

**AN ORDINANCE
AMENDING THE CODE OF ORDINANCES
OF THE CITY OF BAXLEY
REGULATING THE SALE OF ALCOHOLIC BEVERAGES**

WHEREAS, the Mayor and Council of the City of Baxley did heretofore on March 25, 1975 adopt an Ordinance governing the sale of beer and wine in the City of Baxley; and

WHEREAS, said Ordinance has been amended by Ordinances of the Mayor and Council adopted March 2, 1981; January 13, 1987; August 9, 1988; and January 12, 1999; and

WHEREAS, the Ordinance adopted by the Mayor and Council on January 13, 1987 permitted the sale of beer and wine for consumption on the premises where served, and also the sale of distilled spirits by package and for consumption on premises; and

WHEREAS, various other Ordinances have been adopted by the Mayor and Council pertaining to the sale of alcoholic beverages; and

WHEREAS, the Mayor and Council now deem it appropriate to amend Chapter 3 of the City Code by consolidating previously adopted Ordinances, eliminating redundancies, enhancing certain provisions for clarification, and recognizing the need for certain additional provisions, all designed to create a more effective, understandable, updated and enforceable Ordinance pertaining to the sale of alcoholic beverages in the City of Baxley;

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Mayor and Council of the City of Baxley in regular meeting duly assembled that Chapter 3 of the Code of Ordinances of the City of Baxley be amended by substituting for said Chapter the following:

**CHAPTER 3
ALCOHOLIC BEVERAGES**

ARTICLE I. GENERAL PROVISIONS

Sec. 3-1. Definitions.

Unless a contrary intention is clearly apparent from the context, any term used in this chapter shall have the same meaning as when used in a comparable provision of the Georgia Alcoholic Beverage Code, O.C.G.A. §§ 3-1-1 through 3-10-15, provided that the following terms used in this chapter shall have the following meanings:

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

Alcohol treatment center means any building or location, publicly or privately owned, engaged in the practice of treating any alcohol related illness.

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

Alcoholic beverage code means the Georgia Alcoholic Beverage Code presently found at O.C.G.A. Title 3, and including future amendments thereto.

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

Brewer means a manufacturer of malt beverages.

Brewpub shall mean any restaurant in which beer or malt beverages are manufactured or brewed, subject to provisions and limitations prescribed in O.C.G.A. § 3-5-36.

Church means any permanent place where religious worship services are regularly conducted.

College campus means real property owned by a college or university with educational buildings in which are taught the subjects commonly taught in the colleges of this state.

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

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

Distiller means a manufacturer of distilled spirits.

Farm wineries means a winery as defined in O.C.G.A. § 3-6-21.1.

Financial interest includes, but is not limited to, holding any indebtedness or security interest in a business.

Grocery store means a retail establishment which has at least 85 percent of its total retail floor space reserved for the sale of food and other nonalcoholic items and conducts all of its sales inside the building containing its retail floor space.

Growler means a reusable container no greater than 64 ounces used to transport draft beer for off-premises consumption.

Home-brew beverage means any malt beverage produced pursuant to O.C.G.A. § 3-5-4.

Home-brew special event means any contest, judging, tasting, or other similar event that occurs at a central location outside of private residences whereby different home-

brew beverages that have been manufactured in private residences are sampled, compared, and consumed by participants in and judges of such events for awards, money, prizes, recognition or any other valuable consideration.

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests, such sleeping accommodations being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels.

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

Immediate family means any person related to the holder of an alcoholic beverage license within the first degree of consanguinity or affinity as determined according to canon law, which shall include a person's spouse, parents, stepparents, parents-in-law, brothers and sisters, stepbrothers and stepsisters, brothers-in-law and sisters-in-law, children, stepchildren, and children-in-law.

Keg means any container of malt beverage sold at retail and having a capacity in excess of two gallons.

Licensed premises includes all the space or area owned, leased and/or controlled by the licensee and used for the purpose of operating under the license, including but not limited to all rooms wherein alcoholic beverages are sold, furnished, served, or consumed, except when such a room is located in a hotel, motel, or similar facility or in a shopping center in which case only such room and any adjoining storage, office, toilet, and other similar rooms shall constitute the licensed premises. For Class D, E, or F licenses, such premises include adjoining patios, decks, porches or sidewalk cafes. A floor plan for each licensed premise as defined herein must be submitted with each application for a license under this chapter.

Licensee means the individual to whom an alcoholic beverage license is issued or, in the case of partnership or corporation, all partners, officers, and directors for the partnership or corporation.

Limited pouring license means a license for retail sale, for on-premises consumption, of beer ("limited pouring license - beer") or beer and wine ("limited pouring license - beer and wine").

Liquor includes distilled spirits, malt beverages and wine.

Liquor store means that class of retail package dealer licensed to sell distilled spirits for off-premises consumption; also includes package stores licensed for sale of malt beverages or wine, or both, in addition to distilled spirits.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

Manager means any person who supervises the regular operations of a business licensed under this chapter.

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. The term also means:

- (a) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; and
- (b) In the case of any malt beverages, any brewer; and
- (c) In the case of wine, any vintner.

Minor means any person under 21 years of age.

Package means a bottle, can, keg barrel, growler, or other original consumer container. All package dealers shall sell only in the original unbroken package as produced by the manufacturer or bottler and distributed by the wholesaler. Thus, there shall be no "single" beer or malt beverage sales by package dealers.

Package store means a licensed business offering for sale alcoholic beverages in original containers from wholesalers and no products other than:

- (a) Beverages containing no alcohol commonly used to dilute distilled spirits,
- (b) Cocktail mixes;
- (c) Tobacco products;
- (d) Ice to be sold in sealed containers only and not opened on the premises;
- (e) Paper, Styrofoam, plastic and glass cups and glasses;
- (f) Snack foods; and
- (g) Bar equipment.

Pouring license means a license for retail sale for on-premises consumption of alcoholic beverages including beer, wine, and distilled spirits.

Premises means the building and real property described in the application as approved by the Mayor and Council where the licensed operations are to be conducted, and shall include all parts of the address at which the license is located according to the application as approved by the commission, including all floors of any building or structure unless the approved application reflects otherwise. This meaning shall apply even though some parts of the licensed premises may not be used for customer service.

Private club means a corporation organized and existing under the laws of the State of Georgia, like fraternal or veterans' organizations, having bylaws and being a part of a national organization in existence for at least one year immediately prior to the application for any license hereunder, having at least 20 regular dues paying members, organized and operated exclusively for fraternal brotherhood, pleasure, recreation and other non-

profitable purposes, no part of the net earnings of which inures to the benefit of any stockholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining space and equipment for cooking, preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receive in the form of salary or other compensation, any profits from the sale of distilled spirits or any beverage licensed hereunder 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.

