

**O 2020-01.01**

**ARTICLE I. - IN GENERAL**

**Sec. 9-1.- Purpose.**

The mayor and council, in the exercise of its police power, wishes to permit, but not promote, the sale of malt beverages, wines, and distilled spirits, in the incorporated city limits, this being necessary for the effective regulation and control of the sale of those alcoholic beverages and for the protection of the health, safety, and welfare of the citizens of the town. It is the further intent of the mayor and council, through the licensing and regulation of the sale of alcoholic beverages, to protect property values and individual rights of the citizens and to prevent the sale of alcoholic beverages from being an undesirable intrusion on the rights of the citizens of the town and to raise sufficient revenues to cover the costs of licensing, regulating and policing the sales of alcoholic beverages within the town limits.

**Sec. 9-2. - 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:

*Alcoholic beverage:* means all alcohol, distilled spirits, beer, malt beverages, wine and fortified wine as defined in this section.

*Beer and 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 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.

*Building code:* means the standard mandatory and optional construction codes promulgated by the state and as adopted by the town.

*Business location:* means the location or proposed location of the premises wherein alcoholic beverages as permitted in this chapter may be sold.

*Church:* means an institution or building that people regularly attend to participate in or hold religious services, meetings and other activities, including education, day care and recreation facilities when owned and operated by such church which qualifies for tax exempt status from ad-valorem or property taxation or is owned by the public.

*Clerk:* unless otherwise designated, means the town clerk.

*Consumption sales:* means a license to sell alcoholic beverages for consumption on the premises

shall not sell alcoholic beverages by the package.

*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 wine.

*Floor space:* means internal space of business location licensed to sell alcoholic beverages.

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

*Licensee:* means the individual, partnership, corporation, or limited liability company to whom a license is issued. A partnership, corporation, or limited liability company shall include all partners, officers, directors, members or managers of a partnership, corporation or limited liability company.

*Liter:* means a metric measurement currently used by the United States.

*Manufacturer:* means any maker, producer or bottler of an alcoholic beverage.

*Permitted Manager:* means that person who, on a day-to-day or per shift basis, does or will actually manage or operate a business location licensed to sell alcoholic beverages and shall include any person designated as a manager upon a business license or license to sell alcoholic beverages.

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

*Pour:* means sale for consumption on the premises of a business location licensed to sell alcoholic beverages.

*Premises:* means floor space or curtilage thereof possessed, owned or controlled by the licensee or its agents of a business location licensed to sell alcoholic beverages.

*Private club:* means any association in which a person must seek and be approved for membership or which charges a membership fee or which has established qualifications to become a member.

*Private residence:* means building occupied for residential purposes as defined by the ordinances of the Town of Talking Rock.

*Restaurant:* means any space, kept, used, maintained, advertised, offered and held out to the public where food, meals and/or snacks are prepared, served, or provided to members of the public for compensation.

*Retailer and retail dealer:* means, any person who sells alcoholic beverages to members of the public.

*Retail Consumption Dealer:* means any retailer offering alcoholic beverages for consumption on the premises.

*Retail outlet:* means any business location where alcoholic beverages are sold to the public.

*School:* means a facility that provides a curriculum of elementary, secondary, or post graduate academic instruction, including kindergarten, elementary school, junior high/middle school, high school, college or technical school.

*Sport/recreation establishment:* means an indoor or outdoor facility that contains regulation size courts, facilities, alleys or playing fields where physical sporting activity takes place and equipment related to the activity is available for rent or sale. Examples of such establishments include, but are not limited to: golf courses, equestrian centers, bowling alleys, ball fields, and sports arenas.

*Wholesaler and wholesale dealer:* mean 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 fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, or combinations of such beverages; vermouths; special natural wines; rectified wines; and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to this definition.

**Sec. 9-2-1.** – *Officer to act includes designee.*

Any time an officer or official is designated or authorized to act within this ordinance, such designation or authorization shall include the officer or official's designee as those persons designated or authorized to act.

**Sec. 9-3.-** *Distance requirements.*

(a) No person may sell or offer to sell:

(1) No license shall be issued under this division where the place of business of the applicant is located within a radius distance of 300 feet of any church or within 300 feet of any school ground,

public library, alcohol treatment facility, or college campus.

(b) Distances shall be measured along a straight line, “as the crow flies” from the nearest entrance of an outlet to the nearest property line of any protected grounds described in this section.

(c) Every license application shall include a scale drawing of the location of the proposed building, showing the distance from any protected grounds described in this section and a certificate of a registered land surveyor or professional engineer that the location complies with the distance requirements in subsection (a) of this section.

**Sec. 9-4.- *Condition of premises.***

(a) All premises licensed under this chapter shall be kept clean and shall be in full compliance with all building codes, ordinances and regulations of the city, county and state.

(b) The county health department shall have the authority to inspect regularly the licensed premises to determine whether the licensed premises is in compliance with all city, county and state health rules and regulations and shall report any violation to the business license clerk.

(c) The City Clerk, Mayor, or his/her designee, shall have the authority to inspect regularly the licensed premises to determine whether the licensed premises is in compliance with all city technical codes.

**Sec. 9-5.- *Prohibited sales.***

(a) Except as otherwise authorized by section 9-152, no licensee shall sell or permit to be sold alcoholic beverages to any person under 21 years of age. Every person who seeks to purchase alcoholic beverages must provide a government-issued picture identification as proof of age.

