

## Chapter 4

### ALCOHOLIC BEVERAGES\*

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\*State law reference—Alcoholic beverages generally, O.C.G.A. title 3.

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## 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 and ethyl, or spirits of wine, from whatever source and by whatever means produced.

*Alcoholic beverage* means malt beverages and wine. For the purpose of this chapter, alcoholic beverage does not include distilled spirits.

*Beer* means any malt beverage.

*Distilled spirits* means any beverage obtained by distillation or containing more than 24 percent alcohol by volume, including all fortified wines.

*Fortified wine* means any beverage containing more than 24 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.

*Licensed dealer* means any business or person who has met all of the requirements of this chapter and has applied for and received a permit to sell malt beverages and wine within the city.

*Malt beverage* means any 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. Malt beverage shall include ale, porter, brown, stout, lager beer, malt beer, strong beer and hard cider. Malt beverage does not include sake (Japanese rice wine).

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

- (1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; provided, however, that a vintner that blends wine with distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits;
- (2) In the case of malt beverages, any brewer; and
- (3) In the case of wine, any vintner.

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

*Person in control* means an owner of the premises, holder of a security interest in the majority of the assets of a business applicant, a stock or other equity interest holder of ten percent or more of any corporate stock or other equity interest in a business applicant.

*Restaurant* means any public establishment kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly prepared and served. Said establishment must contain an adequate and sanitary full-service kitchen and related equipment including a three-compartment pot sink, a stove or grill (permanently installed), a refrigerator and a dining room. All kitchen facilities and equipment must be approved by the county health department and city building inspector. The establishment must employ a sufficient number of employees to prepare, cook, and serve suitable food for its customers. A restaurant must have a complete place setting of metal cutlery and dishware in regular use for a minimum of 30 people. A restaurant shall have the ability to seat a minimum of 30 customers at one time and shall have a minimum occupancy of at least 30 people as calculated by the building inspector according to the state minimum standard codes and the state fire code. A restaurant shall derive at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food. A restaurant must be able to obtain and maintain a food service permit from the county health department, an occupation tax certificate from the city, and a regulatory fee permit from the city.

*Restaurant beverage dealer* means any business or person operating a restaurant (as defined above) who sells malt beverages and/or wine "by the drink" for on-premises consumption.

*Retail beverage dealer* means any business or person operating an establishment who sells malt beverages and/or wine "by the package" in unopened containers, at retail only, to customers for off-premises consumption.

*School building* means only state, county, city, or church school buildings and such buildings at such other schools in which are taught 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).

*Wholesaler* means any business or person who sells malt beverages and/or wine to other wholesale dealers or to licensed dealers.

*Wine* means any beverage containing not more than 24 percent alcohol by volume made from fruits, berries, grapes or similar products by natural fermentation. The term "wine" does not include cooking wine (wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage) or fortified wine.

(Code 2002, § 7-3-1; Ord. No. 01-002-2007, § 1(7-3-1), 2-26-2007)

#### **Sec. 4-2. Sale without permit or license prohibited.**

It shall be unlawful for any person to manufacture, sell or possess for the purpose of sale, any malt beverages or wine where such person does not have a license from the city to sell or possess for sale such beverages.

(Ord. No. 01-002-2007, § 1(7-3-2), 2-26-2007)

**Sec. 4-3. Public drunkenness and drinking in public.**

It shall be unlawful for any person to be drunk or to drink, consume or possess an open container of any alcoholic beverage on any sidewalk, street, road, alleyway, right-of-way, commercial parking lot or any other public place within the corporate limits of the city, provided that open containers may be permitted in the city council's discretion within specific limits, imposed upon temporary permits granted to charitable or nonprofit organizations pursuant to section 4-53.

(Code 2002, § 7-3-4; Ord. No. 01-002-2007, § 1(7-3-4), 2-26-2007)

**Sec. 4-4. Delivery of illegal sale.**

It shall be unlawful for any person to send or bring within the corporate limits of the city any of the beverages enumerated in section 4-1 for the purpose of delivery to a buyer or to any other person in pursuance of any illegal sale of such beverages in the city.

