

Chapter 4 ALCOHOLIC BEVERAGES¹

ARTICLE I. IN GENERAL

Sec. 4-1. Purpose.

This chapter has been enacted for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable and ascertainable standards of the regulation and control for the licensing and sales of alcoholic beverages and retail package alcohol; to protect and preserve schools and churches; to give effect to existing land use; and to preserve certain residential areas, with reasonable considerations, among others, to the character of the areas and their 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; to protect against the evils of concentration of the retail outlets for liquor in one family and/or in one corporation; and to prevent undesirable persons in engaging in or having any interest in alcoholic beverages.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-2. Sales to be licensed; compliance with ordinance and state law required.

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages, or to offer for sale for consumption on the premises, or to offer free of charge as a promotional activity or incentive any alcoholic beverages within the city without having first complied with the provisions of this chapter. No person shall sell or possess for the purpose of sale any alcoholic beverage unless such person has a license from the city to sell or possess for sale alcoholic beverages, or sell or make deliveries beyond the boundaries of the premises covered by the license. The requirements and restrictions contained by O.C.G.A. Title 3, and regulations promulgated thereunder, which are not otherwise enumerated by this chapter are hereby expressly incorporated by reference.

(Ord. No. 2011-18, 11-14-2011)

¹Editor's note(s)—Ord. No. 2011-18, adopted Nov. 14, 2011, amended Ch. 4 in its entirety to read as herein set out. Former Ch. 4, §§ 4-1—4-20, pertained to similar subject matter, and derived from Ord. of 1-24-2000, §§ 1, 2.

State law reference(s)—Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; regulation of alcoholic beverages generally, O.C.G.A. § 3-3-1 et seq.; authority of local authorities to license and regulate alcoholic beverage sales, O.C.G.A. § 3-3-2; local regulation of sales on Sundays, O.C.G.A. § 3-3-7; prohibited acts on licensed premises, O.C.G.A. § 3-3-40 et seq.; malt beverages, O.C.G.A. § 3-5-1 et seq.; wine, O.C.G.A. § 3-6-1 et seq.; local licensing requirements for sale of malt beverages, O.C.G.A. § 3-5-40 et seq.; requirements for sale of wine, O.C.G.A. § 3-6-40.

Sec. 4-3. Sale within the incorporated areas of the city; license a privilege.

- (a) Alcoholic beverages may be sold within the incorporated areas of the city under a license granted by the city clerk as governed by the terms and conditions hereafter provided.
- (b) All licenses herein shall be a mere grant of privilege to carry on the business during the term of the license subject to all terms and conditions imposed by the ordinances of the city and state law.
- (c) All licenses hereunder shall have printed on the front these words: "THIS LICENSE IS A MERE PRIVILEGE SUBJECT TO BEING REVOKED AND ANNULLED, AND IS SUBJECT TO ANY FUTURE ORDINANCES WHICH MAY BE ENACTED."

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-4. Definitions.

As used in this chapter, defined words shall have the meaning specified unless the context in which the word or term is used clearly requires that a different meaning be used.

For the purpose of this chapter, the following definitions shall apply:

Adequate parking means one parking space for each 200 square feet of customer service area within the premises of applicant, but not less than five parking spaces. Such off-street parking shall have vehicular access to streets and shall be constructed of an all-weather surface.

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

Alcohol beverages means and includes all beer, malt beverages, wine, and distilled spirits.

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

Brewpub is a restaurant in which beer or malt beverages are manufactured or brewed subject to state law barrel production limitations for retail consumption on the premises and sold solely in draft form.

Campus property or school property means land on which a college or university is located or other schools.

Catering (licensed) means a service provided at banquets, conventions, and weddings where all who attend are provided with food and drink by a licensed caterer.

Church means a permanent building owned by a church or religious organization where persons regularly assemble for religious worship.

City means the City of Cleveland.

City clerk means the person holding the official title of clerk of the city.

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

Commercial area means any area which is correspondingly zoned in accordance with the city zoning ordinance.

Convenience store means a small store or shop in a built up area that stocks a range of everyday items such as groceries, toiletries, soft drinks, and may also offer money order and wire transfer services. The principal business conducted by such establishment deriving at least 50 percent of its total annual gross sales from the sale of these items.

Designee means an appointment made by the city mayor and council to act in the capacity of the city clerk in the absent of a city clerk or anytime so determined by the city mayor and council.

Distance means the measurement along a straight line which describes the shortest distance between property line to property line or building wall to building wall of the tract on which is located the business regulated; to the tract on which is located the school property, college campus property, housing authority property, church building, library building, any residential building, or alcohol treatment center building.

Distilled spirits or spirituous liquors means any alcoholic beverages containing alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin, cordials, or other spirituous liquors by whatever name called to include fortified wines, as defined by the Federal Alcohol Administration.

Family means and includes any person related to the holder of a license issued under the provisions of this chapter within the first degree of consanguinity or affinity as determined according to the laws of the state.

Food counter means a form of service in restaurants where food is ordered while seated at a counter. Food counter service is compared with table service where service is provided at the table. Some fast food restaurants offer only counter service while table service is the common form in most restaurants.

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 with brandy added. "Fortified wine" includes, but is not limited to, brandy.

Golf course means an outdoor golf course covering one acre or more and containing at least nine tees, fairways and greens. "Outdoor golf course sales" refers to sales made outside the clubhouse or other structure and on or immediately adjacent to the golf course itself from a mobile or satellite location between the first and final hole on the course.

Grocery store/supermarket means a store that retails food, and stocks other products such as clothing, household items, fruits, vegetables. The principal business conducted by such establishment derives at least 50 percent of its total annual gross sales from the sale of these items.

Hotel/motel means a building or structure kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers, guests, and transients in which 50 or more rooms are used for the sleeping accommodations of such guests. Boarding houses or other similar facilities which have less than 50 rooms used for sleeping accommodations for such guests are not classified as a hotel for the purposes of this chapter. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a restaurant on their premises, and the holder of such franchise shall be included in the definition of hotel hereunder.

- (1) In which the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises and which shall derive at least 60 percent of its total annual gross sales from the sale of prepared foods and recreation activities; and
- (2) In which meals are served, such place being provided with adequate and sanitary kitchen and dining room equipment and a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests. Said establishment shall be prepared to serve food every hour they are open.

Inside square area means the unique area located inside of the following description as shown on Attachment I (located at end of chapter). The inside area from traveling in a straight line west on East Jackson

Street crossing North Main Street and continuing west on West Jackson Street to North Bell Street then continuing south on North Bell Street crossing West Kytile and continuing south on South Bell Street stopping at Henderson Street then continuing east on Henderson Street crossing South Main Street and continuing in a straight line to South Brooks Street then continuing north on South Brooks Street crossing East Kytile Street and continuing north on North Brooks Street stopping at East Jackson Street. The defined area known as inside square area can only be changed by an amendment of the ordinance from which this chapter was derived.

Kitchen means a room or part of a room used for cooking and food preparation, which is equipped with a stove, a refrigerator, and a sink with hot and cold running water. A kitchen in addition may have a microwave oven, a dishwasher and other electric appliances. Commercial kitchens must meet all other ordinance requirements, including grease trap and backflow device.

Library means a room, building, or institution where a collection of books, newspapers, records, tapes, computer, e.g., programs or diskettes, or a collection of routines or instructions used by a computer program and other materials that are valuable for research.

License means the authorization by the clerk of the city to engage in the sale of alcoholic beverages.

Licensee means a person or persons, real or artificial, holding any class of license issued under the terms of this and other city alcoholic beverage ordinances. In the case of a partnership or corporation, "licensee" shall include all partners, officers and directors of the partnership or corporation.

Liter means the metric measurement currently used by the United States.

Lounge means a room in which people may relax or wait, or a room where cocktails and other drinks are served. Alcoholic beverages shall not be served or consumed in a lounge. Lounges and bars are prohibited.

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.

Patio or open area shall be defined as that portion of an establishment which is outside the main structure but accessible from the main structure and is used for sales of food and/or beverages.

Performing arts facility means and is limited to an establishment:

- (1) Which has obtained a special use permit to allow for the presentation of mainline dramatic arts, plays, and theatre productions.
- (2) Which has as its principal objective or business the presentation of mainline dramatic arts, plays, theatre productions.
- (3) Which does not feature, show, allow, promote or advertise adult businesses as defined and regulated in the City of Cleveland adult entertainment ordinance including, but not limited to, adult dancing establishments, adult mini-motion picture theatres, adult motion picture theatres, adult motion picture arcades and erotic dance establishments.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

Premises means the definite closed or partitioned-in facility including, but not limited to, a room, shop, building, restaurant, or club wherein alcoholic beverages are sold.

Private club means any association organized under the laws of the state which has been in existence at least one year prior to filing of its application for a license to be issued hereunder; has at least 75 regular dues paying members; owns, hires or leases a building or space within a building for reasonable use of its members with suitable kitchen and dining space and equipment for the serving of prepared meals for the members and guests; and does not compensate any member, officer, agent or employee directly or indirectly from the profits of the sale of distilled spirits beyond a fixed salary as established by its members at any annual meeting or by its governing board out of the general revenue of the club; except that for the purposes of this section, tips which are added to the bills under club regulation shall not be considered as profits from the sale of distilled spirits.

Private residence means a house or dwelling where not less than one or more than three families customarily reside and shall not include an apartment house having facilities for housing four or more families and any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of any application hereunder.

Registered agent means a natural person residing in the city or the county who is empowered to act for and represent the licensee in all matters with the city relating to an establishment licensed or making application for a license to sell alcohol upon whom any process, notice or demand require or permitted by law or under this chapter may be served. The registered agent may be the licensee if the qualifications set forth in this chapter are met. The registered agent may be different from the registered agent as recognized by the Georgia Secretary of State's office.

Restaurant means a public place kept, used, maintained, advertised and held out to the public as a place where meals are cooked and served and where meals are actually and regularly cooked and served to the public, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and a sufficient number and kind of employees to cook and serve suitable food for its guests. At least one meal per day shall be cooked on the premises and served at least four days a week, with the exception of holidays, vacations, and periods of redecorating, and the cooking and service of such meals shall be the principal business conducted by such establishment. Restaurants may also engage in the selling of unprepared food products. Such establishment shall be authorized to sell opened containers of wine or beer, and distilled spirits by the drink only with meals provided that restaurants derive at least 60 percent of its total annual gross sales from the sale of prepared meals or food.

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

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

School building or educational building shall apply 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 schools and colleges of this state and are accredited by the state or federal government.

Special events facility means any public place kept, used, maintained, advertised and held out to the public as a place where special events including, but not limited to, weddings, wedding receptions, private parties and similar events are held and which provides meals or food services in connection with such events. Any such facility shall be equipped with an adequate sanitary kitchen with dining room facility and have a seating capacity of at least 50 people, and shall be capable of preparing, cooking, and serving meals and other food products associated with its special events on site. Any such facility open to the public for the service of at least one meal per day for three or more days per week, shall be considered a restaurant.

Special events vendor means a vendor licensed by the city and/or state to sell beer and wine for consumption. Before receiving a license as a special events vendor, the vendor shall have entered into a

contractual agreement with the city for the sale of beer and/or wine at special events approved by the city to be held on public property.

Specialty gift shop shall be defined as any retail gift shop that derives not more than 15 percent of its gross sales from the sale of package gift baskets containing non-alcohol related items such as flowers, plants, food or similar items which also contain unbroken containers of wine or malt beverages.

Wholesaler or wholesale dealer means any person licensed by the state or local government who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

Wine means any alcoholic beverages 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.

Wine tasting room means a room that has a single means of ingress and egress in which a retail establishment offers the sampling or tasting of wine for educational or instructional purposes.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2012-06, Exh. A, 6-11-2012; Ord. No. 2014-17, 12-8-2014; Ord. No. 2018-16, 11-13-2018; Ord. No. 2021-06, 4-12-2021)

Sec. 4-5. Inspection of licensed establishments.

Sworn officers of the police department and the city clerk or designee shall have the authority to inspect establishments licensed under the alcoholic beverage ordinances of the city 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 the alcohol ordinance of the city and state law. This section is not intended to limit the authority of any other city officer to conduct inspections authorized by other provisions of law.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-6. License to be exhibited.

The licenses provided for herein shall at all times be kept plainly exposed to view of the public at all times in the premises for which the same was issued.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-7. Familiarity with ordinance provisions; responsibilities of licensee for violations.

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

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-8. Production of records, audits.

- (a) In conjunction with any application for license, or in conjunction with any license which has been issued under the terms hereof, or in conjunction with the revocation, suspension or cancellation of any license, or in conjunction with the payment or nonpayment of any excise tax levied or to be collected under this chapter, the city clerk or designee shall have the right to subpoena all or any part of the records, books, documents, electronic or magnetic media and associated software, reports or invoices of any licensee of the purpose of auditing the records of such licensee, securing compliance by such licensee with the provisions of this chapter, proving or disproving violation of any part of this chapter by any licensee, or showing payment or nonpayment of any taxes, fees, charges or the like due hereunder.
- (b) All licensed establishments must maintain the following records for a three-year period and make the original records or certified copies available for audit at the licensed premises:
 - (1) Monthly income or operating statements;
 - (2) Daily sales receipts showing beer, and wine separately;
 - (3) Daily cash register receipts such as Z tapes;
 - (4) Monthly Georgia sales and use tax reports;
 - (5) Federal income tax returns with all Form 1099's; and
 - (6) Daily sales receipts showing distilled spirits separately.
- (c) The licensee of restaurants, indoor civic/cultural facility, or restaurant within a hotel, shall report to the city monthly, total gross sales and gross sales of all alcoholic beverages, including distilled spirits, malt beverages, and wine to ensure and verify compliance with the required 60/40 sales ratio. Sixty percent dedicated to food and non-alcoholic sales and 40 percent dedicated to all alcohol sales including distilled spirits, malt beverages, and wine. This report shall be due on or before the tenth day of the following month as referenced in section 4-200.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014; Ord. No. 2021-06, 4-12-2021)

Sec. 4-9. Invoices.