Restaurant means an eating establishment, serving prepared food which is offered to the general public, and which derives at least 50 percent of its total annual gross sales from the sale of prepared foods. Restaurant does not include bars which may be licensed for food service but which do not meet the above requirements. Brewpubs shall meet the food sales requirement.

Retail consumption dealer means a holder of a license to sell alcoholic beverages at retail for consumption on-premises; holder of a pouring license.

Retail package dealer means a holder of a license to sell alcoholic beverages in their original package at retail for off-premises consumption only. Sometimes referred to loosely as a "package store." License may include sale of malt beverages, wine or distilled spirits, or some combination of same.

School building or educational building on a college campus means governmental or church school buildings and such buildings at such other schools as teach the subjects commonly taught in the common schools and colleges of this state, and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).

Wholesale or wholesale dealer means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

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, combinations 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.

Sec. 3-2. License required; classes; fees.

- (a) *License required.* It shall be unlawful for any person to manufacture, serve, furnish, sell or offer for sale, at retail or wholesale, within the city limits of the City of Baxley, any alcoholic beverage, including malt beverage or wine, without having a manufacturer's license or retail or wholesale alcoholic beverage dealer's license. It shall be unlawful for any person to manufacture, serve, furnish, sell or offer for sale, at retail or wholesale, within the city limits of the City of Baxley any alcoholic beverage, including malt beverage or wine, in violation of the terms of such license or this chapter.

(b) *Classes.* The licenses shall be divided into the following classes:

- (1) Retail distilled spirits package.
- (2) Retail beer and wine package.
- (3) Consumption on-premises, distilled spirits.
- (4) Consumption on-premises, beer and wine.
- (5) Wholesale liquor/distilled spirits.
- (6) Wholesale beer and wine.
- (7) Brewer, manufacturer of malt beverages.
- (8) Brewpub operator.
- (9) Hotel.
- (10) Manufacturer of wine.
- (11) Distiller, manufacturer of distilled spirits.

Tasting permits. All licensees who engage in tastings as permitted by their individual licenses shall also be required to have a separate tasting permit.

(c) *Fees.* Before a new license shall be granted, the applicant therefor shall comply with all rules and regulations adopted by the mayor and Mayor and Council regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the mayor and Mayor and Council set forth below and kept on file with the code enforcement officer. The basic fees for each type of license listed in paragraph (b) hereinabove shall be as follows:

(1) Retail distilled spirits package:	\$4,000
(2) Retail beer and wine package:	1,000
(3) Consumption on-premises, distilled spirits:	1,500
(4) Consumption on-premises, beer and wine:	1,000
(5) Wholesale liquor:	1,000
(6) Wholesale beer and wine:	1,000
(7) Brewer, manufacture of beer:	2,500
(8) Brewpub operator:	1,000
(9) Manufacturer of wine:	2,500
(10) Distiller, manufacturer of distilled spirits:	2,500

(d) *Proration of fees.* The fee for a new alcoholic beverage license for a portion of the year shall be prorated from the date of the application. Any holder of a license issued pursuant to the provisions of this article who discontinues the operation of his business because of a documented hardship may apply for a refund of a portion of

the unearned license fee previously paid, and the license fee shall be prorated on a monthly basis as of the last day of the month in which the business discontinued.

Sec. 3-3. Application.

- (a) Application for a license to manufacture or sell alcoholic beverages or renewal of such a license shall be made on a form to be furnished by the city and shall be made under oath. The complete address of each applicant and applicant's Social Security number shall be furnished together with such further information as the city may require on the form. Any knowingly untrue, misleading or omitted statement or information shall be cause for denial or non-renewal and, if a license has been granted, shall be cause for revocation. Each application shall be filed together with a certified or cashier's check in payment of the application, renewal and/or license fee required by subsection 3-2(c).
- (b) An application shall be made in the name of all the owners of the business, if the owners are natural persons, and in the name of all managerial employees. If the owner is a corporation, application shall be made in the name of all corporate officers who will be directly concerned in the operation of the business and in the name of all managerial employees. All such persons must meet the requirements of this chapter.
- (c) The license application shall require the disclosure of any conviction of each applicant for any violation of federal, state, or local law involving alcoholic beverages, gambling, taxes or moral turpitude.
- (d) The City of Baxley shall conduct an investigation on each applicant to determine whether said applicant is eligible to receive a license under this code section. Each applicant authorizes the City of Baxley and its agents to secure from any court, law enforcement agency, or other public agency his or her criminal history and the criminal history of all individuals required to be listed on the application, including but not limited to sole proprietor, partners, members, corporate officers, stockholders, and managers, and authorizes the City of Baxley to use such information in determining whether the license applied for shall be issued. Each applicant waives any right that he would otherwise have to preclude the City of Baxley or its agents from obtaining and using such information and each applicant further waives any liability of the City of Baxley or its agents for obtaining and using such information, and agrees to indemnify and hold the City of Baxley harmless against the claims of any person listed by the applicant on the application and by doing so has authorized the City of Baxley to investigate. The police department shall make an arrest and conviction investigation concerning any applicants hereunder and all individuals required to be listed on the application, including but not limited to sole proprietor, partners, LLC members, corporate officers, corporate stockholders, and managers.
- (e) An application shall include a survey be prepared by the applicant showing the location of the proposed licensed business is not in violation of the distance requirements set forth in Section 3-7(g). Said survey shall illustrate the application of minimum distances in accordance with the manner of measurement provided for by state law. Upon receipt of the survey, the city marshal may conduct his own measurements of the distances identified in the survey to confirm the applicant is in

compliance with distance requirements discussed herein. If the city marshal determines the survey is inaccurate causing the proposed location to be in violation of section 3-7(g), he shall immediately notify the applicant in writing and provide the findings of his measurements.

- (f) The license application shall contain a statement as to whether an applicant holds any other license for the sale of alcoholic beverages and the location thereof.
- (g) If the proposed licensed premises requires construction or substantial renovation, the applicant shall submit a detailed set of plans and specifications showing the exact location of the proposed licensed premises, the construction proposed to be carried out by the applicant and the anticipated time for completion of construction.
- (h) As a prerequisite to the issuance of any license, each applicant shall furnish a complete set of fingerprints; provided, however, this requirement may be waived upon recommendation of the police chief.
- (i) The City Manager or the Mayor and Council may require such additional information as may be deemed necessary.
- (j) Any applicant seeking a new license, or the renewal of a license, shall submit an affirmation demonstrating its understanding and acceptance of the provisions set forth in this chapter of the City of Baxley Code of Ordinances. Such affirmation shall be made in writing and executed in the presence of a notary public.