(Code 2002, § 7-3-5; Ord. No. 01-002-2007, § 1(7-3-5), 2-26-2007)

**Sec. 4-5. Permitted hours and days of sale and operation.**

(a) The hours during which malt beverages and/or wine are authorized for sale by licensed dealers are Monday through Saturdays, from 7:00 a.m. until 12:00 midnight. No malt beverages or wine shall be sold on Sundays.

(b) The hours of operation for wholesalers for the distribution of malt beverages and wine within the city shall be between the hours of 7:00 a.m. and 5:00 p.m. No malt beverages and/or wine shall be distributed on Sunday.

(c) Malt beverages and/or wine must not be consumed by customers on the premises of restaurants authorized to sell such beverages after 12:30 a.m.

(Code 2002, § 7-3-8; Ord. No. 01-002-2007, § 1(7-3-8), 2-26-2007)

**Sec. 4-6. Sale of distilled spirits prohibited.**

It shall be unlawful for any business or person to sell (by the package or by the drink) or distribute distilled spirits within the corporate limits of the city.

(Code 2002, § 7-3-9; Ord. No. 01-002-2007, § 1(7-3-9), 2-26-2007)

**Sec. 4-7. Private clubs prohibited.**

Private clubs are prohibited from selling alcoholic beverages and/or distilled spirits within the corporate limits of the city.

(Code 2002, § 7-3-11; Ord. No. 01-002-2007, § 1(7-3-11), 2-26-2007)

**Sec. 4-8. Other prohibited acts.**

The following acts or activities are prohibited:

- (1) Selling malt beverages or wine to an individual that is in a state of noticeable intoxication.
- (2) Selling malt beverages or wine to persons under 21 years of age.
- (3) Permitting any disorderly conduct, breach of peace, or any lewd or unlawful entertainment, conduct or practice on the licensed premises.
- (4) Permitting malt beverages or wine to be sold or consumed on the licensed premises during those days and times when the sale and/or consumption of such beverages is prohibited pursuant to the provisions of this chapter.
- (5) Selling, offering for sale, possessing or permitting the consumption of any kind of distilled spirits on the licensed premises.
- (6) No licensed dealer in the city shall accept delivery of any alcoholic beverage or make any purchase of alcoholic beverages except from a wholesaler having a permit from the city to make deliveries in the city and no licensed dealer shall purchase or accept delivery of any malt beverage or wine without making full payment to the wholesaler of the amount of the excise tax provided in this chapter.
- (7) No licensed dealer shall store or maintain an inventory of malt beverages or wine at a location other than the licensed premises. Inventories stored at other locations other than the licensed premises are prohibited.
- (8) Permitting customers of the licensed establishment to "brown bag" or bring malt beverages and/or wine into the licensed establishment.
- (9) No malt beverages or wine may be sold or served in taxicabs, limousines or other types of paid transportation service.
- (10) No licensee shall permit an employee or agent under 18 years of age to dispense, serve, sell or take orders for malt beverages and wine. Persons younger than 18 years of age may sell malt beverages and wine at grocery stores and convenience stores provided that consumption will take place off-premises.

(Code 2002, § 7-3-12; Ord. No. 01-002-2007, § 1(7-3-12), 2-26-2007)

**Sec. 4-9. "Happy hours" and similar promotions prohibited.**

No restaurant beverage dealer, his employees or agents in connection with the sale of malt beverages or wine shall:

- (1) Offer or deliver any free malt beverage(s) or wine to any person.
- (2) Deliver more than one alcoholic beverage to one person at a time.

- (3) Sell, offer to sell, furnish or cause to be furnished to any person an unlimited number of malt beverages or wine during any set period of time for a fixed price, except at private functions not open to the public.
  - (4) Increase the volume of alcohol contained in a beverage.
  - (5) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.
  - (6) Sell, offer to sell, furnish or cause to be furnished any alcoholic beverages for a price less than the wholesale cost to the licensee.
  - (7) No restaurant beverage dealer shall advertise or promote in any way, whether within or outside of the premises, any of the acts or practices prohibited under this section.
  - (8) Nothing in this section shall be construed to prohibit restaurant beverage dealers from offering free food or entertainment at any time, or to prohibit the restaurant beverage dealer from including a malt beverage or wine as part of a meal package, or to prohibit the sale of wine by the bottle or carafe, or the sale of malt beverages by the pitcher or bucket.
  - (9) The promotion of a "happy hour" or any other special hours in which malt beverage and/or wine sales are promoted through any form of media or exterior or interior signage is prohibited.
- (Code 2002, § 7-3-13; Ord. No. 01-002-2007, § 1(7-3-13), 2-26-2007)

**Secs. 4-10—4-34. Reserved.**

## ARTICLE II. LICENSES

### **Sec. 4-35. Establishments eligible.**

(a) Malt beverages and wine may be sold by licensed dealers who meet the requirements of this chapter.

