all times that the business in which the alcoholic beverages license is utilized is open for business at the usual, customary or established retail price therefore.

(6) Sell or furnish alcoholic beverages at any time that the restaurant or private club to which such license is attached is closed.

Sec. 6-130. Operation only by licensee or designated manager.

Notwithstanding any other provisions of this chapter, no holder of any alcoholic beverage license issued by the city shall permit or allow any business in which such license is utilized to be managed or operated for any period of time longer than 15 days by any person except to the extent otherwise specifically provided in this chapter who is not listed upon the initial application for such license, upon the most recent application for renewal thereof, on an amended application relative thereto which has been approved by the city council, or upon a then pending and unacted upon amended application relative thereto.

Sec. 6-131. Display of license.

The holder of every alcoholic beverage license issued by the city shall post and prominently display in a conspicuous place upon the premises licensed all alcoholic beverages licenses by the city and by the state department of revenue.

Sec. 6-132. Posting of laws regulating sales.

The holder of every alcoholic beverage license issued by the city shall post and prominently display in a conspicuous place upon the premises licensed all notices required by state law relative to the sale of alcoholic beverages as well as such other notice or notices relative to the sale of alcoholic beverages pursuant to license issued by the city as shall from time to time be prescribed by the city manager of such form, size and content as shall be prescribed by the city manager.

Sec. 6-133. Obstruction of view of interior of premises and lighting of premises.

(a) For the safety of law enforcement personnel and other public officials, every business in which an alcoholic beverage license is utilized shall provide a door, window or other opening through which the interior of the premises licensed for the sale of alcoholic beverages shall be visible from the exterior. Neither the holder of any alcoholic beverage license nor any agent, servant or employee of any business in which such alcoholic beverage license is utilized shall

obstruct, block, or obscure the view through any door, window or other opening of the interior of the premises licensed for the sale of alcoholic beverages.

(b) Both the exterior and interior of all premises licensed by the city for the sale of alcoholic beverages shall be so arranged as to afford an unobstructed view from the outside thereof of the interior portion of the premises which is utilized for the sale of alcoholic beverages.

(c) The exterior of all premises licensed by the city for the sale of alcoholic beverages shall at all times be illuminated with sufficient light intensity so as to allow a complete view of all portions of the exterior thereof.

(d) The exterior of all premises licensed by the city for the sale of alcoholic beverages shall at all times be illuminated with sufficient light intensity so as to allow a complete view of the interior of such premise which is utilized for the sale of alcoholic beverages by a person standing on the inside of the entrance of such premises.

Sec. 6-134. Restrictions on premises rental fees.

It shall be unlawful for an alcoholic beverage license holder to enter into any agreement whereby the rental paid for the licensed premises is based in whole or in part upon the volume of alcoholic beverages sold upon such premises or based in whole or in part upon the profit derived by such business utilizing the alcoholic beverage license.

Sec. 6-135. Restrictions upon activities of employees.

No holder of any alcoholic beverage license nor any agent, servant or employee of any business in which any alcoholic beverage license is utilized shall permit or allow any agent, servant or employee of such business or license holder upon the premise licensed who is or may be in charge of or working on any task associated with security or "Bouncing" as those tasks are commonly known or who is deemed to be or designated as the "Manager in Charge" during any time the business is open and during any period of time that such agent, servant or employee is acting for the benefit of or on behalf of such business or license or is otherwise in the employ of such business or licensee to:

(1) Consume any alcoholic beverage.

Sec. 6-136. Access of police officers and public officials.

No holder of any alcoholic beverage license nor any agent, servant or employee of any business in which any alcoholic beverage license is utilized shall at any time deny or prevent access to the licensed premises, or any portion thereof, to any police officer, to any state or federal or local law enforcement officer or to any local, state or federal building, zoning or fire inspector or official in connection with the conduct of such officer's, inspector's or official's duties or fail or obstruct any such officer, inspector or official in connection with the conduct of any

investigation by any such officer, inspector or official with respect to the licensed premises or any activity or conduct upon the licensed premises involving alcoholic beverages.

Sec. 6-137. No brown bagging allowed.

No person holding an alcoholic beverage license for the retail sale of malt beverages, wine or distilled spirits by the drink for on premises consumption shall allow or permit brown bagging on such licensed premises.

Sec. 6-138. Security cameras required in certain retail establishments.

Any retail business establishment licensed by the city to engage in the sale of alcoholic beverages is required to install security cameras of a type and number approved by the chief of police.