Sec. 3-4. When issuance of license is prohibited.

Issuance of licenses required under section 3-2 is limited as set forth below.

- (a) Alcoholic beverage licenses shall not be issued to the following:
 - (1) Any person who has been convicted of driving under the influence of intoxicants or drugs or who has pleaded nolo contendere or forfeited bond in connection with any such charge within the preceding two years; or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal.
 - (2) Any person who has been convicted within 15 years immediately prior to the filing of the alcoholic beverage application with the city of any felony or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal; Any person who has been convicted of a violation of law pertaining to the sale of alcoholic beverages or the sale or possession of a controlled substance or who has pleaded nolo contendere or forfeited bond in connection with any such charge within the preceding five years;

- (3) Any person who has been convicted of three violations of the ordinances of the City of Baxley alcoholic beverages licensed hereunder within the last five years immediately prior to the filing of the licensee's application with the city, except as specifically provided in paragraph (c) below, concerning revocation of alcohol license, or paragraph (d) below, concerning selling alcohol to underage persons. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal; or
 - (4) Any partnership, unless all partners qualify;
 - (5) Any corporation, unless all officers qualify who will be directly concerned in the management of the business;
 - (6) Any person whose business will be managed or operated by a person who could not acquire a license under the terms of this chapter, except as to the citizenship requirement provided in this article;
 - (7) Any person whose license to manufacture or sell alcoholic beverages has been revoked by any licensing authority during the preceding five years;
 - (8) Any person who owes any debt or obligation to the City of Baxley or Appling County, including but not limited to excise taxes, occupational taxes, property taxes, or utility fees;
 - (9) For purposes of this section, the period of time relating to a prior conviction, plea of nolo contendere, or forfeited bond shall be calculated from the date the offense occurred, not from the date of disposition.
- (b) For 12 consecutive months immediately following the date of the revocation, no person whose license was revoked shall be eligible for renewal of or issuance of a license at the same location for which the previously revoked license was issued. Furthermore, during said 12-month period, the person whose license was revoked shall not be eligible to apply for any additional licenses above the number of licenses held immediately prior to said revocation. In determining the number of licenses that may be renewed or issued to said person after revocation, the finance director shall not include the revoked license.
- (c) No person shall hold a license in any retail category hereunder and a license under any wholesale category at the same time.

Sec. 3-5. Processing application.

- (a) All application provisions of this chapter shall be carried out by the City Manager; provided, however, the City Manager may, in his/her sole discretion, designate one or more City employees or contractors to be responsible for administering some or all of its provisions. Any reference to the City Manager herein shall be construed to include his or her designee, where such a designation has been made.
- (b) Every application filed pursuant to this chapter shall be thoroughly investigated by the Chief of Police, who shall make a formal written report and recommendation to the City Manager. In determining whether or not to recommend an application be granted

and a license be issued, the Chief of Police shall consider all mandated standards of this chapter and the following information in the public interest and welfare:

- (1) If the applicant and/or any holder of an interest in the license has ever violated any Federal, State, county or municipal law, ordinance or administrative regulation regarding alcoholic beverages, their possession, sale, manufacture, distribution, handling, or dealing therein;
 - (2) The manner in which the applicant and/or any holder of an interest in the license has conducted any business within the City as to the necessity for excessive police intervention;
 - (3) The reasonably anticipated effect on the immediately surrounding neighborhood for which the license is sought as to traffic congestion, noise and/or light pollution;
 - (4) Whether the applicant and/or any holder of an interest in the license has ever had any alcoholic beverage or business license suspended or revoked by any state or any political subdivision thereof, or whether any alcoholic beverage business with which the applicant and/or any holder of an interest in the license has been associated has been cited for a violation of the laws or regulations of any state or any local ordinance pertaining to alcoholic beverages, and the outcome of such proceedings.
- (c) The City Manager shall review the Chief's report and make such further investigation as he or she deems appropriate.
 - (d) The failure to provide requested data, information and records or to make those persons specified available for interrogation within a reasonable time shall be grounds for denial of an application.
 - (e) All applications for alcoholic beverage licenses meeting the qualifications of this chapter and granted by the City Manager shall be for a period expiring on the last day of December of the current calendar year.
 - (f) The City Manager's 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 period, the 60-day review period shall be stayed until production of the additional documents is completed.
 - (g) In the event the City Manager denies an application for a license, the applicant shall be provided notice in writing of the denial, and a listing of the reason(s) therefor. The applicant shall have the right to appeal that denial, in writing, to Mayor and Council no more than 10 days following receipt of the denial notice.
 - (h) A hearing shall be held before the Mayor and Council in not less than 30 days from the date of the written notice of appeal. Within 10 days from the date of the conclusion of the hearing, the Mayor and Council shall notify the applicant, in writing, of its decision and the reason(s) therefor. If the decision of Mayor and Council is to affirm the City Manager's denial of the application, the applicant may petition the Superior Court of Appling for writ of certiorari.

Sec. 3-6. Consideration for issuance of license.

In determining whether or not any alcoholic beverage license application should be granted, the following shall be considered in addition to other provisions of this chapter:

- (a) An applicant's character and mental capacity to conduct the business, his personal associations, record of arrest and reputation in any community in which he has resided and whether or not he appears likely to operate the business in conformity with federal, state and local laws;
- (b) If the applicant previously held a license to manufacture or sell alcoholic beverages, whether or not he has violated any law, regulation or ordinance relating to such business and the circumstances of any violation;
- (c) If the applicant previously held a license to sell alcoholic beverages, the manner in which he conducted such business so as to reduce or increase the necessity for police observation or intervention;
- (d) Whether the applicant previously had a similar license suspended or revoked and the reason therefor;
- (e) Other factors that may affect the general public health and welfare, including, without limitation, the number of existing active alcohol licenses in the area, the type of license applied for, the effect the license would have on schools, churches and public facilities in the area, the effect the license would have on existing land uses in the area, the character of the area and its suitability for the particular use sought, and the congestion of roads and streets;
- (f) The City Manager and the Mayor and Council may consider the history of operations of bars and other establishments at the site specifically applying for a license among other factors the commission deems fit in its discretion to determine whether a license should be granted;
- (g) The City Manager and the Mayor and Council may require as a condition of issuance of a liquor license or a renewal of a particular license, or as a condition of probation that security guards be present on the premises in non-restaurant bars. If the use of security guards is required, terms of use shall be as set by the City Manager or the Mayor and Council (regarding, e.g., hours of security presence, location, level of training, and other terms as the City Manager or the Mayor and Council may deem appropriate). Such security guard(s) could be retired or off-duty from the Baxley Police Department, the Appling County Sheriff's Office, or any other Georgia or federal law enforcement department.