(b) Malt beverages and wine may be sold "by the drink" for on-premises consumption in restaurants only. Establishments must:

- (1) Meet the definition of restaurant as provided in section 4-1;
- (2) Satisfy all other qualifications and requirements outlined in this chapter; and
- (3) Be approved by the city council;

to be considered a restaurant eligible to sell malt beverages and wine.

(Code 2002, § 7-3-3; Ord. No. 01-002-2007, § 1(7-3-3), 2-26-2007)

**Sec. 4-36. Compliance with chapter prerequisite to selling.**

It shall be unlawful for any person to sell at wholesale, retail, or at restaurants within the corporate limits of the city any malt beverages and/or wine until and unless such person has complied with this chapter.

(Code 2002, § 7-3-6; Ord. No. 01-002-2007, § 1(7-3-6), 2-26-2007)

**Sec. 4-37. Sale subject to conditions; license constitutes a privilege.**

(a) Malt beverages and wine may only be sold in the corporate limits of the city under a license granted by the city council upon the terms and conditions hereafter provided.

(b) All licenses shall be a mere grant or privilege to carry on the business during the term of the license subject to all terms and conditions imposed by city ordinances and the laws of the state.

(c) All licenses granted pursuant to this chapter shall have printed on their face: "This license is a mere privilege subject to be revoked and annulled. This license is subject to any future ordinances which may be enacted by the City."

(Code 2002, § 7-3-7; Ord. No. 01-002-2007, § 1(7-3-7), 2-26-2007)

**Sec. 4-38. Licensee to maintain copy of this chapter and familiarity with chapter.**

Each dealer licensed under this chapter shall keep a copy of this chapter in the licensed premises and shall instruct any person working there with respect to the provisions of this chapter. Each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with and abide by the terms of this chapter. The licensee shall be responsible for any acts of agents or employees which are in violation of this chapter or the laws of the state or the rules and regulations of the state revenue commissioner.

(Code 2002, § 7-3-10; Ord. No. 01-002-2007, § 1(7-3-10), 2-26-2007)

**Sec. 4-39. Qualifications and requirements for dealer permit.**

(a) The person receiving a license for the sale of malt beverages and wine must be a person of good moral character and a citizen or legal resident alien of the United States.

(b) The applicant shall not have been convicted, within ten years of the date of the application, of a felony or any violation of the laws of the state or any other state or the laws of the city or any other government entity relating to the sale of intoxicating or alcoholic beverages or any other type of crime involving illegal drugs or controlled substances.

(c) The applicant shall not have had revoked, for cause (such as a violation of regulations or improper operation), any license issued to such person by a government entity to sell alcoholic beverages and/or distilled spirits within three years of the date of the application to the city.



(d) The applicant/licensee shall be the owner of the premises for which the license is held or the holder of a lease thereon.

(e) The licensee shall be solely responsible for the management and operation of the business for which the license is granted.

(f) If the applicant is a partnership, all members of the partnership must meet the qualifications of this section to obtain a license.

(g) If the applicant is a corporation or limited liability company (LLC), any officers, managers, members, directors or persons in control of the corporation or LLC and the persons who shall conduct or manage the licensed premises must meet the qualifications of this section to obtain a license.

(h) The applicant for a license under this chapter shall make a sworn statement of his qualifications in accordance with the provisions of this chapter and shall place such statements on file with the city clerk upon application.

(i) All applicants must be able to show financial responsibility and may be required to furnish financial records at the request of the city council.

(j) The city shall make such investigation of the qualifications of each applicant for a license under this chapter as it may deem necessary. Applicants may be required to furnish the city with other types of documentation as proof that applicant meets the requirements of this chapter.