Sec. 6-139. Security camera requirements; responsibility; exception.

(a) Cameras meeting the requirements of this section must be capable of producing a retrievable image on film or tape that can be made a permanent record and can be enlarged through projection or other means. Cameras meeting the requirements of this section shall be maintained in proper working order at all times and shall be subject to periodic inspection by the chief of police or his designee. In addition, the location of all such cameras shall be approved or determined by the chief of police or his designee.

(b) If the system camera used is a still frame camera, it shall contain the following equipment capabilities:

- (1) Automatic still frame.
- (2) Capable of being concealed.
- (3) Remote activation.
- (4) Quiet activation.
- (5) Must be 35mm or digital format of at least four megapixels quality.
- (6) Produce good-quality photographs.
- (7) Must use color film.
- (8) Must have automatic focus.

(9) Easily accessible for maintenance checks, film loading, etc.

(10) Capable of showing signs or signals of activation covertly.

(11) Film used must be 200 ASA or higher and in color 24 frames or be of a digital format of at least 4 megapixels.

(12) Must have wide-angle capacity.

(c) If the system camera is a still video camera, it must be capable of following:

(1) All components must be compatible to produce sharp, detailed, still frame video images in color.

(2) The recorder shall be of time lapsed video, still frame type.

(3) The video printer shall print color photographs within 24 hours of activation.

(4) Remote activation.

(5) Quiet activation.

(6) Color photography.

(d) Retail established required to install the camera security system shall be responsible for the maintenance and periodic check of such systems. It shall also be the responsibility of the establishments to have on hand at all times the correct film type and batteries for proper operation of all security cameras.

(e) In the event of an actual robbery or other crime in any establishment containing a security camera, the police department shall be given the film and shall be responsible for processing the film in the event a still frame camera is used. Under such circumstances, the film shall become the property of the police department and shall be retained by it for use in any criminal proceedings.

(f) In the event of an actual robbery or other crime in any establishment containing a security camera, the film and all photographs processed from the film in the event a still frame camera is used, shall be released to the police department upon demand by any authorized representative of the police department. Failure to promptly release any film, still or video, required by this section to the police department upon demand by any police officer investigating the report of a robbery or other reported crime or ordinance violation shall constitute an act of obstruction of an officers and shall be prosecuted as a city ordinance violation with a minimum fine of \$500.00. Any film, still or video, released to the police department under the provisions of this subsection shall become the property of the city police department to be retained for use in any criminal proceedings or court action arising from the incident or disposed of at the discretion of the department.

ARTICLE V. REPORTING REQUIREMENTS

Sec. 6-161. Quarterly reports and payment.

Each holder of an alcoholic beverage license shall file a quarterly report by the fifteenth day of April, July, October, and January for the preceding quarter itemizing for each of the three preceding calendar months the exact quantities of all alcoholic beverages, by nature and by size and type of container, sold within the city and the gross sales of the food, beverage and total sales of the holder on such form as may be created and provided by the City Manager from time to time. Failure to so file said report on said date shall be grounds for immediate temporary or permanent suspension of any alcoholic beverage license at the discretion of the City Council

Sec. 6-162. Examination of books and records.

The books and records of all license holders selling or delivering alcoholic beverages in the city shall be subject to inspection and audit by the agents of the city to ensure compliance herewith. It shall be unlawful for any person to deny to any authorized agent of the city reasonable access to its books and records and shall be the duty of each person to keep accurate records of payments and collections of the case tax and remittances . Any audit so performed shall be at the sole cost and expense of the license holder and shall be performed by an auditor chosen at the sole discretion of the City Council.

Sec. 6-163. Penalties.

- (a) The failure to make a timely report and/or remittance required shall render a license holder liable for such penalties to be set from time to time by the City Council.
- (b) The filing of a false or fraudulent report shall render the licensee making the report liable for a penalty to be set from time to time by the City Council.
- (c) Any person, wholesaler or retailer that shall violate the provisions hereof shall, upon conviction, be punished as prescribed by the municipal court and may in addition be subject to suspension or revocation of the license to sell such beverages.

ARTICLE VI. CATERING

Sec. 6-175. Sale off premises for catering purposes.