Sec. 3-7. General regulations pertaining to all licenses.

(a) *Location, transfers.*

- (1) *License not transferable to another location.* Each license is issued for a specific location only and may not be transferred to another location. A new application is required for each licensed premises. No license, except for a manufacturer license, may be issued to different licensees for the same location.

- (2) *Transfer of license to another person.* No alcoholic beverage license shall be transferred from one person to another during the year in which the license was obtained, except in the case of the death of a person holding a license, in which event his personal representative may continue to operate under the license for six months from the date of his qualification.
- (b) *Interests of public employees; prohibited.* No license shall be granted to any City of Baxley, state or federal employee whose duties include the regulation or policing of alcoholic beverages or licenses or any tax-collecting activity.
- (c) *Inspection of books and accounts.* Upon demand by the City Manager, or his designated representative, any person holding a license from the City of Baxley, Georgia, shall open to the City Manager or his designated representative, his place or places of business for the purpose of enabling the City Manager or his representative to ascertain and gain such information as may be necessary for determination of the proper classification of such license holder for license fee purposes and determination of the correct amount of license fee to which such person is subject. Upon demand by the City Manager or his designated representative, any person holding a license from the City of Baxley shall furnish the City Manager or his representative, during normal business hours at such person's place of business, all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sale receipts, inventory and other information, ascertained and from which the correct amount of the fee to which he is subject may be determined, including exhibition of bank deposit books, bank statements, and copies of sales tax reports, and any other such documents as the City Manager may deem necessary. Any person holding a license from the City of Baxley shall secure, preserve, maintain and keep for a period of three years the records and documents enumerated and referred to in this section.
- (d) *Failure to open.* All holders of licenses issued hereunder must within 45 days after the issuance of such license open for business the establishment referred to in the license. Failure to open the licensed establishment as referred to within such period shall serve as a forfeiture and cancellation of the unused license and no refund of the license fee shall be made to the license holder.
- (e) *False representation of age.* It shall be unlawful for any person to falsely misrepresent his age in any manner whatsoever for the purposes of purchasing or otherwise acquiring any beverage licensed hereunder.
- (f) *Adding to, refilling bottles, misrepresentations as to quantity, etc.* It shall be unlawful for a licensee hereunder, his employees, subcontractors or his agents, to add to the contents of a bottle or to refill an empty bottle or in any manner to misrepresent the quantity, quality or brand name of any beverage licensed hereunder.
- (g) *Distance requirements.*
- (1) The applicant shall list all churches, colleges, residences, schools, and alcoholic treatment centers within 750 feet of any portion of the proposed licensed premises and the distance between property lines of the proposed place of business and the property lines of schools, colleges, churches, alcoholic

treatment centers and residences within 750 feet of the proposed place of business.

- (2) No license shall be issued for the retail sale of distilled spirits for off-premises consumption within 300 feet of any church building, educational building, school grounds of college campus.
- (3) No license shall be issued for the sale of distilled spirits, wine, or malt beverages within 300 feet of an alcohol treatment center owned and operated by the state, Appling County or the City of Baxley.
- (4) No license shall be issued for the retail sale of any wine or malt beverages for consumption off-premises within 300 feet of any school building, school grounds, or college campus. Nothing in this subparagraph shall prohibit the issuance of a license to a grocery store for the retail sale of only wine and malt beverages for consumption off the premises within 300 feet of any school building, school grounds, or college campus.
- (5) No license shall be issued for the sale of any alcoholic beverages for consumption on-premises within 300 feet of any housing authority property.
- (6) No new license shall be issued for retail sale of alcoholic beverages for off-premises consumption without consideration by the City Manager of the proximity of the location proposed for the establishment to any property zoned for or used for residential purposes, any property with a valid license for sale of alcoholic beverages for off-premises consumption, or which is owned by the city or other government agency and planned for residential use. Where the applicant's proposed place of business is located within 1,500 feet of any property zoned for or used for residential purposes, any property with a valid license for sale of alcoholic beverages for off-premises consumption, or which is owned by the city or other government agency and planned for residential use, then any motion to approve the location must be accompanied by a statement substantially to the effect that such proximity has been considered and it is the City Manager's finding that the proximity does not cause the establishment of the licensed premises as proposed to be harmful to the welfare of the community or otherwise unsuitable for the location. For purposes of this subsection, the distance shall be measured from the main entrance of the proposed new licensed business to the nearest boundary of the residential parcel in question using the most direct method of travel using public sidewalks, streets, and other public rights-of-way.
- (7) No new license shall issue, or new location be approved, for retail sale of any alcoholic beverage for consumption on-premises without consideration by the City Manager of the proximity of the location proposed for the establishment to any nearby school, college, church or residences. If any school, college, church or residence is located within 600 feet of the main entrance to the proposed licensed premises, then any approval of the location must be accompanied by a statement substantially to the effect that such proximity has been considered and it is the City Manager's finding that the proximity does not cause the establishment of the licensed premises as proposed to be harmful to the welfare of the community or otherwise unsuitable for the location.

- (8) The distance requirements found herein shall not apply to applications made on behalf of locations falling within the city's designated B-1 Zoning District.
- (9) A license shall not be considered a new license for purposes of this subsection, and thus the distance requirements set forth herein shall not apply, if it is a renewal of an existing license at an existing licensed location, or a change of owner at an existing licensed location, or the licensing of a business at a location if the sale of alcoholic beverages was lawful at such location at any time during the 12 months immediately preceding such application.
- (h) *Registered agent.* All licensed establishments must have and continuously maintain in the city a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of the city or a licensed attorney practicing law that maintains an office in the city. The licensee shall file the name of such agent, along with the written consent of such agent, with the code enforcement officer and shall be in such form as he may prescribe.

Sec. 3-8. Sale for consumption on the premises.

Alcoholic beverages shall not be sold at retail for consumption on the premises, except in the following types of licensed businesses:

- (a) Restaurants, other than fast food restaurants, serving prepared food which is offered to the general public. As used in this subsection, "fast food restaurant" means a restaurant that transacts more than 15 percent of its sales through a carry out window.
- (b) Hotels or motels kept, used, maintained, advertised and held out to the general public as places where sleeping accommodations are offered to guests, whether transient or permanent, and having a public dining room where at least two meals a day are served.
- (c) Private clubs or bona fide associations of individuals organized for fraternal purposes, conducted solely for the use and benefit of their members and their beneficiaries.
- (d) Restaurants with a pouring license may sell wine or beer for consumption on certain city-owned premises in accordance with the provisions of article II of this chapter.
- (e) Brewpubs may be licensed for the sale for consumption on the premises by applying and obtaining a brewpub license in accordance with the provisions of this chapter. Brewpub license holders are subject to state law limitations set forth in O.C.G.A. § 3-5-36 and any other corresponding state or local regulations or requirements.
- (f) Farm wineries shall be permitted to offer the sale of alcohol for consumption on the premises as provided by O.C.G.A. §§ 3-6-21.1, 3-6-21.2 and 3-6-21.3 as may be amended by the state from time to time.