(k) All applicants must be at least 21 years of age at the time of submitting the application. (Code 2002, § 7-3-14; Ord. No. 01-002-2007, § 1(7-3-14), 2-26-2007)

#### **Sec. 4-40. Application.**

Any person desiring to carry on the business of selling malt beverages and wine in the city shall file an application with the city clerk, providing the following information:

- (1) The name, date of birth, street address and mailing address of the applicant. If the applicant is a corporation, partnership or limited liability company, the applicant shall also provide the Federal Employer Identification Number (FEIN) of the entity.
- (2) Whether the business of the applicant is an individual, partnership, limited liability company, or corporation, including any trade names that will be used. If the applicant is a corporation, the application shall include the name, address and date of birth of all shareholders owning ten percent or more of any type of corporate stock, directors, officers and persons in control. If the applicant is a partnership or limited liability company, the application shall state the name, address and date of birth of all partners/members therein. If the applicant is an individual or the applicant is utilizing a trade name, the application shall state the name, address and date of birth of all

owners or parties having an interest therein. In all cases, the application shall state the names of all persons or entities holding any note, mortgage, or bill of sale to secure debt against the business.

- (3) The location at which the establishment is to be conducted, and a description of the building in which the business is to be conducted, indicating the size and type of construction.
- (4) Whether the applicant or any partner, member, shareholder, director, officer, owner or party in interest has been convicted during the last ten years of any felony, misdemeanor or a violation of any municipal ordinance (other than non-DUI-related traffic offenses) in any state, county, municipal or federal court, and the particulars of such conviction.
- (5) The prior business and residential addresses of the applicant for the past ten years.
- (6) Names and addresses of three persons who have known the applicant (or shareholders, members, directors, officers, or agents) for the past five years.
- (7) Whether the applicant or any partner, shareholder, member, officer, director or other persons connected with the applicant holds or has held any malt beverage, wine or distilled spirits license in any state at any time prior to the application, and the particulars thereof.
- (8) The name and address of the person(s) who will manage the establishment or be responsible for its operation.
- (9) Such other information as the city clerk or other city authority may require, either initially, at any time during the consideration of the application, or at any time thereafter.
- (10) The application shall be accompanied by a plat or drawing prepared by a licensed surveyor or other qualified professional showing the proximity of the proposed place of business to surrounding buildings. The plat or drawing should identify any school building, school grounds, college campus, alcoholic treatment centers, housing authority property or government buildings located within 100 yards of the proposed location.
- (11) The application shall be accompanied by detailed plans of the building and outside premises drawn to scale. The plans should include detailed floor plans to scale.
- (12) If the proposed business of the applicant is a restaurant applying for a license to sell malt beverages and wine for on-premises consumption, the application must include a copy of a current food services permit issued by the county health department.
- (13) The applicant shall attach evidence of ownership of the building or proposed building (deed) or a copy of the lease if the applicant is leasing the building.

(14) Applicants applying for a license to sell malt beverages and/or wine must submit to and authorize a criminal background check.

(15) As a prerequisite to the issuance of any such initial permit or license only, the applicant shall furnish a complete set of fingerprints to be forwarded to the Georgia Bureau of Investigation, which shall search the files of the Georgia Crime Information Center for any instance of criminal activity during the two years immediately preceding the date of the application. The Georgia Bureau of Investigation shall also submit the fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records. The federal record, if any, shall be obtained and returned to the governing authority submitting the fingerprints.

(16) All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths.

(Code 2002, § 7-3-15; Ord. No. 01-002-2007, § 1(7-3-15), 2-26-2007)

#### **Sec. 4-41. Processing of application.**

Upon filing a completed application, it shall be the duty of the city clerk to turn such application over to the city council, the duty of which it shall be to investigate the facts as set out in the application, and to determine whether such person shall be granted a license to carry on such business. The city council may request the assistance of the city administrator and chief of police in conducting the investigation of the application. If the city council decides to deny the application, the city council shall mark on the application the word "disapproved," which application so marked shall be returned to the city clerk with instructions not to grant such license. If the city council decides to grant the application, it shall mark the application "approved," and return it to the city clerk, who shall immediately issue such license. The city council may take as much time as it deems necessary to investigate and approve or deny an application. All decisions approving, denying, suspending, or revoking a permit or license shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant.

