

ORDINANCE 24-27

To Amend Chapter 6 Of The 2001 Revised Code Of The City Of Dalton, Georgia Captioned "Alcoholic Beverages"; To Provide For An Effective Date; To Provide For The Repeal Of Conflicting Ordinances; To Provide For Severability; And For Other Purposes.

BE IT ORDAINED by the Mayor and Council of the City of Dalton and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

Section 1.

Chapter 6 of the 2001 Revised Code of the City of Dalton, Georgia, captioned "Alcoholic Beverages" is hereby amended by striking the by striking, repealing and deleting Chapter 6 in its entirety and substituting in lieu thereof a new Chapter 6 which shall read as follows:

Chapter 6 ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

All definitions set forth in the Georgia Alcoholic Beverage Code (O.C.G.A. tit. 3) and state regulations, as amended, are adopted by this chapter. 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:

Applicant means any person who files forms designated by the city clerk as an applicant for a license to sell alcoholic beverages either at retail or wholesale, deal in alcoholic beverages either at retail or wholesale or manufacture alcoholic beverages.

Bar means any premises at which a retailer licensed pursuant to this title to sell alcoholic beverages derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages for consumption on the premises.

Café means a permanent freestanding building at which a retailer licensed to sell alcoholic beverages derives a minimum of 25 percent of its total annual gross sales, over any 12-month period of time, from the sale of food and nonalcoholic beverages. In the case of an audit, the relevant time period shall be the 12 months immediately preceding the commencement of the audit. If the café being audited has been in operation as a café for less than 12 months, the audit period shall be the period of time the entity has operated as a café, and the café must derive a minimum of 25 percent of its total gross sales for that audit period from the sale of food and nonalcoholic beverages. A café shall have tables and chairs for its patrons, and it shall have food and nonalcoholic beverages available for purchase at all times it is open to the public.

Church means a permanent freestanding building located in an area designated for such use by the zoning ordinances where persons regularly assemble for religious worship, which shall be publicly designated as a church, but does not include a residence or place of business also used for religious purposes.

Code enforcement inspector means an Authorized City Official appointed by the mayor and council or city administrator to enforce this chapter.

College means only such state, county, city, church or other colleges which teach the subjects commonly taught in the common colleges of this state.

Designated Agent means the person designated by the licensee in his application for a permit to sell alcoholic beverages

Distance means the distance as established in section 6-103 of this chapter.

Drink and mixed drink mean any alcoholic beverage served for consumption on the premises, which may or may not be diluted by water or other substance in solution.

Event Center means any gathering open or advertised to the public where alcoholic beverages are provided at a location that does not hold a license to sell alcoholic beverages and there is any monetary exchange or transfer of funds in any way connected to the provision of alcoholic beverages or entry to the event. An event center may be permanent or temporary, and it may be inside or outside.

Family means any person related to the holder of a license within the first degree of consanguinity or affinity as determined according to civil law.

Freight depot shall mean the Dalton Freight Depot located at 305 South Depot Street together with that portion of South Depot Street between Cuyler Street and East Morris Street.

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 40 or more rooms are used for the sleeping accommodations of such guests, such sleeping accommodations being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels.

Hotel Lounge means a separate room located in a hotel, as defined in this section.

License means the authorization by the mayor and council to engage in the sale of alcoholic beverages on the premises.

Licensee means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, plural as well as singular number, who holds any class of permit issued under this chapter.

Local caterer or concessionaire means a person, other than the preferred caterer and concessionaire, whose principal business is to cater meals or other food items for functions located off the caterer's premises, who maintains a permanent office within the county and who meets the citizenship and residency requirements of section 6-105 of this chapter.

Mall means an enclosed indoor area containing common areas and discrete businesses and stores primarily devoted to the retail sale of goods and services; and a mall must have all of the following: (i) public restrooms; and (ii) a minimum of one (1) restaurant, as defined in this section.

Mall Lounge means a separate room located in a mall, as defined in this section.

Micro-brewery means a facility using traditional brewing practices to produce less than 5,000 barrels of malt beverage annually.

Micro-distillery means a facility using traditional distilling practices to produce less than 50,000 gallons of distilled spirits annually.

Monthly period means the calendar months of any year.

Nonprofit civic organization means an organization which is an exempt organization under section 501(c) or (d) of the Internal Revenue Code of 1986, as amended.

Package goods retailer means a person licensed pursuant to O.C.G.A. §3-3-10(a)(7) to sell alcoholic beverages in unbroken packages for consumption off premises.

Package store means a geographic location within the city wherein a license may be issued for the sale of packaged alcoholic beverages in unbroken packages and where the sale of alcoholic beverages in unbroken packages comprises more than 50 percent of the licensee's annual gross sales and where the sale of nonalcoholic items is incidental to the business of the licensee at that location; package stores selling distilled spirits must be operated as a distinct business and cannot be operated in conjunction with or as a part of any other business.

Person under age means any individual under the age of 21 years.

Pour and *pouring* mean the sale of alcoholic beverages by the drink for consumption on the premises.

Pouring outlet means any place where distilled spirits or other alcoholic beverages are poured or proposed to be poured.

Preferred caterer and concessionaire means the owner or operator of the Northwest Georgia Trade and Convention Center or the contracted preferred caterer and concessionaire of the Northwest Georgia Trade and Convention Center.

Premises means either:

- (1) That definite, closed or partitioned-in locality, whether room, shop or building, owned or leased by the licensee, wherein alcoholic beverages are sold, either by package or for consumption in such locality; or

- (2) As to any pouring outlet, any other location not nearer than 100 feet to any property boundary of the lands exclusively owned, leased or hired by the licensee for such pouring outlet.

Private club means a non-profit association organized and existing under the laws of the state, actively in operation within the city, which has been in existence at least one year prior to the filing of its application for a license to be issued under this chapter; and which complies with all requirements set forth in this section: it has at least 40 members who regularly pay monthly, quarterly, or semiannual dues; and, it is organized and operated exclusively for pleasure, recreation and other non-profit purposes; and, no part of its net earnings inure to the benefit of any shareholders or members; and, it owns, hires or leases a building or space therein for the reasonable use to its members with suitable kitchen and dining room space and equipment; and, it maintains and uses a sufficient number of servers and employees for cooking, preparing and serving meals for its members and guest; provided, that no member or officer, agent or employee of the club is paid or receives, directly or indirectly, in the form of salary or other compensation, any profits from the sale of spirituous liquors to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meetings or by its governing board out of the general revenue of the club.

Proper identification shall mean any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and such person's date of birth. Proper identification includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate and shall not include any traffic citation and complaint form.

Public safety commission means the commission established by under that name by ordinance or resolution.

Purchase price means the consideration received for the sale of alcoholic beverages by the drink valued in money, whether received in cash or otherwise, including receipts, credit, property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.

Purchaser means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular number, who orders and gives present or future consideration for any alcoholic beverage by the drink.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly prepared and served, without sleeping accommodations, such place seating a minimum of 40 or more people, and holding a certificate of approval from the county health department. A restaurant shall maintain a full-service kitchen which consists of, at a minimum, a three-compartment pot sink, a stove or grill permanently installed and a refrigerator. A restaurant serves meals every hour that it is open and the serving of such meals shall be the principal business conducted, with the serving of distilled spirits, beer and/or wine to be consumed on the premises as only incidental thereto. In order to be classified as a restaurant under this chapter, the licensee must

derive a minimum of 50 percent of its total annual gross sales, over any 12-month period of time, from the sale of prepared meals or food. In the case of an audit, the relevant time period shall be the 12 months immediately preceding the commencement of the audit. If the restaurant being audited has been in operation as a restaurant for less than 12 months, the audit period shall be the period of time the entity has operated as a restaurant, and the restaurant must derive a minimum of 50 percent of its total annual gross food and beverage sales for that audit period from the sale of prepared meals or food.

Restaurant Lounge means a separate room connected with, a part of or adjacent to the restaurant, as defined in this section, and are part of such restaurant's operations, provided that the seating capacity of the lounge shall not exceed that of its connected restaurant.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public.

Return means any return filed or required to be filed as provided in this Chapter.

School means only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges of this state.

Tax means the tax imposed under each Article

Sec. 6-2. Purposes of chapter.

This chapter has been enacted in accordance with a plan designed for the following purposes, among others:

- (1) Promoting the health and general welfare of the community;
- (2) Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages to protect and preserve schools and churches;
- (3) Giving effect to existing land use and preserving certain residential areas, with reasonable considerations, among others, to the character of the area and the peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining the stability of neighborhoods and property values; and
- (4) Protecting against the evils of concentration of ownership of retail outlets for alcoholic beverages or preventing undesirable persons from engaging in or having any interest in alcoholic beverages.

Sec. 6-3. Applicability.

The sections of this chapter and the license fees levied in this chapter shall apply to all persons residing or maintaining a place of business in the city or to any person bringing alcoholic beverages into the city for the purpose of sale, except those sales made by a salesperson upon order and delivery later.

Sec. 6-4. Compliance with chapter.

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages without having first complied with this chapter including, but not limited to, obtaining the appropriate alcoholic beverage license from the city.

Sec. 6-5. Laws and regulations adopted.

The state laws and regulations relating to the sale and distribution of alcoholic beverages in the state, as revised and promulgated by the general assembly and by the state revenue department and especially as they relate to wholesale and retail package sales and retail sales for consumption on the premises, are incorporated into and made a part of this chapter as if fully set out in this section.

Sec. 6-6. Penalties.

Any person violating any of the sections of this chapter or who shall assist any dealer in alcoholic beverages in the city to evade or avoid the payment of the fees and taxes provided for in this chapter shall be guilty of a violation of this chapter and, upon conviction in the municipal court, shall, in addition to any fine or sentence of the municipal court, be subject to the fines and penalties set forth in as set out in Section 6-233.

Sec. 6-7. Applications and Renewals.

For the purposes of this chapter, the mayor and council are vested with the following duties and powers:

- (1) To grant or deny initial applications for licenses for the sale of alcoholic beverages, at wholesale and retail, by the package and by the drink, and to consider all recommendations of the public safety commission regarding the same.
- (2) To grant or deny all renewal applications for the sale of alcoholic beverages at wholesale and retail, by the package and by the drink, and to consider all recommendations of the public safety commission regarding the same.
- (3) The initial review of all such licenses shall occur in the public safety commission; however, to the extent the public safety commission does not consider and issue a recommendation on an initial application or renewal application within 60 days of filing said application with the clerk, the mayor and council shall be authorized to grant or deny such license without a recommendation from the public safety commission.

Sec. 6-8. Public safety commission powers and duties generally.

For the purposes of this chapter, the public safety commission is vested with the following duties and powers:

- (1) *Initial applications.* To screen, verify, investigate and review all initial applications for licenses for the sale of alcoholic beverages, at wholesale and retail, by the package and by the drink, to consider whether the applicant meets the applicable qualifications and requirements, and to make a recommendation to mayor and council to grant or to deny licenses for the sale of alcoholic beverages by the package and for the sale of alcoholic beverages by the drink.
- (2) *Renewals.* To investigate and hear reports and charges constituting probable cause not to renew licenses for the sale of alcoholic beverages at wholesale and retail, by the package and by the drink, to consider whether the applicant meets the applicable qualifications and requirements, and to make a recommendation to mayor and council to grant or to deny renewals of licenses for the sale of alcoholic beverages by the package and for the sale of alcoholic beverages by the drink.

- (3) *Determinations of conduct or offenses requiring penalty, suspension, revocation or combination thereof.* To conduct hearings upon charges of the city to any alcohol beverage licensee as to the occurrence of conduct or an offense for which penalty, suspension, revocation, adjustment of operating hours, or a combination thereof is provided under this chapter; to cause a record and transcript of such hearing to be made and kept; to take any of the actions provided for in section 6-233 below.
- (4) *Modifications.* To recommend to the mayor and council modifications to this chapter and other city ordinances and policies pertaining to the regulation, control and taxing of alcoholic beverages.
- (5) *Rules.* To promulgate rules and regulations governing procedure before it.