- (a) Upon each and every delivery by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared showing the quantities and brands of malt beverages and wine delivered, together with the price thereof and the excise tax due and collected thereon. The original of such invoice shall be delivered by the wholesaler to the retailer simultaneously with such delivery. The wholesaler shall retain the second copy of such invoice and shall keep it for a period of 36 months after the date of delivery and during authorized representatives. The remaining copy of the invoice shall be distributed in accordance with Georgia law. Upon request of the city, a copy of such invoice shall be attached to any reports requested or required by the city.
- (b) Each retail licensee doing business in the city shall keep and maintain accurate and complete records regarding the purchases and sales made by such business including, but not limited to, the original invoice of each sale to him or purchase by him from a wholesaler of any alcoholic beverages and shall maintain such records for at least 36 months after the date of such purchase. Such records shall reveal the gross sales from the operation of their business and the exact quantities of malt beverages and wines by size and type of container purchased by such retail dealer together with the dates of delivery of such shipments by wholesale dealers as well as the identity of each wholesale dealer from whom such licensee purchases alcoholic beverages. The city or its duly authorized representative shall have the right to inspect the records of each licensee to maintain proper records showing receipt of alcoholic beverages, payment therefor, and payment

of the taxes due thereon to the appropriate wholesaler, and records which clearly show the sales, the amount of sales, and the types of sales of each licensee may, at the discretion of the city clerk or designee, after a hearing as herein provided, result in the revocation or suspension of such license.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-10. Penalties established for failure to keep records.

- (a) In the event that any wholesaler dealer or retail dealer licensed under this chapter shall fail to keep and maintain records required to be kept of sales by this chapter or in the event that the right of audit is refused to persons duly authorized by the city to conduct such audits, the license of such dealer shall be subject to suspension or revocation as provided for under this chapter.
- (b) In the event that an audit of the records required to be kept by wholesale and retail dealers under the terms of this chapter are found to vary from the monthly reports required to be furnished by the wholesale dealers to the city and such discrepancies are not explained to the satisfaction of the city clerk or designee, the license of such wholesale dealers shall be subject to suspension or revocation as provided for under the ordinances of the city. If it appears to the city clerk or designee that any retail dealer participated in or conspired with any wholesale dealer to falsify or keep and maintain incorrect records of such sales in order to avoid payment of the taxes imposed by this chapter, all licenses of the licensees involved in such scheme shall be subject to suspension or revocation as provided for under this chapter.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-11. Alcoholic beverage review board.

The Mayor and Council of the City of Cleveland, at its discretion, may appoint an alcoholic beverage review board. The mayor and city council will develop guidelines for the effectiveness of the alcoholic beverage review board.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2018-16, 11-13-2018)

Sec. 4-12. Application forms.

All persons, firms or corporations desiring to sell alcoholic beverages within the city shall make application on the forms prescribed by the appropriate authorities of the city to the city clerk or designee and must follow the applicable procedures, hereinafter set forth.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-13. Procedure for considering application.

The city clerk or designee shall not consider any application for a license until the written application provided for herein shall have been made, the application fee paid, the plat required herein filed and the fingerprinting and investigation of all persons as required under this chapter is completed by the police department. The chief of police shall attach to said application and form a part of the permanent city record. Upon the completion of all of the foregoing, the application, together with all data, shall be submitted to the city clerk for consideration pursuant to this chapter.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-14. Application; data; information; requirement.

The appropriate officials, depending upon the type of license or permit involved, shall have authority to prescribe forms for new or renewal applications which are required under this chapter. Applicants are required to complete all aspects of all prescribed forms required under this chapter. The failure to provide all information required by such forms may result in denial of any application under this chapter. All applicants shall furnish all data requested of them by the city clerk or designee, or the chief of police 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. The applicants, by filing an application for a license permitted under this chapter, agree to produce, for oral interrogation, any person or persons requested by the city clerk or designee, or the chief of police, considered by either as being important in ascertaining the facts relative to such application and/or licenses issued under this chapter. The failure to produce such person or persons within 30 days after being requested to do so shall result in the automatic dismissal, with prejudice, of any application pending under this chapter. The application form and all data requested by the city clerk or designee or the chief of police shall be subscribed by the applicant(s) under oath before a notary public or other officer authorized to administer oaths. Any untrue or misleading information contained in, or material statement omitted from, an original, renewal or transfer application for a license shall be cause for the denial or revocation thereof and possible prosecution under State of Georgia Statutes.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-15. Citizenship; residence requirements; registered agent; prohibited interests.

- (a) No license for the sale of alcoholic beverages shall be granted to any applicant who is not a citizen of the United States or an alien lawfully permitted for permanent residence. Where the applicant is a corporation or other business entity other than an individual, any stockholder or principal owning more than a ten percent financial interest must meet the requirements contained herein and, in the event any license provided for hereunder shall be issued, such license shall be issued in the name of the corporation or business entity and the principal stockholder or principal behind such business entity. If the applicant is a partnership, the requirements contained herein shall be met by all partners, whether general or limited partners.
- (b) All applicants and licensed establishments must have and continuously maintain in the city or in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter may be served. This person must be a resident of the city or county. The applicant or licensee shall file such forms as required by the city clerk or designee to provide the name of the registered agent and consent of such agent to serve in said capacity. Additionally, the registered agent shall tender a release permitting the city police department to perform an investigation to verify the residency of the registered agent.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-16. Application; form; content; process; deposit.

- (a) All persons desiring to engage in the sale or distribution of alcoholic beverages within the city shall make a written application to the city clerk or designee for such privilege upon the forms provided by the city clerk or designee. The application shall include but shall not be limited to: the name and address of the applicant; the proposed business to be carried on; the name and address of the registered agent for service of process; the name and address of manager; if a partnership, the names and addresses of the partners, and, if a corporation or other entity, the names and addresses of the officers and the names and addresses of all

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stockholders holding more than ten percent of any class of corporate stock or more than a ten percent financial interest in the business or in any other entity having a financial interest in the business. If the manager changes, the applicant must furnish the city clerk or designee with the name and address of the new manager and other information as requested within ten days of such change. The applicant shall also disclose whether the applicant (its partners if a partnership; its officers, manager, and stockholders having more than ten percent of any class of corporate stock if a corporation) has:

- (1) Been convicted of or plead guilty or nolo contendere to any felony, misdemeanor, or a violation of any municipal ordinance; and
- (2) Has any interests in a license to sell any alcoholic beverage by the package at retail within the state.

The application form and all data requested by the city clerk or designee, or the chief of police shall be subscribed by the applicant(s) under oath before a notary public or other officer authorized to administer oaths. Any untrue or misleading information contained in, or material statement omitted from, an original, renewal or transfer application for a license shall be cause for the denial or revocation thereof and possible prosecution under State of Georgia Statutes.

- (b) No license hereunder shall be issued to any applicant unless information is provided as required in the written application concerning the business location and building construction. The completed building or the proposed building shall comply with the ordinances of the city, regulations of the state revenue commissioner, the laws of the state, and all other pertinent laws. The proposed building shall also be subject to final inspection and approval when finished by the building inspector. Each building in which the business is to be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. All premises for which a license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by the customers herein.
- (c) Each applicant seeking a license under this section shall submit proof of ownership of the building in which the applicant will conduct its business. If the applicant is the owner of such building, the applicant shall provide a certified copy of the deed conveying ownership to the applicant. If the applicant is not the owner of such building, the applicant shall provide a copy of the current lease, in addition to a certified copy of the deed conveying ownership to the current owner of the building.
- (d) Each applicant shall submit a survey by a registered land surveyor showing compliance with all distance requirements contained herein.
- (e) All applicants under this section shall submit a complete copy of the Personnel Statement Form ATT-17, State of Georgia, Department of Revenue, Alcohol and Tax Control Unit.
- (f) In the case of corporate or limited partnership applicants, the applicant must be a business in good standing with the Secretary of State of Georgia.
- (g) In addition to the completion and submission of the application form as required by this chapter, such applicant shall attach thereto a complete application form with all attachments and requirements for a state license.
- (h) Each application for a license under this chapter shall be accompanied by a certified check or cash for the full amount of the license fee in accordance with the scale fixed by the city council, together with a separate certified check or cash in the amount of \$250.00 payable to the city and shall be paid over to the clerk of the city or designee who shall note the payment of such application fee upon the original application for such license. The application fee provided for herein is to be used to defray the investigative and administrative costs and expenses of investigating and considering the application. If the application is denied and the license refused or if the applicant withdraws his application after submission to the city clerk or designee, the application fee provided herein shall not be refundable. However, the license fee (without interest) shall be

refunded. Any request to amend any provision of a license granted under this chapter is subject to an additional \$150.00 administrative application fee.

- (i) Each application shall contain a certification stating that the applicant (its partner if a partnership; its officers, manager, and stockholders having more than ten percent of any class of corporate stock if a corporation) and registered agent have read this chapter.
- (j) In the event the applicant is denied a license by the state, the license fee (without interest), but not the application fee, shall be refunded.
- (k) The city shall require not less than 15 nor more than 60 days for processing any application for license permitting the sale of alcoholic beverages for consumption on the premises after a complete application, including all additional information requested, has been submitted.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-17. Fingerprints of applicants, owners, managers.

As a prerequisite to the issuance of a license permitting the sale of alcoholic beverages, all applicants, owners, and managers shall submit themselves to the city police department for the purpose of providing a set of fingerprints, which fingerprints may be forwarded to the appropriate investigative agencies of both the state and federal governments who shall search the appropriate files for any instance of criminal activity within the previous ten years and such fingerprints may be submitted to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records; said record(s), if any, shall be obtained and returned to the police department. In addition, the requirements of this section shall apply to all newly hired managers.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-18. Advertisement of intent to engage in business; signs posted.

- (a) All applicants desirous of obtaining a license for the sale of alcoholic beverages shall give notice at their expense of the making of an application by advertisement at least twice for two consecutive weeks, said advertisement to begin no later than ten days following submission of the application required by section 4-16 (application; form; content; process; deposit). The advertisement shall be published in the legal organ (newspaper) of White County in which the legal advertisements of the city are published. The advertisement referred to herein shall be of type not smaller than ten-point capital in lower case and shall be at least a two-inch, one-column advertisement in size. Said notice shall contain a complete description of the location of the proposed business and shall give the name of the applicant and if a partnership, the names of the partners, whether limited or general, and if a corporation, the names of the officers and all stockholders having more than ten percent of a class of corporate stock therein, and the date the application was filed with the city clerk or designee. The advertisement shall contain the following additional statement: "AN APPLICATION HAS BEEN FILED ON (date) WITH THE CLERK OF THE CITY OF CLEVELAND FOR A LICENSE TO OPERATE AND SELL ALCOHOLIC BEVERAGES AT THE ABOVE LOCATION. A DECISION ON WHETHER OR NOT TO GRANT OR DENY SUCH A LICENSE WILL BE MADE BY THE CLERK OF THE CITY OF CLEVELAND NO LATER THAN 60 DAYS FROM THE DATE THE FILED APPLICATION IS DETERMINED TO BE COMPLETE. MEMBERS OF THE PUBLIC ARE INVITED TO NOTE ANY OBJECTIONS, IN WRITING, THAT THEY MAY HAVE TO THE GRANTING OF SUCH A LICENSE BY FILING SAID WRITTEN OBJECTIONS WITH THE CLERK OF THE CITY OF CLEVELAND."
- (b) Tear sheets and a publisher's affidavit shall be furnished to the city by the applicant(s) prior to the applicant's application being considered complete.

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- (c) The applicant shall cause to be placed at their expense upon the location of the proposed business no later than ten days following submission of the application, a sign or signs stating the following: "AN APPLICATION HAS BEEN FILED ON (date) WITH THE CLERK OF THE CITY OF CLEVELAND FOR A LICENSE TO SELL _____. A DECISION ON WHETHER OR NOT TO GRANT OR DENY SUCH A LICENSE WILL BE MADE BY THE CLERK OF THE CITY OF CLEVELAND NO LATER THAN 60 DAYS FROM THE DATE THE FILED APPLICATION IS DETERMINED TO BE COMPLETE. MEMBERS OF THE PUBLIC ARE INVITED TO NOTE ANY OBJECTIONS, IN WRITING, THAT THEY MAY HAVE TO THE GRANTING OF SUCH A LICENSE BY FILING SAID WRITTEN OBJECTIONS WITH THE CLERK OF THE CITY OF CLEVELAND."
 - (d) The sign or signs required by subsection (c) shall be constructed of wood or metal and shall be placed with the base of the sign not more than three feet from the ground and shall be not less than 48 inches by 48 inches in size and shall face toward all public streets, alleys, sidewalks or other public property adjoining the proposed location. The statement above shall be printed or painted on the sign in the English language. Such signs shall be placed where they can be easily seen and the statement above easily read from all public properties adjoining the proposed location. Said sign shall not be require to comply with the requirements of the zoning ordinance pertaining to signs.
 - (e) The advertising requirements of this section shall not be required in cases where the location of the proposed business has previously served as a location where alcoholic beverage sales have been licensed within five years of the date of the application for license.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-19. Separate application and separate license for each location of sales.