(b) No licensee shall permit on the licensed premises the sale, barter, exchange, giving, providing or furnishing of alcoholic beverages to any person who is in a state of noticeable intoxication.

(c) No licensee authorized to sell alcoholic beverages by the package shall sell or permit to be sold any single beer, wine cooler or similar alcoholic beverage that is customarily packaged for sale as part of a four-pack, six-pack, 12-pack or similar package, unless such single beer, wine cooler or similar alcoholic beverage is displayed for sale in an enclosed case, cabinet or other structure located not closer than 20 feet from the front door of the premises and not closer than 20 feet from any cash register in the premises. The intent of this subsection is to prohibit sales of single beers, wine coolers or similar alcoholic beverage from open, cooled containers such as ice-filled buckets, tubs or barrels and to prohibit such sales from other containers located within 20 feet of the front door and cash register of the premises.

**Sec. 9-6.- *Advertising.***

(a) With respect to the sale of alcoholic beverages for consumption on the premises, no licensee shall:

(1) Advertise in any news media or by any other means the fact that alcoholic beverages by the drink may be purchased at such establishment; provided, however, that such licensee shall be

permitted to use the words "your favorite beverages served"; and

(2) Advertise a happy hour or similar sales promotion.

**Sec. 9-7.-** *Required signs; posted information.*

(a) In addition to other postings required in this chapter or by law, all licensees shall post in a prominent location on the licensed premises, in a manner whereby it may be easily viewed by patrons, an approved sign setting forth or summarizing the laws of the town and the state in regard to the sale of alcoholic beverages to underage, intoxicated or pregnant persons. Each such sign shall be of a size and configuration approved by the Town Council and shall include either the language of the applicable Code sections or summaries approved by the Town Council. The Town Council is authorized to design and have printed approved signs, which shall be made available to licensees at a price to be established by the Town Council.

(b) All licensees shall display in prominent places or on their menus their current prices of alcoholic beverages by the drink. Any price change must remain valid for seven consecutive calendar days. The licensee shall furnish to any customer who so desires an itemized list of such prices. All charges shall not exceed the established price list.

**Sec. 9-8.-** *Contents of bottles.*

Except during the initial bottling by the manufacturer, it shall be unlawful for any licensee to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

**Secs. 9-9—9-65.-** Reserved.

**ARTICLE II. – LICENSE**

**DIVISION 1, - GENERALLY**

**Sec. 9-66.-** *Required; constitutes a privilege.*

(a) It shall be unlawful for any person to sell or offer to sell any alcoholic beverage at for on-premises consumption within the town limits, without having the appropriate license for such sale or to carry on such activity in violation of the terms of such license or of this chapter.

(b) Alcoholic beverages may be sold in the town under a license granted by the town council upon the terms and conditions provided in this article.

(c) 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 town ordinances and state law.

(d) All licenses issued under this article shall have printed on the front these words:

This license is a mere privilege subject to be revoked and annulled and is subject to any future

ordinances which may be enacted.

**Sec. 9-67.-** *Sale or possession for sale without license or beyond boundaries of licensed premises.*

No person shall sell or possess for the purpose of sale any alcoholic beverage unless such person has a license from the town to sell or possess for sale alcoholic beverages or sell or make deliveries beyond the boundaries of the premises covered by the license.

**Sec. 9-68.-** *Qualifications of applicant.*

(a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) All applicants for licenses under this article shall be bona fide residents of the state at the time of the filing of the application and shall remain a bona fide resident of the state during all times the license and any renewal thereof is in effect. All applicants for licenses and renewal of licenses for retail distilled spirits shall be residents of the state for at least 12 months immediately preceding the date the application is submitted to the town clerk. All applicants and all Permitted Managers shall be at least 21 years of age.

(c) If the applicant is a partnership or corporation, this section shall apply to all its partners, officers, managers and majority stockholders. Notwithstanding the license provision in this subsection, subsections (a) and (b) of this section shall be waived for a corporation if the following shall be established:

(1) All majority stockholders of the corporation shall meet all the subsections of this section other than those provided in subsections (a) and (b) of this section;

(2) The corporation:

a. Is qualified and registered to do business within the state;

b. Has and continuously maintains in the state a registered agent who is a resident of the state and upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee may be served; and

c. Consents to being subject to the jurisdiction and venue of the courts of Pickens County.

The licensee shall file written proof of compliance with this subsection, as well as its agent's written consent to serve as agent and its consent to be subject to the jurisdiction and venue of the courts of Pickens County with the town clerk in such form as the Town Council may prescribe; and

(d) If the licensee is a corporation, the license shall be issued jointly to the corporation and to the majority stockholders, if such stockholders are individuals; provided, however, that if stock in the corporation is traded on any of the national stock exchanges, the license shall be issued jointly to the corporation and its agent registered under this section. Where the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its agent registered under this

section. For a partnership, the license will be issued to one of the partners.

(e) No license for the sale of alcoholic beverages shall be granted to any person who, within five years prior to the filing of the application for such license, has a felony violation or has violated any federal, state or local law, relating to the use or sale of drugs or alcoholic beverages. For purposes of this subsection, an indictment or a plea of nolo contendere shall constitute a violation.