(Code 2002, § 7-3-16; Ord. No. 01-002-2007, § 1(7-3-16), 2-26-2007)

#### **Sec. 4-42. Rehearing on denial.**

If any person is denied a license, such person may appeal the decision of the city council, in writing, by either separate instrument or by endorsing on the back of such application, "I request a rehearing by the Mayor and Council of the City of Wrens on the decision of the city council denying the issuance of the license herein applied for." Requests for rehearing must be filed within 30 days of the applicant's receipt of the city council's written denial. In the event of such request for rehearing, the city clerk shall file the request with the mayor and city council and shall schedule a hearing at a public meeting of such body, at which time it shall be the duty of such body to hear and determine such request. At the rehearing, the applicant shall have the

right to appear in person or by counsel and present evidence and cross examine opposing witnesses. Following the rehearing, if the mayor and city council determine that the applicant is entitled to carry on the business under the terms of this chapter, the city clerk shall be instructed to issue the license as applied for. If the mayor and city council affirm the earlier decision to deny the issuance of the license to the applicant, the applicant shall be notified in writing of the mayor and city council's decision to affirm the earlier decision, which decision shall be final.

(Code 2002, § 7-3-17; Ord. No. 01-002-2007, § 1(7-3-17), 2-26-2007)

**Sec. 4-43. Denial or revocation; time limit on resubmission.**

When any license to sell malt beverages and wine is rejected or revoked by the mayor and city council, the city clerk shall not accept or consider any application from the same applicant for license within 12 months from the time of such rejection or revocation, unless the city council shall specifically direct the city clerk to receive the same.

(Code 2002, § 7-3-18; Ord. No. 01-002-2007, § 1(7-3-18), 2-26-2007)

**Sec. 4-44. License duration; types.**

Licenses to sell malt beverages and wine are only valid from the time of approval until December 31 of that year. Renewals of an existing license are valid after receipt of a license to December 31. The following types of licenses are available upon approval of the city council:

- (1) Malt beverages and wine, wholesaler.
- (2) Malt beverages and wine, restaurant beverage dealer, for consumption on-premises only.
- (3) Malt beverages and wine, retail beverage dealer, package sales, for consumption off-premises only.

(Code 2002, § 7-3-19; Ord. No. 01-002-2007, § 1(7-3-19), 2-26-2007)

**Sec. 4-45. Display.**

The license issued under this chapter shall be posted in a conspicuous place in the permitted establishment in full view of the public.

(Code 2002, § 7-3-20; Ord. No. 01-002-2007, § 1(7-3-20), 2-26-2007)

**Sec. 4-46. Grounds for suspension or revocation.**

No person shall engage in the sale of malt beverages and wine in the city without first complying with the rules and requirements set out in this chapter. Any license issued under this chapter shall be subject to suspension or revocation upon any of the following grounds:

- (1) The making of any material misstatement of fact or providing information on the application for a license which shall be later found to be false.

- (2) All licenses are conditioned upon compliance with the rules and regulations set out in this chapter and the laws and regulations of the United States, the State of Georgia and the city.
- (3) Any recurrent breaches of the peace, disturbances or altercations occurring on the licensed premises or the failure of the licensee or his employees promptly to report to the city police department any violation of the laws or ordinances governing the licensing and sale of malt beverages and wine.
- (4) Whenever it can be shown that a licensee no longer maintains adequate financial responsibility upon which issuance of the license was conditioned or whenever the licensee has defaulted in any obligation, of any kind whatsoever, lawfully owing to the city. This includes failing to pay property taxes, occupation taxes, regulatory fees, etc.
- (5) Suspension or revocation of a state retail dealer's license shall automatically operate to suspend or revoke any license issued under this chapter.
- (6) Any violation of this chapter shall be grounds for suspension or revocation of a license.
- (7) Failure of a restaurant beverage dealer to obtain and maintain a valid food service permit from the county health department.
- (8) Failure of the licensee to obtain any license or permit required by the state.  
(Code 2002, § 7-3-21; Ord. No. 01-002-2007, § 1(7-3-21), 2-26-2007)

**Sec. 4-47. License suspension; other remedies.**

Any action taken by the mayor and city council to suspend or revoke a license issued under this chapter shall not preclude and may be in addition to any criminal prosecution by the proper authority as provided by the laws of the city or the state.