Separate applications must be made for each location and separate licenses obtained.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-20. Annexation of licensed businesses.

Any person, persons, establishment, partnership, corporation or other entity which holds a license from a county for the retail sale of package malt beverages and wine, or consumption of distilled spirits, and which is located in an area annexed by the city, shall have 30 days from the effective date of the annexation to apply for the appropriate licenses and permits under this chapter. However, all applicable fees and costs for the equivalent license(s) in the city shall be waived for the year of annexation.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014)

Sec. 4-21. Other licenses.

The licenses and taxes provided for in this chapter are not levied in lieu of any other license fees or taxes that may be levied upon licensees, but are in addition thereto.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-22. Restriction upon transfers.

- (a) Licenses permitting the sale of alcoholic beverages shall not be transferable except as otherwise provided for in this section.

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- (b) In case of the death of any person owning a license, or any interest greater than ten percent therein, the license may, with the approval of the city clerk or designee and subject to the terms of this chapter, be transferred to the administrator, executor or personal representative of the deceased person, or the lawful heirs of the deceased person, if such heirs make application and meet all of the other qualification contained herein. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his estate and dispose of the license or his interest therein, but in no event to exceed eight months. In the event of the bankruptcy or in the event that any applicant shall have a receiver appointed by any court of competent jurisdiction, such license shall be transferable to such receiver or trustee in bankruptcy for such period of time as may be granted by the city clerk or designee for the proper liquidation of such assets and stock and goods of alcoholic beverages or both.
 - (c) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership and to assign his/her interest in such partnership to one or more of the partners who were partner at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this chapter are fully complied with, and then only upon the approval of the city clerk or designee. This section shall not prohibit transfer of stock to persons who held more than ten percent of any class of stock in the corporate owner at the time of issuance of the license.
 - (d) A licensee may take in partners or additional stockholders where it is determined that additional capital furnished is to be used exclusively for additional inventory or expanding the facilities of the business or for building new facilities and where it appears that the licensee himself will directly receive none of the additional capital investment. Under this section an additional partner or new stockholder must be approved by the city clerk or designee. This subsection only applies to corporations when the new stockholder obtains ten percent or more of the common stock or financial interest in the business entity.
 - (e) Should a transfer of the license be approved, there shall be no prorated return of any license fee and the new licensee shall meet all requirements for a new license to be issued hereunder, except payment of license fees.
 - (f) Except as provided above, any change in the ownership of any entity owning a licensed establishment shall be cause for immediate suspension of any license issued hereunder pending a revocation hearing as provided for under this chapter.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-23. Time limit for commencement of business in licensee's establishment; forfeiture for non-use.

- (a) All holders of licenses permitting the sale of alcoholic beverages must within 12 months after the issuance of said license, open for business the establishment referred to in the license. Failure to open the licensed establishment within 12 months after the issuance of such license shall serve as cause for the revocation of such license and no refund of license fees shall be made to the license holder. A six-month extension to the 12-month period may be granted by the city clerk or designee in the case of a license authorizing the sale of alcoholic beverages for consumption on the premises.
- (b) Failure to operate the business authorized by a license under this chapter for a period of six consecutive months after the licensee has begun operation under a license, shall serve as cause for the revocation of such license and no refund of license fees shall be made to the license holder.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-24. Annual renewal.

All licensees holding licenses permitting the sale of alcoholic beverages shall be required to file their application to renew their licenses by November 30 of each year on forms prescribed by the city clerk or designee.

(Ord. No. 2021-06, 4-12-2021)

Sec. 4-25. Training required for issuance of licenses.

- (a) The applicant for a license under this chapter shall present to the city clerk or designee a current certification of attendance at an approved alcohol awareness training program.
- (b) If the applicant lacks such training and certification, the applicant shall have 30 days from the date of the granting of the license to complete the training and submit certification to the city clerk or designee. Upon due cause being shown, the city clerk or designee may grant an extension of time, not to exceed 60 days, to complete said training. Failure to timely obtain such certification shall be grounds for revocation of the alcoholic beverage license.
- (c) Every applicant to whom a handling permit is issued and all managerial staff of a licensee shall also complete an approved alcohol awareness training program within 30 days of being issued a pouring permit, being employed as a part of any managerial staff, or being issued a license in the case of the named individual licensee.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-26. Considerations for granting a license permitting the sale of alcoholic beverages.

- (a) The sale of alcoholic beverages provided for by this chapter is purely a privilege and the city clerk or designee shall have discretionary powers to grant or refuse to grant any such application for license hereunder; however, it shall be proper for the city clerk or designee to consider the following matters in connection with any application for license hereunder, which considerations are deemed to be in the public interest and welfare, as follows:
 - (1) That the applicant for a license for retail sales or consumption on the premises is related to any distributor or wholesaler of alcoholic beverages or employees thereof within the first degree of consanguinity or affinity as computed according to the laws of the state;
 - (2) That the applicant for a wholesaler license is related to any retailer of alcoholic beverages or employees thereof within the first degree of consanguinity or affinity as computed according to the laws of the state;
 - (3) That the applicant, or any person having a direct or indirect beneficial interest in the issuance of the license, has had any license issued by the city or by any other city in the state, or by any other licensing authority in the state relating to the manufacture, distribution or sale of alcohol or malt beverages suspended within the past five years or revoked within the past ten years;
 - (4) That any applicant for a license to sell package beer and wine is related to any distributor or wholesaler of alcoholic beverages or employees thereof within the first degree consanguinity or affinity as computed according to the laws of the state;
 - (5) That any applicant for a license to sell package beer and wine, or any person having a direct or indirect beneficial interest in the issuance of the license, has had any license issued by the city or by any other city in the state, or by any other licensing authority in the state relating to the manufacture,

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- distribution or sale of alcohol or malt beverages suspended within the past five years or revoked within the past ten years;
- (6) That the applicant or any person owning a direct or indirect beneficial interest in the license for which application is made does not have sufficient mental capacity to conduct the business for which the application is made, or who has been dishonorably discharged from the Armed Services of the United States, or fails to demonstrated financial stability;
 - (7) That the applicant is not 21 years of age or older;
 - (8) That the applicant is not a citizen of the United States or an alien lawfully permitted for permanent residence;
 - (9) The location of the premises from which the proposed sale of alcoholic beverages shall be conducted does not meet the distance restrictions below;
 - (10) That any licensee, owner, or manager has not obtained a valid alcohol handling permit as required by this chapter;
 - (11) Failure to meet any other criteria specified by this chapter;
 - (12) The applicant's reputation, character, mental and physical capacity to conduct the business proposed to be conducted;
 - (13) That applicant, or any person who shall have a direct or indirect beneficial interest in the license, as a previous holder of a license to sell any type of alcoholic beverages has been found to have violated an law, regulation or ordinance relating to such business within a ten-year period, immediately preceding the date of the application for license hereunder;
 - (14) If applicant is a previous holder of a license to sell any type of alcoholic beverages, the manner in which he or she conducted the business under such license and as to the necessity for any unusual police observation and inspection of such prior business in order to prevent the violation of any law, regulation or ordinance relating to such business;
 - (15) If applicant has had a prior license, whether or not any such prior license for the sale of any type of alcoholic beverages has been previously suspended or revoked or whether or not hearings have been held for the revocation or suspension of any such license regardless of whether or not any such license was revoked or suspended as a result of such hearing;
 - (16) The location of the premises from which the proposed sale of alcoholic beverages shall be conducted;
 - (17) That corporate or other business entity applicants are of bad business reputation;
 - (18) That applicant, or any person who shall have a direct or indirect beneficial interest in the license, has had any city license revoked within two years prior to the filing of the application;
 - (19) Any other matters which the city clerk or designee in his/her sole discretion, may choose to consider;
 - (20) That the facility where the business entity applicants propose to sell alcoholic beverages does not meet city zoning requirements.
- (b) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character.
 - (c) A license may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

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- (d) The city clerk or designee has discretionary authority to consider any extenuating circumstances, which may reflect favorably or unfavorably on the applicant, application, or the proposed location of the business. If in the judgment of the city clerk or designee, circumstances are such that granting the license would not be in the best interest of the general health, safety, meets all current ordinance codes, including all building codes, and public welfare, such circumstances may be grounds for denying the application.
 - (e) All decisions of the city clerk or designee 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.
 - (f) Whenever the city clerk or designee shall deny an application for a license permitting the sale of alcoholic beverages for consumption on the premises, the applicant shall be notified of the right to a hearing under this chapter upon timely application.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-27. Moral character criminal record of owners, officers, shareholders, managers.

- (a) Where the applicant is a corporation or other business entity other than an individual, the provisions of this section shall apply to all its stockholders or principals owning more than a ten percent financial interest, and all partners, officers, and managers.
- (b) No person shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the city clerk or designee that such person, partners in the firm, or officers and directors of the corporation are of good moral character and reputation. In no event shall any license be granted to any applicant when a person to whom this section applies has been convicted or has pleaded guilty or entered a plea of nolo contendere to any felon involving moral turpitude, lottery, illegal gambling, illegal possession or sale of illegal drugs or alcoholic beverages, or any felony of the United States or any state or municipality within a period of ten years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by duly sworn affidavit, certify that the applicant, nor any of the other owners of the establishment, nor the manager of such establishment has been convicted or has pleaded guilty or entered a plea of nolo contendere to any of the crimes enumerated above within a period of ten years immediately prior to the filing of such application. Should any person to whom this section applies, after a license has been granted, be convicted or plead guilty or nolo contendere to any of the crimes enumerated above, the license shall be suspended pending a revocation hearing as provided for under this chapter.
- (c) For purposes of this chapter, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense to which defendant was allowed to avail themselves of the Georgia First Offender Act (Ga. Laws 1968, p. 324), as amended. Except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered and adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.
- (d) A licensee denied a license under subsection (b) of this section may reapply for such license upon the expiration of two calendar years from the date of the original application.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-28. Payment of taxes and other debts to the city.

The city clerk or designee shall cause an inquiry to be made into the tax records of the city to determine if any applicant or other parties interested in an application have any outstanding taxes or special assessments that

are delinquent or any other monies owing to the city. No license shall be issued, nor shall a license be renewed, until all such debts are paid in full.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-29. Change in relationships and/or ownership interest.

Any change in any of the relationships and/or ownership interest contained on the application must be filed with the city clerk or designee within 30 days after such change is made and the failure to do so shall be grounds for immediate suspension or revocation of an alcohol license as provided for under this chapter or for the immediate denial of any application for such a license.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-30. Completion of proposed licensed premises.

Where a building in which an applicant proposes to operate under a license permitting the sale of alcoholic beverages is at the time of application for such license not in existence, not yet completed, or under renovation a license may be issued for such location providing the plans and specifications for the proposed building are filed with the city clerk and show clear compliance with the other provisions of this chapter and other applicable ordinances of the city. No sales shall be allowed in such establishment until it has been completed in accordance with said plans and specifications and is in conformity with all other provisions of this chapter and other applicable ordinances of the city and an occupancy permit has been issued.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-31. Application for new license in existing license location.

An application for a new license in an existing license location shall meet and qualify under all requirements of this chapter for granting of a new license except as provided in section 4-18(e).

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-32. Managers and employees; responsibilities.

- (a) It shall be the duty of all licensees who sell alcoholic beverages to file two submittals annually; on or before June 1, and again on or before December 1 with the chief of police. Such submittal shall include the name of the establishment, the license number and the following information regarding: (1) all licensees, owners, and managers, and (2) all employees working on the premises and connected with the sale of alcoholic beverages: name, birth date; Social Security number; home address; home telephone number; race; gender; place of birth (if outside the United States, Alien Registration Number); driver's license number and state of issuance; height; weight; hair color; eye color; alias used presently or in the past, and places of employment.
- (b) No licensee shall allow any manager or employee required under this section to hold a permit to work on the licensed premises beyond ten business days after their first week beyond February 1, 2011 unless the licensee has on file, on the premises, the current, valid alcohol handling permit of each such manager or employee. An individual working on the premises beyond ten business days after their first week beyond February 1, 2011 in an establishment holding a license to sell alcoholic beverages without the required permit shall be considered in violation of this chapter and the employee and licensee punishable as provided elsewhere in this chapter.

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- (c) In the event that any permit holder leaves the employ or withdraws from ownership of a licensed establishment, the licensee shall immediately surrender the alcohol handling permit to the chief of police.
 - (d) The licensee is responsible for the conduct and action of his/her employees while his/her employment. Should an employee be convicted or plead guilty or nolo contendere to the charge of sale or attempted sale of alcoholic beverages to any person under 21 years of age, the licensee employing such employee shall return to the chief of police that employee's alcohol handling permit and shall not permit such employee to sell, take orders for delivery, or to aid or assist in the sale or delivery, directly or indirectly, of alcoholic beverages.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2021-06, 4-12-2021)

Sec. 4-33. Employment of persons with certain prior convictions prohibited.