Sec. 6-9. Possession of unsealed containers.

It shall be unlawful for any person to possess any distilled spirit in an unsealed container on premises licensed for the sale of alcoholic beverages by the package, and it shall be unlawful for any licensee to permit possession of a distilled spirit in an unsealed container on the premises licensed for the sale of alcoholic beverages by the package.

Sec. 6-10. Possession in public places.

- (a) Except as provided in subsection (b) of this section and section 6-11, it shall be unlawful for any person to drink, consume, transport, carry alcoholic beverage (except in the original package and with the seal unbroken), on any public street, sidewalk, or in any city park, city-maintained recreation facility, public parking lot or semi-public parking lot located within the city limits. The term "semi-public parking lot" shall include any area wherein motor vehicles are parked by the public in conjunction with any business, enterprise, commercial establishment, office building or apartment building.
- (b) The following activities shall not be a violation of this section:
 - (1) Alcohol beverage sales by the drink at the Northwest Georgia Trade and Convention Center within areas designated by its management, including areas inside and outside of the Northwest Georgia Trade Center.
 - (2) Beer and/or wine sales by the drink within a special outdoor area as provided for in section 10-112.
- (c) Within the area bordered on the north by Hawthorne Street, on the east by the western right-of-way of the L&N Railway, on south by Morris Street and on the west by Thornton Avenue (the "area"); the following regulations shall apply:
 - (1) *One drink on-street limit.* Any establishment within the Area licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup conforming to cup specifications promulgated by the Downtown Dalton Development Authority from time to time for removal from the premises; provided, however, that no establishment

shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than one such alcoholic beverage from the licensed premises.

- (2) *Size limited.* No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 20 fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds 20 fluid ounces in size. The volume of alcoholic beverage in any such container shall not exceed 16 fluid ounces.
- (3) *Drinking from can, bottle, or glass prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.
- (4) *Outside consumption of alcoholic beverages permitted within the area.* Outside consumption of an alcoholic beverage from a container that is in compliance with this subsection (c) of section 6-9 and obtained from an establishment within the area licensed to dispense alcoholic beverages by the drink for consumption on the premises is permitted within the area between 12:30 p.m. and midnight. Provided, however, consumption of an alcoholic beverage in a parked or moving vehicle within the area is prohibited.

Sec. 6-11. Sidewalk cafes, open area and patio sales.

The consumption and/or sale of alcoholic beverages shall be allowed in sidewalk cafes that are in compliance with Article 5 of Chapter 10 of this Code, and in open areas and patios under the control of the licensee provided that such open areas and patios are separated from public areas by a physical barrier, fence, rail or similar structure sufficient to prevent ingress and egress by a person(s) except through a controlled access point and further provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment and its sidewalk cafe, open area or patio, including, but not limited to, regulations pertaining to maximum capacity, ingress and egress. In the event the designated area is separated from the licensee's premises so that it is necessary to traverse public property to get from one location to the other, then in such event it shall be unlawful for alcoholic beverages to be carried from said premises to the designated area or vice versa by anyone but licensee or employees of licensee.

Sec. 6-12. Underage persons prohibited on premises.

No person who holds a license to sell malt beverages, wine, distilled spirits, or other alcoholic beverage shall allow any person underage to be in, frequent or loiter about the premises of the licensee unless such underage person is accompanied by a parent or a legal guardian. However, this section shall not apply to a licensee whose annual sales of food and non-alcoholic beverages upon the premises comprise more than 50 percent of the licensee's annual gross sales and where the sales of alcoholic beverages are merely incidental to the business.

Sec. 6-13. Sales to persons underage.

No licensee or any other person on a licensed premises shall sell alcoholic beverages to any person under the age of 21 years.

Sec.6-14. Purchase or possession by underage persons; misrepresentation of age.

It shall be unlawful for any person under age to purchase or possess any alcoholic beverage. It shall be unlawful for any person under age to misrepresent his or her age in any manner whatsoever for the purpose of illegally obtaining any alcoholic beverages.

Sec. 6-15. Employees.

Except as otherwise provided by law:

- (1) No person issued a license under this chapter shall employ any person under 18 years of age in or about the premises where alcoholic beverages are sold, consumed or offered for sale to sell or deliver or to aid or assist in the sale or delivery, directly or indirectly, of alcoholic beverages; and
- (2) No person under 18 years of age shall sell, take orders for or deliver or in any manner take part or assist in the sale, serving or delivery of alcoholic beverages.

Sec. 6-16. Furnishing to underage persons.

It shall be unlawful for any person to buy distilled spirits or other alcoholic beverages and furnish them to a person under age, except as provided by law.

Sec. 6-17. Business hours of licensed wholesaler.

The business hours of any wholesaler licensed to sell alcoholic beverages shall be at all times not inconsistent with limitations on such sales as set forth in this chapter or in state law.

Sec. 6-18. Hours and sale of alcoholic beverages by the package.

Unless state laws and regulations hereafter provide otherwise, alcoholic beverages by the package may be sold only between the hours of 8:00 a.m. and 11:30 p.m. Monday through Saturday, and only between the hours of 12:30 p.m. and 11:30 p.m. on Sunday.

Sec. 6-19. Hours and sale of alcoholic beverages for consumption on the premises.

Except as otherwise provided in this chapter and unless state laws and regulations hereafter provide otherwise, alcoholic beverages for consumption on the premises may be sold Monday through Saturday from 8:00 a.m. to 1:00 a.m. the following day. Provided, however, on New Year's Day, January 1, alcoholic beverages for consumption on the premises may also be sold between the hours of 12:01 a.m. and 1:30 a.m. on New Year's Day. Additionally, properly licensed restaurants and the preferred caterer and concessionaire may serve alcoholic beverages for consumption on the premises Monday through Saturday from 8:00a.m. to 2:00a.m. the

following day. Properly licensed restaurants, establishments that derive at least 50 percent of their total annual gross income from the rental of rooms for overnight lodging, micro-breweries and micro-distilleries may sell alcoholic beverages for consumption on the premises on Sunday from 11:00 a.m. to 12:00 Midnight.

Sec. 6-20. Closing and vacation of premises of pouring outlets.

All pouring outlets, other than restaurants and the preferred caterer and concessionaire, shall be completely closed and vacated by all persons except those persons regularly employed for management, sanitation and supply purposes no later than 1:30 a.m. Provided, however, that on New Year's Day, January 1, all pouring outlets, other than restaurants and the preferred caterer and concessionaire, shall be completely closed and vacated by all persons except those persons regularly employed for management, sanitation and supply purposes no later than 2:00 a.m. Restaurants and the preferred caterer and concessionaire are not required to close; however, all alcoholic beverages and containers used for alcoholic beverages must be removed by 3:00a.m. from tables or other areas where patrons are permitted in such establishments.

Sec. 6-21. Service after hours at pouring outlets.

No alcoholic beverages shall be mixed or sold at pouring outlets during the prohibited hours, based upon timely sale of tickets, chits, decanters or other devices.

Sec. 6-22. Coin-operated devices; amusement machines.

No retail dealer in distilled spirits by the package shall permit on his premises any slot machines, electronic or mechanical games of chance machines of any kind or character, any coin-operated amusement machines, or any other machines operated for amusement purposes.

Sec. 6-23. Delivery by retailer beyond licensed premises.

It shall be unlawful for any person issued a license under this chapter to make deliveries of any alcoholic beverages by the package beyond the boundaries of the premises covered by the license or any alcoholic beverages by the drink beyond the indoor boundaries of the premises covered by the license.

Sec. 6-24. Clear view of entrance and interior of licensed premises.

- (a) No licensee for the sale of alcoholic beverages by the package shall operate under the license unless the front entrance to the licensed premises is clearly visible from the public street.
- (b) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted upon the doors of any retail store for the sale of alcoholic beverages by the package, and no booth, screen, partition or other obstruction shall be

permitted within the interior of any such store. Each such premises shall be so lighted that its interior is visible day and night.

Sec. 6-25. Sales in connection with other businesses.

No retail license for the sale of distilled spirits by the package shall be allowed in or in connection with any restaurant, café or eating place or in the same room where a bar is maintained for the dispensing and sale of malt beverages and wine by the drink or any other business establishment. Nothing in this section, however, shall be construed to limit or prohibit the operation of a package store in the same building complex with other businesses.

Sec. 6-26. Misrepresentation of contents.

Under this chapter it shall be unlawful for licensees or their Designated Agents 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.

Sec. 6-27. Sale to certain persons.

No person issued a license under this chapter or any other person on the licensed premises shall sell any alcoholic beverages to any person in an intoxicated condition or to any person known to such licensee or his or her employees to be a habitual drunkard or to any person known to such licensee or his employees to be of intemperate habits or of unsound mind.

Sec. 6-28. Private clubs.

Any private club that secures a pouring license under this chapter and that is operated behind locked doors shall provide at least two keys to each lock or, where cards are used for admittance, two cards for each lock, properly marked. One key or card shall be provided to the chief of police, and one key or card shall be provided to the county sheriff. The changing of the locks without supplying new keys or cards shall be grounds for revocation of the license.

Sec. 6-29. Copy of chapter on premises.

It shall be the duty of the management of a pouring or package outlet to maintain a copy of the pouring or package license ordinance contained in this chapter at the location and to instruct each employee on the terms thereof.

Sec. 6-30. Sale of gasoline on premises where beer, wine and malt beverages sold.

The sale of gasoline shall be allowed at a convenience store location which holds a valid and effective beer, wine or malt beverage license issued by the city, subject to the following restrictions:

- (1) There must be present on the premises an inventory of retail goods and merchandise available for sale having a retail value of not less than \$8,000.00,

excluding the value of alcoholic beverages and cigarettes, at all times. For purposes of measuring whether an inventory of retail goods and merchandise of a value of at least \$8,000.00 is available at all times for sale on the premises, there must be an average monthly inventory based upon the inventory records for the specific premises of at least \$8,000.00, excluding alcoholic beverages and cigarettes.

- (2) No drive-in window sales of alcoholic beverages shall be allowed.
- (3) Each license holder at the premises shall have his monthly inventory records showing the retail value of all goods and merchandise on the premises at the location of the premises at all times during regular business hours for inspection by the chief of police.

Sec. 6-31. Limitation on consumption sales.

It shall be unlawful for any person to knowingly and intentionally sell any alcoholic beverage for consumption on premises located within 100 yards of any housing authority property or library.

Sec. 6-32. Responsibility to examine proper identification; exceptions to prohibitions.

It shall be the responsibility of the licensee to examine the proper identification of each patron to ascertain that such patron is 21 years of age or older. The prohibitions of sections 6-12 and 6-13 of the Code shall not apply with respect to the sale of alcoholic beverages by a person when such person has been furnished with proper identification showing the alcohol beverage is to be sold to a person who is 21 years of age or older.

Sec. 6-33. Rebuttable presumptions.

For the purpose of any administrative hearing conducted pursuant to the provisions of this chapter 6 of the Code, the following shall constitute rebuttable presumptions without the necessity of further proof:

- (1) The sworn testimony of a police officer that such officer has determined that a person is under the age of 21 years after the examination of such person's identification or the records of any law enforcement agency shall create the rebuttable presumption that such person is under the age of 21 years.
- (2) The fact that a person has been issued an alcoholic beverage license pursuant to this chapter 6 of the Code shall create a rebuttable presumption that the licensee's sale of alcoholic beverages constitutes more than 50 percent of the licensee's annual gross sales.

Sec. 6-34. Brown bagging prohibited; exception; sanction.

- (1) Except as otherwise provided herein, it shall be unlawful for the owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment to permit

customers, guests or invitees to bring an alcoholic beverage onto the premises of such establishment for consumption purposes unless such business holds a valid alcoholic beverage license for the type of alcoholic beverage permitted to be brought into the establishment.