- (g) A brewery shall be permitted to offer the sale of alcohol for consumption on the premises as provided by O.C.G.A. § 3-5-24.1 as may be amended from time to time.
- (h) A distillery shall be permitted to offer the sale of alcohol for consumption on the premises as authorized by O.C.G.A. § 3-5-24.2 as may be amended from time to time.

Sec. 3-9. Retail package sale of distilled spirits for consumption off-premises.

- (a) Except as provided in subsection (b), distilled spirits shall be sold at retail only in stores which are duly licensed by the state to sell distilled spirits by the package and which are devoted exclusively to the sale of alcoholic beverages in the original container. A retail package licensee shall not permit the breaking of a package containing any alcoholic beverage or the drinking of any alcoholic beverage on the licensed premises.
- (b) Distilled spirits may be sold at locations licensed as distilleries in compliance with this chapter and in accordance with O.C.G.A. § 3-5-24.2, as amended from time to time.

Sec. 3-10. Retail package sale of malt beverages and wine for consumption off-premises.

- (a) Malt beverages and wines shall not be sold at retail except in the following types of businesses:
 - (1) Package stores;
 - (2) Retail stores in which at least 60 percent of the retail floor space is devoted exclusively to the sale of food, related grocery items or articles commonly sold in drugstores, excluding any alcoholic beverages;
 - (3) Boat marinas providing fuel, fishing needs, refreshments or other accommodations;
 - (4) Breweries as provided by O.C.G.A. § 3-5-24.1 as may be amended from time to time. Such breweries must be licensed by the City of Baxley;
 - (5) Farm wineries pursuant to the powers set forth in O.C.G.A. §§ 3-6-21.1, 3-6-21.2 and 3-6-21.3 as may be amended by the state from time to time. Such farm wineries must be licensed by the City of Baxley.
- (b) No malt beverages or wine shall be displayed for sale on the licensed premises except in the original package at room temperature or in an electric cooler or in a "growler" for premises licensed to provide "growler" services.
- (c) Any retail package dealer selling beer by the keg shall require the purchaser to provide a drivers' license or other form of photo identification and shall record the identification or serial number of the keg along with the full name, address, date of birth and Social Security number of the purchaser. Such record shall be maintained for a period of no less than one year following the date of purchase. Such records

shall be provided for inspection to any officer of the city police department upon oral or written request.

- (d) A brewpub license holder shall not be authorized to sell alcoholic beverages at retail by package for consumption off the premises.

Sec. 3-11. Retailer to purchase from licensed wholesaler only.

Except as otherwise provided in this chapter, no retailer shall purchase for use at a licensed place of business any alcoholic beverages, malt beverages, or wine from any person other than a wholesaler licensed by the state. No wholesaler shall sell any alcoholic beverages, malt beverages or wine to anyone other than a retailer licensed under this chapter.

Sec. 3-12. Excise tax on wholesale alcoholic beverages.

- (a) There is hereby levied an excise tax on the sale of distilled spirits by licensed wholesalers in the amount of \$0.22 per liter or a proportionate tax at like rates on any fractional part of a liter on distilled spirits, excluding fortified wine.
- (b) There is hereby levied an excise tax on the sale of malt beverages, commonly known as tap or draft beer, which is sold in or from a barrel or bulk container, at a rate equal to \$6.00 on each container sold containing not more than 15½ gallons or a proportionate tax at the same rate on all fractional parts of 15½ gallons.
- (c) There is hereby levied an excise tax on the sale of malt beverages sold in bottles, cans and other containers, except barrel or bulk containers, at a rate equal to \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.
- (d) There is hereby levied on the first sale or use of wine by the package an excise tax in the amount of \$0.22 per liter or a proportionate tax at like rates on all fractional parts of a liter.
- (e) The excise taxes provided in this section shall be imposed upon and shall be paid by the licensed wholesale dealer. The taxes shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of within the city by the wholesale dealer. Each licensee responsible for the payment of the excise tax shall file a report with the finance department itemizing for the preceding calendar month the exact quantities of alcoholic beverages, by size and type of containers, sold during the month within the city. Any wholesale dealer or distributor who fails to collect and remit on time the taxes imposed by this Ordinance shall be held financially responsible for said taxes and shall be barred from doing business within the city until such time as any past due taxes have been paid plus a twenty-five percent penalty for delinquency and plus two percent per month interest. In the event the taxes due are not collectable from the wholesaler as set forth above, the city will proceed to collect from the wholesaler said taxes as provided by ordinance for collection of delinquent taxes.

- (f) It shall be a violation of this chapter for any licensee to fail to file in a timely manner any report required pursuant to this chapter or to fail to remit in a timely manner all taxes due with any such report. Such licensee may be required to appear before the City Manager or Mayor and Council to show cause why such licensee's license should not be revoked or suspended.

Sec. 3-13. Hours of sale.

The following hours of sale are hereby established for the sale of distilled spirits, beer, and wine:

- (a) Retail package licensees shall not sell distilled spirits at any time on Christmas or Sundays, or on any other day between the hours of 12:00 midnight and 8:00 a.m.
- (b) Retail package licensees shall not sell wine or malt beverages at any time on Christmas or Sundays, or on any other day between the hours of 12:00 midnight and 8:00 a.m.
- (c) Alcoholic beverages shall not be sold for consumption on the premises at any time on Christmas or Sundays. Alcoholic beverages may be sold for consumption on the premises on any Monday through Friday between the hours of 10:00 a.m. and 2:00 a.m. of the following morning; and between the hours of 10:00 a.m. and 12:00 midnight on Saturdays. Customers shall be required to vacate the licensed premises within thirty (30) minutes after the time sales of alcoholic beverages must end.
- (e) Alcoholic beverages may be sold on a primary or election day either by the package or for consumption on the premises; provided, however, that no sale shall take place 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.
- (g) Pursuant to O.C.G.A. § 3-3-7(r), by resolution providing the same, the City Manager or Mayor and Council may extend the hours of sale of malt beverages, wine, and distilled spirits for consumption on the premises one Sunday each year if that Sunday is New Year's Eve or New Year's Day.

Sec. 3-14. Outdoor advertising.

No outdoor advertising with respect to the promotion of the sale of alcoholic beverages, malt beverages or wine shall be permitted on the exterior of any wholesale or retail outlet or elsewhere within the city except as may be authorized by the laws of the state and regulations implemented by an agency having jurisdiction thereof.