No licensee shall employ in connection with the sale of alcoholic beverages any person in any capacity whatsoever, who has been convicted in the courts of this state or any other state, or the courts of the United States or any other country, within ten years immediately prior to the application for employment of soliciting for prostitution, pandering, letting of premises for prostitution, keeping a disorderly place, illegal dealing in narcotics, sex offenses, or other charges related to the manufacture or sale of alcoholic beverages, any felony, or any crime involving moral turpitude. For purposes of this chapter, a plea of nolo contendere shall be considered a conviction.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-34. Licensees, owners, managers, and employees; alcohol handling permit.

- (a) All licensees, owners, and managers must make application for and obtain an alcohol handling permit prior to being granted a license to sell alcoholic beverages. In addition, all persons employed to work on the premises in connection with the sale of alcoholic beverages shall, within three days after the date of their first week beyond February 1, 2011 in an establishment holding a license to sell alcoholic beverages, file a signed application and provide an authorization for release of personal information and criminal history record information to the chief of police or authorized representative. Said application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the applicant. The licensee shall also be noted. Any arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order. No permit shall be issued until such time as a search of the criminal record of the applicant has been completed. The applicant must also certify that he or she has read and understands the legal restrictions on alcohol handling and sales and the potential penalties that may apply if such requirements are not met.
- (b) The chief of police shall have a complete and exhaustive search made relative to any police record of the person to be cleared. No alcohol handling permit may be issued to any person who has been convicted in this state or any other state, or in any country, within ten years immediately prior to the application of soliciting for prostitution, pandering, letting of premises for prostitution, keeping a disorderly place, illegal dealing in narcotics, sex offenses, or other charges related to the manufacture or sale of alcoholic beverages or illegal drugs, any felony, any crime involving more turpitude or a second offense for driving under the influence of alcohol. In the event there is no record of a violation of this chapter, the chief of police shall issue a permit to the applicant which shall be specific as to the licensee. The chief of police may prescribe reasonable fees for processing such permits which shall be paid at the time application is made. If it is found that the person to be cleared is not eligible for a permit, the chief of police shall notify the applicant and city clerk or designee, and in the case of manager or employee applicants, the applicant's employer, that this

person is not eligible for a permit and/or employment. The applicant who is denied an alcohol handling permit may appeal such ruling to the alcoholic beverage review board.

- (c) All permits issued hereunder remain the property of the city and shall be produced for inspection upon the demand of the chief of police, the city clerk, or an agent designated by either. Such permit shall be present on the premises and displayed at all times while the permittee is working. All permits issued through administrative error or through an error in completion of a background investigation may be terminated by the chief of police or the city clerk or designee.
- (d) No person shall be issued an alcohol handling permit and it shall be considered a violation of this article if it is determined that the person knowingly and willfully falsified, concealed, or covered up any material fact by any device, trick, or scheme while making application to the chief of police for an alcohol handling permit under this article. Any person convicted of this offense shall be punished by a fine of up to but not more than \$500.00.
- (e) The provisions of this section shall not be applicable to licensed wholesalers.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2021-06, 4-12-2021)

Sec. 4-35. Alcohol handling permit; renewal.

- (a) Any permit issued hereunder shall expire one year from the date of issuance (two years for non-managerial employees of package stores) unless earlier revoked by the city clerk or designee, or chief of police. All individuals (if still employed in such establishment) holding alcohol handling permits shall be required to submit an application to renew their permits in advance of the expiration date on forms prescribed by the chief of police. A minimum of 14 days shall be required for review prior to issuance of a renewed permit. If such renewal application is not made prior to the expiration date, a penalty of 50 percent of the renewal fee shall be imposed. Handling alcohol without a valid permit is expressly prohibited.
- (b) The penalty for an individual being convicted or pleading guilty or entering a plea of nolo contendere for a violation of this chapter shall be punished by a fine of up to but not more than \$250.00 unless otherwise stated.

(Ord. No. 2011-18, 11-14-2011)

Secs. 4-36—4-60. Reserved.

ARTICLE II. LICENSING

Sec. 4-61. License permitting the sale of alcoholic beverages.

- (a) No alcoholic beverages shall be sold for consumption on the premises or distributed for educational or instructional purposes in a wine tasting room except under a license granted by the city clerk or designee, as provided in this chapter.
- (b) Only the following shall be licensed under the City of Cleveland Alcohol Ordinance as defined in section 4-4:
 - (1) Sixty percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises of restaurants, indoor civic/cultural facility, or restaurant within a hotel. The licensee shall report to the city monthly, total gross sales and gross sales of all alcoholic beverages, including distilled spirits, malt beverages and wine to ensure and verify compliance with the required 60/40 ratio. Said establishment's kitchen shall remain open and shall be prepared to serve

food during all hours when alcoholic beverages are sold; the sale of alcoholic beverages when the kitchen is closed is prohibited.

- (2) Wine tasting rooms for consumption of samples at specialty gift shops;
- (3) Malt beverages and wine only for consumption at a special event for a nonprofit civic group;
- (4) Malt beverages and wine only for consumption through outdoor golf course sales;
- (5) Malt beverages and wine only for consumption off the premises by a licensed alcoholic beverage caterer;
- (6) Performing arts facility;
- (7) Malt beverages only for package on the premises of convenience stores, and grocery stores/supermarkets;
- (8) Wine beverages only for package on the premises of convenience stores and grocery/supermarkets and specialty gift shops;
- (9) Malt beverages and wine beverages only for consumption with meals at a special events facility; and
- (10) Distilled spirits beverages only for consumption with the purchase of meals on the premises of restaurants.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014; Ord. No. 2018-16, 11-13-2018; Ord. No. 2021-06, 4-12-2021)

Secs. 4-62—4-80. Reserved.

ARTICLE III. CONSUMPTION

Sec. 4-81. Issuance of consumption on premises license limited to designated area occupational tax certificate—Consumption on premises.

- (a) No license permitting the sale of alcoholic beverages for consumption on the premises shall be issued to any person unless the business or the proposed business to be licensed hereunder is a restaurant, performing arts facility, golf course, special events facility, or brewpub as each of these terms is defined in section 4-4 and in the following sections.
- (b) In the case of outdoor golf course, sales of alcoholic beverages for consumption, only the sale of malt beverages and wine shall be permitted.
- (c) No license permitting the sale of alcoholic beverages for consumption on the premises shall be granted except when the business is located in the commercial zoning classifications and fronts state routes with the exception of Inside City Square Area as drawn on Attachment I (square map) and city streets with the following specifications:
 - (1) In no case shall the city street be less than three lanes including a center turn lane with the width, back of curb to back of curb being no less than 37 feet.
- (d) Licenses for performing arts facilities shall only be issued where the facility is located in the commercial zoning classification and has obtained a special use permit to operate as a performing arts facility. Licenses shall only be issued for a business that is a permitted use in that particular zoning district and no license for the sale of alcoholic beverage or consumption on the premises may be issued to any business licensed for

operating as any type of adult entertainment establishment as set forth in ordinances of the City of Cleveland.

- (e) No license permitting the sale of alcoholic beverages for consumption on the premises shall be issued to any person unless the business or the proposed business to be licensed hereunder has made application for and received an occupation tax certificate as a restaurant, performing arts facility, caterer, golf course, or brew pub.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-82. Distances for consumption license.

- (a) No license permitting the sale of alcoholic beverages for consumption on the premises shall be issued hereunder where the place of business of the applicant is located within a distance of 300 feet of any school property, college campus property, housing authority property, church building, or alcohol treatment facility building or public library building. Any location licensed hereunder may continue to operate any of the businesses described in this section in the event that any such school property, college campus property, housing authority property, city park property, church building, or alcohol treatment facility building is subsequent to the date of the granting of such license for such premises, located closer than the distances set forth herein.
- (b) No license permitting the sale of alcoholic beverages for consumption on the premises will be issued if the regulated business building and the residential building is closer than 50 feet. If the regulated business building is between 50 feet and 200 feet from a residential building a **permanent** six-foot privacy fence shall be erected and extend the full length of the business property line. The face or finished side of the privacy fence shall face the residential property and shall be maintained by the licensee. The fence shall be inspected and approved by the building inspector.
- (c) Said distance for the purpose of this section shall be measured as defined under the definition section 4-4. The term "property" shall mean property line to property line and the term building shall mean building wall to building wall. Because of the unique nature of the Cleveland City Square commercial area and the desire to encourage economic health and stability in that area, all distance limitations set forth in this section shall be reduced to zero feet for businesses located on the area known as inside square area as drawn on Attachment I (map).

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-83. Special event licenses.

- (a) Special event licenses shall be limited to no more than a two-day license, shall be limited to four special event licenses per civic organization per year, and shall permit sales only at locations in areas zoned commercial or industrial.
- (b) Special event licenses shall be granted to nonprofit civic organizations in conjunction with a person or business possessing a current alcoholic beverage license permitting consumption of malt beverages and wine on the premises ("for-profit licensee"). The for-profit licensee or the licensee's employees shall supervise all aspects of the special event pertaining to the handling and storage of alcoholic beverages and the distribution of alcoholic beverages to consumers. Both the nonprofit licensee and the for-profit licensee shall be responsible for compliance with all aspects of this chapter and state law, and liable for infractions thereof.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-84. Brewpub licenses.

- (a) No person shall be permitted to own or operate a brewpub without first obtaining a brewpub license from the city clerk or designee pursuant to the same procedures as are set forth in sections 4-151—4-160, and each brewpub license holder shall comply with all other applicable state and local license requirements.
- (b) A brewpub license authorizes the holder of such license to:
 - (1) 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 in an open container;
 - (2) Operate a restaurant that shall be the sole retail outlet for such beer. Such outlet may offer for sale any other alcoholic beverages produced by other manufacturers which are separately authorized for consumption on the premises by this chapter, including wine, and malt beverages, provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only; and, provided, further, that in addition to draft beer manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers for consumption on the premises only; and
 - (3) Notwithstanding any other provision of this section, sell up to a maximum of 500 barrels annually of such beer to licensed wholesale dealers for distribution to retailers and retail consumption dealers.
- (c) Possession of a brewpub license shall not prevent the holder of such license from obtaining another license authorized under section 4-61 (license permitting the sale of alcoholic beverages for consumption on the premises) for the same premises.
- (d) A brewpub license does not authorize the holder of such license to sell alcoholic beverages at retail by package for consumption off the premises.
- (e) A brewpub licensee shall not offer or permit any free sampling of beer by its customers on the premises.
- (f) A brewpub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed as manufacturers, retailers, and, where applicable, wholesalers.
- (g) A brewpub licensee shall measure all beer manufactured on the premises and otherwise comply with applicable regulations respecting excise and enforcement tax determination of such beer as required.
- (h) Except as set forth above in this section, a brewpub license holder shall be subject to all provisions of this chapter.
- (i) A brewpub license shall be a restaurant in which beer or malt beverages are manufactured.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-85. Wine tasting room licenses.

- (a) A wine tasting room for purposes of this chapter shall be limited to entities possessing:
 - (1) Specialty gift shop license and shall be defined as any retail gift shop that derives not more than 15 percent of its gross sales from the sale of package gift baskets containing non-alcohol related items such as flowers, plants, food or similar items which also contain unbroken containers of wine or malt beverages.
 - (2) Restaurants possessing a license for consumption on the premises shall not be eligible for a wine tasting room permit.

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- (3) No wine tasting shall be conducted on the premises of any place of business licensed to sell distilled spirits in the unbroken container. Any wine tasting occurring on the premises of a business possessing a specialty gift shop license shall be limited to a confined area with single means of ingress and egress into such area. The applicant's proposed measures to segregate the wine tasting area along with proposed staffing and oversight shall be submitted to and approved by the city police department.
 - (4) An eligible licensee may petition the city for a wine tasting room license provided it meets all present requirements of the city's alcohol beverage ordinance. A wine tasting room license shall allow the license holder to offer wine samples and sell wine samples only if offered or sold in connection with an instructional or education promotion. A wine tasting room license is intended to allow such activity on a limited basis and shall not be part of the core operations of such establishment or occur on a daily basis. A wine tasting room license shall be subjected to all other laws, rules and regulations of the city and state, including Rule 560-2-5-05 of the Department of Revenue, Alcohol and Tobacco Division, and is subject to license revocation for violation thereof. Samples cannot leave premises. Sunday sales permitted, with proper licensing, between the hours of 12:30 p.m. and 11:30 p.m.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014)

Sec. 4-86. Performing arts facility.

- (a) No person shall be permitted to sell alcoholic beverages at a performing arts facility without first obtaining performing arts facility alcohol license from the city clerk or designee pursuant to the same procedures as are set forth in Article I of this chapter and each performing arts facility alcohol license holder shall comply with all other applicable state and local license requirements.
- (b) Alcoholic beverages may be sold at a performing arts facility only where the facility has obtained a special use permit to allow for the presentation of mainline dramatic arts, plays, and theatre productions within the commercial zoning classification.
- (c) A performing arts facility which is licensed to serve alcohol shall only dispense alcoholic beverages at a bar located in the lobby area of the facility or by a waiter or waitress serving patrons within the facility on days where a performance will take place in the facility.
- (d) In addition to the hours of sale requirements set out in section 4-97, a performing arts facility which is licensed to serve alcohol shall not dispense alcoholic beverages earlier than 5:30 p.m. or later than 10:30 p.m. on Monday through Friday. Alcohol may be sold Saturdays and Sundays between the hours of 12:30 p.m. and 11:30 p.m. In no event shall a performing arts facility dispense alcoholic beverages earlier than one hour before the start of performance or after the performance has ended.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014)

Sec. 4-87. Special events facility.