- (2) No food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment shall permit customers, guests or invitees to bring an alcoholic beverage onto the premises if any alcoholic beverage license associated with that establishment is suspended or revoked.
- (3) A violation of this section shall result in the suspension of the privilege to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of the establishment for a period of two years. Provided, however, if the violation occurs during the suspension or revocation of the alcoholic beverage license associated with the establishment, the suspension of the privilege shall be for a period of time that is the longer of the period of suspension or revocation of the alcoholic beverage license and two years.
- (4) This ordinance shall not apply to a private event on any premises where the general public is not allowed entry. An event at a private club where only club members are allowed entry shall not be deemed a private event for the purposes of this ordinance.
- (5) Any owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink, or entertainment who violates this ordinance shall, upon conviction thereof, be punished by a civil penalty of not less than \$200.00 and not more than \$1,000.00.

Sec. 6-35. Freight depot.

- (a) The sale and consumption of alcoholic beverages on the premises of the freight depot during an event shall be allowed as provided herein.
- (b) The sale of alcoholic beverages on the premises of the freight depot is exempted from the minimum food sale requirements of this chapter.
- (c) The serving and/or sale of alcoholic beverages on the premises of the freight depot must be in compliance with state law and, except as otherwise provided in this section, in compliance with this chapter.
- (d) The executive director of the Dalton Area Convention and Visitors Bureau, or his designee, may hold an alcoholic beverage license for the freight depot so that the orderly operation of the freight depot will not be interrupted in the event the party holding the alcoholic beverage license for the facility is unable to serve alcoholic beverages for any reason. There shall be no city license fee paid by the executive director of the Dalton Area Convention and Visitors Bureau, or his designee.
- (e) The hours of sale of alcoholic beverages on the premises of the freight depot shall be the same as provided in section 6-20 of this chapter for the sale of alcoholic beverages upon licensed premises.

- (f) When an event at the freight depot is to include the South Depot Street area, barriers approved by the chief of police or his designee must be erected at the northern and southern boundaries of the South Depot Street area prior to the commencement of the event and promptly removed at its conclusion. The city police department must be given five days prior notice of any event that will close South Depot Street. The chief of police or his designee shall have the authority to prohibit the closing of South Depot Street if public safety will be compromised.
- (g) The party leasing or using the freight depot for an event that will include the South Depot Street area shall be responsible for the cleanup of the South Depot Street area after the event. Such party shall pay a refundable street cleanup deposit in the amount of \$100.00 to the city clerk in addition to any other required deposits. If the South Depot Street area is not cleaned to the reasonable satisfaction of the public works director, or his designee within 12 hours of the conclusion of the event, then the street cleanup deposit shall be forfeited. The street cleanup deposit may be waived by the city administrator.

Secs. 6-36—6-60. Reserved

ARTICLE II. LICENSE

DIVISION 1. GENERALLY

Sec. 6-61. Approval of mayor and council.

- (a) With the exception of a temporary permit, no alcoholic beverage license shall be issued until it has been approved by the mayor and council.
- (b) No alcoholic beverage license shall be approved unless all applicable sections of this chapter have been met.

Sec. 6-62. Grant or privilege.

Every license issued under this article shall be a mere grant or privilege to carry on such business during the term of the license, subject to all the terms and conditions imposed by this chapter and related laws, applicable sections of this Code and other city ordinances and resolutions relating to such business.

Sec. 6-63. Types of licenses.

The types of alcoholic beverage licenses which may be issued under this article are as follows:

- (1) Pouring distilled spirits.
- (2) Pouring wine and malt beverages.

- (3) Package distilled spirits.
- (4) Package wine and malt beverages.
- (5) Wholesale alcoholic beverages.
- (6) Manufacturer, distilled spirits 50,000 gallons or more annually.
- (7) Manufacturer, malt beverages 5,000 barrels or more annually.
- (8) Micro-distillery
- (9) Micro-brewery
- (10) Brewpub.
- (11) In-room service.
- (12) Preferred caterer and concessionaire.
- (13) Local caterer or concessionaire.
- (14) Temporary permit.
- (15) Private club.
- (16) Retail delivery license.
- (17) Package delivery license.

Sec. 6-64. Holding more than one retail license.

A retail alcoholic beverage licensee may hold more than one type of retail license, provided that each license must be approved by the mayor and council.

Sec. 6-65. Use restricted to license type.

It shall be unlawful for a licensee to engage in any activity pertaining to the sale of alcoholic beverages except as authorized by the type of license held.

Sec. 6-66. Limitations on use.

- (a) It shall be unlawful for any person operating a premises licensed for the sale of wine and malt beverages to store or have on the premises any distilled spirits without a license therefor.
- (b) Holders of a pouring distilled spirits license shall not sell distilled spirits in the package for carryout purposes at any time.
- (c) Holders of a pouring wine and malt beverages license shall not sell malt beverages or wine by the package for carryout purposes:
 - (1) On any day or at any time when the sale of packaged malt beverages or wine for carryout purposes is otherwise prohibited by law; or

- (2) At any location which is within distances to grounds or buildings where the sale of packaged malt beverages or wine for carryout purposes is otherwise prohibited by law.
- (d) Holders of a pouring distilled spirits license shall not be permitted to sell distilled spirits in the package for home delivery.
 - (e) Holders of a pouring wine license shall be permitted to sell wine by the package for home delivery upon obtaining a retail delivery license.
 - (f) Holders of a pouring malt beverage license shall be permitted to sell malt beverages by the package for home delivery upon obtaining a retail delivery license.
 - (g) Holders of a package wine license shall be permitted to sell wine by the package for home delivery upon obtaining a package delivery license.
 - (h) Holders of a package malt beverage license shall be permitted to sell malt beverages by the package for home delivery upon obtaining a package delivery license.
 - (i) Holders of a package distilled spirits license shall be permitted to sell distilled spirits by the package for home delivery upon obtaining a package delivery license.

Sec. 6-67. Display.

Each licensee for the sale of alcoholic beverages shall have his or her license posted conspicuously in his place of business. The failure of a licensee to display the license conspicuously in his or her place of business shall be a violation of this chapter and shall subject the licensee to citation and nonjudicial sanctions as provided in this chapter upon a finding of a violation after a hearing.

Sec. 6-68. Inspection of licensed establishments.

Sworn officers of the police department and the code enforcement inspector 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 other city officer to conduct inspections authorized by other sections of this Code.

Sec. 6-69. Audits.

The city administrator and the city clerk shall be authorized to conduct an audit of the records and books of a retail alcoholic beverage licensee for the purpose of determining whether such licensee is in compliance with this chapter or any other provision of the Code. The city administrator, city clerk or their designees shall notify a licensee of the date, time and place of the audit, and the licensee shall present for inspection at such date, time and place its books and records for audit purposes, and such licensee shall cooperate with the city officials and the agents of the city conducting said audit.

The burden of proving compliance with minimum annual food sales requirement contained in this chapter shall be on the licensee. Compliance with such requirement may only be proven through the submission of licensee's business records made and kept in the ordinary course of business. If the licensee is unable to meet its burden of proof with such business records, then licensee shall be deemed to be in violation of this article, and, in addition to any other remedy or right available to the city, the licensee shall be liable for, and shall pay to the city upon demand, the cost of said audit.

Sec. 6-70. Eligibility for pouring license.

Except as otherwise provided in this chapter, no application shall be considered from and no license granted to an applicant whose business location for alcoholic beverages is anything other than a bar, café, restaurant, hotel, private club, micro-brewery, brewpub, local caterer, preferred caterer and concessionaire, micro-distillery, hotel lounge, mall lounge, or restaurant lounge. Neither a micro-brewery nor a brewpub shall be eligible for a license to sell distilled spirits.

Sec. 6-71. Separate businesses.

Under this chapter a separate license shall be required for each business location, and a separate application shall be made for each such place.

Sec. 6-72. Annual fees.

All annual alcoholic beverage license fees shall be paid in advance on or before January 15 of each year, and any new license granted during a calendar year shall be prorated for the remainder of the calendar year.

Sec. 6-73. Amount of fees.

- (a) Each person manufacturing or selling distilled spirits in the city shall pay an annual license fee as follows:
- (1) Manufacture, distilled spirits 50,000 gallons or more annually \$5,000.00
 - (2) Manufacturer, malt beverages 5,000 barrels or more annually \$5,000.00
 - (3) Micro-distillery \$750.00
 - (4) Micro-brewery \$750.00
 - (5) Wholesalers \$100.00
 - (6) Retailers, package only \$5,000.00
 - (7) Pouring \$2,000.00
 - (8) Private club, pouring only \$2,000.00
 - (9) Temporary permit \$100.00
 - (10) Local caterer or concessionaire \$2,000.00

- (11) Preferred caterer and concessionaire \$4,000.00
 - (12) Retail delivery license \$500.00
 - (13) Package delivery license \$500.00
- (b) Each person manufacturing or selling malt beverages in the city shall pay an annual license fee as follows:
- (1) Manufacturer \$5,000.00
 - (2) Wholesaler \$100.00
 - (3) Retailer, package only \$750.00
 - (4) Pouring \$750.00
 - (5) Temporary permit \$50.00
 - (6) Local caterer or concessionaire \$375.00
 - (7) Brewpub \$750.00
 - (8) Preferred caterer and concessionaire \$750.00
- (c) Each person manufacturing or selling wine in the city shall pay an annual license fee as follows:
- (1) Wholesaler \$100.00
 - (2) Retailer, package only \$750.00
 - (3) Pouring \$750.00
 - (4) Temporary permit \$50.00
 - (5) Local caterer or concessionaire \$375.00
 - (6) Preferred caterer and concessionaire \$750.00
- (d) The license fee for in-room service shall be \$500.00.

Sec. 6-74. Responsibility for employee's conduct.

Every person issued an alcoholic beverage license is responsible for the conduct or actions of his employees while in his or her employ.

Sec. 6-75. Availability of prices and penal sections.

Each retail licensee for the sale of distilled spirits shall have conspicuously displayed within the interior of the licensed premises not less than four copies of a printed price list of the beverages offered for sale and one printed copy of the penal sections of this article. However, a licensee, in lieu of having four copies of a printed list, may have the price placed on the bottles or on the bottom of the shelf where beverages are exhibited for sale.

Sec. 6-76. Occupancy requirements; security; license verification; insurance.

- (a) Every holder of an alcoholic beverage license for a brewpub or the pouring of distilled spirits, wine or malt beverages shall comply with the occupancy load requirement set forth in part 1003.2.2.5 of the International Fire Code (2000 edition), as amended.
- (b) No holder of an alcoholic beverage license as described in subsection (a) hereof shall allow the occupancy of the holder's establishment to exceed the posted occupancy load for the space.
- (c) All licensees described in subsection (a) shall maintain commercial general liability insurance to include liquor liability insurance in the aggregate amount of at least one million dollars (\$1,000,000.00) with a minimum \$500,000.00 sublimit on assault and battery claims, which shall be in effect at all times during the license period. Said insurance shall be issued by an insurer licensed in the state of Georgia, and all licensees shall provide to the city a certificate of insurance verifying coverage set forth in this subparagraph at the time of application and upon any renewal of said license. The city shall be designated as a certificate holder of such policy, and a 30-day notice of cancellation in favor of the city must be endorsed to the policy and attached to the certificate.
- (d) If the holder of a pouring distilled spirits license operates a pouring outlet other than a restaurant, then such license holder shall comply with the following requirements:

From 10:00p.m. until closing, the pouring outlet must have a minimum of one security person and at least two security persons for each 100 persons present during the hours of operation of the pouring outlet. Security personnel must be at least 21 years of age with no criminal convictions other than moving traffic violations. Security personnel must wear clothing which clearly identifies the personnel as security while on duty.

Sec. 6-77. Malt beverage, wine and distilled spirits tasting.

