

Chapter 6

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ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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

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

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

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

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

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

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

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

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

Retail dealer means any person who sells alcoholic beverages at retail only to consumers and not for resale.

Wholesaler and *wholesale dealer* mean any person who sells alcoholic beverages to other wholesale dealers, to retail dealers or to retail consumption dealers.

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes but is not limited to all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to

render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

(Ord. of 6-4-84, § 1(6-1001))

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 6-2. Possession or consumption by underage persons.

(a) It shall be unlawful for any person less than 21 years of age to have in his possession or to possess any intoxicating, alcoholic or malt beverages or to consume or drink any intoxicating, alcoholic or malt beverages within the corporate limits of the city.

(b) It shall be unlawful for any person less than 21 years of age to furnish or supply any other person with intoxicating, alcoholic or malt beverages within the corporate limits of the city.

(c) A person violating any of the provisions of this section, upon conviction in the municipal court, shall be punished by a fine not to exceed \$100.00 or imprisonment not to exceed 30 days, either or both, in the discretion of the court.

(Code 1976, § 10-1003; Ord. of 3-24-86, § 2)

State law reference—Furnishing to, purchase of, or possession by persons under 21 years of age of alcoholic beverages, use of false identification, proper identification for sale of alcoholic beverages, dispensing, serving, etc., of alcoholic beverages by persons under 21 years of age in the course of employment, seller's duty to request proper identification, O.C.G.A. § 3-3-23.

Sec. 6-3. Possession or consumption in public place.

It shall be unlawful for any person to drink or to attempt to drink any alcoholic, malt or vinous liquors or any intoxicant from a can, bottle or glass or any other container or to possess an opened can, bottle, glass or other container containing any alcoholic, malt or vinous liquor or any intoxicant on the streets, sidewalks, rights-of-way and designated public parking areas, whether public or private, within the corporate limits of the city.

(Code 1976, § 10-1006(a))

Sec. 6-4. Possession on city property.

(a) It shall be unlawful for any person to possess or otherwise have any intoxicating, alcoholic or malt beverages on any city property.

(b) It shall be unlawful for any person to bring any intoxicating alcoholic or malt beverages upon the premises of any city property.

(c) Notwithstanding the prohibition of possessing alcoholic beverages on city property as provided by code subsections 6-4(a) and 6-4(b), alcoholic beverages may be served at large public and formal events held on city property where the city acts in symbolic ways to honor, celebrate, and reward achievements central to its mission (e.g., dedications, awards, ceremo-

nies). These events convey important values about what is essential to the city. The city is concerned with the image conveyed when alcohol service is included as part of these events. Accordingly, the following restrictions shall apply:

- (1) Alcoholic must be served by a licensed and insured third party vendor. No individual may serve or otherwise provide alcohol to persons under the legal drinking age.
- (2) The furnishing of alcohol at large public and formal events on city property must be approved by the mayor and council whose approval shall be conditioned upon the event conveying important values about what is essential to the city.
- (3) The promotion of the activity or event shall not use alcohol as an inducement to attend the event.
- (4) The event must adhere to all applicable federal or state laws, and local ordinances, related to the sale and use of alcohol.
- (5) Attendance to the function must be controlled by means such as individual invitation, registration, reservation, and/or a fee payment process.
- (6) Any individual in danger of over consuming alcoholic beverages will not be furnished any such beverage.
- (7) An ample supply and variety of food and nonalcoholic beverages will be available at such events.

(Code 1976, § 10-1004; Ord. No. 2009-10, § 1, 9-21-09)

Sec. 6-5. Possession of open container in motor vehicle.

- (a) *"Open container" defined.* As used in this section, the term "open container" means:
- (1) Any container from which its contents are immediately capable of being consumed; or

(2) Any container the seal of which has been broken.

(b) *Possession prohibited.* It shall be unlawful for any person to knowingly possess an open container of an alcoholic beverage in a motor vehicle or while a passenger in or on a vehicle within the corporate limits of the city.

(c) *Possession by operator.* An open container shall be considered to be in possession of the operator of a vehicle if the container is not in the possession of a passenger or is not locked in a locked glove compartment, locked trunk or other locked nonpassenger area of the vehicle, or in a luggage storage area if the vehicle does not have a locked nonpassenger area.

(d) *Possession by passenger.* An open container shall be considered to be in the possession of a passenger of a vehicle if the container is in the physical control of the passenger.

(e) *Exceptions.* This section shall not apply to:

(1) A passenger of a vehicle when the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid chauffeur's license pursuant to Georgia law or the law of any other state;

(2) A passenger of a bus when the driver holds a valid chauffeur's license pursuant to Georgia law or the law of any other state; or

(3) A passenger of a self-contained motor home which is in excess of 21 feet in length.

(f) *Penalty.* Any person, operator of a vehicle or passenger who violates this section shall be subject to a fine of not less than \$50.00 and not more than \$500.00, or 15 days in jail, or both. (Ord. of 9-18-89, §§ 1-7)

State law reference—Possession of open container of alcoholic beverage while operating vehicle, O.C.G.A. § 40-6-253.

Sec. 6-6. Public drunkenness.