The city clerk or designee may issue a special events facility license for consumption on the premises with meals. The license shall mean any public place kept, used, maintained, advertised and held out to the public as a place where special events including, but not limited to, weddings, wedding receptions, private parties and similar events are held and which provides meals or food services in connection with such events. Any such facility shall be equipped with an adequate sanitary kitchen with dining room facility and have a seating capacity of at least 50 people, and shall be capable of preparing, cooking, and serving meals and other food products associated with its special events on site. Any such facility open to the public for the service of at least one meal per day for three or more days per week, shall be considered a restaurant.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-88. Outdoor golf course sales.

Outdoor golf course sales are permitted for retail consumption licensees operating such golf course provided such sales are made on or immediately adjacent to the golf course itself from a mobile or satellite location between the first and final hole on the course.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-89. Licensed caterers.

- (a) Notwithstanding any other provision of this chapter to the contrary, a caterer shall be permitted to sell alcoholic beverages for consumption on the premises of a duly authorized catered event, if the caterer is a retailer dealer licensed pursuant to state law and has obtained the following licenses and permits:
 - (1) A license permitting the sale of alcoholic beverages for consumption on the premises in addition to an alcoholic beverage catering license issued by the city or another licensing jurisdiction; and
 - (2) An off-premises permit for the specific event being catered.
- (b) All licensed alcoholic beverage caterers desiring to engage in activities permitted by this section shall make written application to the city clerk or designee for the appropriate off-premises permit. The application shall include, but not to be limited to, the name, address and telephone number of the applicant, the date, address and time of the proposed catered event and the licensed alcoholic beverage caterer's state license number. All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths. If an applicant has had their license to sell alcohol beverages by the drink for consumption on the premises issued by another jurisdiction, the application shall be accompanied by an off-premises permit fee of \$50.00. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded. If an applicant has had their license to sell alcoholic beverage by the drink for consumption on the premises issued by the city, such off-premises permit fee is waived. However, such permit must still be obtained.
- (c) The city clerk or designee shall have authority to prescribe forms for applications. Failure to furnish any requested data shall automatically serve to dismiss the application with prejudice.
- (d) Any untrue or misleading information contained in, or material statement omitted from, an original or renewal application for an off-premises permit shall be cause for the denial or revocation thereof.
- (e) If such off-premises permit is granted by the city clerk or designee, it shall be good only for the specific event at the specified address and time set forth in the application, not in excess of five days.
- (f) Except as set forth above in this section, an off-premises permit holder must comply with all other provisions set forth in this chapter.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014)

Sec. 4-90. Partially consumed bottle of wine from a restaurant.

A licensee, if licensed to sell alcoholic beverages for consumption on the premises, may permit a patron to remove one unsealed bottle of wine from a restaurant if the patron purchased the bottle of wine and a meal and consumed a portion of wine on the premises. The licensee and patron must comply with the provisions of O.C.G.A. §§ 3-6-4 and 40-6-253(2) as they may be amended from time to time.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-91. Consumption sales by the drink only.

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

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-92. Pitchers.

No licensee shall sell, offer to sell or deliver alcoholic beverages, including malt beverages in any container which holds more than 32 fluid ounces (0.947 liters), except to two or more persons at any one time.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-93. Sales restricted to premises only.

No retail consumption dealer shall sell or deliver any alcoholic beverages to any person except in said licensee's place of business, except as provided for in licensed caterers and outdoor golf course sales.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-94. Patio sales/outside temporary events.

- (a) The city clerk or designee may issue a patio sales license to restaurant establishments licensed to sell alcoholic beverages for consumption on the premises.
- (b) In order to be eligible for a patio sales license, such patios or open areas shall be enclosed by some structure the height of which shall be a minimum of four feet above ground level. Such structure may be constructed of material which permits visibility into and out of the patio or open area. Such structure must comply with all applicable city codes, including, but not limited to, building and fire codes, and shall function to prevent patrons from leaving the patio or open area with an alcoholic beverage without the knowledge of the licensee.
- (c) The licensee shall require patrons to enter and exit licensed patio or open areas through the licensed establishment's main premises. Licensed patio or open areas shall have an approved fire exit for emergency use only, equipped with an audible alarm triggered by unauthorized use of such fire exit.
- (d) Establishments duly licensed by the city clerk or designee to sell alcoholic beverages for consumption on the premises must submit an application to the city clerk or designee to engage in outside special events. The applicant must meet the following requirements:
 - (1) The licensed establishment must have an existing license of the sale of alcoholic beverages for consumption on the premises. The only entrance and exit to the event must be through a controlled entry point which allows for easy monitoring of patrons entering and leaving the event.
 - (2) The entire outside event must be enclosed by a temporary chain link fence. The fence shall be a minimum of four feet in height.
 - (3) The temporary fence must have an entrance and emergency exit with a uniformed off duty police officer stationed at the entrance and emergency exit.

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- (4) The temporary fence must be installed and inspected at least one day prior to the event. Alcohol beverage sales will not be approved for the event without inspection and approval of the temporary fence by the building inspector.
 - (5) A site plan must be submitted to the city clerk's or designee's office as well as the county fire marshal's office for approval. If the site plan provides for an area to accommodate more than 25 persons, a crowd control and security plan must be submitted to the city police department for approval. The fire department must approve any temporary structures, such as tents, within the fenced area.
 - (6) A signed and notarized letter from the property owner must be submitted to the city clerk's office or designee's office authorizing the use of the property for the event.
 - (7) All outside points of sale of alcoholic beverages must be licensed and the required fees paid. The outside event shall not exceed two days.
 - (8) All outside events for an individual licensed establishment will be restricted to two events per year.
 - (9) A nonrefundable fee of \$50.00 per event must be paid at the time of filing of the application.
 - (10) Completed application must be submitted to the city clerk's office 45 days prior to the scheduled event.

Nothing in this subsection shall be construed to waive or repeal any other requirements ordained under this Code.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-95. Solicitation prohibited.

No retail consumption dealer licensed to sell alcoholic beverages hereunder shall require, permit, suffer, encourage or indulge any employee or person to solicit in the licensed premises for himself or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic or non-alcoholic, or money with which to purchase the same; nor shall any licensee pay any commission or any other compensation to any person frequenting his establishment or to his agents or manager to solicit for himself or for others, the purchase by the patron of any drink, whether alcoholic or non-alcoholic.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-96. "Happy hour" promotions and sales.

- (a) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:
 - (1) Offer or deliver any free alcoholic beverage to any person or group of persons;
 - (2) Deliver more than one alcoholic beverage to one person at one time;
 - (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverages at a price less than the price regularly charged for such beverage during the same calendar week, except at private functions not opened to the public;
 - (4) Sell, offer to sell, or deliver to any person an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not opened to the public;

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- (5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public;
 - (6) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week;
 - (7) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding alcoholic beverages as a prize; or
 - (8) Require or allow the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the previous alcoholic beverage has been consumed or otherwise discarded.
- (b) Each licensee shall maintain a schedule of the prices charged for all alcoholic beverages to be served and consumed on the licensed premises or in a room or part thereof including outdoor or patio sales where permitted. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public and said schedule shall be effective for not less than one calendar week.
 - (c) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (a).
- (Ord. No. 2011-18, 11-14-2011)

Sec. 4-97. Hours of sale.

- (a) No retail consumption dealer shall furnish, sell or offer for sale any alcoholic beverage at any time except during the following hours: 9:00 a.m. Monday through 12:00 midnight; 9:00 a.m. Tuesday through 12:00 midnight; 9:00 a.m. Wednesday through 12:00 midnight; 9:00 a.m. Thursday through 12:00 midnight; 9:00 a.m. Friday through 12:00 midnight; 9:00 a.m. Saturday through 11:55 p.m. Sunday 11:00 a.m through 11:30 p.m. Sunday.
 - (b) Christmas Day sales.
 - (c) No retail consumption dealer shall furnish, sell or offer for sale through outdoor golf course sales any alcoholic beverage at any time except during the following hours: 9:00 a.m. through 9:00 p.m. Monday through Saturday. Further, no retail consumption dealer shall furnish, sell or offer for sale through outdoor golf course sales any alcoholic beverage on Sunday.
 - (d) At any time in violation of a local ordinance or regulation or of a special order of the mayor and council.
- (Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014 Ord. No. 2019-03, 4-1-2019)

Sec. 4-98. Sale of alcoholic beverages on election day; distance from polling place.

- (a) The sale of alcoholic beverages shall be legal on any election day. This authorization is approved by the city pursuant to the provisions of Georgia Laws 1985, page 1508.
 - (b) Notwithstanding any other provisions of this chapter, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established on primary or election days.
- (Ord. No. 2011-18, 11-14-2011)

Secs. 4-99—4-120. Reserved.

ARTICLE IV. PACKAGE

Sec. 4-121. Issuance of package licenses limited to designated areas.

- (a) No license permitting the retail sale of package malt beverages or wine or both shall be granted to any applicant hereunder unless the proposed premises is located in an area of the city which is zoned for commercial and fronts a state route with the exception of city streets with the following specifications:
- (1) In no case shall the city street be less than three lanes including a center turn lane with the width, back of curb to back of curb being no less than 37 feet.
 - (2) No issuance of package licenses for the inside square area as drawn on Attachment I (map). The defined area known as inside square area can only be changed by an amendment of the ordinance from which this chapter was derived. This shall not apply to specialty gift shops located in the inside square area.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-122. Distance from schools, churches, residences, etc.

- (a) No license permitting the sale of package malt beverages or wine or both shall be issued for any proposed location which:
- (1) If the regulated business building and the residential building is closer than 50 feet. If the regulated business building is between 50 feet and 200 feet from a residential building a permanent six-foot privacy fence shall be erected and extend the full length of the business property line. The face or finished side of the privacy fence shall face the residential property and shall be maintained by the licensee. The fence shall be inspected and approved by the building inspector;
 - (2) Is within a distance of 300 feet of any church building;
 - (3) Is within a distance of 300 feet of any public library building or library branch building, alcohol treatment facility building;
 - (4) Is within a distance of 300 feet of a public park property owned or maintained by the City of Cleveland;
 - (5) Is within a distance of 300 feet of any school property, or college campus property, housing authority property; or
 - (6) Is within a distance of 100 feet of any business licensed to sell package malt beverages or wine or both pursuant to this chapter unless other such business is a hotel/motel.
- (b) Said distance for the purpose of this section shall be measured as defined in section 4-4 (distance). The term property shall mean property line to property line and the term building shall mean building wall to building wall. Any location licensed hereunder may continue to operate any of the businesses described in this section in the event that any such school property, college campus property, public park property, housing authority property, church building, or alcohol treatment facility building is subsequent to the date of the granting of such license for such premises, located closer than the distances set forth herein.
- (c) The alcoholic beverage review board may grant reductions of the distance requirements set forth in subsection (a) above upon request of the applicant if the alcoholic beverage review board determines that

the reduction of the distance requirements will not have an adverse effect on the surrounding community or the properties provided protection by the distance requirements and that sufficient buffering or separation of the two properties exists under the reduced distance requirements. No reduction of the distance requirements may be for an amount greater than 50 percent of the original required distance or to a distance less than the distance required by the general laws of the state. In its consideration of the requested distance reduction, the alcoholic beverage review board may consider whether the applicant has obtained the consent of properties provided protection by the distance requirements, but such content shall not be required to grant the reduction.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-123. Hours of sale.

Retail dealers in package malt beverages or package wine or both shall not engage in the sale of malt beverages or wine or both except between the hours of 7:00 a.m. and 11:55 p.m. Monday through Saturday and Sunday 12:30 p.m. through 11:30 p.m. No malt beverage or wine shall be sold on Christmas.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014)

Sec. 4-124. Handling not to include bagging and carrying out.

For the purposes of this chapter, the bagging or carrying out of wine or malt beverages in the original package in the course of employment by a grocery store, convenience store, or similar establishment shall not constitute the handling of alcoholic beverages.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-125. Security cameras required.

Each business licensed by the city to sell alcohol by the package shall install and maintain security cameras in the outlet of a type and number approved by the chief of police. Such cameras:

- (1) Shall be placed in the business to record activities in the checkout or cash register area(s).
- (2) Shall be capable of producing a retrievable image on film, tape, or any readable medium that can be made a permanent record and enlarged through a projector or other means.

Such cameras shall be maintained in proper working order at all times. If a robbery or other violation occurs in such outlet, the film, disk or tape recording of such event shall immediately be made available to the chief of police or his designee.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-126. Specialty gift shop licenses.