(Code 2002, § 7-3-22; Ord. No. 01-002-2007, § 1(7-3-22), 2-26-2007)

**Sec. 4-48. License suspension procedure; hearing.**

In the event the mayor and city council suspend or revoke any license issued under this chapter, the mayor and city council shall provide written notice to the licensee of the action taken and shall state the reasons therefor. The licensee shall have 15 days following notification of such action to request a hearing before the mayor and council. The licensee shall be entitled at such hearing to present evidence and cross examine opposing witnesses.

(Code 2002, § 7-3-23; Ord. No. 01-002-2007, § 1(7-3-23), 2-26-2007)

**Sec. 4-49. Emergency suspensions.**

(a) A license may be immediately suspended for cause by the chief of police of the city on a temporary basis until the next regular meeting of the city council. At the meeting, the city council shall hear the reasons for the actions of the police chief and take permanent action concerning the suspension at that time.

(b) Additionally, the mayor and city council are hereby authorized to suspend the sale of malt beverages and wine under any license issued hereunder for any emergency situation such as civil disorders or natural disasters or in any situation that the city council deems such immediate suspension necessary for the protection of the health and welfare of the citizens of the city. Such suspension may be made effective immediately and shall remain in force until the city council determines the emergency is over or until the next regular meeting of city council, at which time the suspension shall cease unless the same is extended by affirmative action of the city council.

(Code 2002, § 7-3-24; Ord. No. 01-002-2007, § 1(7-3-24), 2-26-2007)

**Sec. 4-50. Transferability.**

No license issued under this chapter shall be transferable or assignable to any other person or business location. If a licensed business is sold or closed, it shall be the duty of the licensee to immediately surrender the license to the city clerk. Such business shall not be permitted to sell malt beverages and wine until the new owner has applied for and received a new license.

(Code 2002, § 7-3-25; Ord. No. 01-002-2007, § 1(7-3-25), 2-26-2007)

**Sec. 4-51. Annual license renewal fee.**

All license holders, after holding a license for one year or through the end of the license year in which the license is issued, shall pay to the city clerk the annual renewal fee to renew the license for a period of one calendar year.

(Code 2002, § 7-3-26; Ord. No. 01-002-2007, § 1(7-3-26), 2-26-2007)

**Sec. 4-52. Audits.**

The city clerk or his designee shall have the authority to conduct an audit of the books and records of any licensee to ensure the licensee's compliance with the provisions of this chapter. In such event, the city clerk shall notify the licensee of the date, time and place of the audit.

(Code 2002, § 7-3-27; Ord. No. 01-002-2007, § 1(7-3-27), 2-26-2007)

**Sec. 4-53. Temporary permits for charitable organizations authorized.**

(a) Bona fide charitable and nonprofit organizations desiring to sell alcoholic beverages may apply, on forms furnished by the city clerk, for a permit authorizing the organization to sell malt beverages and wine for consumption on a designated premises for a period not to exceed five days. Applications for such temporary permit must include a copy of an official document such as a nonprofit certification by the Internal Revenue Service, constitution and/or bylaws of the organization, or a corporate charter which clearly states the purposes of the organization as being charitable or nonprofit. The applicant shall obtain a permit from the state department of revenue, alcohol and tobacco tax unit as well as comply with the application process in section 4-40. Any permit issued by the city as contemplated hereunder shall not be effective until such

time as a permit has been obtained by the applicant from the state department of revenue, alcohol and tobacco tax unit. Applications under this section shall be submitted to city council for approval in accordance with the provisions of this chapter.

(b) There shall be a fee of \$50.00 for applications submitted pursuant to this section. No license fee shall be charged for temporary permits for charitable organizations.

(c) Unless otherwise provided, charitable and nonprofit organizations authorized by city council to receive a temporary license must comply with all other rules and regulations of this chapter and the laws of the state.

(Code 2002, § 7-3-28; Ord. No. 01-002-2007, § 1(7-3-28), 2-26-2007)

**Sec. 4-54. Application fees.**

(a) An application fee for a license will be payable, by cash or certified check, at the time of application as follows:

- (1) Malt beverages and wine, retail beverage dealer: \$100.00.
- (2) Malt beverages and wine, restaurant beverage dealer: \$100.00.
- (3) Malt beverages and wine, wholesaler: \$50.00.

