

## ALCOHOLIC BEVERAGES\*

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### **ALCOHOLIC BEVERAGES**

#### **ARTICLE I. IN GENERAL**

##### **Sec. 4-1. Definitions.**

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:

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

*Alcoholic beverage.* shall be defined pursuant to O.C.G.A., Section 3-1-2(2), as enacted or amended, and includes all alcohol, malt beverages, distilled spirits, wine, and fortified wines.

*Bar.* shall mean any public place kept, used, maintained, advertised, and held out to the public as a place where alcoholic beverages are sold and served for consumption on the premises in and which does not meet the definition of a restaurant as defined herein.

*Building Code.* shall mean and include all building, plumbing and electrical codes and any other similar technical code of the city.

*Central business district.* means that portion of the city designated as such by the Comprehensive Zoning Ordinance including the officially designated Elberton Commercial Historic District (CBD) and bounded on the north by Highway 17/72; on the east by McIntosh Street which shall include buildings and structures on the east side of McIntosh Street; on the south by Church

Street; and on the west by Oliver Street which shall include buildings and structures on the west side of Oliver Street.

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

*City Clerk.* means the City Clerk of the City of Elberton.

*City Manager.* means the City Manager of the City of Elberton.

*“Church”* shall mean any permanent building which houses the main sanctuary in which persons regularly assemble for religious worship.

*Cultural activities.* shall mean the training and refinement of the intellect, interest, tastes, and skills of a person. Cultural activities shall include the promotion of the theater defined as the dramatic presentation of plays and operas, and the promotion of the fine arts, specifically architecture, painting, sculpture, music and literature.

*Distance.* shall mean the measurement in horizontal lineal feet from the front door of the proposed licensee’s premises to the main front door of the nearest church, school ground or college campus along the nearest practical street route.

*Distilled spirits.* shall be defined pursuant to O.C.G.A., Section 3-1-2(7), as enacted or amended, means any alcoholic beverages obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.

*Election day.* shall mean one hour before the polls open to one hour after the polls close.

*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. “Fortified wine” includes, but is not limited to brandy.

*Governing Authority.* means the Mayor and Council of the City of Elberton.

*Hotel.* means any building or structure kept, used, maintained, advertised and held out to the public as a place where a minimum of 50 sleeping accommodations are offered for adequate pay to travelers and guests, and food is actually served and consumed in the form of regular meals in one or more dining rooms, having an adequate and sanitary kitchen, such sleeping accommodations and dining rooms being conducted on the same premises. Hotels may grant franchise for the operation of a restaurant and lounge on their premises, and the holder of such franchise shall be included in this definition of hotel.

*Indoor recreational establishment.* shall mean an indoor facility that contains regulation size courts or alleys where physical sporting activity takes place and equipment related to activity is available for rent or sale.

*Interest.* includes any pecuniary interest and any ownership interest, whether present or future, whole or partial, legal or beneficial, contingent or vested, direct or indirect, and any right, power or authority of control.

*Licensed premises.* includes not only the room wherein alcoholic beverages are not sold or served but also the entire building in which such room is located, except that when such a room is

located in a hotel, motel, or similar facility or in a shopping center, only such room and any adjoining storage, office, toilet, and other similar room shall constitute the "licensed premise".

*Licensee.* includes an individual licensee and in the case of a partnership or corporation includes both the partnership and corporation and the names licensee.

*Lounge.* means a separate room connected with a part of, and adjacent to a restaurant or located in hotels or motels which serve only beverages and which does not serve regular meals. For purposes of this section, snack food or prepared food such as crackers, catered sandwiches not prepared on the premises or any food service which is only incidental to selling of alcoholic beverages shall not qualify as food service under this section. In qualifying as food service under this section, food must be prepared on the premises and regularly served as a primary or substantial part of the business conducted within the area where beer, wine, ale, or malt is served.

*Malt beverage.* means fermented beverage made in whole or in part from malt or any similar fermented substance.

*Manufacturer.* means any maker, producer, or bottler of an alcoholic beverage. The term also means: (1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits, (2) in the case of malt beverages, any brewer; and (3) in the case of wine, any vintner.

*Mayor and Council.* means the Mayor and Council of the City of Elberton.

*Minor.* shall be defined pursuant to O.C.G.A., Section 3-1-23, as enacted or amended.

*Nightclubs.* means those establishments having a seating capacity of at least 100 persons which provide a band or other professional entertainment a minimum of 20 days in each calendar month, each and every month of a calendar year, with the exception of holidays and periods of redecorating, the principal business of which is entertainment and the serving of beverages containing alcohol as an incident thereto.

*Nonprofit.* shall mean an association, organization or corporation organized for purposes other than generating a profit. For purposes of this section, a nonprofit organization will be one organized for the promotion and operation of cultural activities, as defined herein.

*On-premises consumption dealer.* means any person who sells, at retail only to consumers and not for resale, distilled spirits, wine or malt beverages for consumption on the premises.

*Open container.* means any bottler. Can, glass, cup or other vessel which contains an alcoholic beverage not in its original container. The term "open container" shall also mean the original container of an alcoholic beverage and which contains an alcoholic beverage on which the seal has been broken or which is otherwise ready for consumption.

*Package.* shall be defined pursuant to O.C.G.A., Section 3-1-2(15) as enacted or amended, to include a bottle, can, keg, barrel, or other original container.

*Package dealer.* means any person engaged in selling, at retail only to consumers and not for resale, any distilled spirits, wine or malt beverages in unbroken packages.

*Person.* means and includes any individual, partnership, corporation, fraternal organization, social club or association, and persons shall be deemed to include family members related by the first degree.

*Premises.* when used in conjunction with packages sales, means the floor space on and from which the package sale of alcoholic beverages is conducted; when used in conjunction with a lounge or restaurant, it means that floor space on and from which the sale of alcoholic beverages by the drink for consumption on the premises is conducted.

*Private club.* shall mean a corporation organized and existing under the laws of the State of Georgia, having at least 100 members regularly paying monthly, quarterly, semi-annually or annual dues, organized and operated exclusively for pleasure, recreation and other non-profitable purposes; no part of the net earnings of which inures to the benefit of any shareholder or member, and owning, hiring, or leasing a building or space therein for the reasonable use of its members with suitable kitchen, dining room space, and equipment and maintaining and using a sufficient number of servants and employees for cooking, preparing and serving meals for its members and guest; provided that no member, officer, agent or employee of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the sale of alcoholic beverages to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

*Regular meal.* means a meal which is prepared on the premises according to the order of the customer given to a server at the table, booth or counter where the customer is seated and served by the server at the table, booth or counter.