It shall be unlawful for any person to be drunk, intoxicated or under the influence of intoxicating liquors, or to be drinking alcoholic or intoxicating liquors to excess upon the streets, lanes, roads and alleys within the corporate or police jurisdictional limits of the city. It shall be further unlawful for any person to be drunk, intoxicated or under the influence of intoxicating liquors or to be drinking alcoholic or intoxicating liquors to excess in any motor vehicle upon the streets, lanes, roads and alleys within the corporate or police jurisdictional limits of the city, and such conduct is hereby defined and declared to be improper, indecent or disorderly conduct and injurious to the public morals and public safety of the citizens of the city.

(Code 1976, § 10-1005)

Sec. 6-7. Sale outside of licensed premises.

It shall be unlawful for any person to sell alcoholic, malt or vinous liquors or any intoxicant on the streets, sidewalks and designated public parking areas, whether public or private or elsewhere, outside of the building, premises or place of business licensed for such sale.
(Code 1976, § 10-1006(b))

Secs. 6-8—6-30. Reserved.

ARTICLE II. RETAIL AND WHOLESALE DEALERS*

DIVISION 1. GENERALLY

Sec. 6-31. Penalty for violation of article.

Any person violating any provision of this article, upon conviction in the municipal court, shall be punished as provided in section 1-13.
(Ord. of 6-4-84, § 1(6-1032))

Sec. 6-32. Violations by licensees.

A violation of any of the provisions of this article by the holder of a license for the sale of alcoholic beverages shall cause the revocation of such license.
(Ord. of 6-4-84, § 1(6-1031))

Sec. 6-33. Copy of article to be kept on premises; instruction of employees.

It shall be the duty of the management of premises licensed to sell alcoholic beverages to maintain a copy of this article on such premises and to instruct every employee of the terms thereof.
(Ord. of 6-4-84, § 1(6-1030))

Sec. 6-34. Authority to padlock premises.

In any case where the city council deems it advisable after a license issued under this article has been revoked, or where alcoholic beverages are being served without a license, or in case of an emergency affecting the welfare of the citizens of the city, the city council may direct that any premises where alcoholic beverages are located be padlocked by the police department under such conditions as the city council may direct, and the city council may set methods for the disposal of such alcoholic beverages under such terms and conditions as it may see fit.
(Ord. of 6-4-84, § 1(6-1021))

*State law reference—Authority for municipality or county to adopt rules and regulations relating to manufacture, sale and distribution of distilled spirits, O.C.G.A. § 3-4-49.

Sec. 6-35. Employment of underage persons.

No person who holds a license for sale of distilled spirits shall employ or require or permit a person under 21 years of age to sell or take orders for any alcoholic beverage; provided, however, nothing in this section shall prohibit any licensee from employing any person under 21 years of age in any capacity which does not involve the dispensing, serving, selling or handling of distilled spirits.

(Ord. of 6-4-84, § 1(6-1022); Ord. of 3-24-86, § 1)

Sec. 6-36. Sale to certain persons prohibited.

No person who holds a license for the sale of alcoholic beverages shall sell, give away or permit the sale or gift to or the procuring of such beverages for any person who is either mentally incompetent, noticeably intoxicated, of unsound mind or under 21 years of age, or who is a habitual drunkard whose intemperate habits are known to the licensee.

(Ord. of 6-4-84, § 1(6-1023); Ord. of 4-6-92(1), § 1)

State law reference—Sale of alcoholic beverages to intoxicated persons, O.C.G.A. § 3-3-22.

Sec. 6-37. Premises to be kept in sanitary condition; inspections.

All premises upon which alcoholic beverages are sold shall be kept clean and in proper sanitary condition and shall be in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption. All such premises shall be open to inspection at any and all times by officers or officials representing the city authorized to conduct such inspections.

(Ord. of 6-4-84, § 1(6-1024))

Sec. 6-38. Gambling on licensed premises.

There shall be no gambling, betting, games of chance, punchboards, slot machines or the operation of any scheme for hazarding money or any other thing of value in any place of business licensed under this article, or in any room adjoining the place of business owned, leased or controlled by a licensee.

(Ord. of 6-4-84, § 1(6-1025))

Sec. 6-39. Retail dealers to buy only from licensed wholesalers.

No licensed retail dealer of alcoholic beverages shall buy or arrange to buy or in any way effect the transfer of any alcoholic beverage except from a licensed wholesaler.

(Ord. of 6-4-84, § 1(6-1026))

Sec. 6-40. Storage of inventory by retail dealers.

No licensed retail dealer of alcoholic beverages shall keep any alcoholic beverage at any place except the licensed place of business. No licensed retail dealer shall be permitted to enter

into any type of arrangement whereby alcoholic beverages ordered by a licensee are stored by a licensed wholesaler.

(Ord. of 6-4-84, § 1(6-1027))

Sec. 6-41. Refilling bottles; misrepresentation of product.

It shall be illegal for a person holding a license for the sale of alcoholic beverages to add to the contents of a bottle or to refill empty bottles or in any other matter to misrepresent the quantity, quality or brand name of any alcoholic beverage.

(Ord. of 6-4-84, § 1(6-1028))

Sec. 6-42. Holding interest in both retail and wholesale business.

No person shall hold a license for the retail sale of alcoholic beverages who also has any direct financial interest in any wholesale liquor business. No financial aid or assistance to any licensee under this article from any wholesaler or manufacturer of alcoholic beverages shall be permitted.