(a) Notwithstanding any other provision of this chapter to the contrary, limited exceptions from this chapter shall exist for the owners of specialty gift shops provided that the owner obtains a specialty gift shop alcohol beverage license as hereinafter provided; and the only sale of alcohol beverages by the owner is through the sale of gift items as specified and not for consumption on the premises. These exceptions are as follows:

- (1) In lieu of section 4-16(h) (application fee), subsection (b) of this section shall apply to applications for specialty gift shop licenses;

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- (2) Section 4-122 (distance from schools, churches, residences, etc.), subsections (a)(1) (private residences), (a)(2) (churches), (a)(3) (public libraries), (a)(4) (public parks), and (a)(5) (another licensee) shall not apply for specialty gift shops.
- (b) Each application for a specialty gift shop license under this chapter shall be accomplished by a certified check or cash for the full amount of the license fee in accordance with the scale fixed by the city council, together with a separate certified check or cash in the amount of \$100.00 payable to the city and shall be paid over to the clerk of the city or designee who shall note the payment of such application fee upon the original application for such license. The application fee provided for herein is to be used to defray the investigative and administrative costs and expenses of investigating and considering the application. If the application is denied and the license refused or if the applicant withdraws his application after submission to the city clerk or designee, the application fee provided herein shall not be refundable, however, the license fee (without interest) shall be refunded.
- (c) Notwithstanding any other provisions of this chapter, an employee who sells any gift item containing alcohol must be at least 18 years of age.
- (d) Except as set forth above in this section, a specialty gift shop alcohol licensee must comply with all other provisions set forth in this chapter.
- (e) Sales of packaged distilled spirits is prohibited.
- (Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014)

Sec. 4-127. Consumption prohibited.

It shall be unlawful for any person to consume any alcoholic beverage on premises licensed for the sale of package alcohol beverages. For the purpose of this section, "premises" shall include the parking area immediately adjoining the premises licensed for the sale of package alcohol beverage and available for the use of the customers of the licensed premises, whether or not the same are owned or leased by the licensed holder. It shall be unlawful for any licensee to permit the consumption of alcoholic beverages on said premises or to sell unsealed (broken) alcohol beverage containers.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-128. Distilled spirits or spirituous liquors packaged sales prohibited.

The sale of packaged distilled spirits or spirituous liquors is prohibited.

(Ord. No. 2014-17, 12-8-2014)

Secs. 4-129—4-150. Reserved.

ARTICLE V. WHOLESALE

Sec. 4-151. Requirements of wholesalers generally.

All wholesale dealers or distributors shall be licensed by the state revenue department and shall comply with all laws and regulations of the state revenue department before they sell or deliver any alcoholic beverages in the city. Deliveries and sales shall be made only to retailers licensed under the provisions of this chapter and all deliveries shall be made in conveyances owned and operated by such wholesale dealers or distributors.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-152. Wholesale licensees prohibited from interest in other licenses.

No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold or have an interest in a license issued permitting the sale of alcoholic beverages for consumption on the premises issued under the terms of this and other city alcohol beverage ordinances.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-153. Other licenses.

The licenses and taxes provided for in this chapter are not levied in lieu of any other license fees or taxes that may be levied upon licensees, but are in addition thereto.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-154. Wholesalers sales within the city limits.

Wholesale dealers or distributors shall not sell nor make deliveries of alcoholic beverages, malt beverages or wine within the city to retailers except those licensed by the city and the state revenue department.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-155. Issuance of licenses limited to designated area—Wholesales.

- (a) No license permitting the wholesale distribution of alcohol shall be granted to any applicant proposing to locate within the city unless the premise is located in an area of the city, which is zoned for commercial, with the exception of city streets with the following specifications:
 - (1) In no case shall the city street be less than three lanes including a center turn lane with the width, back of curb to back of curb being no less than 37 feet.
 - (2) Within the inside square area as drawn on Attachment I (map).

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-156. Distances for wholesale sales.

- (a) No license permitting the wholesale sale of malt beverages or wine or both shall be issued for any proposed location located within the city which is within a distance of 300 feet of any school property, city parks property, or college campus property, housing authority property, churches building, library building, or alcohol treatment facility building.
- (b) No license permitting the wholesale distribution of spirituous liquors shall be issued for any proposed location to be located within the city.
- (c) No license shall be issued if the regulated business building is 200 feet or less from a residential building.
- (d) Said distance for the purpose of this section shall be measured as defined in section 4-4, definitions. Any location licensed to operate any of the businesses described in this section, where a different method of ascertaining distances was used, may continue to operate such business at its present location without

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committing a violation of this section. Any location licensed under this chapter may continue to operate any of the businesses described in this section in the event that any such private residence, public school, library, park or church is, subsequent to the date of the granting of the license for such premises, located closer than the distances set forth herein.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-157. Annual renewals.

All licensees holding licenses permitting the wholesale distribution of alcohol shall be required to file their application to renew their licenses by January 1 of each year on forms prescribed by the city clerk or designee.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-158. Regulations governing retail storage.

All licensed retailers shall store all alcoholic beverages on the premises for which the license was issued and at no other place. No wholesaler shall store for any retail dealer those alcoholic beverages which have been ordered or purchased.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-159. Minimum legal container.

No wholesale dealer may sell to a holder of a license for sale of alcohol for consumption on the premises spirituous liquors in containers smaller than 750 milliliters.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-160. Consumption prohibited.

It shall be unlawful for any person to consume any alcoholic beverage on premises located within the city licensed for the wholesale or retail sale of alcoholic beverages. For the purpose of this section, "premises" shall include the parking area immediately adjoining the premises licensed for the sale of package alcohol and available for the use of the customers of the licensed premises, whether or not the same are owned or leased by the licensed holder. It shall be unlawful for any licensee to permit the consumption of alcoholic beverages on said premises or to sell unsealed (broken) alcoholic beverages.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-161. Hours of sale.

The hours during which the sale of alcoholic beverages may be conducted in the city by any wholesale dealer licensed hereunder shall be from sunup to sundown, exclusive of Sundays.

(Ord. No. 2011-18, 11-14-2011)

Secs. 4-162—4-180. Reserved.

ARTICLE VI. LICENSE FEES²

Sec. 4-181. Classification of licenses; fees.

The licenses listed below are the only licenses authorized to be issued by this chapter and each such license is a separate and distinct license and shall require the payment of separate license fees as provided for in this chapter. The types of licenses, the restrictions on the issuance of each, and the fees for such licenses are as follows:

- (1) License permitting the sale of malt beverages and wine only for consumption on the premises, \$2,600.00, Monday through Sunday sales.
- (2) License permitting the sale of wine only for consumption on the premises, \$1,300.00, Monday through Sunday sales.
- (3) License permitting the sale of malt beverages only for consumption on the premises, \$1,300.00, Monday through Sunday sales.
- (4) License permitting the sale of malt beverages and wine only for consumption through outdoor golf course sales, \$150.00. Note that this license requires that the licensee also hold a license described in section 4-61(b)(1)—(3).
- (5) License permitting the sale of malt beverages and wine only for consumption on the premises at a special event by a civic nonprofit organization, \$50.00. Note that this license requires that the licensee also hold a license described in section 4-61(b)(1)—(3).
- (6) License permitting the sale of malt beverages and wine for consumption on the premises, and manufacture or brewing of beer for retail consumption on the premises and solely in draft form through operation of a brewpub, \$250.00. Note that this license requires that the licensee also hold a license described in section 4-61(b)(1)—(3).
- (7) License permitting the sale of malt beverages or wine only for consumption off the premises by a licensed alcoholic beverage caterer, \$150.00. Note that this license requires that the licensee also hold a license described in section 4-61(b)(1)—(3).
- (8) License permitting the sale of alcoholic beverages for consumption on the premises for a special events facility, \$1,500.00, described in section 4-61.
- (9) License permitting the sale of malt beverages and wine for consumption at a special event by special events vendor, \$150.00. Note that this license requires that the licensee also hold a license described in section 4-61(b)(1)—(3).
- (10) License permitting the sale of alcoholic beverages for consumption on the premises of a performing arts facility as described in section 4-61, or a specialty gift shop \$200.00.

²Charter reference(s)—Sale of liquor, App. A, Art. II.

Cross reference(s)—Fees, fines and other charges, ch. 24 et seq.

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- (11) License permitting the sale of wine for consumption on the premises of a wine tasting room, \$100.00, described in section 4-61.
 - (12) License permitting the retail sale of package malt beverages, \$1,300.00, described in section 4-61 Monday through Sunday sales.
 - (13) License permitting the retail sale of package wine, \$1,300.00, described in section 4-61 Monday through Sunday sales.
 - (14) Any request to amend any provision of a license granted under this chapter is subject to an additional \$150.00 administrative application fee.
 - (15) License permitting the sale of distilled spirits or spirituous liquors only for consumption on the premises, \$2,600.00, Monday through Sunday sales.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014)

Sec. 4-182. Annual fees.

- (a) Alcoholic beverage licenses are valid from January 1 through December 31 of the following year. Each licensee holding a license listed in section 4-181 permitting the sale of alcoholic beverages shall pay the fee listed in the above section, as may be amended, annually.
- (b) All annual license fees herein shall be paid in advance, on or before January 1 of each year and any new license granted hereunder during a calendar year shall pay the full license fee without proration; provided, however, that if a license is granted after July 1, the license fee shall be 1/2 of the annual license for such calendar year.
- (c) Any person licensed hereunder shall be required to submit a complete application to renew his/her license on the forms prescribed by the city clerk or designee on or before November 30 of each year. For those applicants who fail to submit a complete application and license fee before November 30, but do so on or before December 31, a penalty of ten percent of the license fee shall be imposed for said failure in addition to any other penalties that may be authorized. Further, those renewal applicants who fail to submit a complete application and license fee prior to the December 31 deadline may not receive the new license prior to the expiration of the old license. A minimum of 14 days shall be required for review prior to issuance of a renewed license. Unlicensed sales of alcohol are prohibited.
- (d) Any license holder who fails to submit a complete application for a license renewal prior to December 31 of each year shall be required to undergo the application process as a new license applicant. Unlicensed sales of alcohol are prohibited.
- (e) Those applicants applying for a special event license shall submit the application and license fee 45 days in advance of the date of the special event.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2021-06, 4-12-2021)

Sec. 4-183. Lounges and bars.

Lounge means a room in which people may relax or wait, or a room where cocktails and other drinks are served. Alcoholic beverages shall not be served or consumed in a lounge. Bars are prohibited.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-184. Drive-in window or curb service.

- (a) It shall be unlawful to sell and dispense alcoholic beverages from a "drive-in service" window, or vending machine.
- (b) Curbside pick-up service or other sales of alcoholic beverages outside the building licensed to sell is permitted as follows: by section 4-89 (licensed caterers), section 4-88 (outdoor golf course sales), and section 4-94 (patio sales), and as allowed in (c) in this section of code. All other curb service sales of alcoholic beverages outside of the building licensed to sell is expressly prohibited.
- (c) A retail package dealer of alcoholic beverages is permitted to load purchased goods in a customer's vehicle as part of an online curbside pick-up service when in compliance with the following:
 - (1) Retailers shall require all customers to register with the retailer before permitting the customers to order alcoholic beverages for online curbside pickup.
 - (2) Online curbside sales for alcoholic beverages shall follow all requirements for hours of sale as permitted in this chapter of city code.
 - (3) Purchase goods must be delivered to the customer's vehicle and the vehicle must be located within a clearly designated pick-up area located within a paved parking area adjacent to the place of business. If the place of business is located in a shopping center or other single property owned or leased by more than one business, at the discretion of the Georgia Department of Revenue, the pick-up area may be located within a paved parking area that is a part of or adjacent to such shopping center or single property, as long as the pick-up area is owned or leased by the retailer or retailer's landlord and is under the supervision and control of the retailer.
 - (4) The retailer shall install and maintain one or more security camera(s) viewing the designated pick-up area location to record activities in the check out and identification check of customers.
 - (5) Alcoholic beverages sold as part of online curbside pick-up services must be pulled from the inventory located at the licensed location of the retail package dealer providing the online curbside pick-up services and may not be pulled from the inventory of another retailer or licensed location.
 - (6) A retailer may not knowingly transfer alcoholic beverages as a part of an online curbside pick-up service to an individual or business providing delivery for hire services.
 - (7) Any employee delivering alcoholic beverages to a vehicle for online curbside pick-up must confirm the identity of the individual receiving the alcoholic beverages and confirm that individual is at least 21 years of age.
 - (8) For online retail sales of alcoholic beverages for online curbside pick-up, a retailer must have and provide a copy of a company policy or established protocol detailing company requirements and procedures for the handling and delivering of purchased alcoholic goods, including identification, to a customer's vehicle at the designated pick-up area location.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2022-05, 3-21-2022)

Sec. 4-185. Alcoholic beverages in public places.

- (a) It shall be unlawful for any person to consume any alcoholic beverage while in or upon public streets, alleys, sidewalks, parking lots, or other public ways or property.
- (b) No person shall be in possession of any glass, can or open container containing alcoholic beverages on any thoroughfare, street, sidewalk, alley, parking lot or any other public way or property.

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- (c) No person, firm or corporation licensed to sell alcoholic beverages shall permit any person to remove from such premises, any alcoholic beverage in any open container.
 - (d) No person shall have in his or her possession an open container containing alcoholic beverages while within or on a motor vehicle, including motorcycles, while parked or standing on a public street or public parking lot in the city, or while such vehicle is in motion.
 - (e) This section does not apply to nor shall it affect the lawful sale of alcoholic beverages for consumption by licensees operating under a valid license issued under the terms of the city alcoholic beverage consumption ordinance.
 - (f) This section shall not apply to nor shall it affect the sale or possession of a partially consumed bottle of wine purchased with a meal from a restaurant and resealed as permitted by O.C.G.A. §§ 3-6-4 and 40-6-253(2).
 - (g) Alcoholic beverages are prohibited for sale or consumption at city parks owned or maintained by the City of Cleveland.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-186. Bring your own bottle "brown bagging" prohibited.