(b) The application fee will not be refunded to the applicant if the application is denied or is withdrawn following the city's investigation of the application. Application fees will not be prorated.

(Code 2002, § 7-3-29; Ord. No. 01-002-2007, § 1(7-3-29), 2-26-2007)

**Sec. 4-55. License fees.**

(a) A license fee for the sale of malt beverages and wine will be payable, by cash or certified check, upon application and at annual renewal as follows:

- (1) Malt beverages and wine, retail beverage dealer: \$400.00.
- (2) Malt beverages and wine, restaurant beverage dealer: \$500.00.
- (3) Malt beverages and wine, wholesaler: \$100.00.

(b) The license fee will be returned to the applicant if the application is denied. Payment for license fees for licenses commencing after January 31 will be prorated on a monthly basis for the remainder of the year.

(Code 2002, § 7-3-30; Ord. No. 01-002-2007, § 1(7-3-30), 2-26-2007)

**Sec. 4-56. Premises.**

No license shall be issued to any person unless the building in which the business will be located is complete or unless detailed plans of a building to be constructed and its outside premises are attached to the application along with a building permit for the building to be built

or renovated. The completed building or the proposed building shall comply with all city ordinances, state minimum standard codes and the laws of the state. Any proposed building shall be subject to final inspection and approval by the building inspector following completion of construction. Applicants with existing buildings and establishments shall bring those buildings and structures into compliance with city ordinances, the state fire code and state minimum standard codes prior to issuance of a license pursuant to this chapter. Each building shall contain sufficient lighting so that the building itself and the premises surrounding the building are readily visible from the street on which the building is located. A separate dealer's license shall be required for each place of business regardless of common ownership.

(Code 2002, § 7-3-33; Ord. No. 01-002-2007, § 1(7-3-33), 2-26-2007)

**Sec. 4-57. Use of open areas, patios and decks.**

Consumption of or the sale of malt beverages and wine in open areas or on decks or patios is not permitted unless an establishment holding a license complies with the following regulations:

- (1) The open area, patio or deck must be enclosed in a manner that directs ingress and egress by the public through a single entrance, which entrance shall be under the control of the licensee. If an emergency exit is required, it must also be under the control of the licensee.
- (2) The open area, patio or deck shall be enclosed by a structure at least 42 inches in height as measured from the floor of the open area, patio or deck. Such structure must meet all building code requirements of the city.
- (3) Any license holder desiring to obtain approval for open area, patio or deck sales of malt beverages and wine must submit to the city building inspector a complete set of plans before approval for such sales may be granted. All plans and final construction pursuant to such plans shall meet the requirements of this chapter, the state fire code and any other applicable building codes. Written approval from the city building inspector, county health department and chief of the fire department must be obtained before the city will approve any open area, patio or deck sales of malt beverages and wine.
- (4) Any structure or area set aside for open area, patio or deck sales of malt beverages or wine shall not contain a number of square feet that exceeds an amount greater than 40 percent of the heated square footage of the existing seating area of the establishment.
- (5) Loudspeakers or other amplifiers of sound shall not be permitted on open areas, patios or decks.

(Code 2002, § 7-3-34; Ord. No. 01-002-2007, § 1(7-3-34), 2-26-2007)



**Sec. 4-58. Distance requirements.**

No business may offer to sell malt beverages and/or wine within 100 yards of any school building, school grounds, or college campus. No business may offer to sell malt beverages and/or wine within 100 yards of an alcoholic treatment center owned and operated by the state or any county or municipal government therein. No business may offer to sell malt beverages and/or wine within 100 yards of any housing authority property. No business may offer to sell malt beverages and/or wine within 250 feet of any polling place on election days. For the purpose of this section, distances shall be measured by the most direct route of travel on the ground.

(Code 2002, § 7-3-35; Ord. No. 01-002-2007, § 1(7-3-35), 2-26-2007)

**Sec. 4-59. Place of sale or delivery of goods.**

No licensed dealer shall sell or deliver any malt beverages or wine to any person except in such licensee's place of business. Licensed dealers shall be permitted to load purchased goods into a customer's vehicle when the sale physically takes place and monies have been exchanged inside the licensee's place of business. Curb-service type sales, sales to customers in vehicles parked in parking areas and drive-thru sales are prohibited. The sale of alcoholic beverages by caterers is prohibited.