Sec. 3-15. Minors.

No person who holds a license to sell alcoholic beverages by the drink shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment unless such minors are accompanied by a parent, legal guardian, or custodian; provided,

however, that such minors shall be permitted in restaurants, indoor commercial recreational establishments, or private clubs as defined in this chapter without being accompanied by a parent, legal guardian, or custodian and provided further that this section shall not apply to minors who are employees under this chapter. All personnel employed by licensee shall be advised by the licensee or the manager of the provisions of this subsection. Provided, however, that this section shall not prohibit such licensees from employing persons between the ages of 18 and 21 to work in the licensed establishment as servers or otherwise.

Sec. 3-16. Licensed premises only to be used for licensed purposes.

The licensed premises shall not be used, in whole or in part, for any purpose other than the purpose for which it is licensed during the term of the license. This prohibition shall remain in effect during any period of suspension of the license, as well as after normally authorized hours of operation. Use of the premises for any unauthorized purpose during the term of the license shall be deemed an abandonment of the license. For purposes of this provision, "unauthorized purpose" shall include, but shall not be limited to, private parties, teen clubs, or any other alcohol or non-alcohol use or event.

Sec. 3-17. "Brown bag" and "bring your own bottle" practices prohibited in unlicensed business premises; exception.

(a) It shall be unlawful for any person to permit persons to bring their own alcoholic beverages into any business premises within the city in return for a "cover charge," an "admission fee" or a "set-up charge" for mixers or for any other services unless the premises are currently licensed and in good standing (i.e., not under suspension) for on-premises consumption sales of such category of alcoholic beverages. In other words, the license requirements and other rules set forth in this chapter apply even though there is no "sale" as such of the alcoholic beverage on the premises. No such "brown bag" or "bring your own bottle" practices may be carried out at any unlicensed location in the city. No such "brown bag" or "bring your own bottle" practices may be allowed in any licensed premises during any period of closure, suspension, any other period of poor standing.

(b) This ordinance shall not apply to a private event on any premises where entry is restricted to invited guests, no admission is charged and no goods or services are sold. An event at a private club where only club members are allowed entry shall not be deemed a private event for the purposes of this Ordinance, unless the club satisfies the provisions of a "bona fide private club" as defined herein.

Sec. 3-18. Consumption of alcohol on city streets prohibited; exceptions.

(a) Except as provided in subsection (b) below, it shall be unlawful for any licensed establishment to dispense any alcoholic beverage in an open container for removal from the premises, and it shall be unlawful for any person to remove from an alcoholic beverage establishment any open container of alcoholic beverage or to drink or attempt to drink any alcoholic beverage from any open container or to possess in any open container any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private, within the corporate limits of the city.

- (b) In connection with an event sponsored or cosponsored by the city, the Chamber of Commerce or the Downtown Development Authority, or an event obtaining the specific approval of the Mayor and Council, open containers of alcoholic beverages shall be permitted in the downtown area bounded on the north by Lee Street, on the east by Parker Street, on the south by Martin Luther King Jr. Drive, and on the west by Park Avenue; and the following regulations shall apply:
- (1) Any establishment licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can, bottle, or glass, for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than two such alcoholic beverages from the licensed premises.
 - (2) No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 16 fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds 16 fluid ounces in size.
- (c) It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle when the vehicle is parked on any city street, alley, way or parking lot.
- (d) It shall be unlawful for any person to possess an open container of an alcoholic beverage while operating a vehicle in the city or while a passenger in or on a vehicle being operated in the city.
- (1) As used in this article, "open container" means any container which is immediately capable of being consumed from, or the seal of which has been broken.
 - (2) 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 and is not located in a locked glove compartment, locked trunk, or other locked non-passenger area of the vehicle.
 - (3) An open container shall be considered to be in the possession of a passenger of a vehicle if the container is in the physical control of the passenger.
 - (4) Exceptions:
 - i. A passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid chauffeur's license pursuant to Georgia law or any other state;
 - ii. A passenger of a bus in which the driver holds a valid chauffeur's license pursuant to Georgia law or any other state; or
 - iii. A passenger of a self-contained motor home which is in excess of 21 feet in length.

Sec. 3-19. Outside delivery of drinks prohibited.

- (a) Except as set forth in subsection (b) below, retail consumption dealers under this chapter shall not sell or permit the sale of alcoholic beverages except within the physical confines of the licensed premises. The sale or delivery of alcoholic beverages through any window, door, or other opening in the license premises to person outside the physical confines of the structure, and any sale or delivery of beverage alcohol upon the street, sidewalk, or grounds outside the license premises is prohibited.
- (b) This provision shall not apply to establishments licensed for retail sales for consumption on-premises located within the city's B-1 or B-2 district provided however, that the outside delivery of drinks shall be limited to seating areas provided by the licensee.

Sec. 3-20. Home-brew malt beverages.

- (a) *Home-brew special events:* An event held pursuant to O.C.G.A. § 3-5-4(e) in which malt beverages brewed pursuant to the provisions found in O.C.G.A. § 3-5-4 may be consumed.
 - (1) Home-brew special events shall not be held at any location licensed for the sale of alcoholic beverages.
 - (2) Consumption of malt beverages at home-brew special events shall be limited solely to malt beverages produced pursuant to O.C.G.A. § 3-5-4 and such malt beverages shall only be consumed by the participants in and judged of the home-brew special event.
- (b) *Home-brew special event permits:* Upon receiving an application from a qualified applicant including the fee, the city manager or his assignee may issue a home-brew special event permit for the holding of home-brew special events, including contests, tastings, and judging. A home-brew special event permit shall cost \$50.00 and shall be valid for not more than six events per calendar year.
- (c) *Transportation of malt beverages to home-brew special event:* Malt beverages may be removed from the residence where produced and transported by the producer for use at home-brew special events in a quantity not to exceed 25 gallons, provided that such malt are securely sealed in one or more containers and clearly labeled with the following information:
 - (1) The name of the producer;
 - (2) The address of the residence at which it was produced;
 - (3) The name and address of the home-brew special event to which it is being transported; and
 - (4) The permit number under which the home-brew special event is being held.

If transported by motor vehicle, the sealed containers shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

(d) *Transportation of home-brew malt beverages, generally:* Malt beverages produced under the provisions of O.C.G.A. § 3-5-4 may be removed from the residence where produced for transportation and delivery by the producer to a location not licensed under this title and for which a permit has not been issued pursuant to subsection (e) of this code section; provided that not more than 128 ounces of such malt beverages produced in the same residence shall be transported at one time; and provided, further, that such malt beverages shall be securely sealed in one or more containers and clearly labeled with the following information:

- (1) The name of the producer; and
- (2) The address of the residence at which it was produced.