*Residence.* shall mean a house or dwelling wherein not less than one nor more than three families customarily reside and shall not include an apartment house having facilities for housing four or more families; or any dwelling which has been unoccupied for a period of six consecutive months immediately prior to the filing of an application.

*Restaurant.* shall mean any public place kept, used, maintained, advertised and held out to the public served and where meals are actually and regularly served; such place being provided with adequate and sanitary kitchen and dining room equipment, air-conditioned, having employed therein a sufficient number and kind of employees to prepare and serve suitable food and meals for its guests. A restaurant must derive at least 60 percent of its total annual gross income from the sale of prepared meals or food and shall provide at least 40 seats for customers. The serving of these meals shall be the principal business conducted or a reasonable compliment to it, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. In the event that the business does not meet the definition of a restaurant and requirements as defined herein, the business will be classified as a "bar" or "lounge" or nightclub".

*Retailer or retail distributor.* means any person engaged in selling, at retail, any distilled spirits or alcohol, for beverage purposes, in unbroken packages.

*Semipublic parking facility.* shall include any privately owned area wherein motor vehicles may be parked by the public in conjunction with any business, enterprise, commercial, establishment, office building, church, school, or multiple-family residential building.

*Service area.* shall mean that in the event a private club or restaurant is located adjacent to an indoor recreational establishment and within the same building or structure, the recreational

area is defined as being within the service area of said private club or restaurant and the consumption of alcoholic beverages within the recreational area is permitted.

*School.* shall mean only those state, county, city, church or other schools that teach the subjects commonly taught in the common schools of this state and shall include the adjacent open land used for school purposes but this shall not include any portion of a private school where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

*Wine.* shall be defined pursuant to O.C.G.A., Section 3-1-2(24) as enacted or amended.

*Wholesaler or Wholesale Distributor/* means any person engaged in distribution or selling to retailers for the purpose of resale of any distilled spirits or alcohol.

#### **Sec. 4-2. Purpose of chapter.**

This chapter is enacted in furtherance of the police powers of the city to promote the health and general welfare of its citizens; to regulate and control the licensing and sale by the package and by the drink of malt beverages, wine, and distilled spirits; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, and residential areas from the negative secondary effects attributable to establishments that sell malt beverages, wine, and distilled spirits; and to ensure that only qualified persons obtain licenses for the sale manufacture or distribution of malt beverages, wine and distilled spirits.

#### **Sec. 4-3. Compliance with chapter.**

No person shall sell or offer for sale any alcoholic beverages at wholesale, by the package, or for its consumption on the premises within the city without first having complied with the provisions of this chapter.

#### **Sec. 4-4. Sale or delivery restricted.**

(a) It shall be unlawful for any person within the city to sell or deliver intoxicating liquors either directly or indirectly except in accordance with the provisions of this chapter.

(b) It shall be unlawful for any person within the city to have or carry about this person any intoxicating liquors for the purpose of an unlawful sale thereof, or for the purpose of delivering the intoxicating liquors to a third person in pursuance of, or to perfect, an unlawful sale thereof.

(c) It shall be unlawful for any person within the city to keep in any private place for unlawful sale any intoxicating liquors in any quantity whatever.

#### **Sec. 4-5. Underage Sales prohibited.**

No alcoholic beverage shall be sold, bought, obtained, or furnished to any person who is prohibited by the provisions of O. C.G. A., Section 3-3-23 from purchasing alcoholic beverages by reason of age, notwithstanding the exceptions as listed in O. C.G.A. Section 3-3-23(b)1 and 2 and section (c). These exceptions relate to medical purposes, religious ceremony, and permission of a parent or guardian within the home of the parent or guardian.

**Sec. 4-6. Prohibitions on minors.**

(a) No minor under 16 years of age shall participate in or play any game or play any machines in any establishment where distilled spirits for consumption on the premises are sold.

(b) No minor under 16 years of age shall be permitted to enter or remain in any establishment where distilled spirits for consumption on premises unless such entry is for the purpose of purchasing and consuming food, or unless such minor is accompanied by his legal guardian or parent.

**Sec. 4-7. Responsibilities for minors.**

(a) The enforcement of all provisions of this article pertaining to minors shall be the responsibility of the license holder. He shall cause such signs and notices to be prominently displayed in his place of business so as to serve notice on minors of the provisions of sections 4-5 and 4-6, and he shall employ whatever means necessary to ensure the proper enforcement of all provisions of sections 4-5 and 4-6.

(b) This article shall not prohibit persons 16 years of age or older from selling or handling alcoholic beverages during their normal course of duties in a grocery store, convenience store or similar establishment in accordance with O.C.G.L.A., Section 3-3-24.

**Sec. 4-8. Responsibilities for employees.**

(a) No licensee shall employ in any premises used for the sale of alcoholic beverages in any fashion, someone convicted of a felony a lesser crime involving moral turpitude, or any violation of the law of this state, or any other state, relating to the sale of alcoholic beverages, or the possession, distribution, transportation, manufacture, or sale of a controlled or dangerous substance within the five-year period immediately preceding the employee's intended date of employment. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for the purposes of this section only.

(b) No licensee shall allow or require a person in his employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverages in accordance with O.C.G.A. Section 3-3-24.

**Section 4-9. Requirement for Training on Applicable laws, rules and regulations.**

The City Manager shall establish an informational presentation concerning the City, State, and Federal laws, rules and regulations applicable to the sale of alcoholic beverages. The holder of any alcoholic beverage license issued by the City of Elberton, shall, not later than ninety (90) days subsequent to the initial issuance of the license, attend and participate in such presentation. Furthermore, the holder shall ensure that any employee who holds a supervisory or equivalent position and is operating under the holder's license, shall also attend and participate in such presentation not later than ninety (90) days after employment as, or promotion to, the position of supervisor or equivalent. The requirement to participate in said presentation shall apply to initial applications filed on or after January 1, 2011, and to renewals of any licenses previously issued; provided however, that any holder of a license or any manager or employee of any such holder, who has already attended the presentation shall not be required to repeat.

**Secs. 4-10 – 4-49. Reserved.**

## ALCOHOLIC BEVERAGES

### ARTICLE II. LICENSES

#### Sec. 4-50. License(s) required.

(a) Every person, before engaging in the selling of alcoholic beverages in the city, shall make application to both the State of Georgia and the City of Elberton for licenses and receive both licenses for the carrying on of such business on an annual basis.