- (a) It shall be unlawful for any person to bring his or her own alcoholic beverage (brown bag) into any establishment which is subject to any of the occupational tax provisions of the city or elsewhere, or specifically exempted from occupational taxes as provided for in the city occupational tax ordinance, whether or not such establishment is licensed or unlicensed to serve alcoholic beverages.
- (b) It shall be unlawful for any corporation, partnership, individual or other entity who maintains a business which is subject to any of the occupational tax provisions of the city, or elsewhere, or specifically exempted from occupational taxes as provided for in the city occupational tax ordinance, to permit, allow or suffer the consumption or possession of alcoholic beverages within any such premises. This subsection shall not apply to nor shall it affect the lawful sale of alcoholic beverages for consumption by licensees operating under a valid license issued under the terms of this or other ordinances providing for consumption of alcoholic beverages on the premises.

(Ord. No. 2011-18, 11-14-2011)

Cross reference(s)—Occupation taxes, ch. 12, art. II et seq.

Sec. 4-187. Adult entertainment prohibited.

- (a) It shall be unlawful for any person maintaining, owning, or operating a commercial establishment located within the boundaries of the city, at which alcoholic beverages are offered for sale:
 - (1) To suffer or permit any person 18 years of age or older, while on the premises of said commercial establishment, to expose to the public view that area of the human female breast at or below the top of the areola thereof.
 - (2) To suffer or permit any person 18 years of age or older, while on the premises of said commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate such portions of human female breasts.
 - (3) To suffer or permit any person 18 years of age or older, while on the premises of said commercial establishment, to expose to public view his or her genitals, pubic area, anus, or anal cleft.

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- (4) To suffer or permit any person 18 years of age or older, while on the premises of said commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, anus, or anal cleft.
 - (5) To suffer or permit any person 18 years of age or older, while on the premises of said commercial establishment, to: (i) perform acts or acts which simulate sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation; (ii) touch, caress, or fondle the breasts, anus or genitals; or (iii) display pubic hair, the anus or vulva.
- (b) It shall be unlawful for any person 18 years of age or older, while on the premises of a commercial establishment located within the boundaries of the city, at which alcoholic beverages are served or offered for sale for consumption on the premises, to expose to public view that area of the human female breasts at or below the top of the areola thereof, or to employ any device or covering which is intended to give the appearance or simulate such areas of the female breasts as described herein.
 - (c) It shall be unlawful for any person 18 years of age or older, while on the premises of a commercial establishment located within the boundaries of the city, at which alcoholic beverages are served or offered for sale for consumption on the premises, to expose to public view his or her genitals, pubic area, anus, or anal cleft, or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, anus or anal cleft.
 - (d) It shall be unlawful for any person maintaining, owning or operating a commercial establishment located within the boundaries of the city at which alcoholic beverages are offered for sale for consumption on the premises, to hold, promote or allow any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above prohibited conduct.
 - (e) Businesses which are licensed for the sale of alcoholic beverages for consumption on the premises by the city are prohibited from permitting totally nude dancing as defined in the city adult entertainment ordinance.
 - (f) Nothing in this section adopted by the mayor and council of the city shall be construed to apply to the presentation, showing, or performance of any play, drama, ballet, or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher education, or other similar establishment as a form of an expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise. This chapter specifically applies to establishments licensed by the city to sell or offer for sale alcoholic beverages for consumption on the premises and is intended solely to regulate the conduct of individuals physically present in such establishments.

(Ord. No. 2011-18, 11-14-2011)

Cross reference(s)—Adult entertainment, ch. 6, art. II et seq.

Sec. 4-188. Underage persons on licensed premises.

- (a) No licensee shall employ any person under 21 years of age, in or about the premises where alcoholic beverages are sold or offered for sale, to sell, take orders for delivery, or to aid or assist in the sale or delivery, directly or indirectly, of alcoholic beverages unless the said person under 21 years of age is at least 18 years of age and shall be under direct supervision of a person who shall be both employed by said establishment and who shall be over the age of 21 years of age and shall be on site at all times during which the underage employee is working. Such employee shall be trained and supervised periodically with respect to the procedure for requesting proper age identification and declining to sell alcoholic beverages to those under 21 years of age failing to produce proper identification. The employee's supervisor shall periodically monitor and review the employee's request of proper age identification and decision to sell or not sell

alcoholic beverages to various customers. This section shall not apply to those employees who clear tableware between customers, also known as "busboys," nor shall it apply to those employees who are cooks or dishwashers.

- (b) It is unlawful for any person under the age of 18 years of age to work as an entertainer in any establishment licensed hereunder without a written notarized consent form from parents or guardian.
- (c) No licensee shall permit any person to loiter about the licensed premises and no person shall loiter about the premises licensed to sell alcoholic beverages.
- (d) The provisions of this section shall not prohibit persons under 18 years of age who are employed in grocery stores/supermarkets, convenience stores, breweries or drug stores from selling or handling alcoholic beverages which are sold for consumption off the premises; however, the licensee shall ensure that said person under 18 years of age shall be under direct supervision of a person who shall be both employed by said establishment and who shall be over the age of 21 years of age and shall be on site at all times during which the underage employee is working. Such underage employee shall be trained and supervised periodically with respect to the procedure for requesting proper age identification and declining to sell alcoholic beverages to those under 21 years of age failing to produce proper identification. The underage employee's supervisor shall periodically monitor and review the employee's request of proper age identification and decision to sell or not sell alcoholic beverages to various customers.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-189. Furnishing of alcoholic beverages to underage persons.

It shall be unlawful for any person to purchase for, attempt to purchase for, or to furnish any alcoholic beverages to any person who has not attained 21 years of age.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-190. Purchase, consumption or possession by or for underage persons.

- (a) It shall be unlawful for any person under 21 years of age to purchase, drink or possess any alcoholic beverages within the city unless otherwise authorized by law.
- (b) It shall be unlawful for any person to keep or maintain a place where any person under 21 years of age is allowed or permitted to come and purchase, drink or possess an alcoholic beverage.
- (c) It shall be unlawful for any parent or other person to buy alcoholic beverages and furnish the same to persons under 21 years of age for consumption unless the parent or guardian gives the alcoholic beverage to the underage person and when possession is in the home or the parent or guardian and such parent or guardian is present.
- (d) The prohibitions contained in paragraphs (a), (b), and (c) of this section shall not apply with respect to the sale, purchase, or possession of alcoholic beverages for consumption:
 - (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or
 - (2) At a religious ceremony.
- (e) The prohibitions contained in paragraphs (a), (b), and (d) of this Code section shall not apply with respect to the possession of alcoholic beverages for consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person and when possession is in the house of the parent or guardian and such parent or guardian is present.

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(Ord. No. 2011-18, 11-14-2011)

Sec. 4-191. Misrepresentation of age by person under 21 years of age.

It shall be unlawful for any person under 21 years of age to falsely misrepresent his or her age in any manner whatsoever for the purpose of obtaining illegally any alcoholic beverage.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-192. Sales to underage or intoxicated persons prohibited.

- (a) No licensee hereunder shall sell alcoholic beverages to:
 - (1) Any person under the age of 21 years of age; or
 - (2) Any person in an intoxicated condition.
- (b) The prohibition in subsection (a)(1) above shall not apply with respect to the sale of alcoholic beverages to a person when such person has furnished proper identification showing that the person to whom the alcoholic beverages are being sold is 21 years of age or older. For the purpose of this subsection, "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photography or both, and giving such person's date of birth, including, but not limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate, or any traffic citation and complaint form.
- (c) No licensee or employee thereof shall sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon on any day or at any time when the sale or consumption is prohibited by law.
- (d) It shall be a violation not to require and properly check identification to ensure an underage person is not sold, served, or has in his or her possession alcoholic beverages while in a licensed establishment. For the purpose of this subsection, "identification" means any document issued by a governmental agency containing a description of the person, such person's photograph or both, and giving such person's date of birth, including, but not limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate, or any traffic citation and complaint form.
- (e) The penalty for an individual found in violation of this chapter shall be as follows:
 - (1) *For the first offense in a 36-month period*, a fine of not less than \$300.00 nor more than \$500.00.
 - (2) *For the second offense within a 36-month period*, a fine of \$1,000.00. In addition, the individual's alcohol handling permit shall be revoked for a period of three months.
 - (3) *For the third offense within a 36-month period*, a fine of not less than \$1,000.00. In addition, the individual's alcohol handling permit shall be revoked permanently.
- (f) Any licensee who has an establishment where a violation of this section or O.C.G.A. § 3-3-23 has occurred by employees, managers, or owners of a license shall be punished as follows:
 - (1) *For the first violation within any 36-month period*, a fine of not less than \$500.00 and not greater than \$1,000.00. In addition, the alcohol license of the establishment shall be suspended for a period of two

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weeks and during the period of this suspension, the establishment shall be required to post a sign in a conspicuous location in such size and font that is easily observed announcing to customers that no alcohol sales are available and the period of the suspension.

- (2) *For the second violation within any 36-month period*, a fine of not less than \$500.00 and not greater than \$1,000.00. In addition, the alcohol license of the establishment shall be suspended for a period of not less than 30 nor more than 180 days and during the period of this suspension the establishment shall be required to post a sign in a conspicuous location in such size and font that is easily observed announcing to customers that no alcohol sales are available and the period of the suspension.
 - (3) *For the third violation within any 36-month period*, a fine of \$1,000.00. In addition, the establishment's alcohol license(s) shall be revoked.
 - (4) *In addition to the above penalties*, the city clerk or designee shall have the discretion to initiate revocation hearings as outlined in this chapter.
 - (5) *As to the penalties in this subsection (f)*, if there is a complete change in the licensed establishment's owners, or a changed in partners or stockholders representing 75 percent of the outstanding stock or shares of the firm owning the licensed establishment, the violations under the old ownership shall not count against the new owners.
- (g) Any licensed establishment where a violation of this section or O.C.G.A. § 3-3-23 has occurred by employees, managers, or owners shall be required to post signs, to be provided by the city clerk or designee, on the exterior doors of the establishment which contains the following language: "An employee or owner of this store has violated state law and City of Cleveland ordinances by selling alcoholic beverages to a minor" for the period of the suspension imposed in subsection (f).
 - (h) Any licensed establishment where a second violation of this section or O.C.G.A. § 3-3-23 has occurred by employees, managers, or owners within any 36-month period shall not be used as a vendor by the city for any purchases by the city until such time as there are no violations within the previous 36-month period.
 - (i) The city clerk or designee may relieve the licensee of any penalties that otherwise may be assessed under subsections (f), (g), or (h) of this section if it can be shown to the city clerk's or designee's satisfaction that such licensee freely and of its own volition reported such specific violations for which it may be charged to the chief of police or city clerk or designee prior to such violation coming to the attention of the authorities. Such a report must have been specific and not speculative or general in nature. Documented evidence of such activities shall include, but shall not be limited to, written evidence that the licensee has promptly reported such violations or attempted violations of this chapter. In addition, the licensee must have fully cooperated with authorities in correcting such violations and participating in the prosecution of any other violators.
 - (j) The chief of police, in accordance with O.C.G.A. § 3-3-2.1, shall notify the state department of revenue of any violation (violation being defined as a conviction or entry of a plea of guilty or nolo contendere) of this section or O.C.G.A. § 3-3-23 by any licensee.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-193. Gambling on premises prohibited.

There shall be no gambling, betting, games of chance, punch boards, slot machines, or the operation of any scheme for hazarding money or any other thing of value in any place of business licensed to sell alcoholic beverages for consumption on the premises or any room adjoining the same, owned, leased, or controlled by a licensee. Any violation of this section shall be cause for suspension or revocation of a license.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-194. Retailers to purchase from licensed wholesalers only.

No licensed retail consumption dealer shall buy, arrange to buy, accept deliveries or in any way affect the transfer of any alcoholic beverages, malt beverages or wine except from a wholesaler licensed by the state revenue department and the city.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-195. Storage on grounds of retail establishment prohibited.

It shall be unlawful for any person or corporation not holding an alcoholic beverage license granted by the city to store any alcoholic beverages on the grounds of any retail establishment excluding alcoholic beverages for personal consumption in accordance with all applicable provisions of law.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-196. Keeping or storing without appropriate license.

It shall be unlawful for any person operating under a license for the sale of malt beverages or wine or both to store or have therein any spirituous liquors without an appropriate license.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-197. Regulations governing retail storage.

- (a) All licensed retailers shall store all alcoholic beverages, malt beverage or wine on the premises for which the license was issued and at no other place. No licensee shall be permitted to enter any type of arrangement whereby alcoholic beverages ordered by licensee are store by licensed wholesaler.
- (b) All alcoholic beverages, malt beverage, or wine stock shall be available at all times for inspection by the chief of police of the city, or duly authorized representatives. Any alcoholic beverages, malt beverage or wine found in any retailer's stock that is sold or distributed by a wholesaler who is not licensed in accordance with the laws of the state to make sales and deliveries in the city shall be subject to immediate confiscation and disposal in accordance with applicable law.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-198. Misrepresentation of alcoholic beverages.