- (a) A malt beverage tasting permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of malt beverage by the package and a valid current malt beverage license from the state.
- (b) A wine tasting permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of wine by the package and a valid current wine license from the state.
- (c) A distilled spirits tasting permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of distilled spirits beverage by the package and a valid current distilled spirits beverage license from the state.
- (d) Any tasting occurring on the premises of a business possessing a tasting permit shall be limited to an area that is separated from the retail area of the premises by walls or other partitions that prohibit pedestrian traffic through the tasting area.
- (e) An eligible licensee may petition the city for a tasting permit provided it meets all requirements of the city's alcohol beverage ordinance and presently maintains a valid

license for the sale of malt beverage, wine, or distilled spirits by the package issued by the city.

- (f) A tasting permit shall allow the permittee to offer or sell samples in connection with an instructional or educational promotion and the samples must be consumed in the presence of a representative of the licensed business.
- (g) A tasting permit shall allow the permittee to offer 52 tasting events per year, for no more than one time per day, for a maximum of four hours, and only during the hours the licensed premises may lawfully sell unbroken packages of alcohol.
- (h) A tasting event may only include one type of alcoholic beverage per event, may include more than one brand of each type of alcoholic beverage, and no more than four brands may be open at any one time during the tasting event.
- (i) A tasting permittee shall be subject to all laws, rules and regulations of the city and state, including O.C.G.A. § 3-3-26 and rule 560-2-5-.05 of the state department of revenue, alcohol and tobacco division, and shall be subject to tasting permit revocation for violation thereof.
- (j) Said tasting permit need only be applied for once and shall automatically renew when said license to sell malt beverages, wine, or distilled spirits by the package is renewed. Provided, however, that the city may revoke or suspend such tasting permit and/or impose such conditions on its operation at the city's discretion for violation of this Code or in furtherance of the health, safety and welfare of the city's inhabitants.

Sec. 6-78. Public benefits verification.

- (a) The mayor and council find that the issuance of an alcohol beverage license is a public benefit as defined by federal and state law and therefore all persons who apply for an alcohol beverage license individually or on behalf of a partnership, corporation, limited liability company or other entity shall, as a condition precedent to the issuance of an alcohol beverage license, execute and deliver to the city clerk an affidavit on a form approved by the city clerk which shall state:
 - (1) The applicant is a United States citizen or legal permanent resident 18 years of age or older; or
 - (2) The applicant is a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, 18 years of age or older lawfully present in the United States and provides the applicant's alien number issued by the Department of Homeland Security or other federal immigration agency.
- (b) Eligibility for an alcohol beverage license shall be made through the Systematic Alien Verification of Entitlement (SAVE) program operated by the Department of Homeland Security or successor program.
- (c) Until such eligibility verification is made, the affidavit shall be presumed to be proof of lawful presence in the United States and an alcohol beverage license may be issued

conditioned upon eligibility verification through the SAVE program. In the event the applicant's non-eligibility is determined through the SAVE program, the alcohol beverage license shall be immediately deemed null and void.

Sec. 6-79. Home deliveries.

- (a) A package goods retailer that holds a pouring malt beverage license may obtain a retail delivery license for home deliveries of malt beverages.
- (b) A package goods retailer that holds a pouring wine license may obtain a retail delivery license for home deliveries of wine.
- (c) A package goods retailer that holds a package malt beverage license may obtain a package delivery license for home deliveries of malt beverages.
- (d) A package goods retailer that holds a package wine license may obtain a package delivery license for home deliveries of wine.
- (e) A package goods retailer that holds a package distilled spirits license may obtain a package delivery license for home deliveries of distilled spirits.
- (f) A retail delivery licensee and package delivery licensee shall be subject to all laws, rules and regulations of the city and state, including O.C.G.A. § 3-3-10 and shall be subject to delivery license revocation for violation thereof.

Secs. 6-80—6-100. Reserved.

DIVISION 2. QUALIFICATIONS GENERALLY

Sec. 6-101. Issuance to person.

A license required under this article shall be issued to a person, as defined in the Georgia Alcoholic Beverage Code (O.C.G.A. tit. 3) and state regulations, as amended.

Sec. 6-102. Location of premises.

No license for the manufacture, wholesale or retail sale of alcoholic beverages shall be issued except where such business is to be located in the area of the city properly zoned for such business.

Sec. 6-103. Distance requirements.

- (a) For an alcoholic beverage license to be issued to other than a preferred caterer and concessionaire, local caterer or concessionaire or temporary permit, the premises of the applicant must meet the following distance requirements:

- (1) For a license for distilled spirits, or wine or malt beverages, the premises shall not be located in or within 100 yards of an alcoholic treatment center owned and operated by the state, the county, or the city.
 - (2) For a license for distilled spirits, the premises shall not be located in or within 100 yards of any church building, housing authority property; or within 200 yards of any school building, educational building, school grounds, or college campus.
 - (3) For a license for wine or malt beverages, the premises shall not be located in or within 100 yards of any school building, school grounds, or college campus.
 - (4) As used in this subsection (a), the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common school or in colleges of the state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).
 - (5) Nothing in this subsection (a) shall prohibit the licensing and the sale or distribution of alcoholic beverages for consumption on the premises only for premises located in zoning classification C-3.
- (b) No new retail package liquor licensed place of business or the relocation of an existing retail package liquor licensed place of business engaged in the retail package sale of distilled spirits shall be located within 500 yards of any other business licensed to engage in the retail sale of distilled spirits as measured by the most direct route of travel on the ground. Its distance limitation shall not apply to any hotel otherwise licensed under state and local law, any location for which a license has been issued prior to July 1, 1997 or to the renewal of such license, and any location for which a new license is applied for if the sale of distilled spirits was lawful at such location at any time during the 12 months immediately preceding the application.
- (c) An applicant for a new alcoholic beverage license who has acquired a previously licensed alcoholic beverage location may, within 12 months after the expiration of the previous owner's license, obtain an alcoholic beverage license, limited to the type or types of license of the previous owner, for that location even though the location may not meet the distance requirements set forth in this section. An application filed under this subsection shall meet and qualify under all other requirements of this section 6-103 for the granting of a new license. Provided, however, an application filed under this subsection (c) shall not be required to provide a survey showing that distance requirements have been met.
- (d) For the purposes of subsection (a) and (b) of this section, distance shall be measured by the most direct route of pedestrian travel on the ground along the right-of-way. Distance shall be measured from the nearest building wall of any church or nearest property line of any school, public library, or college campus to the center of any door of customer entry of the proposed premises of the applicant.

Sec. 6-104. Disqualified location.

Except as provided herein the city clerk may not accept or process an alcoholic beverage license application for a location that is associated with a license that is suspended, revoked, or a

license that is terminated or expired pursuant to section 6-208. An alcoholic beverage license application for such location may be accepted and processed by the city clerk if the business at such location is sold pursuant to a bona fide sale at fair market value to a person or entity with no direct or indirect relationship to the holder, or equity owner of the holder if the holder is not an individual, of the suspended, revoked, or expired alcoholic beverage license at that location. Conditions precedent to the acceptance and processing of a license at such location shall be the delivery of the following documents to the city clerk:

- (a) Copy of the sales contract for the business.
- (b) Sworn affidavit of seller, or all equity owners of seller if seller is not an individual, that the:
 - (1) Sale price represents the fair market value of the business;
 - (2) Affiant does not have and will not have an interest in business of the applicant buyer;
 - (3) Affiant is not a relative of the buyer or any equity owner of buyer, if applicable; and
 - (4) Affiant will receive no payment from the buyer other than as set forth in the sales contract.
- (c) Sworn affidavit of buyer, or all equity owners of buyer if buyer is not an individual, that the:
 - (1) Sale price represents the fair market value of the business;
 - (2) Affiant has never had an interest in business of the seller;
 - (3) Affiant is not a relative of the seller or any equity owner of seller, if applicable; and
 - (4) Seller, and the equity owners of seller, if applicable, will receive no payment from the buyer other than as set forth in the sales contract.

Sec. 6-105. Citizenship, age, and residency requirements.

Citizenship, age, and residency requirements for an applicant for a license to engage in the sale of alcoholic beverages shall be as follows:

- (1) If an individual, the person shall be a United States citizen or an alien lawfully admitted for permanent residence, a resident of the city, and at least 21 years of age; provided, however, the individual applicant need not be a city resident if the applicant designates a resident of the city or county who is at least 21 years of age as his or her Designated Agent who shall be responsible for any matter relating to the license.
- (2) If a partnership, corporation, limited liability company, or other entity, this section shall apply to all its partners, officers, managers and principal owners as defined in section 6-108(a). If a corporation or limited liability company, the license shall be issued to the corporation or limited liability company. Where the principal

owner or member is not a resident of the city or county, the corporation or limited liability company shall designate an individual as its Designated Agent who must be a resident of the city or county at least 21 years of age who shall be responsible for any matter relating to the license. For a partnership, the license shall be issued to one of the partners. If a partner is not a resident of the city or county, the partnership must designate a city or county resident at least 21 years of age as the partnership Designated Agent who shall be responsible for any matter relating to the license.

- (3) Notwithstanding anything in this section to the contrary, an applicant for a license to sell packaged distilled spirits must have been a bona fide resident of the city for at least 12 months immediately preceding the application.

Sec. 6-106. Filing of changes.

Any change in any relationship declared in this division must be filed, when made, with the City Clerk's office, and failure to do so within a period of fifteen (15) days after such change is made shall be grounds for cancellation of a license granted under this chapter by the mayor and council.

Sec. 6-107. Disqualification generally.

No application for any license required under this article shall be granted where the application, investigation or the evidence presented at a hearing before the public safety commission or mayor and council shows any of the following conditions to exist:

- (1) The applicant or his Designated Agent has a conviction, as defined in section 6-108, or does not have sufficient mental capacity to conduct the business for which application is made or who has been dishonorably discharged from the armed services of the United States.
- (2) The applicant or any agent, stockholder, partner or member of the applicant has had any license issued by the city or any other municipality previously revoked.
- (3) The applicant or his Designated Agent, as a previous holder of a license to sell alcoholic beverages, has violated any law, regulation or ordinance relating to such business, or has surrendered its license in with a charge pending regarding the violation of any law, regulation or ordinance relating to such business, within a 36-month period immediately preceding the date of the application. In the event of a renewal application, offences prosecuted and resolved pursuant to this chapter shall not be considered.
- (4) The applicant's business is not properly zoned for the license applied for or does not otherwise meet the requirements of this chapter.

Sec. 6-108. Persons with prior convictions.

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

Convicted includes an adjudication of guilt or a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime;

Principal owner refers to an individual owning, directly or indirectly, a five percent or more interest in a corporation, partnership, limited partnership, limited liability company or other entity.

- (b) No license for the sale of alcoholic beverages shall be issued to any individual, partnership, limited partnership, corporation or limited liability company where such individual or any individual who is a principal owner of any partnership, limited partnership, corporation, limited liability company or other entity, or who is the Designated Agent responsible for matters relating to the license shall have been:
 - (1) Convicted under any federal, state or local law of any misdemeanor involving sexual misconduct, dishonesty, possession or use of a controlled substance, or possession of drug paraphernalia within ten years prior to the filing of the application for such license; or
 - (2) Convicted under any federal state or local law of any felony within ten years prior to the filing of the application for such license.

Sec. 6-109. In-room service.

- (a) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom which contains beer and/or wine only, which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of beer and/or wine contained therein is final at the time requested, except for a credit which may be given to the guest for any unused portion.
- (b) Any hotel-motel that acquires this in-room service shall also be required to obtain a consumption on the premises license and meet all of the requirements of this chapter.
- (c) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so.
- (d) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.
- (e) Keys for in-room service shall only be sold to guests between the hours of 9:00 a.m. until 12:00 midnight, Monday through Saturday.

Sec. 6-110. Local caterer or concessionaire; preferred caterer and concessionaire.