(b) All licenses issued under this chapter shall constitute a grant of privilege to carry on or conduct a business covered by such license during the term of the license, subject to the terms and conditions imposed by the City Charter, this chapter, and other applicable ordinances of the city and the constitution, laws, regulations of the state and of the United States of America applicable thereto. All licenses issued under this chapter shall have printed on the face the following words:

**“THIS LICENSE IS A PRIVILEGE CONDITIONAL ON THE HOLDER MEETING ALL STANDARDS FOR SUCH LICENSE AND OPERATING REGULATIONS APPLICABLE THERETO SET OUT IN CITY ORDINANCES AND GEORGIA LAW. FAILURE TO MEET SUCH STANDARDS OR TO COMPLY WITH SUCH OPERATING REGULATIONS SHALL SUBJECT THE HOLDER TO THE LICENSE BEING REVOKED FOLLOWING NOTICE AND HEARING”.**

(c) All licenses shall be conspicuously posted in the place of business.

(d) No person shall engage in the manufacture, sale or distribution of alcoholic beverages in the city without first having obtained a license therefore, provided that wholesales and distributors maintaining no fixed place of business, warehouse or other facility in the city and possessing a valid state license may make sales and delivered to licensed package dealers and on-premises consumption dealer without obtaining a city license.

(e) Except as specifically authorized in this chapter, no person licensed for the sale of a particular class of alcoholic beverages may sell other classes of alcoholic beverages without obtaining the required license therefore.

(f) No license under this section shall be issued for more than a calendar year period, and in case of the revocation or surrender of the license before expiration of the calendar year period, the holder shall not be entitled to receive any refund of any fees or taxes whatsoever.

(g) All licenses granted under this section shall expire on December 31<sup>st</sup> of each year and shall be renewable at the option of the Mayor and Council of the city. Licensees who desire to renew their licenses shall file an application with the required fee with the City Clerk for such renewal upon forms provided by the City Clerk not earlier than October 15<sup>th</sup> nor later than November 15<sup>th</sup> of each year.

(h) Licenses shall not be transferred from one location to another, except that the license may be transferred during its term from one location to another by the Council, in its discretion, upon a showing that the existing location has been damaged or destroyed through no fault of the licensee to the extent that it cannot be reasonably renovated, or that the premises have been taken by condemnation nor under threat of condemnation.

(i) Licenses may not be transferred between owners, partnerships or corporations.

(j) Should the licensee change managers at any time, written notification thereof will be submitted within five days of the change to the City Clerk, providing that information required in subsection 4-52(b).

#### **Sec. 4-51. Classifications.**

Licenses under this chapter are classified as follows:

- (1) On-premises consumption, beer/malt beverage.
- (2) On-premises consumption, wine.
- (3) On-premises consumption, distilled spirits.
- (4) Retail, beer/malt beverage package.
- (5) Retail, wine package.
- (6) Retail, distilled spirits package, and
- (7) Temporary permit for non-profits and charitable organizations, on-premises consumption, beer/malt beverage, wine and distilled spirits.

#### **Sec. 4-52. Application submission.**

(a) Every applicant for a license under this chapter shall make application to the City Manager on forms furnished by the City Manager. The applicant shall answer all questions on the application, under oath, and shall supply all information and furnish all certificates, affidavits, bonds, and other supporting data or document as required by this chapter.

(b) Each application shall state the name and address of each applicant; the place where that proposed business is to be located; and the type licenses applied for whether for malt beverages, wine or distilled spirits, and whether for wholesale package sale or on-premises consumption. The application shall also contain a beginning balance sheet showing the proposed original capitalization of the business and its source. If an applicant is a corporation, the application shall state the names of all officers and stockholders of the corporation and the percentage ownership of each. If the applicant is a partnership, the application shall state the names of all partners therein, whether general or limited. All applications shall include the names of all persons that have or will have a direct or indirect beneficial interest in the business for which the license is sought. Each application shall also contain such additional information as the City Manager prescribes, shall be verified as true by the applicant before filing and shall be accompanied by a non-refundable deposit of \$100.00 to cover the cost investigating the applicant and processing the application. If granted, the application fee shall apply against the license fee.

(c) Licenses shall be issued only to eligible applicants who meet the following qualifications:

(1) The applicant must be at least 21 years of age and a legal resident of the United States. *[Ordinance 2187, 06/05/2015]*

(2) The applicant must not have been convicted of a felony, a lesser crime involving moral turpitude, or any violation of the law of this state or any other state, relating to the sale of alcoholic beverages, or the possession, distribution, transportation, or manufacture, or sale of a controlled or dangerous substance within the ten-year period immediately preceding the filing of an

application for license pursuant to this article. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for the purpose of this section only.

(3) The applicant shall be active in, and solely responsible for the management and operation of the business for which the license is granted.

(4) The applicant may not employ in the serving of alcoholic beverages any employee convicted of a felony, a lesser crime involving moral turpitude, or any violation of the law of this state, or any other state, relating to the sale of alcoholic beverages, or the possession, distribution, transportation or manufacture, or sale of a controlled or dangerous substance within the ten-year period immediately preceding the filing of an application for license pursuant to this article. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for the purposes of this section only.

(5) On-premises consumption of distilled spirits licenses shall be issued only to applicants who meet the definition of a restaurant. *[Ordinance 2187, 06/5/2015]*

(6) Applicants for renewal alcoholic beverage licenses must meet all qualifications of applicants for original licenses. Loss of qualifications during the term of a license shall be grounds for revocation or for denial of renewal.

(7) Corporations shall apply for a license in the name of the corporation, and the license shall be issued to the corporation. Corporate applicants shall attach to the application a certificate showing compliance with the annual registration requirements from the Secretary of State, Corporate Division, and showing the name and address of a registered agent for services within the state. Foreign corporations shall further present certification of authority to transact business in Georgia. In the case of corporate applicants whose primary business is the operation of an alcoholic beverage package store, an agent involved in the active management of the business to be licenses, as designated by the corporate resolution, shall meet the requirements of individual applicants under this subsection at the time application is made and at all times during which the license is in effect. If the applicant is a partner in a partnership; the requirements of this section shall apply to all partners at the time of application, and at all times during which the license is in effect.

(d) No retail license for the sale of alcoholic beverages classified as retail, distilled spirits package shall be issued under this article without meeting the following additional eligibility requirements. An applicant shall not hold a license as a wholesaler or wholesale distributor.

(e) No retail license for the sale of alcoholic beverages classified as retail-distilled spirits package shall be issued under this article, nor may any person have or possess any financial interest in a business regulated under the provisions of this article, under the circumstances hereinafter set forth:

(1) No appointed official or employee of any city, county, state or federal

government or agency whose duties include the regulation, policing or tax collecting functions with respect to alcoholic beverages shall be eligible for a license under the provisions of this article.