(f) No license for the sale of alcoholic beverages shall be granted to any person who has had any town license revoked within two years prior to the filing of the application.

(g) All licensed establishments must have and continuously maintain a registered agent for service of process in the state who consents to jurisdiction in the county. The licensee shall file the name of such agent, along with the written consent of such agent, with the town clerk in such form as the clerk or Town Council may prescribe.

**Sec. 9-69.-** *Separate application for license for each location of sale.*

A separate application for a license for the sale of alcoholic beverages shall be made for each location, and a separate license shall be obtained.

**Sec. 9-70.-** *Application generally.*

(a) All persons, as owners, desiring to engage in activities permitted by this chapter shall make written application to the council for the appropriate license on forms prescribed by and filed with the town clerk. All completed applications shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in an amount as set forth in the schedule of fees and charges to defray investigative and administrative costs. If the application is denied or if the applicant withdraws the application prior to its approval, the license fee, without interest, shall be refunded, but the investigative fee shall be retained.

(b) The application shall include but not be limited to the following:

- (1) The name, age and address of the applicant;
- (2) The proposed business to be carried on;
- (3) If a partnership or limited liability company, the names, ages and addresses of the partners or members;
- (4) The name and address of the agent for service of process;
- (5) The name, age and address of the manager(s) to be licensed or permitted under the terms of this ordinance; and
- (6) If a corporation, the names and addresses of all shareholders holding more than ten percent of any class of corporate stock or any other entity having a financial interest in each entity which is to own or operate the establishment.

If the manager changes prior to the grant or denial of the application, the applicant must furnish the town

clerk with the name, age and address of the new manager and other information as requested within ten days of such change. The applicant shall also disclose whether the applicant (its partners if a partnership; its members if a limited liability company; its officers, manager, and shareholders having more than ten percent of any class of corporate stock, if a corporation) has been convicted of any felony, misdemeanor or a violation of any municipal ordinance.

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

(d) All applications shall be accompanied by a current certificate from a registered surveyor or engineer containing a scale drawing of the building or proposed building, as situated on site, the proposed off-street parking facilities available to the location, the current zoning of the location, and the distance measurements as may be required under section 9-3.

(e) There shall be attached to the completed application a copy of the applicant's license or application for a license from the state.

(f) There shall be attached to each completed application a set of fingerprints of the applicant and any other person required to complete an application or file information with the Town under this article, the accuracy of which must be certified by the person making the prints.

(g) The applicant shall timely file proof of compliance with the advertising requirements set forth in this chapter before licensing is considered by the mayor and council.

(h) The town clerk shall have authority to prescribe forms for new or renewal applications. All applicants shall furnish data, information and records as required by the business license clerk to ensure compliance with this chapter. An application filed and submitted not containing substantially all the information required may be rejected. Failure to furnish such data as required or as requested shall automatically serve to deny the application.

(i) Any untrue or misleading information contained in or material statement omitted from an original, renewal or transfer application for a license shall be cause for the denial, suspension or revocation of the license.

(j) Each applicant shall certify that applicant has read this chapter, and if a license is granted, each licensee shall maintain a copy of this chapter on the premises and shall require each of the licensee's employees to be familiar with this chapter.

**Sec. 9-71.- *Public notice of application.***

The applicant for an alcoholic beverage license shall prepare and pay for publishing a notice of the application, on materials and forms prescribed by the town clerk, which notice shall include the date the application will be considered and heard by the council, the location or street number of the premises where the applicant proposes to conduct activities permitted by this chapter and the name of the applicant and, if a partnership, the name of the partners; if a limited liability company, the name of the members; and, if a corporation, the names of the president, secretary and treasurer of such corporation. The applicant shall pay all publication and materials costs. The applicant shall be responsible for publishing the notice in a newspaper of general circulation within the city, which shall appear once a

week for two weeks immediately preceding consideration and hearing of the application by the council. Each applicant for a license for consumption on the premises of alcoholic beverages shall post on the premises where the activities permitted by such license are to be conducted, continuously for a period of not less than ten days prior to consideration and hearing of the application by the council, a notice of the pending application prescribed by the Town which shall be placed with the base of the sign not more than three feet from the ground on the most conspicuous part of the premises, facing the most frequently traveled road, street or highway abutting the premises, and not more than ten feet therefrom. The applicant shall provide to the town clerk a dated photograph of the posting required under this section.

**Sec. 9-72.- *Review and investigation.***

- (a) The town clerk shall review the application for the alcoholic beverage license and shall send a copy to the Town Counsel to determine compliance with Town regulations and laws
- (b) Within 15 days from the time proof of advertisement is filed, the town clerk shall refer such application, together with any objections filed, to the city council for consideration at its next regular council meeting.
- (c) If any questions are raised regarding the application by the town clerk or any town officer charged with alcoholic beverage administration, the application may be returned to the applicant for further information or clarification of unresolved questions.

**Sec. 9-73.- *Inspection of licensed establishments.***

The mayor and council shall have the authority to inspect establishments licensed under this article during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any Town officer to conduct inspections authorized by other sections of law.