(a) Licensed alcoholic beverage caterer. An alcoholic beverages licensee that is also a food caterer may become a licensed alcoholic beverage caterer by meeting all of the following five requirements:

- (1) Complying with all provisions of O.C.G.A. tit. 3, ch. 11 (sales off premises for catered functions); and by
- (2) Meeting the requirement that at least 50 percent of the gross income for such business comes from the sale of prepared foods as set forth in section 6-64(3)b. of this chapter; and by
- (3) Applying for an off-premises catering license on the form prescribed by the city; and by
- (4) Paying an annual fee to the city for such a license, with such fee being shown upon a schedule of fees maintained in the office of the City Manager; and by
- (5) Obtaining an event permit, as hereinafter defined and provided, for each and every such authorized catered function to which such alcoholic beverage caterer license shall be applicable.

A licensed alcoholic beverage caterer is eligible to sell or furnish only those types of alcoholic beverages as he can sell or furnish pursuant to his underlying alcoholic beverage license.

(b) An event permit, issued by the city manager or his designee, is required before an otherwise licensed alcoholic beverage caterer can sell or furnish alcoholic beverages off premises, i.e., at any location other than the licensed premises utilizing the underlying alcoholic beverage license. In order to obtain an event permit, the licensed alcoholic beverage caterer shall be required to submit a fully accurate and completed application on the form prescribed by the city which shall include the following information:

- (1) Name of caterer;
- (2) Date of event;
- (3) Time (hours) of event;
- (4) Location (address) of event;
- (5) Host or sponsor of event;
- (6) Estimated number of persons to attend the event that are of legal age;
- (7) Estimated number of persons to attend the event that are not of legal age;

- (8) Whether "open bar" or "cash bar" of alcoholic beverages at event;
- (9) Estimated quantities of malt beverages, wine and/or distilled spirits (to extent authorized by license) to be served at event;
- (10) Whether facility is private or public;
- (11) Whether location is within 300 feet of a church or school building;
- (12) A plat or sketch shall be submitted showing the service area where alcoholic beverages will be served indicating whether said area is within the building or in an open area;
- (13) An event fee in an amount shown upon a schedule of fees, not to exceed the amount provided by state law, maintained in the office of the City Manager shall be submitted along with the application;
- (14) Comply with the reporting provisions of O.C.G.A. § 3-11-3;
- (15) Provide security and parking enforcement plans and personnel as required by the city.

(c) An event permit cannot be obtained unless the event permit application referenced in subsection (b) hereinabove is accurately completed in full and submitted to the city manager or his designee at least 14 calendar days prior to the scheduled date of the event or function. Notwithstanding the foregoing, the city manager in his sole and sound discretion may issue an event permit within a shorter time frame if the event permit applicant has been previously approved and if the proposed event location has been previously approved.

(d) An event permit may be refused by the city manager or his designee for any one of the following reasons:

- (1) Inadequate parking or enforcement personnel at the facility designated;
- (2) Criminal record of host or caterer permit holder;
- (3) Previous complaints on location or of applicant;
- (4) Previous damage to facility by applicant or permit holder.

(e) The city reserves the right to define and/or restrict the service area for serving of alcoholic beverages.

(f) The city shall control the dispensing of alcohol in all of its facilities by requiring the use of a licensed alcoholic beverage caterer if alcohol is furnished at any such facility.

(g) Violation.

(1) It shall be unlawful for any food caterer or person to distribute or sell distilled spirits, malt beverages or wine off the premises of the food caterer's business without a license issued pursuant to this section.

(2) It shall be unlawful for any licensed alcoholic beverage caterer licensed under this section to distribute or sell distilled spirits, malt beverages or wine off-premises except in connection with an authorized catered function for which an event permit has been obtained.

ARTICLE VII. HEARING OFFICERS

Sec. 6-191. Hearing by hearing officers.

Notwithstanding any other provisions of this chapter, hearings provided for pursuant to section 6-85 may be held, at the discretion of the council, by a hearing officer pursuant to the provisions of this article.

Sec. 6-192. Appointment of hearing officer.

The hearing officer shall be such person as shall be appointed by the city manager from time to time for such purpose.

Sec. 6-193. Qualifications of hearing officer.

Any hearing officer appointed by the city manager pursuant to this chapter shall be a resident of the state, shall be neither an employee nor a full time elected or appointed employee, officer or official of the city, nor the spouse of any such person except that the municipal judge shall, notwithstanding any other provision hereof, be for all purposes hereof a person qualified to act as a hearing officer; and shall be either an attorney who is a member in good standing of the state bar or be a person who, in the sole opinion of the city manager, is experienced in dispute resolution.

Sec. 6-194. Notice of hearing.