(Ord. of 6-4-84, § 1(6-1029))

Secs. 6-43–6-55. Reserved.

DIVISION 2. LICENSE

Sec. 6-56. Required.

It shall be unlawful for any person to engage in the business of selling any alcoholic beverage within the corporate limits of the city without first obtaining a license to do so.

(Ord. of 6-4-84, § 1(6-1002))

State law reference—License from county or municipality required for wholesale or retail sales of wine, O.C.G.A. § 3-6-40.

Sec. 6-57. Contents of application.

Any person desiring to engage in the business of operating a package shop or otherwise selling any alcoholic beverage shall file with the city administrator an application in writing on a form furnished by the city, setting forth the following:

- (1) The name, age and address of the applicant.
- (2) A brief, concise personal history of the applicant.
- (3) The name, age and address of all persons with a financial interest in the proposed business. For corporations, this shall include all stockholders who own more than ten percent of the outstanding stock of the corporation.
- (4) The location from which the applicant intends to do business.
- (5) The penal history, if any, of the applicant.
- (6) The interest owned or held by the applicant in the premises.

- (7) The names and addresses of five persons who will vouch for the character of the applicant.
- (8) A statement as to whether the applicant intends to operate such business in person, or, if he intends to have some other person manage the business, the name of such person. The manager in such case shall be required to file an application setting forth the information required by subsections (1), (2), (5) and (7) of this section.
- (9) The kind of license desired.
- (10) Whether the applicant is engaged or expects to engage in other kinds of business at the location.
- (11) The fingerprints of the applicant, for the initial application only.
(Ord. of 6-4-84, § 1(6-1003))

Sec. 6-58. Fee.

(a) The license fees required for any business engaged in the sale of alcoholic beverages shall be as determined from time to time by the city council and listed in the business license fee schedule on file in the city clerk's office.

(b) A certified or cashier's check or money order shall accompany each application for a license, and the city administrator shall not receive such application unless the license fee is tendered in the correct amount. The license fee shall be paid in advance on or before January 1 of each year, and any new license granted under this division during a calendar year shall cost the full license fee without proration, except that the fee for a new license granted after June 30 in any calendar year shall be 50 percent of the annual license fee for the remainder of the calendar year.

(Ord. of 6-4-84, § 1(6-1004))

Sec. 6-59. Public notice of application.

The applicant for a license under this division shall give notice to the public by advertisement published at least three times on different days in the official newspaper of the city, in substantially the following form:

Notice is hereby given that (name of applicant) has made application for a license to sell alcoholic beverages at (address of proposed location). Said application will be heard by the City Council of Garden City at _____ o'clock, p.m., on the (date) at the City Hall.

The cost of the notice shall be paid by the applicant, and no application shall be considered until such notice shall have been published in the newspaper within two weeks prior to the meeting at which the application will be heard.

(Ord. of 6-4-84, § 1(6-1005))

Sec. 6-60. Police investigation.

A copy of each application for a license under this division, or for the approval of any manager of a business engaged in selling alcoholic beverages, shall be given to the city police department, which shall conduct a thorough investigation of the applicant, or manager, or both, as the case may require, and shall make a report in writing to the city council with its recommendations. Each applicant for a license shall furnish all data, information and records requested by the police department, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. Applicants, by filing an application, agree to produce for oral interrogation any persons requested by the police department and considered important in the ascertainment of the facts relative to such license.

(Ord. of 6-4-84, § 1(6-1006))

Sec. 6-61. Making false application.

Any untrue or misleading information contained in or material omission left out of any original, renewal or transfer application for a license under this division shall be cause for the denial thereof, and if any license has been granted under these circumstances there shall be cause for the revocation of the license.

(Ord. of 6-4-84, § 1(6-1007))

Sec. 6-62. Consideration of application; approval or denial.

(a) When a license to sell alcoholic beverages is applied for and filed with the city, the clerk shall, within five days of the time the application is filed, give the applicant written notice of the time and place where such application will be heard by the city council. The hearing shall be within a period of time not less than five days and not more than 15 days from the time of service of such notice on the applicant; provided, the hearing may be heard at any time agreed upon by the applicant and the city council, which agreement shall be noted on the minutes of the hearing.

(b) At the time and place set for the hearing on the application, the city council shall consider evidence presented by the applicant as to his fitness to engage in the business of selling alcoholic beverages and shall allow any interested party to present evidence to the contrary. After having received such evidence and after having considered the report of the police department, if the city council is satisfied that the applicant meets the standards set forth by this article, the applicant shall be granted a license; otherwise, the license shall be denied. If any application is denied, no reapplication shall be received for the balance of the fiscal year.

(c) All decisions of the city council either approving or denying a license application shall be stated in writing, and a copy of such statement shall be provided to the applicant either personally or by certified mail.

(Ord. of 6-4-84, § 1(6-1008))

Sec. 6-63. Qualifications of licensee.

(a) No license shall be granted under this division to any applicant who is not a citizen of the state. Where the applicant is a corporation, the license shall be issued to its acting manager, who must meet the requirements of this division. If the applicant is a partnership, the requirements of this division shall apply to all the partners.

(b) No license shall be granted under this division to any elected or fulltime appointed official of the city, or his spouse or minor children.