(2) An applicant shall have paid all taxes and assessments due the city for the current or any prior years which are due and payable at the time of application.

(3) An applicant shall not be granted more than one distilled spirits-package retail liquor license in the city.

(f) No member of the City Council shall hold any interest, directly or indirectly, in any establishment licensed by the city to sell, distribute, or otherwise deal in alcoholic beverages. For purposes of this section, a member shall be deemed to have or hold a beneficial interest if the license is issued in the name of the person's spouse, child, parent or sibling, or in a partnership or corporation in which such person owns more than ten percent interest.

(1) No officer or employee of the city, whose official duties involve insurance and regulation of alcoholic beverage licenses or the enforcement of alcoholic beverage laws, shall hold any interest, direct or indirect, in any alcoholic beverage license issued by the city or any establishment licensed by the city to engage in the sale or distribution of alcoholic beverages. The City Manager, upon advice and consent of the City Council, may exempt officers and employees of the city from the provisions of this section, upon written finding that such officer or employees' involvement, direct or beneficial, in any business licensed by the city to engage in the sale or distribution of alcoholic beverages would pose no conflict of interest or interference with the performance by the officer or employee of his official duties for the city.

(2) No officer or employee of the city shall be permitted to engage in employment with any person, firm or corporation licensed by the city to sell or distribute alcoholic beverages. The City Manager may, in writing, exempt those officer or employees from the prohibition of this section, upon finding that such employment would pose no conflict of interest or interference with the performance by the officer or employee of his official duties for the city; provided, however, no certified Police Officer shall be permitted employment by an establishment that deals in alcoholic beverages without first obtaining the written consent of the City Manager.

#### **Sec. 4-53. Fees and Bonds.**

(a) After June 10, 2002, every retail dealer in alcoholic beverages or private club, with the exception of a retailer of distilled spirits package, shall post with the city manger or his designee a cash bond in the sum of \$250.00 conditioned to abide by the ordinances of the city and the laws of the state, the bond to be retained without interest, by the city, and to be returned to the dealer at the expiration of his license, provided he has not breached the bond, the bond to be forfeited to the city in case of a breach thereof.

(b) Every retail dealer in distilled spirits package shall post with the city manger or his designee a cash bond in the sum of \$2,500.00 conditioned to abide by the ordinances of the city and the laws of the state, the bond to be retained without interest, by the city, and to be returned to

the dealer at the expiration of his license, provided he has not breached the bond, the bond to be forfeited to the city in case of a breach thereof.

(c) A separate bond shall be required for the sale of each type of alcoholic beverage licensed by the city.

(d) The acts and conduct of the agents and employees of the licensee in the conduct of business shall be deemed the acts and conduct of the licensee.

(e) The amount of cash bond required by this section will be doubled in cases where a retail dealer in alcoholic beverages has previously had his bond forfeited.

(f) A licensed retail dealer or private club shall pay a non-refundable license fee, per classification requested or held by the applicant or licensed retail dealer, as set from time to time by the mayor and council. The fee shall be paid in cash or cashier's check at the time the application or renewal request for a license is made.

(g) An applicant for a license between January 1<sup>st</sup> and June 30<sup>th</sup> of each year shall pay the required, adopted fee. An applicant for a license between July 1<sup>st</sup> and December 31<sup>st</sup> of each year shall pay one-half the required, adopted fee.

#### **Section 4-54. Omissions to application.**

Any material omission from or untrue or materially misleading information which is contained in an original, renewal or transfer application for a license hereunder shall be cause for the denial or refusal of the license, and if any license has previously been granted under such circumstances, the same shall constitute due cause for revocation of such license. The violation of any term, condition, or provision of this article in any particular, or as to denial whatsoever, shall be conclusive cause for the immediate revocation or suspension of any license issued pursuant to this article.

#### **Sec. 4-55. Form of Application.**

All applications for an alcoholic beverage license must include the following:

- (1) The names and addresses of all persons interested in the ownership of the business applying for a license to sell alcoholic beverages in any fashion, together with a disclosure of the interest of any owner or any member of his or her immediate family in any other business licensed to sell alcoholic beverages. An applicant for a retail, distilled spirits package license shall include proof that the residency requirement has been met. In addition to this requirement, any individual, partner or stockholder owning more than five percent interest in the business, either directly or indirectly, shall submit a personal financial statement on a form to be prescribed by the city manager, when so requested by the city manager.
- (2) The ownership and address of the land and building where the business is to be operated.
- (3) Name and address of the person having responsibility for the day-to-day operation of the business.
- (4) The applicant shall provide evidence that either he owns the title to the building and

premises for which the license is requested, or he shall have a written lease for a term extending to the end of the license period. The names and addresses of all person having any beneficial ownership interest in and to the land and building on and in which the business is located shall also be provided. If the applicant will not own the premises from which the business will be conducted, the application shall set forth the amount of rental to be paid, the manner in which the rental is to be determined, to whom and at what intervals the rent is to be paid, and shall include a copy of an executed lease agreement. No license shall be issued to an applicant who leases premises under an arrangement whereby the landlord/lessor shares in the profits from the business.

(5) All applications shall include a certificate of a registered surveyor or a plat satisfactory to the city manager describing the normal way of travel by street road, or highway from the proposed premises to the nearest school and church buildings in order to determine whether or not there is compliance with the restrictions of this section. An applicant for a retail, distilled spirits package license shall also include in the certificate or plat, the distance to the nearest wall of any private residence within 100 feet of the proposed premises.

(6) Fingerprints of all persons with any interest in the ownership of the business and employees, as may be required by the city manager, involved in the sell, furnishing or delivery of alcoholic beverages which will be processed through the State Crime Information Center and the National Crime Information Center after payment of appropriate fees as set forth in the City of Elberton fee schedule as enacted by the mayor and council from time to time.

(7) The addresses and occupations of each owner and manger for the five-year period immediately preceding the date of the application and a statement that no owner or current manager has any conviction which would violate the qualifications of this chapter and that the residency requirements of this chapter in reference to a retail, distilled spirits package license are satisfied.

(8) Any other information reasonably required by the city manager which is relevant to the applicant's qualifications or to the suitability and ownership of the premises or business.

(9) The application shall be accompanied by a cashier's check, a certified check, or money order for the amount of the annual license fee and bond as set forth in the City of Elberton fee schedule as enacted by the mayor and council from time to time.

#### **Sec. 4-56. Review of Application.**

In reviewing an application under this chapter, the city manager may utilize any city official. All applicants shall furnish such additional data, information and records as may be requested of them by the city manager or his designee such as would be useful in determining whether or approve or reject such application.