**Sec. 9-74.- *Temporary permit.***

Where an application for an alcoholic beverage license is awaiting final fingerprint clearance through the state bureau of investigation, the Town clerk may issue a temporary permit to the applicant authorizing the applicant to operate under this chapter; provided, however, the application shows full compliance with all other sections of this chapter. Such temporary permit shall be valid for no longer than 90 days after issuance and shall be prominently displayed as annual licenses are required to be displayed under section 9-80. When fingerprint clearance from the state bureau of investigation is not received within 90 days, the Town Council may extend the time that a temporary permit is valid, as circumstances warrant. In all cases, a temporary permit issued under this section is conditional upon fingerprint clearance, and the town clerk shall revoke the temporary permit upon failure of fingerprint verification.

**Sec. 9-75.- *Fees.***

All fees required under this article shall be as set forth in the schedule of fees and charges on file in Town Hall.

**Sec. 9-76.- *Criteria for grant or denial.***

In addition to all other requirements stated in this chapter, the mayor and council in reaching its final determination on an initial application for an alcoholic beverage license shall be guided by the following factors as whether or not to grant such license:

- (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the neighborhood is predominantly residential, industrial or business;
- (2) The proximity of churches and schools;
- (3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons;
- (4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom;
- (5) The criminal record of the applicant and the proposed Permitted Manager;
- (6) Whether the applicant has satisfied all requirements pertaining to the application process and all requirements as to notice and advertisement;
- (7) Evidence presented for or against the application;
- (8) Consideration of the health, safety and welfare of the citizens and preservation of surrounding neighborhoods, with reference to such factors as light, noise, pollution, traffic and loitering;
- (9) Whether any license for the sale of alcoholic beverages previously issued for such location has been revoked for cause;
- (10) The history or reputation of the building or establishment (proposed for outlet) for prostitution or other sex offenses; fighting, shooting, stabbing or other violence; gambling; illegal dealing in alcoholic beverages or drugs; or other violations of the law;
- (11) The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought; and
- (12) Any circumstance, such as the type and number of schools, churches, libraries or public recreation areas in the vicinity of the place of business of the licensee, which may cause minors to frequent the immediate area, even if the location meets the distance requirements set forth in this chapter.

**Sec. 9-76.1.- *Appeal from denial of license.***

- (1) The decision of the mayor and council to deny an application for an alcoholic beverage permit or license shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant.
- (2) If an applicant is aggrieved by the decision of the mayor and council regarding a permit or license,

the applicant may appeal such decision by certiorari to the Superior Court of Pickens County within thirty (30) days after the decision by the mayor and council.

**Sec. 9-77.- *Reapplication after denial.***

When an application is denied under this article, the applicant may not reapply for a license for at least one year from the final date of such denial.

**Sec. 9-78.- *Compliance and fee payment prior to issuance; term; proration of fees; no refund.***

(a) Before a license shall be granted under this article, the applicant shall comply with all Town rules and regulations pertaining to 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 council and kept on file in the office of the town clerk.

(b) Approval of an application by the mayor and council shall expire after 90 days from the date of such approval, unless the applicant has procured and paid the fee for the approved license. The mayor and council may extend such approval up to an additional 90 days for cause, provided the request for such extension is made within the initial 90-day time period.

(c) All licenses shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1 shall pay the full license fee without proration. License fees for licenses granted on or after July 1 shall be prorated based on the number of months remaining in the calendar year; partial months shall be counted as a full month.

(d) License fees are not refundable.

**Sec. 9-79.- *Audits.***

The Town Council, or their designee, shall have the authority and responsibility to conduct an audit of the books and records of any alcoholic beverage licensee to ensure the licensee's compliance with this chapter. In such event, the licensee shall be provided with written notice, received by the licensee not less than five (5) business days prior to the proposed audit date, of the date, time and place of the audit.

**Sec. 9-80.- *Display at place of business.***

The license issued under this article shall at all times be kept plainly exposed to view at the place of business of the licensee.

**Sec. 9-81.- *Reserved***

**Sec. 9-82.- *Renewal.***

All licenses granted under this article shall expire on December 31 of each year. A licensee who desires to renew his license shall file a renewal application accompanied by the requisite license fee with the town clerk upon forms prescribed by the clerk and Council on or before November 15 of each year without penalty, and not later than December 15. Applications for renewal filed after November 15 and on or before December 15 shall be subject to a penalty of ten percent of the license fee. All licensees

applying for a renewal license must establish for each renewal year that they are in compliance with all of the provisions set forth in Sec. 9-68, including but not limited to Sec. 9-68(c)(3). No renewal license shall be granted on an application filed after December 15, but such application shall be treated as an initial application, and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been issued. For purposes of this section, the date of postmark or actual receipt by the Town shall constitute the day of filing.

**Sec. 9-83.- *Transfer.***

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.
- (b) If the death of a licensee occurs, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 90 days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall occur first; provided that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the town clerk.
- (c) If a license is surrendered or a licensee severs such person's association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 45 days from the date of surrender or from the date determined to be the date of severance; provided that no such sale shall be authorized until such time as a new application for a license is made, such application indicating that no change of ownership has occurred, except as excepted in this article. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.
- (d) Nothing in this section, however, shall prohibit one or more of the partners in a partnership, nor one or more members of a limited liability company, holding a license to withdraw from the partnership or limited liability company in favor of one or more of the partners or members who were partners or members at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license, nor shall it prohibit transfers of stock which do not result in any person increasing such person's stock holdings to a total of ten percent or more of any class of stock.
- (e) Should a transfer of location be approved, with no change of ownership of the business, the license fee paid for the old location shall be applied to the new location.
- (f) Except as provided in this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued automatically, without the necessity of any hearing.
- (g) Violation of this section shall result in revocation of the license being used and a fine as provided under this chapter. No license will be issued to the old or the new owner in the city for one year from the date of the violation.