(Ord. of 6-4-84, § 1(6-1009))

Sec. 6-64. Factors to be considered in issuing license.

In determining whether or not any license applied for under this division shall be granted, the following shall be considered in the public interest and welfare:

- (1) The applicant's reputation, character and mental and physical capacity to conduct this business.
- (2) That the applicant has not been convicted within ten years prior to the filing of the application of illegally possessing, transporting or selling intoxicating liquors, and that he has never been convicted of an offense involving moral turpitude or a felony.
- (3) That the applicant is the true and actual owner of the business for which the license is desired and that he intends to operate the business in person, or, if the business is to be operated by some other person, that such person complies with the standards of this division.
- (4) The suitability of the location for which the license is sought as to traffic congestion, general character of the neighborhood, and the effect such establishment would have on the adjacent and surrounding property values.
- (5) The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.
- (6) If the applicant is a previous holder of a license to sell alcoholic beverages, whether or not he has violated any law, regulation or ordinance relating to the sale and distribution of alcoholic beverages.
- (7) If the applicant is a previous holder of a license to sell alcoholic beverages, the manner in which he conducted his business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to the sale and distribution of alcoholic beverages.
- (8) If dancing is to be permitted upon the premises for which the license is sought, and the applicant has previously permitted dancing upon any premises controlled or supervised by him, the manner in which he controlled or supervised such dancing to prevent any violation of any law, regulation or ordinance.

It shall be the policy of the city to deny a license to any establishment not meeting the standards set forth in this section.

(Ord. of 6-4-84, § 1(6-1010))

State law reference—Governing authority shall set forth ascertainable standards pertaining to the granting, refusal, suspension or revocation of alcoholic beverage permits or licenses, O.C.G.A. § 3-3-2.

Sec. 6-65. Grocery stores and similar establishments not to be licensed for sale of distilled spirits.

No license shall be issued for the sale of distilled spirits within a grocery store, supermarket, meat market or any other like wholesale or retail establishment.

(Ord. of 6-4-84, § 1(6-1011))

State law reference—Sales of alcoholic beverages near churches, schools or college campus, O.C.G.A. § 3-3-21.

Sec. 6-66. Separate application required for each place of business.

A separate application for a license under this division shall be filed with respect to each place of business.

(Ord. of 6-4-84, § 1(6-1012))

Sec. 6-67. Time limit for commencing business.

All holders of licenses under this division must, within nine months after the issuance of the license, open for business the establishment referred to in the license and begin the sale of the products authorized by the license. Failure to open the establishment and begin the sale as referred to in this section within the nine-month period shall serve as automatic forfeiture and cancellation of the unused license, and no refund for license fees shall be made to the license holder.

(Ord. of 6-4-84, § 1(6-1013))

Sec. 6-68. Forfeiture of license on cessation of business.

Any holder of a license under this division who shall begin the operation of the business and sale of the products as authorized in the license, but who shall, for a period of nine consecutive months thereafter, cease to operate the business and sale of the products authorized in the license, shall, upon completion of the nine-month period, automatically forfeit his license, and the license shall, by virtue of the failure to operate, be cancelled without the necessity of any further action of the police department or the city council.

(Ord. of 6-4-84, § 1(6-1014))

Sec. 6-69. Transfer of license or change of location.

Licenses issued under this division shall not be transferable except in the following cases:

- (1) Where a retail licensee is moving his package sales business to a different location, he shall be authorized to make application to have the license for the location previously

occupied apply to the new location. If the retail licensee complies with all other requirements of law, the city council shall authorize the existing license to apply to a new location.

- (2) Where a retail licensee dies, the license may be transferred, in the discretion of the city council, to the administrator, executor or heirs of the deceased individual.
 - (3) Where one or more of the partners in a partnership holding a license withdraw from the partnership, the license may be transferred in favor of one or more of the partners who were partners at the time of the issuance of the license.
- (Ord. of 6-4-84, § 1(6-1015))

Sec. 6-70. Change of manager.

No new manager shall be allowed to operate any business licensed under the provisions of this division except the one stated in the application and approved by the city council.

(Ord. of 6-4-84, § 1(6-1016))

Sec. 6-71. Duration; refund of fee.

No license shall be issued under this division for less than a calendar year period, or the remainder thereof, and in case of the revocation or surrender of such license before the expiration of such calendar year period the holder thereof shall not be entitled to receive any refund whatsoever of license fees.

(Ord. of 6-4-84, § 1(6-1019))

Sec. 6-72. Renewal.

All licensees under this division shall annually, and before January 1 in each year, make application, on forms prescribed by the city administrator, for a renewal of their license. Such application shall set forth any changes, if any, that have occurred since the issuance of the original license, including the name of the manager, if any, the type of alcoholic beverages being sold and such other information as required by the city administrator. After considering the application and other evidence, the city council shall determine whether the license shall be renewed.

(Ord. of 6-4-84, § 1(6-1017))

Sec. 6-73. Display.

A license issued under this division shall be displayed prominently at all times on the premises for which the license was issued.

(Ord. of 6-4-84, § 1(6-1020))

Sec. 6-74. Revocation or suspension.