#### **Sec. 4-57. Grounds for Denial.**

(a) All applications for alcoholic beverage licenses meeting this chapter shall be granted by the city council for a period of up to one year, expiring on the last day of December each year, unless some specific cause regarding location, traffic, or environmental conditions or the specific causes set out hereafter justifies a refusal. In the event of denial for location, traffic or environmental conditions, the applicant shall be entitled to file a new application of like kind for a

different location without the loss of any part of the application fee. City review of an application shall be completed within 60 days of submission of a completed application, including all documents sought during the course of the investigation of the application. In the event the city requests additional documents during the application review, the 60 day review period shall be stayed until production of the additional documents is completed.

(b) The council shall be entitled to deny a license or the renewal of any alcoholic beverage license upon a finding by the council, following the hearing prescribed in connection therewith, of the existence, in the opinion of the 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 of limitation contained within this chapter,

(c) Any criminal law which is classified as a felony;

(d) Any other violation listed within this chapter;

(e) Any criminal law involving moral turpitude.

(2) Any violation by the holder of the alcoholic beverage license or 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, or any of the following:

(a) Any other ordinance of the city;

(b) Any other violation listed within this chapter;

(c) Any ordinance, rule, regulation or law of any governmental entity otherwise regulation the business in which such alcoholic beverage license is utilized.

(d) The initial application for the 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 misrepresented or misleading;

(e) 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.

(f) 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 Georgia 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.

(3) Failure of the holder of the license or any employee or agent of the business in which such license is utilized to promptly report within five business days, in writing, to the city manager:

(a) Any violation of this chapter;

(b) Any other violations of law;

(c) Any violation of any other city ordinance; or

(d) Any breach of the peace, disturbance or altercation which occurs upon the premise of the business in which such alcoholic beverage licenses is utilized.

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

(a) Fighting,

(b) Disorderly conduct,

(c) Utilization of controlled substances,

(d) Gambling,

(e) Indecent or obscene conduct, or

(f) Excessive noise.

(5) 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.

(6) A location that, in the judgment and discretion of the city council, is not suitable because of traffic congestion, general character of the neighborhood, or by reason of the effect which such a business would have on the adjacent and surrounding properties, or on the neighborhood.

(7) A location within an area where, in the judgment and discretion of the city council, the number of alcoholic beverages licenses already granted makes it contrary to the public interest or welfare.

(8) By filing an application, the applicant agrees to produce for oral interrogation any person who is to have a beneficial interest in the business for which the license is sought or who is to be employed by such business. The failure to provide

requested data, information and records or to make those persons available for interrogation within a reasonable time shall be grounds for denial of an application.

(9) In a retail distilled spirits package store there shall be no gambling, betting, games of chance, punchboards, vending machines, slot machines, pinball machines lotteries or tickets or chances therein or the operation of any schemes for hazarding money or any other thing of value in any licensed retailer's place of business or in any room adjoining the same, owned, leased or controlled by licensee. The exception to this regulation is that a retail dealer may sell lottery tickets of the State of Georgia if approved and regulated by the State of Georgia. Any violation of this regulation shall be cause for suspension or revocation of license.

If the city council denies an application for a license, the applicant shall be provided notice in writing of the denial, and a listing of the reasons therefore. The applicant shall have the right to appeal the denial to the municipal court judge in writing no more than ten days following receipt of the denial notice. A hearing shall be held in not less than 30 days from the date of the written notice of appeal. Within ten days from the date of the conclusion of the hearing, the municipal court judge shall notify the applicant, in writing, of his decision and the reasons therefore. The municipal court judge shall remand the matter back to the council for further consideration in the event the appeal is sustained.

#### **Sec. 4-58. Revocation or Suspension; Administrative Penalties.**

(a) Any retail or wholesale licensee/dealer in alcoholic beverages who fails to comply with the terms and provisions of this chapter or violates any other law or regulation of the city or the State of Georgia pertaining to alcoholic beverages or for any other reason upon good cause shown, which would make the continuation of any such alcoholic beverage license not in the general welfare and public interest of the city shall be guilty of an unlawful act and is subject to forfeiting its privilege of conducting or engaging in the business of selling alcoholic beverages in the city, and shall be further subject to payment of a fine and forfeiture of bond.

(b) The minimum administrative fine imposed for violation of this chapter shall be set from time to time by the mayor and council. The fine set forth from time to time by the mayor and council may be imposed for a particular offense to the minimum level. For purposes of this section, violations shall be determined based upon the five-year period preceding the date of the most recent alleged violation.

(c) For each offense, bond shall be forfeited and a new bond posted prior to continuing sale of alcoholic beverages at twice the prior amount held by the city.

(d) The license may be revoked or suspended by the mayor and council for such time as is determined to be sufficient. For purposes of determining the appropriate penalty, the following factors and criteria may be considered:

(1) The number of previous offenses by the licensee since the license was first issued.

(2) The policies and training that a licensee has required its employees to participate in and be knowledgeable of in connection with the rules, regulations and laws pertaining to the sale of alcoholic beverages.

- (3) The policies that a licensee has in connection with the prevention of the illegal sale of alcoholic beverages, including but not limited to sanctions against the offending employee.
- (4) The particular facts of a specific alleged violation.
- (5) Any other factor that a majority of the members of council consider to be relevant.

The presence or absence of the factors and criteria set forth above may be considered by council in aggravation of or in mitigation of the impositions of suspensions or revocations for violations of the provisions of this section.

(e) In those instances in which a licensee holds licenses to multiple stores, the sanctions assessed, if any, may in the discretion of the council be made applicable only to the offending location/store, but otherwise the forfeiture of bond and/or imposition of a fine as set forth above shall be the same as if for a licensee holding a license for a single location/store.

(f) In those instances in which a licensee's license is suspended or revoked, a new applicant in the same location may not receive a license if council determines that the individual or corporation is not sufficiently removed from association with that same licensee. For purposes of sufficient disassociation with the prior licensee, a new applicant must prove the following:

- (1) There is no familial kinship.
- (2) There is not a business relationship with the prior applicant.
- (3) The stockholders or principal owners of a business must be different not only in form or name, but in composition.
- (4) The new licensee will not be a tool or method for bypassing the suspension or revocation of a license ordered by council for the violations of this section.

(g) Such suspension, revocation, forfeiture and/or fine shall be administered only after at least five days notice and an opportunity for a hearing before the city.