(Code 2002, § 7-3-36; Ord. No. 01-002-2007, § 1(7-3-36), 2-26-2007)

**Sec. 4-60. Prices to be conspicuously displayed.**

Each licensed dealer shall have conspicuously displayed within the interior of the licensed premises a printed price list of the malt beverages and/or wine offered for sale; provided, however, in lieu thereof, a licensee may have the price placed on the bottle or container or on the shelf where the beverages are for sale.

(Code 2002, § 7-3-37; Ord. No. 01-002-2007, § 1(7-3-37), 2-26-2007)

**Sec. 4-61. Inspection of premises, records and inventories.**

The city administrator, city clerk, chief of police, building inspector or any designee of the city shall have the authority to inspect the establishment licensed under this chapter, including the premises, any financial records and inventories. Inspections shall be conducted during the customary hours in which the establishment is open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and the laws of the state. This section is not intended to limit the authority of any other city official to conduct inspections authorized by other provisions of law.

(Code 2002, § 7-3-38; Ord. No. 01-002-2007, § 1(7-3-38), 2-26-2007)

**Sec. 4-62. Posting of warning signs.**

Licensed dealers must post in a conspicuous place a sign printed in letters at least four inches high reading as follows:

"SALE OF ALCOHOLIC BEVERAGES TO PERSONS UNDER 21 YEARS OF AGE IS STRICTLY PROHIBITED."

Restaurant beverage dealers shall also post another sign in a conspicuous place printed in letters at least four inches high reading as follows:

"WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS AND MAY BE DETRIMENTAL TO YOUR HEALTH."

(Code 2002, § 7-3-39; Ord. No. 01-002-2007, § 1(7-3-39), 2-26-2007)

**Sec. 4-63. Penalty for violation of chapter.**

Any person who shall violate any of the provisions of this chapter, or who shall assist or aid another to evade or avoid the payment of the license or excise tax imposed and provided in this chapter, or to otherwise violate this chapter, shall be guilty of a violation of this Code and such violation shall be grounds for immediate revocation of a license in accordance with this chapter and, upon conviction thereof in municipal court, each violator may be punished by a fine up to \$1,000.00 and/or imprisonment for not more than six months.

(Code 2002, § 7-3-40; Ord. No. 01-002-2007, § 1(7-3-40), 2-26-2007)

**Secs. 4-64—4-84. Reserved.**

**ARTICLE III. EXCISE TAXES**

**Sec. 4-85. Excise taxes.**

The excise tax provided for in this article shall be in addition to any license fees, tax or charge which may be imposed upon the business of selling malt beverages and wine, at retail or wholesale, within the corporate limits of the city. There is hereby levied and imposed upon all licensed dealers and wholesalers selling malt beverages and wine within the city a specific tax that shall be reported and paid to the city on or before the 20th day of each month for the previous month as follows:

(1) *Malt beverages.*

- a. In bulk containers of not more than 15.5 gallons to be paid by wholesalers at a rate of \$6.00 per container.
- b. In bottles, cans or other containers at a rate of \$0.05 per 12 ounces.

(2) *Wine.* First sale by package at a rate of \$0.22 per liter.

(Code 2002, § 7-3-31; Ord. No. 01-002-2007, § 1(7-3-31), 2-26-2007)

**Sec. 4-86. Reports.**

Each wholesaler selling malt beverages and wine within the city shall file a report with the city clerk by the 20th day of each month which shall include the payment of the excise taxes showing for the preceding calendar month. The report shall provide the exact quantities of each type of malt beverage or wine (by size and type of container), constituting a beginning and ending inventory for the month, sold within the city for each licensed dealer. Forms and/or sample forms may be furnished by the city clerk to ensure proper formatting for the proper collection of information. Licensed dealers shall furnish copies of their sales tax and excise tax reports as submitted to the state department of revenue to the city clerk with payment to the city by the 20th of each month for the excise tax for the preceding calendar month. Other forms or reports may be required of licensed dealers upon written notice from the city.

(Code 2002, § 7-3-32; Ord. No. 01-002-2007, § 1(7-3-32), 2-26-2007)