**Sec. 9-84.-** *Licensee or Manager on-site.*

(a) No licensee shall permit any sale or service of alcohol on the licensed premises unless either the licensee (if it is an individual) or a Permitted Manager is physically present on the premises. In the event of a violation of this section, the licensee shall be subject to a monetary fine up to the maximum amount permitted by law.

**Sect. 9-85. –** *Underage persons on licensed premises.*

(a) Under this article, no licensee shall knowingly permit any person under the age of 21 years to be present in the licensed premises unless such person is accompanied by a parent, legal guardian or custodian; provided, however, that such person shall be permitted in eating establishments or private clubs without being accompanied by a parent, legal guardian or custodian and provided, further, that this section shall not apply to persons who are employees under the terms of this chapter.

(b) No licensee shall allow or require a person in the licensee's employment who is under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverages.

**Sec. 9-86.-** *Failure to require and properly check identification; misrepresentation of age.*

(a) Except as provided in section 9-152, it shall be a violation not to require and properly check identification to ensure an underage person is not sold or served or does not have in such person's possession alcoholic beverages while in a licensed establishment. The term "identification," as used in this subsection, shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include without being limited to a passport, military identification card, driver's license or state department of public safety identification card.

(1) With regards to a licensee, if it is adjudged by a Court of competent jurisdiction that any employee or agent of the licensee negligently or knowingly served or sold alcohol to a person under the age of 21 years while on the licensed premises, the licensee shall be subject to a fine of not more than \$250.00 for a first violation, provided no such violation has occurred on the licensed premises within the preceding three hundred and Sixty-Five (365) day period.

(2). If a second violation occurs within any three hundred and Sixty-Five (365) day period of a first violation, the licensee shall be subject to a fine of not more than \$1000.00 and a mandatory ten-day suspension of its license.

(3). If a third violation occurs within any three hundred and Sixty-Five (365) day period of a first violation and second violation, the licensee shall be subject to a fine in the maximum amount permitted by law, and a mandatory thirty-day suspension of its license.

(4). If four or more violations occur within any five hundred and forty-five (545) day period of a first, second, and third violation, the licensee shall be subject to a fine in the maximum amount permitted by law, and a mandatory termination of its license.

(b) It shall be unlawful for any minor to misrepresent such person's age for the purpose of procuring alcoholic beverages.

**Sec. 9-87.- *Retailer to purchase from licensed wholesaler only.***

No retailer shall purchase alcoholic beverages from any person not a wholesaler licensed under this article. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this article.

**Sec. 9-88.- *Annexed areas.***

Any person who holds a license from the county for the sale, manufacture, package or distribution of alcoholic beverages and which is located in an area annexed by the Town shall have 30 days from the effective date of the annexation to apply for the appropriate licenses and permits under this article. The applicant shall pay all applicable fees and costs for the equivalent license to the Town. The applicant, however, shall be entitled to a credit for the amount of any license fee paid to the county in the year of annexation.

**Secs. 9-89—9-115.- Reserved.**

**DIVISION 2. - EXCISE TAXES**

**Sec. 9-116.- *Malt beverages.***

(a) There is hereby levied and imposed upon the sale of malt beverages within the town a specific excise tax as follows:

(1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons.

(2) Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(b) The excise taxes provided for in this section shall be imposed upon and shall be paid by the licensed wholesale dealer in malt beverages. Each wholesale dealer selling malt beverages within the town shall file a report with the town by the tenth day of each month showing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, sold during the month within the town. Each such wholesale dealer shall remit to the town on the tenth day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this section.

**Sec. 9-117.- *Wine.***

(a) There is hereby levied and imposed upon the sale of wine within the town a specific excise tax in

the amount of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(b) The taxes imposed by this section shall not be levied with respect to the following:

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

(c) Each licensed wholesale dealer responsible for the payment of the excise tax under this section shall file a report with the clerk by the tenth day of each month showing for the preceding calendar month the exact quantities of wine, by size and type of container, sold during the month within the town. Each such person shall remit to the town on the tenth day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this section.

**Sec. 9-118.-** *Distilled spirits sold by the drink.*

(a) There is hereby levied and imposed upon the sale of distilled spirits within the town a specific excise tax in the amount of \$0.22 per liter. In addition, an excise tax of three percent is hereby levied and imposed on the sale of distilled spirits by the drink on charges to the public for the beverages.

(b) The excise tax imposed in subsection (a) of this section shall not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage.

(c) Each person responsible for the payment of the excise tax levied under this section shall remit payments and file reports as provided in section 9-116(b); provided, however, that persons collecting the tax authorized by this section shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due if the amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the amount due, only if the amount due was not delinquent at the time of payment. Failure to submit timely reports will result in the imposition of a ten percent penalty. After 30 days, interest will accrue at the rate of five percent per month, or fraction thereof, from the due date of the taxes.