If transported in a motor vehicle, the securely sealed containers shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

Sec. 3-21. - Provisional license.

(a) A person making an application for an alcoholic beverage license may be issued a provisional license for a period not to exceed 90 days by the City Manager. Before a provisional license is issued, the applicant must have filed a complete application, and the following documents and material must be furnished to the commission:

- (1) A valid state application with all questions answered which indicates that applicant is eligible to hold the license sought;
- (2) Information showing that a preliminary record check indicates the applicant is eligible to hold such license.

(b) Every person making an application for a provisional license shall be required to appear before the City Manager to answer such questions and provide such information as the City Manager deems necessary and proper. If the applicant fails to appear at such hearing, the application may be rescheduled one time. If the applicant fails to appear at the next scheduled time, the application may be treated as having been withdrawn.

(c) The issuance of any provisional license pursuant to the conditions in this section is within the discretion of the City Manager, subject to appeal to the Mayor and Council as set forth in Section 3-5(g) and (h) above, and such provisional license may be withdrawn at any time without further notice or hearing if the complete investigation, including the response to the fingerprint search, shows that the applicant was not entitled to the license issued.

Sec. 3-22. Certificate of occupancy for licensed premises required prior to granting license.

(a) No license shall be granted under this chapter until the business establishment referred to in the license application has been granted a certificate of occupancy by the building inspector's office.

- (b) A provisional license may be issued to the applicant for a location not previously licensed, provided reasonable assurance are given to the building inspector and City Manager that when all work is completed the premises will fully comply with this chapter, the zoning ordinance and all applicable building regulations.
- (c) A provisional license for a new location shall not entitle the applicant to sell alcoholic beverages until such time as the necessary work has been inspected and approved by the building inspector and a certificate of occupancy has been issued. When all necessary approvals have been obtained, the City Clerk shall issue the license previously applied for and approved by the City Manager.

Sec. 3-23. Expiration and renewal.

- (a) All licenses granted under this article shall expire at midnight on December 31 of each license year. A licensee who desires to renew the license shall file application, together with the requisite fee, on the form provided for renewal of the license for the ensuing year. Application for renewal shall be filed on or before November 1 each year.
- (b) Filing after November 1 (November 2 through November 30) but before December 1 shall increase the fees payable for renewal by 20 percent. Filing in December (from December 1 through December 31) shall increase the fees by 25 percent rather than by 20 percent. Filings during the period November 2 through November 30 shall be considered late and renewals may only be considered by the City Manager if the police department is able to complete the necessary work-up on the renewal in time for appropriate consideration by the City Manager prior to the end of December. If the work-up is not complete in time for consideration before end of December, the license will expire at midnight on December 31, and will not be considered for renewal until after the new year.
- (c) Any license renewal application filed in December of the license year shall be considered late and will be considered as a late renewal; the license will expire at midnight on December 31 and it will only be considered after December 31, absent extraordinary circumstances. Any license for which renewal application has not been filed by the close of business of City of Baxley offices on the final business day of December will be deemed to have expired at midnight on December 31 and will be treated as a new license application, subject to publication of notice of the application as for new applicants, and a fee as for a new license with a work-up including background checks, location approval and all items and regulations as prescribed in this article for new applicants.
- (d) The licensee's obligation to apply timely for renewal is not contingent upon any notice from the City of Baxley, which shall not be required to send renewal notices to any licensee.
- (e) Existing licensees may not transfer the license to any other person or entity without the prior application, transfer fee payment and approval of the proposed new licensee by the City Manager. This shall not be considered a new license application and notice need not be published prior to approval.

- (f) Existing licensees may not change the location of the licensed premises without the prior application, transfer fee payment, and approval of the proposed new location by the City Manager. This shall not be considered a new license application, but notice of consideration of the new location shall be published by the City Clerk in the manner prescribed in this article.

Sec. 3-24. Display.

The alcoholic beverage license shall at all times be displayed in plain view at the licensed premises.

Sec. 3-25. Supervision, revocation, non-renewal or probation.

- (a) The Mayor and Council may suspend, revoke, refuse to renew, or impose conditions of probation upon any license required under this chapter if:
 - (1) The license application is not filed in good faith or is filed by some person as subterfuge for any other person;
 - (2) Any applicant for a license or any licensee under this chapter willfully fails to comply with any provision of this chapter or with rules and regulations adopted by the Mayor and Council, or the Georgia Alcoholic Beverage Code;
 - (3) Any person to whom a license has been issued is no longer engaged in the sale of alcoholic beverages, malt beverages or wine or no longer qualifies as a licensee under this chapter;
 - (4) A licensee permits the licensed premises to be operated in a disorderly manner so as to constitute a public nuisance after:
 - i. The licensee has been advised in writing by the chief of police of the unsatisfactory manner in which business is being operated; and
 - ii. The licensee has been given a reasonable opportunity to cure such deficiencies.
- (b) Conditions of probation may include such conditions of operation as the City Manager or Mayor and Council shall determine to be in the best interest of the public including, but not limited to, any of the following:
 - (1) Limitation on days or hours of operation;
 - (2) Limitation on number of persons allowed in licensed premises;
 - (3) Limitation on manner of service, e.g., use of glass containers;
 - (4) Requirements as to security personnel or other personnel;
 - (5) Requirements as to lighting, parking, means of egress and similar matters;
 - (6) Requirements for employee training in addition to the training set forth in section 3-28;
 - (7) Requirements that the establishment obtain a scanner or other like technology used to scan and verify acceptable forms of identification;

- (8) Requirements as to litter or trash pickup, reduction of noise levels and similar matters; or
- (9) In addition to the imposition of the requirements or limitation above, in the event a licensee, or their agents, employees, or designees are found to be in violation of the sale of alcohol to a minor, the City Manager or Mayor and Council may impose the following fines on the licensee:
 - i. For a first offense, the licensee shall be assessed a \$150.00 fine and receive a period of six months on probation;
 - ii. For a second offense, the licensee shall be assessed a \$300.00 fine and receive a period of six months on probation;
 - iii. For a third offense, the licensee shall be assessed a \$750.00 fine and receive a period of 12 months on probation.
- (c) If a firearm is discharged, or any other weapon, such as, but not limited to, a knife, brass knuckles, a blade etc., are used around a bar, on its grounds or approaches, including parking areas, or by any customer or employee upon leaving the bar while within 300 feet of the entrance to the bar, the police chief or his/her designee may place on suspension the liquor license of any establishment for a period of three days; provided however, that if a firearm is discharged, or any person attempts to discharge a firearm, or any other weapon, such as, but not limited to, a knife, brass knuckles, a blade etc., is used within a bar's building premises the liquor license of such establishment shall be automatically placed on suspension for a three-day period and such period may be extended by the City Manager or Mayor and Council as deemed appropriate for the process of a thorough investigation. Any such suspension of a liquor license for the discharge of a firearm, or other use or attempted use of a weapon, shall be accomplished by written notice to the licensee from the chief of police or his/her designee of such suspension and the length of such suspension.
- (d) If a citation is issued for the sale of alcohol to underage persons within a licensed premise, such license shall be immediately placed on probation for a 12-month period beginning on the date of the issuance of the citation. During the probationary period, the licensee shall be subject to random periodic testing for sales to underage persons. The licensee shall be given notice of the commencement of the probationary period via certified mail or personal service within 30 days of the issuance of the citation. If, during the probationary period, the licensee is found to be in violation any state law or provision of this chapter related to the sale of alcohol, the City Manager or Mayor and Council may immediately revoke said license and provide notice in the same manner set forth in section 3-26.