The city manager shall furnish, or cause to be furnished, to the licensee involved at least ten days prior to the scheduled date of the hearing a notice with respect to such hearing which shall include the time, date, place and purpose thereof as well as the name of the hearing officer before whom such hearing shall be conducted.

Sec. 6-195. Purpose of hearing.

The purpose of the hearing shall be to:

- (1) Afford officials and employees of the city and others an opportunity to present grounds and/or reasons for the suspension and/or revocation of the license in issue;
- (2) Afford officials and employees of the city and others an opportunity to present the nature of prior violations relative to the license and license in issue, if any, which are considered to be relevant to the issues involved;

(3) Afford the licensee an opportunity to respond to any and all prior alleged violations and to the circumstances surrounding any such prior alleged violations; to respond to any evidence with respect to any alleged violations; to present evidence, matters, and witnesses relative to compliance by licensee with the provisions of this chapter and any other matter relative to the purpose as is of the hearing and the issues to be resolved; to propose recommendations relative to proposed actions with respect to the license in issue; to otherwise generally respond to any and all recommendations, reasons and grounds submitted relative to the license in issue; and to otherwise generally present matters relative to possible action by the city in connection with such licensee and license.

Sec. 6-196. Conduct of disciplinary hearing.

In connection with the conduct of the disciplinary hearing;

(1) The hearing officer shall have the authority to:

- a. Administer oaths and affirmations to witnesses who testify or offer evidence;
- b. Issue subpoenas but only to the extent authorized pursuant to the provisions of this chapter;
- c. Generally regulate and manage the conduct of the hearing;
- d. Set the time and place for any continuation or postponement of the hearing;
- e. Determine whether or not to require or accept the filing of briefs and if so the time period therefor;
- f. Rule upon the admissibility of evidence and offers of proof submitted;
- g. Rule inappropriate and out of order any despairing, irrelevant or inappropriate matter;
- h. Limit evidence, statements, arguments and presentations which may unduly lengthy, inappropriate, not germane, not relevant or otherwise inappropriate;
- i. Reprimand and/or exclude from the hearing any person who fails to conduct themselves in an orderly and courteous manner during the hearing or fails to comply with the rulings of the hearing officer relative to the conduct of the hearing; and
- j. Otherwise generally conduct the hearing in an orderly manner as in the nature of a hearing before a special master in the superior courts of the state.

(2) Continuances may be granted by the hearing officer upon motion of any party or upon the hearing officer's own motion provided that any such continuance shall be granted only to a specific date, time, and space and no such continuance shall be granted for more than 14 calendar days.

(3) Subpoenas may be issued by the hearing officer to any employee of the city or any elected or appointed officer or official of the city upon the timely request therefore by any party;

provided, however, that the hearing officer does not have the authority or the power to issue any subpoena to any person other than employees, officers, or officials of the city.

Sec. 6-197. Rights of licensee at disciplinary hearing.

(a) At a disciplinary hearing the licensee involved shall be entitled to:

- (1) Be represented by an attorney or by other representative;
- (2) Present matters and witnesses relevant to the purpose of the hearing and the issues to be determined;
- (3) Question those persons presenting matters which are adverse to the interest of the licensee but only to the extent of relevance, as determined by the hearing officer, to the purposes of the hearing and to the issues to be determined; and
- (4) Offer suggestions or recommendations relative to the nature and/or extent of action, if any, taken with respect to the license and licensee in issue.

(b) Notwithstanding any other provision of this chapter a licensee subject to such hearing shall not be required to give any testimony or to answer any question with respect to such proceedings nor shall the licensee be required to attend such hearing or to present any evidence or matters in connections therewith.

Sec. 6-198. Record of hearing.

A record with respect to hearings shall be maintained by the city clerk which shall consist of and include the following:

- (1) All written reports, recommendations, responses, objects and other written matters filed in connection with such hearing;
- (2) All documents, instruments and other memorandum introduced into evidence at such hearing;
- (3) A written statement to be prepared by the hearing officer with respect to all matters, if any, officially noticed by the hearing officer;
- (4) All written orders and findings of the hearing officer; and
- (5) A mechanical recording of the hearing or in lieu thereof a transcript thereof if determined by the hearing officer to be appropriate.

Sec. 6-199. Recordation of hearing and transcript.

(a) The hearing shall be mechanically recorded with the product of such recording being a part of the record of such matter upon completion thereof.