**Secs. 9-119—9-145.-** Reserved.

**DIVISION 3. - ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES**

**Sec. 9-146.-** *Locations where prohibited; minimum food requirements; reporting; limitations on bar areas.*

(a) For the purposes of this section, the terms "hotel" and "motel" shall be interchangeable and shall mean an establishment that contains not less than 35 separate rooms for overnight lodging.

(b) Except as provided elsewhere in this chapter, no alcoholic beverages may be sold by the drink for consumption on the premises where sold except in eating establishments regularly serving prepared food, with a full service kitchen (a full service kitchen will consist of a four-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the county health department and city fire department). When located in hotels, motels and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

(c) Except as provided elsewhere in this chapter, establishments shall derive a minimum of 50 percent of their total annual gross food and beverage sales from the sale of prepared meals or food. Hotels or motels containing such establishments shall derive a minimum of 75 percent of their total annual gross income from the sales of prepared meals or food and from the rental of rooms for overnight lodging.

(d) On or before the 15th day of January, April, July and October of each year, each such establishment shall file a report of the previous calendar quarter's operations with the city clerk verifying compliance with this section. Such reports shall be filed on forms designated by the clerk and/or Council. Any licensed establishment that fails to meet the appropriate percentage requirements for two consecutive quarters shall be subject to immediate revocation. An audit may be required at any time to ensure compliance with this section.

(e) If such establishment provides a bar or counter service for the sale of alcoholic beverages for on-premises consumption, the seating capacity of such bar shall not exceed ten percent of the total seating capacity of the premises; provided, however, that this limitation on seating capacity shall not apply to hotel bars that are available for the use of hotel guests.

(f) Nothing in this section shall be deemed to prohibit hotel room service of alcoholic beverages.

**Sec. 9-147.- *Hours of sale.***

Alcoholic beverages shall not be sold for consumption on the premises except between the hours of 9:00 a.m. and 2:00 a.m., Monday through Saturday.

**Sec. 9-147.1.- *Reserved***

**Sec. 9-148.- *Consumption sales only.***

Persons holding a license to sell alcoholic beverages for consumption on the premises shall not sell alcoholic beverages by the package.

**Sec. 9-149.- *Employees; permit.***

(a) For whom required. The following persons shall be required to apply for and obtain a valid pouring permit from the city:

(1) All employees and independent contractors who sell and/or serve alcoholic beverages at a premises licensed under this article.

(2) Any person acting in a managerial and/or security capacity at the licensed premises,

regardless of whether such person sells and/or serves alcoholic beverages.

(b) Exemption. The licensee to whom an alcoholic beverage license has been issued under this article is not required to obtain a pouring permit.

(c) Application and issuance. Subject to the time limit to make application for a pouring permit as provided herein, no person requiring a pouring permit may be employed by an establishment holding a license under this article until such person has been issued a pouring permit from the police department indicating the person is eligible for employment. All applications required by this section shall be investigated by the Town or designated law enforcement agency to include, among other things, fingerprinting, an investigation of the criminal record, if any, of the applicant. Any applicant who is not issued a pouring permit shall have the right to appeal such decision within ten days to the Town council.

(d) Time limit. All persons subject to the provisions of this section shall, within 48 hours after the date of their first day of employment in an establishment holding a license for alcoholic beverages, report to the Town or designated law enforcement agency for purposes of being fingerprinted and make application for a pouring permit.

(e) Investigation and report. The Town or designated law enforcement agency shall have a complete and exhaustive search made relative to any criminal record of the person fingerprinted under this section. If there is a record of a violation of this division, the violation will be reported to the mayor and Town council, stating that the person is ineligible for a pouring permit. When the mayor and city council have heard the matter at the next regularly scheduled meeting, they may issue a letter declaring such person to be eligible for a pouring permit if, in the discretion of the mayor and city council, the record would not disqualify such person.

(f) Letter of eligibility; term; fee. Any pouring permit issued under this section shall expire 12 months from the date of issue unless earlier suspended or revoked by the mayor and city council. The Town or designated law enforcement agency may prescribe regulations for certifying the eligibility for continued employment without the necessity of the employee being again fingerprinted. The Town or designated law enforcement agency may prescribe reasonable fees for certifying the eligibility for a pouring permit.

(g) List of employees to be filed. It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Town or their designee the names of all persons holding a pouring permit, with their home address, home telephone number and place of employment. Changes in the list of persons holding a pouring permit, including the names of new persons requiring or holding a pouring permit, must be filed with the Town or their designee within three days from the date of any such changes.

(h) Possession of permits by employees. Permit holders shall at all times during their working hours have the permits available for inspection at the premises.

(i) Permit holder on premises. At all times that the business is open the licensee shall have at least one permit holder on the premises.