(h) Short-term emergency suspension for violation involving licensed business. The city manager has authority to suspend a license for a short-term period not to exceed ten days. The city manager's decision shall be in writing, with the term of the suspension and the reasons therefore stated, and shall be hand-delivered to the licensee if in Elbert County, and if not, shall be delivered by overnight courier.

A short-term suspension by the city manager must be for an emergency cause. Emergency cause for the short-term suspension of a license shall consist of a third or subsequent violation by the same licensee or the licensee's agent on the same premise with a two-year period of any state or federal laws, administrative regulation of the state or city ordinances regulating such business holding a license, including those prohibiting gambling, regulating the sale, manufacture, distribution, handling, dealing in, and possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in an unlawful manner, and the manufacture, sale, distribution of any controlled substance which puts the city and the health and safety of its citizens at such risk that an immediate suspension is necessary until a hearing as provided for herein.

(i) If a license is suspended or revoked, the licensee shall not be entitled to a refund of any portion of the application nor license fees previously remitted.

(j) Council may revoke or suspend a license for violations occurring within the term of the license.

(k) The city manager will provide a copy of this section to each individual, firm, or company making application for a new alcoholic beverage license or renewal of an existing alcoholic beverage license. The applicant shall acknowledge the copy by signed and dated receipt.

**Sec. 4-59. Right to Inspect.**

Businesses operated under the provisions of this chapter shall be open to inspection by authorized personnel of the city at all times.

**Sec. 4-60. Submission to Jurisdiction and Venue.**

In making an application for and accepting a license pursuant to this chapter, any applicant submits him/herself to the jurisdiction of the City of Elberton, its judicial process, and to venue in its municipal court.

**Secs. 4-61- 4-99. Reserved.**

**ALCOHOLIC BEVERAGES**

**ARTICLE III. SPECIAL REQUIREMENTS**

**Sec. 4-100. Required Reports and Audits.**

(a) Each licensee under this chapter shall provide copies to the city of all notices or other reports which are filed with the state revenue commissioner. Further, each licensee shall, within five days of the happening of such event, report to the city any conviction of a licensee or an employee of any felony or any violation of the law of this state, or any other state, relating to the sale or taxing of alcoholic beverages, or the possession, distribution, or manufacture, or sale of a controlled or dangerous substance. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for the purpose of this Code.

(b) Each licensee under this chapter shall provide information, reports, and financial records requested by the city necessary to ensure compliance with this chapter. The city may conduct an audit on a licensee for compliance with all aspects of this chapter. If the city determines that a deficiency in compliance has occurred, the licensee shall reimburse the city for all costs of the audit, including but not limited to accountant's fees and out of pocket expenses, the value of time expended by city employees in the investigation, including reasonable cost of overhead, and all attorney's fees and costs of collection if action must be instituted by the city.

**Sec. 4-101. Orderly conduct of business; visibility from outside.**

All places where alcoholic beverages are sold within the city shall be conducted in an orderly manner, and the fronts of all such places shall be arranged in such a manner, and the interior of such places shall be so lighted that the designated officers of the city may view the entire

interior from the front entrance. Such interiors will not be obstructed from view. If the design of a building is not conducive to viewing all portions of the interior from the front, the city must be satisfied with efforts of the applicant to comply with the intent of this section.

**Sec. 4-102. Proximity to churches and schools.**

(a) No alcoholic beverages shall be sold within 100 yards of a church or 200 yards of a school yard or college campus within the city, such distance to be measured from the main entrance of one building to the main entrance of the other building along the normal way of travel by a road, street or highway.

(b) No alcoholic beverages may be sold for consumption on the premises within 100 yards of any housing authority property.

(c) Notwithstanding subparagraph (a) above, licenses for the sale of alcoholic beverages for consumption on the premises only shall not be subject to regulation as to distance from churches and schools for businesses located in the central business district.

**Sec. 4-103. Toilet Facilities.**

Every retail dealer holding a license to sell alcoholic beverages on the premises shall provide toilet facilities that shall meet the required code which shall be conveniently located on the premises and readily accessible at all business hours. A clearly visible and understood sign shall be posted advertising the toilet for public use.

**Sec. 4-104. Hours/days of Sale and Consumption.**

(a) No alcoholic beverages shall be sold upon the premises of the place of business of any licensee between the hours of 12:00 midnight and 5:00 a. m. or consumed upon the premises of the place of business of any licensee between the hours of 1:00 a. m. and 10:00 a. m. and no wine or distilled spirits for consumption on the premises shall be served before 10:00 a. m. and more than one hour after its kitchen ceases to serve food, nor to any customer outside the building where such dealer is regularly licensed to do business.

(b) No holder of an alcoholic beverage license shall allow the sell or delivery of such beverages in any fashion to any person at any of the following:

(1) At any time on Thanksgiving Day, Christmas Day, or any Sunday; and

(2) At any time in violation of a local ordinance or regulation of a special order of the Council.

**Sec. 4-105. Drive-in Windows and Curb Service.**

(a) No license to sell alcoholic beverages shall be granted to any person if the retail dealer shall operate a drive-in window in connection with his business except as provided in this section.

(b) A business licensed by the city for the retail sale of alcoholic beverages may provide drive-in service only as follows:

(1) The window shall be clear and unobstructed for a minimum of 24 inches wide and 36 inches in height; and

(2) The location of the window shall be lighted in a manner that will enable the attendant of the window to clearly view the entire interior of any vehicle being served at the window; and

(3) No alcoholic beverage of any description shall be sold or passed through a drive-in window.

(c) Curb service by retail or consumption on the premises licensed under this article or delivery of any alcoholic beverages off the licensed premises, other than by wholesaler licensed hereunder or by the state, is hereby prohibited.

**Sec. 4-106. Lounges, Nightclubs, and Bars Prohibited.**

(a) All lounges, nightclubs and bars are prohibited except as provided for in this section and no license for alcoholic beverages shall be issued to such a business.

(b) Bars may make application for on-premises consumption, beer or malt beverage, only.

**Sec. 4-107. Certain Promotions Prohibited.**

(a) A holder of an alcoholic beverage license is prohibited from selling or giving away alcoholic beverages under the following circumstances:

(1) Serving multiple drinks for a single price or offering all you can drink for a set price during a set time;

(2) Making a single price the basis for a required purchase of two or more servings;

(3) Serving alcoholic beverages by the pitcher, except to two or more persons at any one time;

(4) Reserved [*Ordinance 2187, 06/05/2015*];

(5) Reserved [*Ordinance 2187, 06/05/2015*];

(6) Using coupons or other special promotional items as an inducement to purchase alcoholic beverages;

(7) Sponsoring, conducting or allowing of contests or other promotions which have as their primary purpose the increasing of the consumption of alcoholic beverages;

(8) Offering or delivering any free alcoholic beverage to the general public; and

(9) Under any special pricing or promotion of any nature whatsoever after 8:00 p. m.