- (a) A local caterer or concessionaire may seek a license from the mayor and council for the sale of alcoholic beverages for consumption by the drink at catered affairs, provided such applicant meets all of the requirements of this chapter. Any person holding a preferred caterer and concessionaire license may operate as a local caterer or concessionaire and shall not be required to obtain a local caterer or concessionaire license.

- (b) A local caterer or concessionaire licensee and a preferred caterer and concessionaire licensee shall only sell alcoholic beverages for consumption by the drink in conjunction with the service of catered food items.
- (c) A local caterer or concessionaire licensee and a preferred caterer and concessionaire licensee shall not sell alcoholic beverages on Sunday.
- (d) Except as set forth in this section, a local caterer or concessionaire licensee and a preferred caterer and concessionaire licensee must comply with all other sections of this chapter.
- (e) No alcoholic beverages shall be sold, dispensed, or consumed at an event center except such alcoholic beverages which are sold by a properly licensed local caterer or concessionaire.

Sec. 6-111. Temporary permits for nonprofit civic organizations.

- (a) For the purposes of this section, a "nonprofit civic organization" is defined as the Dalton Downtown Development Authority or an organization which is an exempt organization under section 501(c) or (d) of the Internal Revenue Code of 1986, as amended, whose membership includes city residents or property owners.
- (b) Upon the filing of an application, payment of the required fee and notification to the police chief on the required form by a nonprofit civic organization, the city clerk may issue a permit authorizing the organization to serve alcoholic beverages for consumption on the premises or to sell wine at retail for off-premises consumption, or both, for a period not to exceed three days, subject to any law regulating the time for serving such beverages. No more than three permits may be issued to a qualified organization in any one calendar year pursuant to this section. Permits issued pursuant to this section shall be valid only for the location, times and dates specified in the permit. No permit may be issued unless the sale of such alcohol beverages is lawful in the place for which the permit is issued.

Sec. 6-112. Brewpub.

- (a) No individual shall be permitted to own or operate a brewpub without first obtaining a proper brewpub license from the mayor and council pursuant to the same procedures as are set forth in division 3 of this article, and each brewpub license holder shall comply with all other applicable state and local license requirements. A brewpub license authorizes the holder of such license to (i) manufacture on the licensed premises not more than 5,000 barrels of beer in a calendar year solely for retail on the premises and solely in draft form; and (ii) operate a restaurant 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, in addition to draft beer manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.
- (b) Possession of a brewpub license shall not prevent the holder of such license from obtaining any other license available under this chapter for the same premises.

- (c) A brewpub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.
- (d) A brewpub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesalers.
- (e) Except as set forth in this section, a brewpub license holder shall be subject to all sections of this chapter.

Secs. 6-113—6-140. Reserved.

DIVISION 3. APPLICATION AND ISSUANCE GENERALLY

Sec. 6-141. Application required.

Every person desiring to obtain a license required under this chapter shall make formal written application to the mayor and council for such privilege, signed by the applicant and Designated Agent, if applicable, upon forms to be prepared and provided by the city clerk. All such applicants and Designated Agents shall furnish all reasonable data, information and records requested of them by the mayor and council, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss the application. Applicants or those having an interest in the application, by filing an application, agree to produce any criminal record for review by the mayor and council and, for oral interrogation, any person requested by the mayor and council and considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within 30 days after being requested to do so shall result in the automatic dismissal of the application. The application must be in the name of the person conducting the business at the address contained in the application.

Sec. 6-142. False information.

Any material omission or untrue or misleading information contained in or left out of an original or renewal application for an alcoholic beverage license shall be cause for the denial thereof. If any license has previously been granted on the basis of such misleading statements or material omissions, such shall constitute cause for the revocation of the license.

Sec. 6-143. Processing fee.

Upon filing an application for an alcoholic beverage license with the city clerk, the city shall require the applicant to pay a fee to cover the cost of processing the application in such an amount as the mayor and council shall set from time to time.

Sec.6-144. Payment of taxes and other debts to city.

The city clerk shall cause an inquiry to be made into the city tax records to determine if an applicant for an alcoholic beverage license or other party with interest in the application has any outstanding taxes or special assessments that are delinquent against his property or any other monies owing to the city. No license shall be issued or renewed until such debts are paid in full.

Sec.6-145. Issuance.

Upon an application for an alcoholic beverage license being granted by the mayor and council, a license shall be issued to the applicant as of the date the applicant commences his alcoholic beverage business and upon the payment by the applicant of the license fee prescribed in section 6-73.

Sec. 6-146. Notification of denial.

The denial of an application for an alcoholic beverage license shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant. Upon timely application filed with the city clerk within 14 days of the notice of denial being mailed or delivered to the applicant, any applicant aggrieved by the decision of the mayor and council regarding a permit or license shall be afforded a hearing with an opportunity to present evidence and cross examine opposing witnesses.

Sec. 6-147. Acceptance and consideration of application after rejection or revocation.

When any application for an alcoholic beverage license is denied for cause or any license is revoked for cause by the mayor and council, the mayor and council shall not accept or consider any application by such applicant or licensee for a license to operate the same type of business within 24 months in the event of a denial for cause and 60 months in the event of a revocation for cause.

Sec. 6-148 Approval of applications for sites under construction.

An application for a proposed licensed alcoholic beverage premises may be approved by the mayor and council prior to the applicant obtaining an occupancy permit for the premises if the premises are currently under construction, renovation or rehabilitation. If approved by the mayor and council, the city clerk shall not issue the alcohol beverage license until the applicant has obtained an occupancy permit and all other approvals required by the state and city for fire and building code purposes and has advised the city clerk in writing of the date on which the alcoholic beverage business shall commence, which date shall not exceed 12 months from the date of application approval. The license shall be dated as of such commencement date and shall not be effective until that date. If the applicant fails to obtain an occupancy permit or to commence the alcoholic beverage business within 12 months of the date of approval of the alcohol beverage license by the mayor and council, the applicant shall forfeit his application which shall, by virtue of failure to obtain an occupancy permit or failure to commence the

alcoholic beverage business, be rejected without the necessity of any further action of the mayor and council.

Sec. 6-149. Time limit for commencement of business.

Except for a license issued to a site under construction which is governed by section 6-149, an applicant must open the alcoholic beverage business in the establishment referred to in the application within six months after its approval by mayor and council. The city clerk shall not issue the alcoholic beverage license until presented with the applicant's notarized statement stating the applicant is in fact the owner of the establishment and will open for business on a date certain. The license shall be dated as of the date certain in the affidavit and shall not be effective until that date. Failure to open the licensed establishment within the six-month period or the date stated in the applicant's affidavit shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

Sec. 6-150. Time limit for closed business.

Any holder of a license issued under this division who shall begin the operation of the business authorized in the license, but who shall for a period of six consecutive months thereafter cease to operate the business as authorized in the license, shall, upon completion of the six-month period, automatically forfeit his or her license, which license shall, by virtue of the failure to operate, be revoked without the necessity of any further action of the mayor and council.

Secs. 6-151—6-175. Reserved.

DIVISION 4. RESTRICTIONS

Sec. 6-176. Compliance with article by wholesalers.

All wholesalers licensed under this article shall file a certified statement of the gross sales of the business for the preceding calendar month with the city clerk on or before the 20th of the following month.

Sec. 6-177. Interest in other licenses by wholesalers.

No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license or an interest in any license under the terms of this article.

Sec. 6-178. Sales and deliveries by wholesalers.

Alcoholic beverage deliveries and sales by wholesalers under this article shall only be made to retailers properly licensed for the operation of alcoholic beverage establishments in the city. Deliveries shall be made in a conveyance owned and operated by the licensed wholesaler, and such license shall, at all times when deliveries are made in the corporate limits, be in the

conveyance making such deliveries and shall be subject at all times to inspection by any and all duly authorized city authorities.

Sec. 6-179. Retailers to purchase from licensed wholesalers.

Retail dealers in alcoholic beverages licensed under the applicable sections of this article shall not buy or accept deliveries of alcoholic beverages from wholesalers or other persons offering alcoholic beverages for sale except from wholesalers duly licensed under this article. Any such retail dealer shall only accept deliveries of alcoholic beverages directly to the premises for which his license or permit is issued and by no means other than a conveyance owned and operated by a wholesaler licensed as required by this article. However, on written request to the mayor and council and upon the granting of permission by the mayor and council in writing, deliveries may in special instances be made otherwise upon terms and conditions as prescribed by the mayor and council as to each such delivery.

Sec. 6-180. Invoices.

Upon every delivery of distilled spirits by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared, showing the quantities and brands of distilled spirits delivered together with the price thereof and the tax collected on the distilled spirits. The original copy of such invoice shall be delivered by the wholesaler to the retailer simultaneously with each such delivery. The wholesaler shall retain the second copy of the invoice and shall keep it for a period of 12 months. The wholesaler shall keep such invoices for one year after the date of the invoices, and during the year such invoices shall be made available for inspection by authorized city representatives. If requested by an authorized city representative, a copy of such invoices shall be attached to any reports requested or required by the city.

Secs. 6-181—6-205. Reserved.

DIVISION 5. RENEWAL AND TRANSFER

Sec. 6-206. Renewal required.

All licensees under this article shall be required to renew their licenses annually on forms prescribed by the city clerk.

Sec. 6-207. Time of renewal; provisional renewal.

- (a) Any person licensed under this article shall be required to renew his or her license on or before the next January 15. Any license not renewed by January 15 shall expire automatically and without notice at 12:01 a.m. on January 16. Any application for a new license necessitated by the failure to timely renew shall be assessed a penalty in the amount of ten percent of the license fee to cover administrative costs associated therewith.

- (b) In the event an applicant for renewal of licenses has not paid all required city taxes on or before January 1 for the reason that the county tax digest was not timely approved by the state revenue commissioner and the deadline for timely tax payments has been extended past January 1, then, in such event, the city clerk shall be authorized to issue a provisional license to the applicant who is otherwise qualified for renewal and pays the appropriate fee. The provisional renewal shall be conditioned upon the timely payment of all city taxes due from the applicant after approval of the county tax digest. Failure of an applicant to timely pay all city taxes due shall result in the automatic expiration of the provisional license without notice.
- (c) The city clerk shall not accept a renewal application for a suspended license until the suspension period for that license has ended.

Sec. 6-208. Transferability.

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.
- (b) If an individual licensee dies, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall first occur. However, 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 with the city clerk for authorization to continue to sell for such period.
- (c) (1) If a licensee or responsible person, other than the owner, severs such person's association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 60 days from the date of such severance, provided a new application is filed with the clerk within ten days of such severance which submits a new licensee or responsible person, as the case may be, for approval and indicates that there has been no change in the ownership of the licensed establishment. If approved, the term of the new license shall be for the remaining term of the original license and the original license shall terminate as of the date of such approval. No additional license fees, other than an advertising and administrative fee set by the clerk from time to time, shall be required from the applicant.
- (2) If a licensed establishment is sold to a person who, at the time of the sale, holds a valid license to sell alcohol at another establishment located within the city (purchaser), the purchaser may continue, if otherwise qualified and with the written permission of the original license holder, to sell alcohol under the permit or permits of the selling license holder for a period of 60 days from the date purchaser's application to sell alcohol at the purchased licensed establishment (the temporary period), provided purchaser makes such application on or before the date of sale and in writing on a form approved by the clerk, agrees to accept, all responsibility for and arising from the license during the temporary period. If approved, the term of the purchaser's license shall be for the remaining term of the original license and the original license shall

terminate as of the date of such approval. No additional license fees, other than an advertising and administrative fee set by the clerk from time to time, shall be required from the purchaser.