(a) Any license issued under this division may be revoked or suspended by a majority vote by the city council. Grounds for revocation of license will be:

- (1) Violation of any law or ordinance regulating the sale and distribution of alcoholic beverages;
- (2) Violation of any regulation made pursuant to authority granted for the purpose of regulating the sale and distribution of alcoholic beverages;
- (3) Violation of any state or federal law;
- (4) Violation of any city ordinance other than traffic ordinances; or
- (5) The manner in which the business is conducted as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to the sale and distribution of alcoholic beverages or any violation of any city, state or federal law.

(b) Upon the city council's having cause to believe that there may exist grounds for revocation or suspension of a license issued to any party for the sale of alcoholic beverages under this division, the city administrator shall give written notice directed to such party to show cause, if any, before the city council at a regular meeting on the stated date, which shall not be less than seven days from the time such notice is served on the party in question, why the license should not be revoked or suspended. The notice shall include:

- (1) A statement of the time, place and nature of the hearing.
- (2) The reasons for such revocation or suspension.
- (3) A short and plain statement of the matters asserted.
- (4) A statement as to the right of any party to representation by legal counsel at the hearing, the right of any party to present evidence on all issues, and the right of any party to subpoena witnesses.

At the hearing, all parties may be represented by legal counsel, and may respond to and present evidence on all issues involved.

(Ord. of 6-4-84, § 1(6-1018))

State law reference—Powers of local governing authorities as to the granting, refusal, suspension or revocation of alcoholic beverage permits or licenses, O.C.G.A. § 3-3-2.

Secs. 6-75–6-85. Reserved.

DIVISION 3. SALE FOR ON-PREMISES CONSUMPTION

Sec. 6-86. Penalty for violation of division.

Any person violating any provision of this division, upon conviction in the municipal court, shall be punished as provided in section 1-13.

(Ord. of 6-4-84, § 1(6-1044))

Sec. 6-87. Violations by licensees.

A violation of any of the provisions of this division by the holder of a license for the sale of alcoholic beverages for consumption on the premises shall cause the revocation of the license.

(Ord. of 6-4-84, § 1(6-1043))

Sec. 6-88. Copy of division to be kept on premises; instruction of employees.

It shall be the duty of the management of premises licensed to sell alcoholic beverages for consumption thereon to maintain a copy of this division on such premises and to instruct every employee of the terms thereof.

(Ord. of 6-4-84, § 1(6-1042))

Sec. 6-89. Hours and days of sale.

(a) No alcoholic beverage shall be sold, given away, bartered or otherwise placed for consumption on the premises:

- (1) After the hour of 2:55 a.m. on Tuesday through Sunday or before 6:30 a.m. on Monday through Saturday of each week.
- (2) On Thanksgiving Day, Christmas Day and after the hour of 2:55 a.m. on Sundays.

(b) The sale of alcoholic beverages for consumption on the premises is hereby authorized during any election day.

(Ord. of 6-4-84, § 1(6-1033), (6-1033A); Ord. of 8-6-84(1), § 1; Ord. of 9-15-86(2), § 1)

Sec. 6-90. Minors on licensed premises.

No person who holds a license for the sale of alcoholic beverages for consumption on the premises shall allow any minor to be in, frequent or loiter about the licensed premises of a nightclub or lounge unless such minor is accompanied by a parent or legal guardian; provided, however, that such minor shall be permitted in restaurants without being accompanied by a parent or a legal guardian, and provided, further, that this section shall not apply to minors who are employees under the terms of this article.

(Ord. of 6-4-84, § 1(6-1034))

Sec. 6-91. Package sales.

A person who holds a license for the sale of alcoholic beverages for consumption on the premises shall not permit the sale, delivery or other dispensing of alcoholic beverages by the bottle or package. Persons holding such licenses, however, shall have the right to sell wines, champagnes or malt beverages to the public by the bottle or package for consumption on the premises without the issuance of a separate retail license therefor.

(Ord. of 6-4-84, § 1(6-1036))

Sec. 6-92. Serving of drinks.

Drinks served on premises licensed for the sale of alcoholic beverages for consumption on the premises shall only be served by employees of the establishment.
(Ord. of 6-4-84, § 1(6-1037))

Sec. 6-93. Doing business in rooms not open to public; public access to premises.

The sale, service, delivery or other dispensing of alcoholic beverages for consumption on the premises by persons in any back room or side room which is not open for general public use is prohibited. No person other than the employees of the licensee shall be permitted on the premises when the business is not open to the general public. The main entrance to the premises shall not be locked when the business is open to the general public.
(Ord. of 6-4-84, § 1(6-1035))

Sec. 6-94. Sales outside premises.

It shall be unlawful for any sales to be made outside the building, premises or place of business licensed for sale of alcoholic beverages for consumption on the premises except as permitted in this division.
(Ord. of 6-4-84, § 1(6-1038))

Sec. 6-95. Connection of premises to residential facilities.

No room, apartment or residence occupied, leased or rented for the purpose of providing sleeping facilities or living quarters shall be in any way connected by door or otherwise with premises wherein alcoholic beverages are sold for consumption on the premises.
(Ord. of 6-4-84, § 1(6-1040))

Sec. 6-96. Employment of persons convicted of certain crimes.