(b) Any interested party shall be entitled to employ at their own expense and utilize a stenographic reporter in connection with the hearing.

(c) Should the hearing officer so direct, a stenographic reporter shall be utilized in connection with the hearing for the purposes of recording the hearing with the cost thereof to be paid by the city. Should the hearing officer so direct, the stenographic reporter shall prepare a transcript of the hearing with the cost thereof to be paid by the city. In the event the hearing officer so directs the preparation of a transcript by the stenographic reporter then the licensee, upon payment directly to the stenographic reporter of the cost thereof, shall be entitled to a copy of the transcript so prepared. In the event that the hearing officer does not direct the preparation of a transcript then either the city or the licensee shall be entitled to request preparation of a transcript of the hearing from such stenographic reporter upon payment to the stenographic reporter of the cost thereof.

Sec. 6-200. Representation of city at hearing.

The city shall be represented at hearings by the city manager and upon his request by the office of the city attorney.

Sec. 6-201. Informal disposition.

An informal disposition of a hearing may be made at any stage by stipulation or consent finding, all subject to approval thereof by the hearing officer.

Sec. 6-202. Procedure following hearing by hearing officers.

Within 30 calendar days of the date of the conclusion of such hearing, the hearing officer shall prepare and file with the city clerk a written report which shall contain the following:

(1) Findings of fact with respect to incidents, actions and/or behavior of the licensee in issue and/or the agents, servants and/or employees thereof which are relevant to the matters and issues to be determined;

(2) Findings of fact with respect to prior matters involving the licensee which are relevant to the issues to be determined;

(3) Findings of fact with respect to provisions of this chapter, breached or violated by the licensee, if any, which were determined by the hearing officer to be relevant to the issues to be determined;

(4) Findings of fact with respect to recommendations of city officials, if any, and the reasons, if any are presented, for such recommendations; and

(5) The recommendation of the hearing officer, if any, with respect to what action should be taken relative to the licensee in issue and, if any, in the extent and nature thereof. Such written report of the hearing officer, together with the record in connection with such hearing, shall be promptly filed with the city clerk and a copy of such report of the hearing officer shall be furnished by the hearing officer to the licensee, to the city manager and to the city attorney.

Sec. 6-203. Right to respond and object to report of hearing officer.

(a) Both the licensee and the city manager shall be entitled, within 15 calendar days after being furnished with such report, to file with the city clerk written objections to any finding of fact or recommendation of the hearing officer.

(b) Additionally, both the city manager and the licensee or the employee shall be entitled, within 15 calendar days after being furnished with such report of the hearing officer, to file a request with the city manager for a de novo hearing before the city council.

Sec. 6-204. Right of city council to conduct de novo hearing.

Upon the filing of a request within 15 calendar days of the furnishing of the report of the hearing officer, or upon the decision of the city council on its own motion, the city council shall be entitled to conduct a de novo hearing with respect to the issues involved in connection with such license and licensee, which hearing shall be conducted upon same basis and accordance with same procedures as the hearing before the hearing officer.

Sec. 6-205. Determination by city council following hearing.

(a) Following the filing of the report of the hearing officer and the lapse of the 15-day period for the filing of objections to the report of the hearing officer, the city council shall proceed to make a determination with respect to the issues relative to the license and the licensee involved.

(b) Such determination shall be based upon the written report and recommendations, if any, of the hearing officer and the written objections to the report of the hearing officer except in the event of a de novo hearing.

(c) In the event of a de novo hearing the city council shall proceed to conduct a hearing upon the relevant issues and following such hearing make a determination based upon matters presented at such de novo hearing.

(d) Such determination shall be made by the city council in written form within 30 calendar days following lapse of the time for the filing of objections to the report of the hearing officer, or in the event of the determination by the city council to conduct a de novo hearing then within 30 calendar days following the conclusion thereof, with copies of such written determination to be promptly furnished by the city clerk to the city manager, to the city attorney and to the licensee.

(e) Such determination shall include what action with respect to the license and licensee, if any, shall be taken including the extent, duration and exact nature thereof as well as the effective date of the commencement of such action.

Sec. 6-206. Reconsideration.

(a) Both the city manager and the licensee shall be entitled to file a request, within ten calendar days of the date of receipt of the written determination of the city council, for reconsideration of the decision of the city council.

(b) The city council shall have the right, in the sole discretion of the city council, to reconsider any decision of the city council based upon a request therefor which demonstrates either the existence of substantial new evidence not available to the party prior to the hearing or providential cause.