(b) This section shall not apply to private functions not open to the public. "Private function, not open to the Public" shall mean any function wherein the licensee has agreed to the use of the licensee's establishment by a person, firm, or organization for a set period of time for valuable consideration. A private function may be held in an area that may not be readily viewed by an officer of the city from the front entrance, but the licensee shall ensure that all private functions comply with the laws of the city and the State of Georgia.

**Sec. 4-108. Licenses to Public Officials.**

No alcoholic beverages license shall be issued to any elected or appointed official or employee of the city nor may any such person have or possess any financial interest in any business regulated under this section.

**Sec. 4-109. Exterior Signs.**

(a) No sign of any kind, painted or electric, advertising any brand or price of alcoholic beverages shall be permitted on the exterior or in the window of any licensed premises under this article. No plaque or sign of any kind which is visible from the exterior of the licensee's premises shall make reference to the price of distilled spirits for consumption on the premises sold therein.

(b) All licensed alcohol establishments are hereby required to post in a conspicuous location insider such establishment a notice informing patrons that open containers are prohibited on the public streets sidewalks or rights-of-way or in any public or semipublic parking facility within the city.

**Sec. 4-110. Zoning Restrictions.**

(a) Licenses shall only be granted for locations in the B-1 and B-2 zones under the Zoning Code of the city.

(b) The city manager or his designee shall acknowledge that a potential business or dealer is located within the correct zone.

**Sec. 4-111. Election Day Sales.**

It shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established on primary or election days.

**Sec. 4-112. Advertising Restrictions.**

(a) All advertising of alcoholic beverages is hereby prohibited except as provided for in the following:

(1) A licensee shall not post more than one decalcomania at his or her place of business. *[Ordinance 2187, 06/05/2015]*

(2) No sign of any kind, painted or electric, advertising any brand name of wine, beer, ale, malt beverage or distilled spirits shall be permitted on the exterior or in the window of any licensed premises. No plaque or sign of any kind, which is visible

from the exterior of the licensee's premise, shall make reference to the price of any wine, beer, ale, malt beverage, or distilled spirits sold therein.

(3) Notwithstanding the foregoing subsections of this section, no trade name, corporate name, or name of a business shall be allowed to use the words "liquor" or "alcoholic beverages" in such name.

**Sec. 4-113. Compliance with the Appropriate Building and Life Safety Codes.**

(a) The building in which the business or retail dealer will be conducted shall be complete at the time of application, and a set of detailed plans for the building and the outside premises, including the parking lot and all other required plans, shall be attached to the application. If the building is not complete, the proposed plans and specifications of the building, together with a valid building permit, shall be attached to the application.

(b) Any such building in which a licensee conducts business must comply with all of the ordinances of the city including all building, fire, and life safety codes. The building shall be subject to inspection by the city manager or his designee, typically the city building inspector.

(c) Each such building shall contain sufficient lighting so that the building itself, as well as the premises on all sides, except those sides attached to or forming a part of another building, are readily visible at all times from the street on which the building is located so as to reveal the inside retail area and so that the outside walls are not obscured. It is not the intent of this subsection to require a freestanding building.

(d) For purpose of issuing a license for retail, distilled spirits package, a licensee defined as a private club shall submit a plan of the building which will house its retail distilled spirits store, designating one room thereof, having dimensions of at least 15 feet by 20 feet to house its retail liquor operation, further designating one other room immediately adjacent and separate for its storage needs, the storage room having one doorway from the private club's retail liquor store for ingress and egress. The private club retail liquor store shall also have at least two doorways for ingress and egress, none of which shall open onto the exterior of the private club building or any other room in the club building. The private club retail liquor store shall open only into a hallway or other common area of the private club's building other than a bar or lounge. For definitional purposes, the term "premises" shall apply only to those rooms designated as a retail liquor store within a private club.

**Sec. 4-114. Regulations for Retail, Distilled Spirits Package.**

For retail dealer selling distilled spirits package the following regulations must be met:

(1) A retailer issued a license shall sell distilled spirits only in the original and unbroken package or packages, which package or packages shall contain not less than 50 milliliters each.

(2) No retailer shall sell or offer for sale or display or keep in stock, at his place of business where liquor is offered for sale, any other product or commodity except the following wines, when properly licensed, beverages containing no alcohol commonly used to dilute distilled spirits, malt beverages or beer, when properly licensed, tobacco products, and packaged ice. No beverages or packages of ice may be consumed in the retail distilled spirits store.

(3) The retailer shall cause to be maintained a visible sign, in letters at least four inches in height, providing the name of the manager who is currently on duty.

(4) No retailer shall sell or deliver any liquor to any person except in said retailer's place of business. No retailer shall have built into the structure of the retailer's place of business any drive-in window.

(5) No retailer shall be in his place of business, or open his place of business, or furnish, sell or offer for sale any liquor at any of the following times at any time on Thanksgiving Day, Christmas Day, or on Sundays, at any time in violation of a local ordinance or regulation or of a special order of the governing authority, or on any day before 8:00 a. m or after 11:00 p. m. Nothing contained in this section shall prohibit the city manager, or the mayor in the city manager's absence, from granting permission for a licensee to be in his place of business at any time for the purposes of taking inventory, making repairs, checking machinery, renovating, or any other purpose, when, in the discretion of the city manager, such activities could not reasonably be carried out during regular business hours. Any such permission granted by the city manager does not release such licensee from full compliance with all state laws and regulations.

(6) No retailer shall give, sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, or who is of unsound mind or who is a habitual drunkard whose intemperate habits are known to the retailer.

(7) The holder of a license to sell retail, distilled spirits package shall post in the most conspicuous place in his establishment a sign, printed in letters at least four inches high, reading as follows: **"SALE OF ALCOHOLIC BEVERAGES TO UNDER AGED PERSONS STRICTLY PROHIBITED"**.

(8) No licensed retailer shall keep any liquor stored in any bonded or other type warehouse in the city, nor shall he enter into any type of arrangement whereby liquor ordered by him is stored for him by any licensed wholesaler. A retailer shall keep no inventory or stock of liquor at any place except his licensed place of business, and within his licensed place of business his storage space for liquor shall be immediately adjacent to the room in which he is licensed to do business.