Sec. 3-26. Notice and hearing.

All decisions approving, denying, suspending, revoking, refusing renewal of, or imposing conditions of probation upon alcoholic beverage licenses shall be in writing, with the reasons therefor stated, and mailed or delivered to the applicant personally or at the address specified on the application or license. Within 30 days of any such decision, any applicant or license holder aggrieved by the decision of the City Manager or Mayor and

Council regarding a license shall be afforded a public hearing with an opportunity to present evidence and cross examine opposing witnesses.

Sec. 3-27. Sanctions hearing.

- (a) Each license issued pursuant to this article is granted as a mere privilege and not a right. Upon violation of any provision of this chapter or of any law or regulation of the state relating to alcoholic beverages, malt beverages and wine, the City Manager or Mayor and Council, at a regular or special called meeting, after reasonable written notice of the pending violations to the licensee and after the licensee has been afforded an opportunity to be heard as to the proposed grounds for revocation, may revoke or suspend the license, or in lieu of revocation or suspension may impose conditions or probation upon continued operations under the license. When a license is revoked or suspended, no portion of the license fee shall be refundable.
- (b) Upon the recommendation of the chief of police, the City Manager or Mayor and Council may temporarily suspend any license involving the sale of alcoholic beverages, if the manner of operation poses a serious safety or health hazard, for a person not to exceed 30 days pending a hearing and final action by the commission.

Sec. 3-28. Employee regulations.

- (a) Certain regulations shall apply to employees and/or potential employees of all establishments holding an alcoholic beverage license for the retail sale of alcoholic beverages issued by the city.
- (b) All persons shall be employed to engage in the sale of alcoholic beverages by an establishment holding a license under this chapter shall be provided such training by the licensee to ensure compliance with the provisions set forth in this chapter. In no case shall a licensee allow any employee to engage in the sale of alcoholic beverages when such employee has not received the training required by this subsection within four days of the date of their original employment.
- (c) All employees who work for a business licensed to sell alcoholic beverages within the city who are actually engaged in the sale of alcoholic beverages shall be trained to sell or serve alcohol in a manner which complies with the laws of the State of Georgia and City of Baxley Code of Ordinances. Proof of such training shall be maintained by the licensee and available for inspection by the Police Chief of the City of Baxley.
- (d) This section shall not be construed to include employees whose duties are limited solely to those of busboys, cooks, dishwashers or similar jobs that do not involve selling or serving or controlling the selling or serving of alcoholic beverages.
- (e) Any employee engaged in selling or serving or controlling the selling or serving of alcoholic beverages shall be 19 years of age or older.

Sec. 3-29 to 3-39. Reserved.

ARTICLE II. CITY-OWNED FACILITIES

Sec. 3-40. Requirements for consumption of alcoholic beverages at certain city-owned facilities.

- (a) Consumption of alcoholic beverages may be allowed during special events held in certain government owned facilities to include, but not limited to, City Hall, "Baxley Green", Waterworks Park, or Farmers Market. Said events must be approved in advance upon proper written explanation to the facility manager designated for such purpose by the Mayor and Council, and subject to such terms and conditions as the said facility manager may from time to time promulgate in writing, which may include terms as to insurance, clean-up fees, deposits, security personnel, limits on the number of guests and other matters as the facility manager may require. Such beverages may be provided at no charge by the approved special event applicant to its guests, or they may be sold to such guests by a beverage caterer in good standing duly licensed and approved by the City Manager.
- (b) For an applicant seeking to serve alcohol on or in a city-owned facility or property not specifically listed in subsection (a) above, said applicant must submit the request to the City Manager for consideration and approval. Approval of any application shall be subject to such terms and conditions as the City Manager may from time to time promulgate in writing, which may include terms as to insurance, clean-up fees, deposits, security personnel, limits on the number of guests and other matters as the city manager may require. The City Manager shall process the application in the same manner as set forth in subsection (a) above and shall have discretion to approve or deny said application, subject to appeal to the Mayor and Council.

Sec. 3-41 to 3-49. Reserved.

ARTICLE III. ENFORCEMENT

Sec. 3-50. Violations.

- (a) In addition to the provisions of Sections 3-12(g), 3-25, 3-26 and 3-27, the City of Baxley may prosecute violations of this Ordinance by issuance of a warrant or citation, in which case the penalty for a violation shall be as set forth in Section 1-8 of the Code of Ordinances; and/or such other penalty as may be provided by Georgia law, including but not limited to O.C.G.A. §3-3-23.1.
- (b) No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefore, of any person for injury or damage arising from any violation of this Ordinance or from other law.

Sec. 3-51 to 3-59. Reserved.

ARTICLE IV. CODIFICATION.

Sec. 3-60. Validity of Ordinance. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision or declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional, with all remaining provisions to continue in full force and effect.

Sec. 3-61. Incorporation. The provisions of this Ordinance shall be incorporated into and amend relevant Chapters of the City's Code of Ordinances of 1995, specifically including but not limited to Chapter 3 governing alcoholic beverages and Chapter 18 governing business licensing. Also, all provisions of Title 3 of the Official Code of Georgia Ann. not inconsistent with any provision of this Ordinance are incorporated herein.

Sec. 3-62. Repeal of conflicting ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Sec. 3-63. Effective Date. This Ordinance shall become effective immediately upon execution by the Mayor and City Clerk.

READ at a regular meeting of the Mayor and Council of the City of Baxley held on the 14TH day of APRIL, 2021.

DULY ADOPTED by the Mayor and Council of the City of Baxley, after second reading, at a regular meeting held on the 12TH day of MAY, 2021.


Tim Varnadore, Mayor

Attest: Reba Cash
Reba Cash, Clerk