(j) Grounds for suspension, revocation, probation. No pouring permit which has been issued or which may hereafter be issued under this section shall be suspended, revoked or placed on probation except for

due cause as defined in this subsection (j), and after a hearing and upon written notice to the permit holder of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. Five days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the city council may deem the circumstances to justify. Due cause for the suspension or revocation of the permit shall consist of the violation of any laws or ordinances regulating the sale of alcoholic beverages or the violation of any state, federal or local ordinances set out in this division; or for the omission or falsification of any material in any application; or for any reason which would authorize the refusal of the issuance of a permit; or any violation of this division. The Council shall maintain the authority to immediately suspend or revoke any pouring permit issued pursuant to this division prior to a hearing. However, such a suspension or revocation of any pouring permits shall not be finalized until the permit holder is afforded the opportunity of a hearing. All hearings shall be before the Council at a specially called meeting and shall be conducted in the manner provided the towns Code of Ordinances. After the hearing, if the Council determines due cause exists, the Council may suspend, revoke or place on probation for a maximum of 12 months, with or without conditions, the permit. Should the mayor and council place the matter down for hearing, the mayor and council, after such hearing, may reverse or modify the decision of the council, suspend or revoke the pouring permit or place the permit holder on probation with or without conditions.

**Sec. 9-149.1.- *Mandatory Employee and Manager Training***

(a) It shall be the responsibility of each licensee to provide all new employees and new managers at the time of their employment, and all employees and managers annually, with an orientation and training on the alcoholic beverage ordinance; provided that, the failure of the employer to provide such orientation and training or of the employees and managers to participate shall not be a defense for an employee or manager who does not follow the provisions of the alcoholic beverage ordinance; and provided that, a licensee shall keep a record of such orientation and training, which shall be subject to inspection.

(b) The failure of the licensee to comply with this subsection regarding the attendance of a policy workshop and the training of permit holders shall be grounds for due cause to suspend and/or revoke the license to sell alcoholic beverage.

**Sec. 9- 149.2 *Failure to require and properly check identification.***

Except as provided in section 9-152, it shall be a violation of any person serving alcohol on the licensed premises not to require and properly check identification to ensure an underage person is not sold or served or does not have in such person's possession alcoholic beverages while in a licensed establishment. The term "identification," as used in this subsection, shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include without being limited to a passport, military identification card, driver's license or state department of public safety identification card.

(1) With regards to a any licensee's employee or agent holding an alcoholic beverages serving permit or Permitted Manager, if it is adjudged by a Court of competent jurisdiction that said employee or agent of the licensee or Permitted Manager negligently or knowingly served or sold alcohol to a person under the age of 21 years while on the licensed premises, he or she shall be subject to a fine of not more than \$500.00 for a first violation.

(2) If a second violation occurs within any three hundred and Sixty-Five (365) day period of a first violation, the offender shall be subject to a fine of not more than \$1000.00 and his or her permit shall be revoked.

**Sec. 9 – 149.3** *Failure to require and properly check identification – Permitted Managers.*

Any Permitted Manager who is found by a Court of competent jurisdiction to have been present and on-duty on the licensed premises on any occasion on which any licensee's employee or agent holding an alcoholic beverages serving permit committed any of the following offenses on said premises:

(1) served or sold any alcoholic beverage to any person that the employee or agent knew or should have known to be in a state of intoxication;

(2) served or sold any alcoholic beverage to any person without requiring proof of age identification as required in this chapter;

shall be subject to a fine of not less than \$250.00 per offense.

**Sec. 9-150.-** *Patio sales/Outdoor Sales.*

(a) The consumption and/or sale of alcoholic beverages on licensed premises shall be allowed in enclosed patio areas that are accessible through the interior of the restaurant, provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment, including but not limited to regulations pertaining to maximum capacity, ingress and egress.

(b) No establishment licensed under this chapter to sell alcoholic beverages shall allow a person to leave the premises with alcoholic beverages in open cup, bottle, can or other open container.

(c) The licensee shall be in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment.

**Sec. 9-151.-** *Happy hour promotions prohibited.*

(a) It is the intent of this section to prohibit activities typically associated with promotions referred to as "happy hour."

(b) As used in this section, the term "customarily charged" means the price regularly charged for alcoholic beverages during the same calendar day.

(c) No person licensed pursuant to this article or employee or agent of a licensee shall engage in any of the following practices in connection with the sale or other disposition of alcoholic beverages for consumption on the premises:

(1) The giving away of any alcoholic beverage in conjunction with the sale of any other alcoholic beverage;

(2) The sale of two or more alcoholic beverages for a single price, including the sale of all such beverages a customer can or desires to drink at a single price;

(3) Selling, offering to sell or delivering to any person any alcoholic beverage at a price less than one-half the price customarily charged for such alcoholic beverage, provided that nothing contained in this subsection shall be construed to prohibit reducing the price of a drink for any twenty-four (24) hour period by up to one-half the price customarily charged;

(4) Increasing the volume of alcoholic beverage contained in a drink without proportionately increasing the price customarily charged for such beverage; and

(5) The sale or service of alcoholic beverages by the pitcher to any party that includes less than two (2) individuals who are at least twenty-one (21) years of age.

**Sec. 9-152.- Prohibited sales.**

At pouring establishments only where alcoholic beverages are consumed on the premises, such as restaurants and hotels, the requirement of a patron showing proper picture identification prior to being served alcoholic beverages shall apply unless a manager on duty in his discretion determines that the patron appears to be at least 35 years of age. In this instance alone, alcoholic beverages may be served to such a person without picture identification.