It shall be unlawful to employ on any premises used for the sale of alcoholic beverages by the drink any person in any capacity whatsoever, including performers, entertainers and musicians, who has been convicted in this or any other state or by the United States or any other country of soliciting for prostitution, pandering, lending premises for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses or violating any law related to the manufacture or sale of alcoholic beverages.
(Ord. of 6-4-84, § 1(6-1039))

Sec. 6-97. Prohibited entertainment, attire and conduct.

(a) The following types of entertainment, attire and conduct are not permitted upon any premises licensed to sell alcoholic beverages for consumption on the premises:

- (1) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any other portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;

- (2) Live entertainment where any person appears in the manner described in subsection (1) of this section or where any person performs acts which simulate:
- a. Sexual intercourse, masturbation, sodomy or bestiality;
 - b. The touching, caressing or fondling of the breast, buttocks, anus or genitals; or
 - c. The display of the pubic hair, anus, vulva or genitals;
- (3) The showing of any film, still pictures, electronic reproduction or other visual reproduction depicting any of the acts described in subsection (2) of this section; or
- (4) The holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of a licensed establishment are encouraged or allowed to engage in any of the conduct prohibited in this section.

(b) Nothing contained in this section shall apply to the premises of any mainstream performance house, museum or theater which derives less than 20 percent of its gross annual income from alcoholic beverages.

(Ord. of 6-4-84, § 1(6-1041); Ord. of 10-18-93(1), § 1)

Cross reference—Adult entertainment establishments, § 22-381 et seq.

State law references—Public indecency, O.C.G.A. § 16-6-8; prohibited conduct on licensed premises, O.C.G.A. § 3-3-40 et seq.

Sec. 6-98. Sunday hours of sale in hotels or motels.

(a) For the purposes of this section, "hotel or motel" means every building or other structure maintained and held out to the public to a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to the travelers and guests, whether transient or permanent, in which 100 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms, with adequate and sanitary kitchen facilities and a seating capacity of at least 100 where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are part of the hotel or motel operation.

(b) The sale of alcoholic beverages is authorized for consumption on the premises in any hotel or motel on Sundays between the hours of 12:30 p.m. and 12:00 o'clock midnight provided that such hotel or motel is licensed to sell distilled spirits, malt beverages or wines, and derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

(Ord. of 5-4-92(1), § 1)

Secs. 6-99–6-110. Reserved.

DIVISION 4. SALE FOR OFF-PREMISES CONSUMPTION

Sec. 6-111. Penalty for violation of division.

Any person violating any of the provisions of this division, upon conviction in the municipal court, shall be punished as provided in section 1-13.

(Ord. of 6-4-84, § 1(6-1044))

Sec. 6-112. Violations by licensees.

A violation of any of the provisions of this division by the holder of a license for the sale of alcoholic beverages not for consumption on the premises shall cause the revocation of such license.

(Ord. of 6-4-84, § 1(6-1048))

Sec. 6-113. Copy of division to be kept on premises; instruction of employees.

A retail dealer licensed for sale of alcoholic beverages not for consumption on the premises shall maintain a copy of this division on the premises and instruct every employee of the terms thereof.

(Ord. of 6-4-84, § 1(6-1047))

Sec. 6-114. Hours and days of sale.

(a) No alcoholic beverage shall be sold, given away, bartered, traded or otherwise disposed of by any person at any place of business licensed for sale of alcoholic beverages not for consumption on the premises:

- (1) Between the hours of 12:00 midnight and 8:00 a.m.
- (2) On Thanksgiving Day, Christmas Day or Sundays.

(b) The sale of alcoholic beverages for consumption not on the premises is hereby authorized during any election day.

(Ord. of 6-4-84, § 1(6-1045), (6-1045A); Ord. of 9-15-86(3), § 1)

Sec. 6-115. Place of sale or delivery of goods.

No retail dealer licensed for sale of alcoholic beverages not for consumption on the premises shall sell or deliver any alcoholic beverages to any person except in the dealer's place of business. A retail dealer shall be permitted to load purchased goods in a customer's vehicle when the sale physically takes place and monies have been exchanged inside the place of business. A retail dealer licensee shall be permitted to have a drive-in window, and it shall be permissible for the licensee or the licensee's employees to deliver alcoholic beverages through such window. Curb service type sales and sales to customers in vehicles parked in the parking area of the place of business are prohibited.

(Ord. of 6-4-84, § 1(6-1046))

Secs. 6-116–6-135. Reserved.

ARTICLE III. EXCISE TAXES***DIVISION 1. GENERALLY**

Secs. 6-136—6-145. Reserved.

DIVISION 2. ALCOHOLIC BEVERAGE TAX

Sec. 6-146. Imposed; amount.

There is hereby levied an alcoholic beverage tax at the following rates upon all alcoholic beverages sold in the city:

- (1) On distilled spirits, \$0.22 per liter, and a proportionate tax at a like rate on all fractional parts of a liter.
- (2) On malt beverages, \$0.03 per each 12 ounces, and \$0.01 for each additional four ounces or fraction thereof in the same container.
- (3) On wine, \$0.22 per liter, and a proportionate tax at a like rate on all fractional parts of a liter.

(Ord. of 6-4-84, § 1(6-1050))

Sec. 6-147. Records of wholesale dealers.