- (d) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license and who meet the qualifications of a licensee under this article. This subsection shall not prohibit the 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 holdings by a total of ten percent or more of any class stock.
- (e) If a transfer of location is approved by the mayor and council, 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) If any other change occurs in the business of the licensee, which would result in any statement in said licensee's alcohol license application being inaccurate, incorrect, or otherwise untrue, the licensee shall file with the city clerk an amended application disclosing said change and applying for a new license within fifteen (15) days of such occurrence. If such an amended application is timely filed, the licensee shall be authorized to continue use of the current license until the amended application is approved or denied by mayor and council, unless said license is otherwise suspended or revoked pursuant to this chapter.
- (h) Violation of this section shall result in revocation of the license being used, and 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. 6-209. Surrender of licenses.

- (a) *Criteria generally.* Any licensee authorized to engage in the sale of alcoholic beverages on specifically described premises shall be required to surrender the license held by such licensee without demand of the mayor and council upon any of the following events: except as otherwise provided in this chapter, (i) revocation of the license by the public safety commission; or (ii) any sale or transfer of any interest in the business of the license holder, whether an actual sale of any of the license holder's stock or proprietorship or partnership interest to any unregistered person or upon a sale of all or substantially all of the license holder's assets to any unregistered person. For purposes of this subsection, the term "unregistered person" shall mean any individual, corporation, partnership, limited partnership, club, association or fraternal order not shown upon any current application for an alcoholic beverage license on the specific premises involved. For purposes of this subsection, a sale of all or substantially all of the licensee's assets shall include, or be deemed to include, any sale of any specifically described premises or bulk sale of inventory or assets at any specifically described premises for which the license holder is licensed to

engage in the sale of alcoholic beverages in the city. For purposes of this subsection, any corporation or limited partnership or association whose stock is traded on any stock exchange recognized by the United States Securities and Exchange Commission shall be excepted from this requirement to the extent of any transfer of shareholding or partnership interests not exceeding five percent in any one trade or transaction.

- (b) *Time limit.* Surrender as provided in this chapter shall be made to the city clerk within 30 days of any event requiring surrender of the license.
- (c) *Fines for failure to surrender.* For failure to surrender the license within the period provided in subsection (b) of this section, the applicant shall be fined an amount as follows:
 - (1) The sum of \$50.00 for failure to surrender within 30 days of the date that any surrender of the alcoholic beverage license is required; and
 - (2) An additional sum of \$10.00 per day for each day thereafter from which the applicant fails or defaults in the surrender of the license after the date upon which the surrender is required.
- (d) *Assessment of penalty.* The city clerk shall assess any penalty against any applicant for failure to surrender the license as required by this section. Notice of assessment shall be by certified letter to the licensee based upon information and belief of the city clerk stating the date that any required surrender should have been made by the licensee. The licensee shall have a period of ten days from the date of receipt of the certified letter of the city clerk of the notice of assessment of the penalty to protest the assessment to the city clerk by presenting evidence or information in writing to the city clerk as to the licensee's position. If the city clerk shall not agree with the licensee's position after the licensee's written showing, the licensee shall have ten days from the date of the written notice of the city clerk's written decision disagreeing with the licensee's protest to request in writing a hearing before the public safety commission. The public safety commission may recommend either approval or rejection or modification of the city clerk's assessment and shall forward the recommendation to the mayor and council who shall at its next regular meeting accept, reject or modify the assessment of the penalty.
- (e) *Voluntary surrender.* Any licensee may voluntarily surrender its alcoholic beverage license at any time; however, if any notice of violation pursuant to Section 6-232 has issued and has not been finally adjudicated at the time of such surrender, such surrender shall be deemed an admission of the violation, and said license shall be automatically revoked.

Secs. 6-210—6-219. Reserved.

DIVISION 6. LICENSE STATUS

Sec. 6-220. Expiration upon delinquency.

A license issued under this article shall expire automatically and without notice upon the occurrence of a delinquency of 20 days in:

- (a) Filing any required monthly report under this chapter; or

- (b) Paying over any required excise tax levied under this chapter or any other indebtedness owed to the city.

Sec. 6-221. Revocation of state license.

Whenever the state department of revenue shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, any license issued under this chapter for the same licensed premises shall thereupon be automatically revoked without any action by the mayor and council or any city officer, and the licensee shall not be entitled to any refund of any license fee theretofore paid to the city.

Sec. 6-222. Suspension in emergency.

The mayor and the chief of police are each delegated the authority to suspend any license issued under this chapter for due cause in any emergency situation, and the suspension shall be made effective immediately and shall remain in force until the next regular or called meeting of the mayor and council.

Sec. 6-223. Other licenses.

When the mayor and council or public safety commission find a violation of any section of this Code for which the licensee shall have his alcoholic beverage license suspended or revoked, all alcoholic beverage licenses of the licensee shall be so suspended or revoked.

Secs. 6-224—6-230. Reserved.

DIVISION 7. HEARING PROCESS

Sec. 6-231. Due cause hearing; defined; cost of hearing.

- (a) Except as provided in sections 6-209, and sections 6-220 through 6-223, no license which has been issued or which may be issued pursuant to this article shall be suspended or revoked except for due cause and after a hearing as provided in this chapter of the Code.
- (b) The term "due cause" for the purposes of this chapter of the Code shall include, but not be limited to:
 - (1) A conviction, judicial finding, or the entering of a plea of guilty or nolo contendere by, the licensee or any person holding an interest in the license for any felony, or any violation of any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws.
 - (2) A conviction, judicial finding, or the entering of a plea of guilty or nolo contendere by, the licensee or any person holding an interest in the license for any sex offense when the licensed business permits on-premises consumption.

- (3) Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act, which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter, shall be deemed a violation of the requirement attempted to be circumvented.
- (4) Violation of any provision of this chapter, or any failure to meet or maintain any standard or regulation prescribed by this chapter as a condition or qualification for holding a license.
- (5) Failure of the licensee or any employee or agent of the business in which such license is utilized to promptly report to the police department of the city any of the following which occurred on the licensed premises:
 - i. Any violation of this article;
 - ii. Any other violation of law;
 - iii. Any violation of any other city ordinance; or
 - iv. Any breach of the peace, disturbance or altercation.
- (6) Failure of the licensee or the employees, agent or servants of the business in which such license is utilized to promptly control and prevent upon the premises of such business any of the following activities or conduct:
 - i. Fighting;
 - ii. Disorderly conduct;
 - iii. Utilization of controlled substances;
 - iv. Gambling;
 - v. Indecent conduct;
 - vi. Noise ordinance violations; or
 - vii. Other conduct which constitutes a nuisance.
- (7) Any documented negative impact to adjacent property owners (such as litter, parking, noise, property damage, etc.) for which the owner or tenant has failed to remedy through good faith efforts.
- (8) Failure to maintain parking lot of property in such a manner as to prevent littering, loitering, acts of disorderly conduct, excessive demand for public safety resources, and on-going disturbance of adjacent property owners.
- (9) Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling,

narcotics or sex offenses it shall create a rebuttable presumption that the violative act was done with the knowledge or consent of the licensee.

Sec. 6-232. Notice of violation.

The city clerk shall notify the licensee of any charge of conduct or offense subject to penalty, suspension or revocation or any combination thereof. If the potential sanction is suspension or revocation the notice shall also state the place and time the public safety commission will hear the charges against the licensee. The notice may also contain such additional information, as the city clerk may deem appropriate. The notice shall be delivered to the licensee at least five days prior to the hearing date by personal delivery, first class mail addressed to licensee at the address contained in licensee's alcohol beverage license application, or by posting the notice on the front door of the licensed premises. In the case of delivery by first class mail the notice shall be deemed delivered two days after being deposited into the US mail properly addressed and with adequate postage.

Sec. 6-233. Action by public safety commission.

Unless waived by the licensee, the public safety commission shall conduct a hearing on any charge against a licensee alleging conduct or offense that is subject to a suspension or revocation, at its next regularly scheduled meeting, but not later than 60 days from the date of notice to the licensee unless a continuance is granted at the request of the city or the licensee. The public safety commission shall have the discretion to call a special meeting to conduct a meeting or to reschedule or continue any hearing upon the request of the city or the licensee. The licensee shall be allowed to appear at said hearing and to present evidence and cross-examine witnesses. Upon hearing evidence from the city and licensee, if the licensee shall present any evidence, the public safety commission shall, no later than 30 days after the hearing, either dismiss all or some the charges against the licensee and/or, make a finding that a violation has occurred as to all or any one of the charges. If a violation is found to have occurred, the public safety commission shall levy the monetary penalty provided in the table below. The public safety commission may also make a finding that a licensee shall be allowed to pay any applicable penalty within a time certain not to exceed 30 days. The public safety commission shall have the authority to suspend the license of any licensee for a period of time not to exceed 14 days who:

- (1) Has been found to have incurred more than three violations in a three-year period;
or
- (2) Has been found to have willfully violated the provisions of this chapter.

The public safety commission may also make a finding that a willful violation of this article has occurred, and upon making such a finding, may recommend to the mayor and council that (i) the license of any licensee be suspended for a period of time not to exceed 60 days or revoked; or (ii) the serving times of the licensee be curtailed. For the purposes of this article, a finding that:

- (1) The violation or a pattern of violations shows that the licensee lacks operational control regarding the responsible sale of alcohol or that the licensee's operations are contrary to the public safety or welfare of the community;
- (2) That the licensee knowingly violated a provision of this article; or

- (3) Knowingly made a false statement on either a document filed with the city or to any city official, shall create a rebuttable presumption that a willful violation has occurred. The failure of the public safety commission to make a written recommendation to the mayor and council no later than 30 days after the hearing shall result in a dismissal of the charge.

The public safety commission shall also have authority to make recommendations to the mayor and council for other fines or penalties pursuant to the table below.

The City Attorney, or the City Attorney's designee, shall represent the City in all such public safety commission hearings.

<u>Offenses Involving Underage Persons</u>	<u>First Offense</u>	<u>Second Offense Within 36 Months of First Offense</u>	<u>Third Offense Within 36 Months of Two Preceding Offenses</u>
1. Sale or furnishing alcohol to underage person	\$1,000.00 fine	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
2. Keeping a place where underage person can come and purchase, drink or possess any alcoholic beverage	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
3. Permitting an underage person to be in, frequent or loiter about the premises unaccompanied by a parent or legal guardian	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
4. Employment of a minor in or about premises where minor sells or delivers, aids or assists in selling or delivering of alcoholic beverages	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
5. Any of the following conduct or offenses enumerated as 6 through 32 where underage person is involved in the transaction	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
<u>Time, Place, and Manner of Violations</u>	<u>First Offense</u>	<u>Second Offense Within 36 Months of First Offense</u>	<u>Third Offense Within 36 Months of Two Preceding Offenses</u>
6. Sunday sales	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
7. Sale at prohibited times other than Sundays	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
8. Failure to vacate premises of pouring outlets at required time	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months

9. Retail dealer of distilled spirits by package permitting slot machines or mechanical music boxes or pinball machines or any other coin-operated machine or machines except cigarette machines on premises	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
10. Selling or dispensing distilled spirits or wine from drive-in or service windows	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
11. Sale or delivery of alcoholic beverage whether by package or by drink beyond the premises or by curb service	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
12. Failure to report change in interest or ownership of business and/or change in information on application for license	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
13. Conducting music, dancing or other entertainment on premises licensed as pouring outlet without prior notification and permit of public safety commission	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months

Sexual Offenses

First Offense

Second Offense Within 36 Months of First Offense

Third Offense Within 36 Months of Two Preceding Offenses

14. Prostitution in violation of O.C.G.A. § 16-6-9	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
15. Keeping a place of prostitution in violation of O.C.G.A. § 16-6-10	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
16. Pimping in violation of O.C.G.A. § 16-6-11	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months

17. Pandering in violation of O.C.G.A. § 16-6-12	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
18. Solicitation of sodomy in violation of O.C.G.A. § 16-6-15	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
19. Masturbation for hire in violation of O.C.G.A. § 16-6-16	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
20. Giving massages in place used for lewdness, prostitution, or masturbation for hire in violation of O.C.G.A. § 16-6-17	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months