**DIVISION 4. - PACKAGE BEER AND WINE**

**Sec. 9-153.- Type of retail establishment.**

No beer or wine shall be sold at retail except in the following type of establishments:

(1) Establishments duly licensed by the city to sell beer or wine by the package;

(2) Establishments maintaining 80 percent of the floor space and storage area in a manner which is devoted principally to the retail sale of other products and located in zoning districts in which these establishments are permitted as a conforming use or in districts where an existing establishment exists as a nonconforming use; and

(3) Establishments with at least 1,500 square feet of floor space, floor space being calculated by interior retail space.

**Sec. 9-154.- Hours of sale.**

Retail package licensees shall not engage in the sale of beer and/or wine except between the hours of 6:00 a.m. and 12:00 a.m., Monday through Saturday. The hours within which business may be carried on shall be determined by the standard time in force at the time of the sale. No package beer or wine may be sold on Sunday.

**Sec. 9-155.- Use of tags or labels to indicate prices.**

Beer and wine package retailers shall indicate plainly, by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed, the prices of all beer and wine exposed or offered for sale.

**DIVISION 6. - WHOLESALERS**

**Sec. 9-155.- Financial interest restricted.**

No person who has any direct financial interest in a license for the retail sale of distilled spirits shall be allowed to have any interest or ownership in any wholesale distilled spirits license.

**Sec. 9-156.- Purchases restricted.**

No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any distilled spirits to any person other than a retailer licensed under this article.

**Sec. 9-157.- Deliveries restricted.**

No alcoholic beverage shall be delivered to any retail sales outlet in the city except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

**Secs. 9-158—9-200.- Reserved.**

**DIVISION 6. – BREW PUBS**

**Sec. 9-201.- Definitions.**

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

*Brew pub* means an eating establishment in which beer or malt beverages are manufactured or brewed for retail consumption on the premises and solely in draft form.

**Sec. 9-202.- Exceptions.**

Notwithstanding any other section of this chapter to the contrary, a limited exception from the food requirements contained in section 9-146 shall exist for owners and operators of brew pubs. Such brew pub operators shall be permitted to sell alcohol on site without any requirement of food sales, provided

that:

- (1) No individual shall be permitted to own or operate a brew pub without first obtaining a proper brew pub license from the council pursuant to the same procedures as are set forth in Division 1 of this article, and each brew pub license holder shall comply with all other applicable state and local license requirements; and
- (2) A brew pub license authorizes the holder of such license to:
  - a. Manufacture on the licensed premises not more than 5,000 barrels of beer in a calendar year solely for consumption retail on the premises and solely in draft form; and
  - b. Operate an eating establishment that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter; provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only and provided, further, that in addition to draft beer manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.

**Sec. 9-203.- *Other licenses available.***

Possession of a brew pub license shall not prevent the holder of such license from obtaining any other license available under this article for the same premises.

**Sec. 9-204.- *Sales for consumption off the premises.***

A brew pub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.

**Sec. 9-205.- *Payment of fees and taxes.***

A brew pub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this article as manufacturers, retailers and, where applicable, wholesalers.

**Sec. 9-206.- *Applicability of chapter.***

Except as set forth in this division and under applicable state law, a brew pub license holder shall be subject to all sections of this chapter.

**DIVISION 7. – GROWLERS**

**Sec. 9-201.- *Definitions.***

The term "growler" means a bottle made of glass or other material customary to the industry provided that the bottle is capable of being sealed with a screw cap or flip top and then sealed for the purpose of complying with open container laws, and further provided that the bottle does not exceed 64 ounces and

is filled by a licensee or employee of the licensed establishment with beer from a keg.

**Secs. 9-202.- *Sale of Growlers.***

(a)The sale of growlers in compliance with this article is authorized for establishments defined in subsection 9-2 authorized to sell alcoholic beverages excluding distilled spirits, by the package. The filling of growlers by means of a capped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or other provisions of this article. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler. Only professionally sanitized and sealed growlers may be filled and made available for retail sale. Each growler must be securely sealed and removed from the premises in its original sealed condition. Except as hereinafter provided, consumption on the premises is strictly prohibited.

(b)The holder of a package malt beverage license, with or without a package wine license, but in no event with a package distilled spirits license, shall be eligible for an ancillary growler malt beverage tasting license to provide samples of growler malt beverages offered for sale to customers under the conditions set forth in this section. Growler malt beverage sampling shall be on limited occasions when a customer requests a sample of a growler malt beverage offered for sale within the premises, or in conjunction with growler malt beverage education classes and sampling designed to promote growler and malt beverage appreciation and education. Growler malt beverage tasting for customers shall only be conducted at a counter area constituting no more than ten percent of the entire floor area of the premises. Growler malt beverage sampling for customers shall be limited to no more than one time per day per customer for a period not to exceed two consecutive hours. Samples shall not exceed four ounces, and no customer shall consume more than 16 ounces in any two-hour period. Only the licensee or an employee shall open and handle unpackaged malt beverages, and samples shall only be poured by the licensee and/or an employee. No open growler container shall be removed from the licensed premises. Not more than two times per week for a period not to exceed two consecutive hours, the holder of an ancillary growler malt beverage tasting license may conduct educational classes and sampling for class participants. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted. Growler malt beverage sampling and tasting is only permitted within the designated interior portion of the premises. The annual fee for an annual growler malt beverage tasting license shall be \$50.00, and may be revised, by resolution of the mayor and council from time to time and published in the municipal schedule of fees.