Each wholesale dealer or distributor selling, shipping or delivering distilled spirits or alcoholic beverages to any retail dealer in the city, whether delivered to the retail dealer's place of business or elsewhere for resale in the city, shall keep true and correct records of all sales, shipments and deliveries of such beverages to each retail dealer in the city. Such records shall be preserved for a period of not less than six months and are to be made available on request for inspection by any duly authorized representative of the city.

(Ord. of 6-4-84, § 1(6-1051))

Sec. 6-148. Collection by wholesaler.

Each wholesale dealer or distributor selling, shipping or delivering distilled spirits or alcoholic beverages to any retail dealer in the city, whether delivered to the retail dealer's place of business or elsewhere for resale in the city, shall collect from each retail dealer, at the time of the delivery, all taxes assessed by the city, and hold the taxes in trust for the city until remitted to the city as provided in this division.

(Ord. of 6-4-84, § 1(6-1052))

*State law references—Levy of tax on sale of distilled spirits by the package authorized, O.C.G.A. § 3-4-80; imposition of excise tax on malt beverages, O.C.G.A. § 3-5-80; authorization to levy tax on wine, O.C.G.A. § 3-6-60.

Sec. 6-149. Monthly report by wholesalers; remittance of monies collected.

Each wholesale dealer or distributor selling, shipping or delivering distilled spirits or alcoholic beverages to any retail dealer in the city, whether delivered to the retail dealer's place of business or elsewhere for resale in the city, shall, on or before the tenth day of each calendar month, make a verified and comprehensive return to the city administrator showing all sales and deliveries of such beverages made to or for retail dealers in the city during the month immediately preceding the report. The report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this division and such other information as may be required by the city. The report shall be accompanied by remittance to the city of all taxes due.

(Ord. of 6-4-84, § 1(6-1053))

Secs. 6-150—6-160. Reserved.

DIVISION 3. MALT BEVERAGE TAX FOR WHOLESALE DEALERS

Sec. 6-161. Imposed; amount generally.

Except as provided in section 6-162, there is hereby levied and imposed upon each wholesale dealer selling malt beverages in the city an excise tax in the amount of \$0.004166 per ounce or \$0.05 per 12 ounces of malt beverages sold by such wholesale dealer within the corporate limits of the city.

(Ord. of 6-4-84, § 1(6-1054))

Sec. 6-162. Bulk sales.

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 in section 6-161 but, in lieu thereof, there is hereby imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the city an excise tax at a rate of \$6.00 for each barrel or bulk container having a capacity of 15½ gallons sold by such wholesale dealer within the city and at a like rate for fractional parts thereof.

(Ord. of 6-4-84, § 1(6-1055))

Sec. 6-163. Tax cumulative.

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

(Ord. of 6-4-84, § 1(6-1056))

Sec. 6-164. Monthly report by wholesalers.

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, sold within the city.
(Ord. of 6-4-84, § 1(6-1057))

Sec. 6-165. Remittance of monies collected.

Each wholesale dealer of malt beverages 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.
(Ord. of 6-4-84, § 1(6-1058))

Sec. 6-166. Decals or stamps not required.

No decal, stamp or other identifying marking shall be required on malt beverages sold within the city.
(Ord. of 6-4-84, § 1(6-1059))

Sec. 6-167. Failure to make report or remittance.

(a) 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. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to 20 percent of the amount of the remittance which would be required under an accurate and truthful report.

(b) Such failure to make a timely report or remittance, or filing of a false or fraudulent report, would constitute grounds for the revocation of the business license issued by the city to the wholesale dealer.
(Ord. of 6-4-84, § 1(6-1060))

Secs. 6-168—6-180. Reserved.

DIVISION 4. MIXED DRINK EXCISE TAX*

Sec. 6-181. Definitions.

For the purpose of this division, the following words and phrases shall have the meanings respectfully ascribed to them below except where the context clearly indicates a different meaning:

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

Drink: Any alcoholic beverage served for consumption on the premises which may or may not be diluted by any other liquid.

Due date: The twentieth day after the close of the monthly period for which tax is to be computed.

Licensee: Any person who holds a license or permit from the City of Garden City to sell alcoholic beverages by the drink.

Monthly period: The calendar months of any year.

Person: Any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative non-profit 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 members, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the City of Garden City is without power to impose the tax provided herein.

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

Purchaser: Any person who orders and gives present or future consideration for any distilled spirits by the drink.

(Ord. of 6-19-06, § 1)

Sec. 6-182. Administration generally.

(a) The city administrator or his authorized representative shall administer and enforce the provisions of this division for the levy and collection of the tax imposed hereby.

***Editor's note**—An ordinance adopted June 19, 2006, § 1, set out provisions intended for use as Div. 4, §§ 6-168—6-179. At the editor's discretion, these provisions have been included as Div. 4, §§ 6-181—6-192.

(b) The city administrator shall have the authority to make and publish reasonable rules and regulations not inconsistent with this division or other laws of the City of Garden City and the State of Georgia, or the Constitution of this state or the United States for administration and enforcement of the provisions of this division and the collection of taxes hereunder.

(c) Every licensee for the sale of distilled spirits by the drink in the city shall keep such records, receipts, invoices and other pertinent papers in such form as the city administrator may require.

(d) The city administrator or designee may examine the books, papers, records, financial reports, equipment and other facilities of 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.