Offenses Against Public Order and Safety

First Offense

Second Offense Within 36 Months of First Offense

Third Offense Within 36 Months of Two Preceding Offenses

21. Maintaining a disorderly house in violation of O.C.G.A. § 16-11-44	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
22. Engaging in prohibited teaching, training or demonstration to others of the use, application, or making of any illegal firearm, dangerous weapon, explosive or incendiary device in violation of O.C.G.A. § 16-11-151	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months

Offenses Against Public Health and Morals

First Offense

Second Offense Within 36 Months of First Offense

Third Offense Within 36 Months of Two Preceding Offenses

23. Contributing to the delinquency, unruliness, or deprivation of a minor in violation of O.C.G.A. § 16-12-1	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
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Gambling

First Offense

Second Offense Within 36 Months of First Offense

Third Offense Within 36 Months of Two Preceding

Offenses

24. Commercial gambling in violation of O.C.G.A. § 16-12-22	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months
25. Keeping a gambling place in violation of O.C.G.A. § 16-12-23	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months
26. Possession, manufacture, or transfer of gambling device or parts including but not limited to electronic slot machine in violation of O.C.G.A. § 16-12-24	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months
27. Communicating gambling information in violation of O.C.G.A. § 16-12-28	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months
28. Solicitation of another to gamble with intent to defraud or deceive in violation of O.C.G.A. § 16-12-25	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months

Offenses Involving Narcotics

First Offense

Second Offense Within 36 Months of First Offense

Third Offense Within 36 Months of Two Preceding Offenses

29. Distribution of Georgia Controlled Substances Act, O.C.G.A. § 16-13-70, et seq.	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
30. Violation of Georgia Controlled Substances Act, O.C.G.A. § 16-13-20	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
31. Violation of the Georgia Dangerous Drugs Act, O.C.G.A. § 16-13-70, et seq.	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months

Miscellaneous Offenses

First Offense

Second Offense Within 36 Months of First Offense

Third Offense Within 36 Months of Two Preceding Offenses

32. Violation of any heretofore unspecified provision of chapter 4 of the Revised Code of the City of Dalton and of the Revenue Regulations of the Division of Alcohol, Tobacco and Firearms of the Georgia Department of Revenue pertaining to holding state alcohol beverage license	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
33. Failure to complete audit	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
34. Failure of audit	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
35. Nuisance violation	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months

Sec. 6-234. Action by mayor and council.

- (a) The mayor and council shall perform an on-record review of the hearing record before the public safety commission unless the licensee waives said review. The mayor and council shall determine from the hearing record whether there is sufficient evidence to support the finding of the public safety commission. The licensee shall not be permitted to present additional evidence or arguments before the mayor and council. If the on-record review concerns a revocation recommendation, then upon a finding by the mayor and council that sufficient evidence exists to support the recommendation, the mayor and council shall revoke the license of the licensee for 60 months. The mayor and council shall, after deliberation, make such determination as to sufficient evidence at its first regular or called meeting after delivery of the hearing record, unless a continuance is agreed upon by the city and licensee or the matter is otherwise tabled or continued by action of the mayor and council, but in any event the matter shall be heard by mayor and council no later than 60 days after the hearing before the public safety commission, and the licensee shall be notified of the determination at such meeting or in writing no later than 30 days after such meeting. Failure of the mayor and council to confirm the findings of the public safety commission within 90 days after the hearing before the public safety commission shall be deemed a finding that insufficient evidence exists to support the findings of the public safety commission and shall result in a dismissal of the charge.
- (b) The mayor and council shall also hear any suspension pursuant to 6-222 at its first regular or called meeting following said suspension. If a hearing is before the mayor and council as a result of a suspension pursuant to section 6-222, the licensee shall be allowed to appear at said hearing and to present evidence and cross-examine witnesses. The mayor and council shall notify the licensee of its determination at such meeting or in writing no later than 30 days after such meeting. Upon a finding by the mayor and council that sufficient evidence exists to support the emergency, the mayor and council may revoke the license of the licensee for a period not to exceed 60 months. Failure of the mayor and council to notify the licensee of its determination at such meeting or in writing no later than 30 days after such meeting shall result in a dismissal of the charge.
- (c) The city clerk shall give a licensee at least five business days written notice of the time and date of the meeting of the mayor and council at which any review of the hearing record of the public safety commission will be considered.
- (d) Any decision of mayor and council pursuant to subsection (a) or (b) shall be in writing and filed with the city clerk.

Sec. 6-235. Procedures for first three violations.

- (a) Except for a violation of this chapter that results in a suspension under section 6-222, or an initial determination by the Public Safety Commission that a willful violation has occurred, then, within ten business days of a citation for a violation of this chapter, a

licensee may pay the monetary penalty to the city clerk for the first three violations of this chapter within a moving three-year period and forgo a hearing before the public safety commission.

- (b) A licensee who fails to timely pay the monetary penalty as provided in the preceding section shall be noticed to a hearing before the public safety commission as provided in section 6-232.

Secs. 6-236—6-245. Reserved.

DIVISION 8. SANCTIONS

Sec. 6-246. Sanctions for violations.

- (a) *Judicial remedy for violation of this chapter.* Any person who violates any part of this chapter of the Code, or knowingly and willfully makes a false statement in any affidavit required in section 6-104, shall be subject to citation and subpoena to the appropriate court, and to the judicial penalties resulting therefrom as provided in the Code or by general law.
- (b) *Nonjudicial sanctions for violation of this chapter.* For purposes of determining sanctions under this section, a violation shall include each distinct violation of this chapter though they are presented in a single hearing.
 - (1) The failure of a licensee to pay when due any penalty or costs assessed pursuant to the terms of this chapter of the Code shall result in the immediate suspension of all alcohol licenses issued by the city to such licensee. A suspension under this subsection shall continue until all penalties and other sums due the city by the licensee are paid in full.
 - (2) A revoked license shall become null and void as of the time of revocation. A holder of a revoked license shall not be entitled to a refund of all or a part of the license fee. A holder of a revoked license may apply for a new license after the expiration of the revocation period.

Sec. 6-247. No refund of fee.

When an alcoholic beverage license is revoked, suspended or expires pursuant to section 6-220, the city shall not be required to refund any portion of the license fee.

Sec. 6-248. Removal of signs and alcoholic beverages.

When any license for selling alcoholic beverages is revoked or automatically expires pursuant to section 6-220, all alcoholic beverages and all signs indicating that such beverages may be sold or purchased shall be removed from the place of business, both outside and inside. After receipt by the police department of notice of such revocation or expiration, the police department shall take the necessary steps to see that this section is enforced.

Sec. 6-249. Costs.

If due cause to assess sanctions is found to exist, then the licensee shall be charged with and shall pay, in addition to any sanction, the actual costs of the court reporter arising from the take down and transcription of the hearing proceedings and, if applicable, the cost of translation services.

Secs. 6-250—6-275. Reserved.

ARTICLE III. EXCISE TAX

DIVISION 1. GENERALLY

Sec. 6-276. Pouring outlets.

There is levied an excise tax of the lesser of \$0.80 or the legal limit on each gallon of distilled spirits or fraction thereof purchased by licensees for sale by the drink under this chapter.

Secs. 6-277—6-305. Reserved.

DIVISION 2. DISTILLED SPIRITS

Sec. 6-306. Unlawful sales.

It shall be a violation of this division for any person to sell at retail within the city any distilled spirits on which the taxes provided for in this division have not been paid.

Sec. 6-307. Levied.

In addition to all other taxes or license fees imposed upon retail dealers engaged in the city in the business of selling distilled spirits, as defined in this chapter, there is imposed and levied upon all such dealers an excise tax, to be computed and collected as set forth in this division.

Sec. 6-308. Duties of wholesaler.

Each wholesale dealer or distributor selling, shipping or delivering distilled spirits to any retail dealer in the city shall, as a condition of the privilege of carrying on such business in the city:

- (1) Keep true and correct records of all sales, shipments or deliveries of such distilled spirits to each retail dealer in the city. Such records shall be preserved for a period of one year and shall be made available on request for the inspection of any duly authorized city representative.

- (2) Collect from each such retail dealer in the city, at the time of delivery of the distilled spirits, the amount of tax due under this division and hold the money in trust for the city until such amount is remitted to the city as provided in subsection (3) of this section.
- (3) On or before the 20th day of each calendar month, make a verified and comprehensive report to the city which shall correctly show all sales and deliveries of distilled spirits to or for retail dealers in the city for the month immediately preceding the report. The report shall show the name and address of each retail dealer, quantities delivered to each retail dealer, the amount collected under the terms of this division and such other information as may be called for by the city. The report shall be accompanied by remittance to the city for all taxes collected or due as shown on the report. There is assessed a ten-percent late charge on the gross tax due for the month. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

Sec. 6-309. Unlawful deliveries.

It shall be unlawful and a violation of this division for any wholesale dealer or distributor or other person to deliver any distilled spirits to any retail dealer in the city without collecting the taxes provided for in this division at the time of delivery.

Sec. 6-310. Noncompliance by wholesale dealer, distributor.

If any wholesale dealer or distributor fails or refuses to make the reports provided for in this division, the city shall notify the person in writing. If the reports are not made and the taxes remitted within five days from the date of the notice, the city may withdraw from the wholesale dealer or distributor the privilege of doing business in the city by revoking his license.

Sec. 6-311. Frequency of payment.

The tax imposed in this division shall be computable and payable monthly.

Sec. 6-312. Rate.

The tax levied under this division shall be computed on the basis of \$0.80 per gallon of distilled spirits sold or delivered.

Secs. 6-313—6-340. Reserved.

DIVISION 3. MALT BEVERAGES

Sec. 6-341. Imposed generally.

Except as provided in section 6-342, there is levied and imposed upon each wholesale dealer selling malt beverages within the city an excise tax in the amount of \$0.05 per 12 ounces or proportionately of such amount of malt beverages sold by such wholesale dealer within the corporate limits, so as to graduate the tax on bottles, cans and containers of various sizes.

Sec. 6-342. Tap or draft beer.

All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer shall not be subject to the excise tax provided for in section 6-341, but in lieu thereof there is imposed upon each wholesale dealer selling such malt beverages within the corporate limits an excise tax of \$6.00 for each barrel or bulk container having a capacity of not more than 15½ gallons sold by such wholesale dealer within the city and at a like rate for fractional parts thereof.

Sec. 6-343. Separate from other charges.

The excise taxes provided for in this division shall be in addition to any license fee, tax or charge which may be imposed upon the business of selling malt beverages at retail or wholesale within the corporate limits.

Sec. 6-344. Payment and collection generally.

The excise tax imposed in this division shall be paid and collected in the manner provided in this division.

Sec. 6-345. Duties of retail dealers for receipt and presentation of invoices.

All retail dealers of malt beverages and all persons selling at retail malt beverages within the city shall keep a correct record of all purchases of malt beverages and shall demand of and require all persons from whom they purchase malt beverages to furnish and deliver to them with such beverages a correct invoice of each purchase. The invoice shall be kept and preserved by the retailer at his place of business for a period of 12 months from date of the purchase. The invoices shall be open and subject to inspection by any authorized city representative at all reasonable times.

Sec. 6-346. Report of wholesale dealers.

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

Sec. 6-347. Marking.

No decal, stamp or other marking may be required on malt beverages designating the particular municipality or county in which a sale of malt beverages is made or in which resides a licensed retailer to whom the beverages are delivered.

Sec. 6-348. Delinquencies.

The failure to make a timely report and remittance under this division shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of ten percent of the amount of such remittance for each successive 30-day period or any portion thereof during which such report and remittance are not filed. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

Sec. 6-349. False report.

The filing of a false or fraudulent report under this division shall render the wholesale dealer making such report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report.

Sec. 6-350. Revocation of license.

In addition to the penalties set forth in this chapter, the failure to make a timely report or remittance or the filing of a false or fraudulent report under this division shall also constitute grounds for the revocation of the business license issued by the city to a wholesale dealer.