(9) In a retail distilled spirits package store there shall be no gambling, betting, games of chance, punchboards, vending machines, slot machines, pinball machines, lotteries or tickets or chances therein or the operation of any schemes for hazarding money or any other thing of value in any licensed retailer's place of business or in any room adjoining the same, owned, leased or controlled by licensee. The exception to this regulation is that a retail dealer may sell lottery tickets of the State of Georgia if approved and regulated by the State of Georgia. Any violation of this section shall be cause for suspension or revocation of license.

**Secs. 4-115-4-199. Reserved.**

## **ALCOHOLIC BEVERAGES**

### **ARTICLE IV. WHOLESALE REQUIREMENTS AND EXCISE TAXES**

**Sec. 4-200. Wholesale Delivery Requires Permit/License.**

(a) It shall be unlawful for any wholesale dealer in alcoholic beverages to make deliveries of such beverages in the city without having first procured from the city a permit/license to make deliveries in the city to licensed retail dealers.

(b) It shall be unlawful for any wholesale dealer to deliver alcoholic beverages to any person in the city unless such person holds a license as a retail dealer in the beverages.

**Sec. 4-201. Wholesale Delivery Records and Reports Required.**

(a) Each wholesaler shall furnish to the retailer to whom he makes delivery of alcoholic beverages a duplicate invoice of the exact amount and number of containers delivered, and such retailer shall maintain a file of these invoices. The file shall be available to the city manager or his designee upon request. Each wholesaler of alcoholic beverages shall, at the time the permit/license is issued to him, furnish a report to the city manager or his designee stating the exact quantity of alcoholic beverages delivered in the city during the preceding calendar year. It shall not be necessary for any wholesaler or retailer of alcoholic beverages to file any duplicate invoices with the city Manager or his designee.

(b) It is unlawful for any wholesaler or retailer to violate the terms of this section, and such wholesalers or retailers shall be punished as provided in section 1-9, and the city shall have the right to revoke the wholesaler's or retailer's license and permit.

**Sec. 4-202. Excise Tax Levied; Reporting Requirements.**

(a) There is hereby levied and imposed upon all wholesale dealers selling or delivering alcoholic beverages within the city the current excise tax and a schedule of such taxes is on file and available in the city offices.

(b) The excise tax imposed in Subsection 4-202(a) shall be in addition to all other taxes and license fees imposed upon the sale at wholesale or retail of the beverages.

(c) Each wholesale dealer who has sold alcoholic beverages within the city shall file a report by the tenth of each month itemizing for the preceding calendar month the exact quantities of all beverages, by size and type of container, for the month sold within the city. Each such wholesale dealer shall remit to the city, on the tenth day of the month next succeeding the calendar month in which such sales were made, the amount of excise tax due in accordance with this section.

(d) The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of ten percent of the amount of such remittance for each successive 30-day period or any portion thereof, during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report. Such failure to make a timely report or remittance, or the filing of a false or fraudulent report, shall also constitute grounds for the revocation of the permit/license issued by the city to the wholesale dealer.

(e) There shall be no excise tax stamps required on alcoholic beverages sold in the city. The excise tax shall be paid in accordance with subsection 4-202(a).

(f) It shall be unlawful for any dealer to sell or offer for sale or as a gift or to deliver any alcoholic beverages in the city unless the excise tax levied on that alcoholic beverages shall have been paid on the items sold, given away or delivered. Such payment of the excise tax shall be made in accordance with subsection 4-202(a).

**Secs. 4-203—4-224. Reserved.**

## **ALCOHOLIC BEVERAGES**

### **ARTICLE V. OPEN CONTAINERS**

#### **Sec. 4-225. Open Container Prohibited.**

(a) It shall be unlawful for any person to have in his or her possession any alcoholic beverages in any open container while on the public streets, sidewalks, or rights-of-way, or in any public or semipublic parking facility within the city.

(b) This prohibition shall not apply to any exceptions or exemptions as may be granted by the Council for special events within the city.

(c) This prohibition shall not apply to patrons of a sidewalk café as defined in the applicable zoning code, if such establishment is otherwise licensed to sell alcoholic beverages under the applicable laws and ordinances in the city.

#### **Sec. 4-226. Open Container in Automobiles Prohibited.**

(a) It shall be unlawful for any person to have in his or her possession any alcoholic beverages in any open container while an occupant of any motor vehicle, whether such vehicle is under way or not, while such vehicle is on the public streets, sidewalks or rights-of-way, or in any public or semipublic parking facility within the city. An open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger or is not located in a locked glove compartment, locked trunk or other locked non-passenger area of the vehicle.

(b) This prohibition in automobiles does not apply as follows:

(1) A passenger of a limousine or other similar vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for hire and such driver holds a valid commercial driver's license pursuant to Georgia Law or any other state; and

(2) A passenger of a bus in which the driver holds a valid commercial driver's license pursuant to Georgia Law or any other state; and

(3) Or to the occupants in the living quarters of a camper or motor home.

#### **Sec. 4-227. Posting Requirements.**

All licensed alcohol establishments are hereby required to post in a conspicuous location inside such establishment a notice informing patrons that open containers are prohibited on the public streets, sidewalks or rights-of-way in any public or semipublic parking facility within the city.

**Sec. 4-228. Penalty.**

All violations of this article shall be punished as provided in section 1-9 of the Code of the City of Elberton.

**Secs. 4-229 – 4-239. Reserved.**

**ARTICLE VI. LICENSE FOR NONPROFIT OR CHARITABLE ORGANIZATIONS**

**Sec. 4-240. Applications.**

(a) Non-profit and charitable organizations may be issued a temporary license for the sale of alcoholic beverages for on-premises consumption only by the council in accordance with the requirements of this article.

(b) The applications for a temporary license for sale of alcoholic beverages for on-site consumption only shall be the same as that for a regular license.

(c) The application shall include a length of time request, or three days, whichever is shorter. After the expiration of such period, the temporary permit shall expire.

(d) The permit described hereunder may be applied for and granted no more than six times per 12-month period.

(e) The license for such permit shall be \$250.00 per classification requested.

(f) The temporary permit granted under this article shall be deemed to be a privilege permit. The application shall be processed in accordance with his chapter and shall be presented to Council, which may take such action, as it deems appropriate. The council shall also set the days and hours of operation for this temporary permit.

(g) The applicant shall also comply with all applicable laws of the State of Georgia related to this application and shall obtain all necessary state permits.

**Sec. 4-241. Proof of nonprofit Status.**

(a) The applicant for a temporary permit must be a bona fide nonprofit corporation or charitable organization and must supply, with the original application, proof of its exempt status as granted by the Internal Revenue Service or an equivalent exemption.

(b) The city manager or his designee may request any additional information to verify proof of nonprofit status.