(e) In administration of the provisions of this division, the city administrator may require the filing of reports by any person having in such person's possession or custody information relating to the sales of distilled spirits which are subject to the tax. The reports shall be filed with the city administrator's office when required and shall set forth the price charged for each sale, the date of sale, and such other information as the city administrator may require.

(Ord. of 6-19-06, § 1)

Sec. 6-183. Imposed; rate.

There is hereby imposed and levied upon every sale of distilled spirits purchased by the drink in the city a tax in the amount of three percent of the purchase price of the drink.

(Ord. of 6-19-06, § 1)

Sec. 6-184. Collection due by licensee.

Every licensee or his agent is hereby authorized and directed to collect the tax imposed by this division from the purchasers of distilled spirits by the drink sold within his licensed premises.

(Ord. of 6-19-06, § 1)

Sec. 6-185. Payment; returns; collection fees; penalties and interest for late payments.

(a) All amounts of such taxes shall be due and payable monthly to the city administrator's office of the city on or before the twentieth day after the close of the monthly period for which tax is to be computed.

(b) The remittance of the taxes collected should be on a return which shall include gross receipts from the sale of distilled spirits by the drink, amount of tax collected or due for the related period, and such information as may be required by the city administrator.

(c) Payments received after the twentieth day of the month shall be assessed a penalty of ten percent of the amount due but not less than \$100.00 and interest at the rate of one percent per month or any part thereof.

(d) 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 sales and use taxes under O.C.G.A. § 48-8-50.

(Ord. of 6-19-06, § 1)

Sec. 6-186. Determination of deficiency amount.

(a) If the city administrator is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the city by any licensee, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(b) The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the due date of the taxes.

(c) In making a determination, the city administrator's office may offset overpayment, for a period or periods, against any underpayment, for another period or periods against penalties and against the interest or underpayment. The interest on overpayment shall be computed in the same manner set forth in subsection (b) above.

(d) If any part of the deficiency for which a deficiency determination has been made is due to negligence or disregard of the rules and regulation, a penalty amount of ten percent shall be added to the deficiency amount.

(e) If any part of the deficiency for which a deficiency determination has been made is due to fraud or an intent to evade any provisions of this division or other authorized rules and regulations, a penalty of 25 percent shall be added to the amount of the deficiency.

(f) The city administrator, or authorized representative, shall give 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 the address as it appears in the records of the city administrator. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(g) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the twentieth 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 expire last.

(Ord. of 6-19-06, § 1)

Sec. 6-187. Determination upon failure to file return.

(a) If any licensee fails to make a return, the city administrator shall make an estimate of the amount of the gross receipts of the licensee for the sale of distilled spirits by the drink at said licensee's pouring outlet. The estimate shall be made for the period or periods in respect

to which the licensee failed to make the return and shall be based upon any information which is in or may come into possession of the city administrator's office. Upon the basis of this estimate, the city administrator shall compute and determine the amount required to be paid to the city, adding to the sum thus determined a penalty equal to ten percent thereof. One or more determinations may be made for one or for more than one period. Written notice shall be given in the manner prescribed in subsection 6-186(f).

(b) The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the twentieth day of the month that any portion thereof should have been returned, until the date of payment. In addition, a penalty of ten percent of the determination, but not less than \$100.00 shall be assessed for failure to file a return.

(Ord. of 6-19-06, § 1)

Sec. 6-188. Overpayment.

If the licensee or person determines that he has overpaid tax, penalty or interest, or paid more than once, which fact has been determined by the city administrator, the licensee 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. The claim shall be audited. If the claim is approved by the city administrator, the excess amount paid the city may be credited on any amounts then due and payable from the persons by whom it was paid or his administrators or executors.

(Ord. of 6-19-06, § 1)

Sec. 6-189. Purchasers or successors of business.

(a) If any licensee or person liable for any amount under this division sells out his business or quits the business, his successors or assigns shall withhold a sufficient amount of the purchase price to cover such amount until the former owner produces a receipt from the city administrator showing that the city has been paid or a certificate stating that no amount is due.

(b) If the purchaser of a business fails to withhold a sufficient amount of the purchase price as required above, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(Ord. of 6-19-06, § 1)

Sec. 6-190. Legal action to collect.

At any time within three years after any tax or any amount of tax required to be collected 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 city administrator may bring an action in a court of competent jurisdiction in the name of the city to collect the delinquency as well as interest thereon and penalties as provided herein.

(Ord. of 6-19-06, § 1)

Sec. 6-191. Revocation of license.

The failure to pay the above prescribed tax shall render the licensee or person liable therefor subject to revocation of their alcoholic beverage license in accordance with the procedures set forth in section 6-74 of this Code.

(Ord. of 6-19-06, § 1)

Sec. 6-192. Penalty.

(a) Any person violating any of the provisions of this division shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-13 of this Code. Any licensee or other person who fails to furnish any return required to be made or who fails to furnish a supplemental return or other data required by the city administrator or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction shall be punished as aforesaid.

(b) Any person who fails to pay any taxes due under this division shall not be permitted to renew his occupational tax certificate or alcoholic beverage license until all said taxes have been paid in full.

(Ord. of 6-19-06, § 1)

Chapters 7–9

RESERVED