DIVISION 4. WINE

Sec. 6-376. Levied.

There is imposed and levied a specific excise tax upon all retail dealers in wine within the city limits at the rate of \$0.22 per liter container.

Sec. 6-377. Separate from other taxes and fees.

The tax levied under this division shall be in addition to all other taxes or license fees imposed upon retail dealers in wine and may be added by the retail dealer and collector as a sales tax from each customer, but the tax shall be paid nevertheless to the city by the retail dealer.

Sec. 6-378. Payment and collection generally.

The excise tax imposed in this division shall be paid and collected as provided in this division.

Sec. 6-379. Invoices.

Each distributor, wholesale dealer or manufacturer selling, shipping or delivering wine to any retail dealer or to any establishment having a pouring license in the city, by rail, truck or otherwise, shall make three true and correct copies of invoices of all sales and deliveries made to and for retail dealers in the city. One copy shall be delivered to the retail dealer at the time of delivery and one copy shall be retained and preserved by the wholesaler, distributor or manufacturer for a period of 12 months from the date of the sale to the retail dealer. The copy so retained shall be subject to inspection by any duly authorized city representative at all reasonable times.

Sec. 6-380. Collection and custody.

At any time of delivery of wine, the wholesale dealer, distributor or manufacturer shall collect from the retail dealer the taxes imposed by this division and shall hold the money in trust for the city until the tax is remitted to the mayor and council as provided in this division.

Sec. 6-381. Monthly report.

On or before the 20th day of each calendar month, each wholesale dealer, distributor and/or manufacturer delivering wine to or for any retail dealer or to an establishment having a pouring license shall make a true and correct report to the mayor and council on blanks to be furnished by the mayor and council of all sales and deliveries made to or for retail dealers in the city for the current month immediately preceding the report. The report shall show the name of each retail dealer, the location of the place of business of the retailer or the place where each delivery was made, the method of delivery, the number and size of each container, the amount collected as taxes and such other information as may be called for by the mayor and council. The failure to receive such blanks will not excuse the furnishing of the report and the remittance of the taxes.

Sec. 6-382. Remittance.

The report required by section 6-381 shall be accompanied by remittance to the city for all taxes collected or due as shown on the report.

Sec. 6-383. Duties of retail dealers for receipt and preservation of invoices.

All retail dealers of wine and all persons selling wine at retail within the city shall keep a correct record of all purchases of wine and shall demand of and require all persons from whom they purchase wine to furnish and deliver to them, with the wine, a correct invoice of each purchase. The invoice shall be kept and preserved by the retailer at his place of business for a period of 12 months from the date of the purchase. The invoices shall be open and subject to inspection by any authorized city representative at all reasonable times.

Sec. 6-384. Failure to make reports.

If a wholesaler, distributor or retail dealer of wine fails and refuses to make the reports or maintain records as provided in this division and at the time specified, the mayor and council shall notify the party in writing by mail or otherwise. If the reports are not made and the taxes paid within five days from the date of the notice, the mayor and council shall proceed to assess the amount of taxes due by the dealer from the best information available, together with ten percent thereof as a penalty, and proceed to collect the taxes and penalty as provided for the collection of delinquent license taxes. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

Sec. 6-385. Sale upon which tax not paid.

It shall be a violation of this article for any person to sell at retail or otherwise within the city any wine on which the tax as set out in this division has not been paid to the wholesaler or distributor for the city as provided or on which the tax not paid to the wholesaler or distributor at the time of delivery is not paid to the city by the retailer.

Sec. 6-386. Prohibited sales and deliveries.

It shall be unlawful and a violation of this article for any wholesaler, distributor, manufacturer or other person to deliver any wine to any retail dealer in the city or to transport wine into the city for resale by any means whatsoever, except to licensed wholesale distributors, without collecting the taxes thereon as set out in this division at the time of delivery.

Sec. 6-387. Revocation of license.

Any retail dealer of wine failing or refusing to pay the tax imposed and levied in this division or failing to abide by any of the terms or sections of this article shall be deemed to have forfeited his privileges of conducting or engaging in the business of selling wine in the city, and any license issued to the dealer by the city prior to that time shall be revoked and canceled.

Secs. 6-388—6-416. Reserved.

DIVISION 5. ALCOHOLIC BEVERAGES BY THE DRINK

Sec. 6-417. Imposition and rate.

There is imposed and levied upon every purchaser of an alcoholic beverage for beverage purposes by the drink within this city a tax in the amount of three percent at the purchase price of the beverage.

Sec. 6-418. Administration of division.

- (a) *Authority of mayor and council.* The mayor and council shall administer and enforce this division for the collection of the tax imposed by this division.
- (b) *Records required from licensee; form.* Every licensee for the sale of alcoholic beverages by the drink in this city shall keep such records, receipts, invoices and other pertinent papers in such form as the mayor and council may require.
- (c) *Examination of records; audit.* The mayor and council, City Administrator, City Clerk, or any person authorized in writing by the mayor and council may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for the sale of the alcoholic beverages by the drink and any licensee liable for the tax in order to verify the accuracy of any return made or, if no return is made by the licensee, to ascertain and determine the amount required to be paid.
- (d) *Authority to require reports; contents.* In the administration of this division, the mayor and council may require the filing of reports by any person or class of persons having possession or custody of information relating to purchases which are subject to the tax. Reports shall be filed with the mayor and council when required by the mayor and council and shall set forth the purchase price for each purpose, the date of purchase and such other information as the mayor and council may require.

Sec. 6-419. Violations.

Any person violating any section of this division shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in section 1-7. Any licensee or any other person who fails to furnish any return required to be made or who fails or refuses to furnish a supplemental return or other data required by the mayor and council or who renders a false or fraudulent return shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in this section.

Sec. 6-420. Authority and requirement of licensee to collect.

Every licensee or his or her Designated Agent is authorized and directed to collect the tax imposed in this division from purchasers of alcoholic beverages by the drink within the licensed premises. Such licensee or Designated Agent shall furnish such information as may be required by the mayor and council to facilitate the collection of the tax.

Sec. 6-421. Collection; receipts. rules and regulations.

Every licensee for the sale of alcoholic beverages by the drink operating a place of business in this city shall, at the time of collection for food and/or drink served, give to the purchaser a receipt on which the purchase price and tax imposed by this division on alcoholic beverages by the drink shall be itemized separately. When the collection of food and/or drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The mayor and council

shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

Sec. 6-422. Determination, returns and payments.

- (a) *Due date.* The tax imposed by this division shall become due and payable from the purchaser at the time of the purchase of any mixed drink in this city. All amounts of such taxes collected by the licensee shall be due and payable in the city monthly on or before the 20th day of every month next succeeding each respective monthly period.
- (b) *Return.* On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the City Clerk in such form as the mayor and council may prescribe by every licensee liable for the payment of the tax under this division. All returns shall show the gross receipts of the sale of alcoholic beverages by the drink and the amount of the tax collected on such drinks.
- (c) *Collection fee allowed licensees.* Licensees collecting the tax 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 the same rate authorized for deductions from state tax under the Georgia Retailers' and Consumers' Sales and Use Tax Act, approved February 20, 1951, as amended (O.C.G.A. § 48-8-1 et seq.).

Sec. 6-423. Deficiency determinations on returns.

- (a) *Generally.* If the mayor and council have cause to believe that the return of the tax or the amount of tax required to be paid to the city under this division by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) *Interest.* Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.
- (c) *Notice of determination; service.* The city or its designated representatives shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his address as it appears in the city records. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (d) *Timeframe for mailing.* Except for failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should last expire.

Sec. 6-424. Determination if no return made.

- (a) *Estimates of gross receipts.* If any person fails to make a return as required in this division, the mayor and council shall make an estimate of the amount of the gross receipts of the person or, as the case may be, of the amount of the total sales in this city which are subject to the tax. The estimate shall be made for the period in respect to which the person failed to make the return and shall be based upon any information which is in possession of the mayor and council. Written notice shall be given in the manner prescribed in subsection 6-423(c).
- (b) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or fraction thereof from the 20th day of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment.

Sec. 6-425. Penalty for nonpayment.

Any person who fails to pay the tax imposed in this division or who fails to pay any amount of the tax required to be collected and paid to the city within the time required shall pay a penalty of 15 percent of the tax or amount of the tax, in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in subsection 6-424(b).

Sec. 6-426. Action for tax; tax credit; penalty or interest paid more than once or erroneously or illegally collected.

At any time within three years after any tax or any amount of tax required to be collected pursuant to this division becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the mayor and council may bring an action in the courts of this state any other state or of the United States in the name of the city to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto. Whenever the amount of any tax, penalty or interest has been paid more than once or has been paid erroneously or illegally collected or received by the city under this division, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the city, he will have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. Such claim must include the report of a certified public accountant describing the overpayment in sufficient detail. The claim shall be audited. If the claim is approved by the mayor and council, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid or from his administrators or executors.

Secs. 6-427—6-485. Reserved.

ARTICLE IV. NORTHWEST GEORGIA TRADE AND CONVENTION CENTER

Sec. 6-486. Applicability of chapter.

All other sections of this chapter not inconsistent with this article shall apply.

Sec. 6-487. License required.

No person shall sell or offer for sale or pour or offer to pour any alcoholic beverages in the Northwest Georgia Trade and Convention Center without first having applied for and received an appropriate license from the city.

Sec. 6-488. Authority license authorized.

If otherwise qualified, the Northwest Georgia Trade and Convention Center Authority is authorized to apply for and to obtain licenses to sell alcoholic beverages by the drink within the confines of the Northwest Georgia Trade and Convention Center. The costs of such licenses shall be the same as the costs for a preferred caterer or concessionaire for similar licenses as provided in section 6-73 of the Code.

Sec. 6-489. Minimum policy guidelines.

The following shall be the minimum policy guidelines the Northwest Trade and Convention Center Authority shall use in regulating the consumption and sale of alcoholic beverages on the premises of the Northwest Georgia Trade and Convention Center:

- (1) No alcoholic beverage shall be sold, dispensed or given away at youth-oriented events. The management of the Northwest Georgia Trade and Convention Center, in its sole discretion, will determine whether an event is youth oriented.
- (2) No alcoholic beverages shall be sold, dispensed or given away at religious-oriented functions unless requested by the lessee.
- (3) No alcoholic beverage shall be sold, dispensed or given away to anyone under 21 years of age. It shall be the policy of the Northwest Georgia Trade and Convention Center to ensure that identification of those who purchase or consume alcoholic beverages are checked to determine whether the person is 21 years of age or older.
- (4) The selling and dispensing of alcoholic beverages shall be curtailed prior to the conclusion of a public event.
- (5) Only designated areas inside or outside of the Northwest Georgia Trade and Convention Center shall be used for selling or dispensing or consuming alcoholic beverages. These areas are to be designated by the management of the Northwest Georgia Trade and Convention Center. The prohibition in Section 6-15(1) shall not be construed to prohibit the employment of anyone at the Northwest Georgia Trade and Convention Center who at all times works outside of such designated areas in a capacity that does not require handling alcoholic beverages.
- (6) Alcoholic beverages at the Northwest Georgia Trade and Convention Center will not be permitted to be taken out of areas which have been designated by management for the selling, dispensing, or consuming of alcoholic beverages.
- (7) Only the licensee will be permitted to sell or dispense alcoholic beverages.

Section 2.

This Ordinance shall be effective on January 1, 2025 and following the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

Section 3.

All ordinances and parts of ordinances in conflict with this ordinance are repealed.

Section 4.

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

SO ORDAINED this ____ day of _____, 2024.

The foregoing Ordinance received its first reading on _____ and a second reading on _____. Upon second reading a motion for passage of the ordinance was made by Councilmember _____, second by Councilmember _____ and upon the question the vote is ____ ayes, ____ nays and the Ordinance is adopted.

MAYOR/MAYOR PRO TEM

ATTEST:

CITY CLERK