It shall be unlawful for licensees or their agents to add to the contents of a bottle or to refill empty bottles or in any manner misrepresent the quantity, quality, or brand names of any alcoholic beverages.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-199. Tax levied, amount, payment; duties of dealers and wholesalers.

- (a) *Scope of section.* In addition to all other taxes or license fee heretofore or hereafter imposed upon retail dealers engaged in the city in the business of selling alcoholic beverages, malt beverages and/or wine, there is imposed and levied upon all hereinafter described dealers within the city an excise tax to be computed and

collected as hereinafter set forth. The taxes imposed by this section shall not be levied with respect to the following:

- (1) Wine sold to and used by established and recognized churches and synagogues for use in sacramental service only;
 - (2) Any sale of wine which is exempt from taxation by the state or under the Constitution of the United States;
 - (3) Wine sold to persons outside the state for resale or consumption outside the state; or
 - (4) Wines or malt beverages which contain less than one-half of one (0.5) percent alcohol by volume.
- (b) *Basis for computation of tax.*
- (1) The tax levied hereunder shall be computed on the basis of \$0.22 per liter for wine sold or delivered as hereinafter set forth. The \$0.22 per liter shall be pro-rated down on fractional parts of liters, so that each bottle or each individual size container shall be taxed on the basis of \$0.22 per liter. It shall be unlawful and a violation of this chapter for any such licensee to possess, own, hold, store, display, or sell any wine on which such tax has not been paid.
 - (2) Where malt beverages, commonly known as tap or draft beer, are sold from a barrel or bulk container, the tax levied hereunder shall be computed at the rate of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons; where malt beverages are sold in bottles, cans, or other containers except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces shall be imposed.
- (c) *Computations, payment, duties of wholesale dealer and distributor.* The tax imposed shall be computed and payable monthly. Each wholesale dealer or distributor selling, shipping, or delivering wine and/or malt beverages to any retail dealer in the city shall, as a condition to the privilege of conducting said business in the city:
- (1) Keep and maintain true and correct records of all sales, shipments or deliveries of wine and malt beverages to each retail dealer in the city. Such records are to be preserved for a period of not less than one year and made available on request for the inspection of any duly authorized representative of the city.
 - (2) Collect from each retail dealer in the city at time of delivery of wine or malt beverages, the amount of tax due under the terms of this section and hold the same in trust for the city until such tax is remitted to the city as herein provided.
 - (3) On or before the tenth day of each calendar month, each wholesaler shall make a verified and comprehensive report to the city which shall correctly show and reflect all sales and deliveries of alcoholic beverages to or for retail dealers in the city for the calendar month immediately preceding the date of said report. Said report shall show the name and address of each retail dealer, the quantities delivered to each retailer dealer, the amount of excise tax collected under the terms of this section, and such other reasonable information as may be requested by the city. Said report shall be accompanied by remittance payable to the city for all taxes collected or due, as shown on said report.
- (d) *Noncompliance by wholesale dealer; distributor.* If any wholesale dealer or distributor fails or refuses to make the reports required herein, the city shall notify such dealer or distributor in writing and if the reports are not made and the taxes are not remitted within five days from the date of such notice, such wholesale dealer or distributor shall be prohibited from making any further deliveries in the city and the retail licensees served by such wholesale dealer or distributor for whom the taxes have not been paid shall be subject to having their license suspended or revoked as herein provided.

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- (e) *Unlawful retail sales.* It shall be a violation of this chapter for any person, firm or corporation to sell at retail within the city alcoholic beverages, malt beverages or wine on which the taxes herein provided for have not been paid.
 - (f) *Unlawful deliveries.* It shall be unlawful and a violation of this chapter for any wholesale dealer or distributor to deliver any alcoholic beverages, malt beverages or wine to any retail dealer in the city without at the time of such delivery collecting the excise taxes herein provided for.
 - (g) *Violations and penalties.* Any person violating any of the provisions of this chapter or who shall assist any retail dealer in alcoholic beverages or wine or malt beverages in the city to evade or avoid the payment of the taxes herein provided for shall be guilty of a violation of this section and on conviction thereof in the municipal court shall be fined or sentenced as provided by this chapter and any such person so convicted shall also be subject to having his license suspended or revoked.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-200. Excise tax on sale of distilled spirits by the drink.

- (a) In addition to all other taxes or license fees imposed upon retail dealers engaged in the sale of distilled spirits by the drink there is imposed an excise tax upon the sale of said drinks in the amount of three percent of the total cost of such drink which is charged to the public. Such taxes shall be collected by the licensee under this chapter and any such licensees shall remit the same to the clerk of the city on or before the tenth day of the succeeding month along with the appropriate returns showing a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink. Gross sales shall include, all credit card sales and those sales shall be reported and taxes collected thereon shall be submitted to the city clerk or designee to the same extent as required of cash sales.
- (b) It shall be duty of each licensee required to make a report and pay any tax levy hereunder to keep and preserve suitable records of the sales taxable under this section, and such other books or accounts as may be necessary to determine the amount of the tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years and to provide such returns and reports as may be required by the city clerk or designee. Licensees collecting the tax provided for in this section shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of deduction should be the same rate authorized for deductions from state tax under chapter 8 of title 48 as provided in O.C.G.A. § 3-4-133. The city clerk is hereby authorized to create such reports and returns as may be necessary to adequately provide for the collection of the excise tax provided in this section.
- (c) In the event the city clerk or designee deems it necessary to verify the excise tax submitted to the city pursuant to this section, for any month, he or she shall notify the licensee of such need for verification and the licensee shall submit a verified comprehensive report to the city clerk or designee, prepared by an auditor, reflecting all sales under this section by the licensee and the taxes submitted to the city. The licensee shall have 30 days to submit such a report to the city clerk or designee following such a request.
- (d) *Regional economic assistance project or REAP* shall have the same meaning as in O.C.G.A. § 50-8-190 and shall specifically include any certified project or facility locate in a REAP. The City of Cleveland shall levy and collect any local taxes on any sale of alcoholic beverages to include distilled spirits made within its jurisdiction by a licensee as are otherwise authorized by law to include regional economic assistance projects.
- (e) In addition to the penalties set forth under section 1-16 of this Code, licensees failing to remit excise taxes due and payable to the city as outlined in of this section shall be charged a ten percent penalty and interest

shall accrue at the rate of one percent per month (12 percent per annum) until all fees are collected by the city.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2014-17, 12-8-2014)

Sec. 4-201. Suspension or revocation; notice of hearing; refund.

- (a) Any license permitting the sale of alcoholic beverages which has been issued or which may hereafter be issued by the city to any licensee may be revoked or suspended by the city clerk or designee for due cause as hereinafter defined beginning 30 days after notification without a hearing unless the licensee appeals such suspension as provided for in this chapter within 15 days after such notification.
- (b) The city administrator of the city or his/her designee is hereby authorized to suspend any license issued hereunder for any emergency situation such as civil disorders or natural disasters or in any situation that the city administrator or his/her designee deems such immediate suspension necessary for the protection of the health and welfare of the citizens of the city, and such suspension may be made effective immediately and shall remain in force until the mayor and council call a meeting prior to the next regular meeting at which time such suspension may be ended by a majority vote of the council.
- (c) Where a license, identified in subsection (a), is suspended or revoked, the city shall not be required to refund any portion of the license fee to the holder of such suspended or revoked license.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-202. Suspension/revocation of license; causes.

- (a) Due cause for the suspension or revocation of the licenses identified in section 4-201 (suspension or revocation; notice of hearing; refund), shall include a violation of any laws or ordinances regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any state or federal law, or for the violation of any city ordinances other than traffic ordinances or failure of licensee or employees to report promptly to the police department any violation of the law or ordinance, breach of the peace, disturbance or altercation resulting in violence occurring inside the premises or for any other legal and sufficient cause.
- (b) The violation of any term, condition, or provision of this chapter in any particular, or as to any detail whatsoever, shall be cause for the suspension or revocation of any license as provided for in this chapter.
- (c) Whenever the state shall revoke any permit or license to manufacture or sell, at wholesale or retail, any alcoholic beverages, or suspend or revoke a state retail consumption dealer's license, said action shall automatically serve to suspend the applicable city license issued under the terms of this chapter pending a revocation as provided for in this chapter.
- (d) Any material omission from or untrue or misleading information which is contained in an original, renewal or transfer application for a license permitting the consumption of alcohol on the premises hereunder shall be cause for the denial or refusal of a license, and if any license has previously been granted under such circumstances, the same shall constitute due cause for revocation of such license. Any failure to notify of the change in any relationship as specified in section 4-29 (change in relationships and/or ownership interest) within 30 days within such change is made shall likewise constitute due cause for cancellation, revocation or suspension of a license issued hereunder. Further, failure to pay all fees, taxes or other charges imposed under the provisions of this chapter shall constitute due cause for cancellation, revocation or suspension of a license issued hereunder.

(Supp. No. 10)

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- (e) Any licensed establishment that is found to be in violation of sections 4-187 (types of entertainment, attire, and conduct prohibited), and 4-96 ("happy hour" promotions and sales) of this code shall be subject to immediate license suspension and the city clerk or designee shall take action to revoke the license as provided for in this chapter, in addition to all other penalties provided for in this chapter.
 - (f) Except as provided in section 4-192(f) (illegal sales of alcohol to minors), the city clerk or designee shall take action to revoke the license of any licensee whose license has been suspended three or more times in any consecutive 36-month period.
 - (g) The city clerk or designee shall take action to revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
 - (h) The city clerk or designee may suspend or revoke the license of any establishment which does not meet the licensing qualifications set forth in this chapter any time such knowledge becomes known to him or her as provided for in this chapter.
 - (i) In the case of an act of an employee, rather than the licensee, which presents cause for the suspension or revocation of a license, in determining whether to initiate such suspension or revocation hearings, the city clerk or designee may take into consideration any documented evidence that the licensee has on prior occasions, undertaken proactive efforts to promote compliance with the provisions of this chapter, including the provisions of this chapter prohibiting the sale or serving of alcohol to minors. Documented evidence of such activities shall include, but shall not be limited to, written evidence that the licensee has promptly reported freely and of its own volition violations or attempted violations of this chapter.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-203. Removal of signs.

When any license for the sale of alcoholic beverages is revoked, all signs indicating that such beverages may be sold or purchased shall immediately be removed from both inside and outside the place of business. Upon receipt by the chief of police of notice of revocation, the chief of police shall take the necessary steps to see that this section is enforced.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-204. Acceptance and consideration of application after rejection or revocation.

When any application, license or permit authorizing the consumption of alcohol on the premises is rejected or revoked, it shall be unlawful for the city clerk or designee to accept and/or consider any application from the same applicant for a license within two years from the time of such rejection or revocation.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-205. Hearings.

- (a) No license or permit shall be denied, suspended, or revoked without the opportunity for a hearing as hereinafter provided.
- (b) The city clerk or designee shall provide written notice to the applicant, licensee or employee of his or her order or the chief of police's decision to deny, suspend, or revoke the license or permit. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant, licensee, or employee of the right to appeal under the provisions of this chapter. Any applicant, licensee, or employee who is aggrieved or adversely affected by a final action of the city clerk or designee may have a

review thereof by appeal to the Mayor and Council of the City of Cleveland. Such appeal shall be by written petition, filed in the office of the city clerk or designee within 15 days after the final order or action of the city clerk or designee and in order to defray administrative costs must be accompanied by a filing fee of \$500.00. The Mayor and Council of the City of Cleveland may at the request of the appellant, refund the filing fee by a majority vote.

- (c) A hearing shall be conducted on each appeal with 30 days of the date of filing with the city clerk or designee, unless a continuance of such date is agreed to by the appellant and the city clerk or designee. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross examine witnesses. All testimony shall be sworn. The Mayor and Council of the City of Cleveland shall be authorized to hire independent counsel to serve as a hearing officer and/or counsel to the council with the approval of the city council.
- (d) The written findings of the Mayor and Council of the City of Cleveland shall be forwarded to the city clerk or designee by Mayor and Council of the City of Cleveland after the conclusion of the hearing and it shall be the duty of the city clerk or designee to notify the appellant of the action of the Mayor and Council of the City of Cleveland.
- (e) In hearings as set forth in this section, the city clerk or designee bears the burden of proof by a preponderance of the evidence. The findings of the city clerk or designee shall not be set aside unless the Mayor and Council of the City of Cleveland finds them to be:
 - (1) Contrary to law or ordinances;
 - (2) Unsupported by substantial evidence on the record as a whole; or
 - (3) Unreasonable.
- (f) The findings of the Mayor and Council of the City of Cleveland shall be final unless appealed within 30 days of the date of said findings by certiorari to the superior court of the county.

(Ord. No. 2011-18, 11-14-2011; Ord. No. 2018-16, 11-13-2018)

Sec. 4-206. Notice.

For the purpose of section 4-201 (suspension or revocation; notice of hearing; refund) and section 4-205 (hearings), notice shall be deemed delivered the date when personally served or by the date three days following the date of deposit in the United States mail when such deposit is by registered mail and/or certified mail.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-207. Physical requirement of applicant's premises.

No license shall be granted to a retailer under the provision of this chapter, unless the front entrance to the premises is clearly visible from a public street; provided, however, that this restriction shall not apply where the licensee has a location in a shopping center or multiple-story business building.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-208. Sanitary regulations, immoral conduct, etc.; inspection and report by fire department.

- (a) All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption. It shall be unlawful to permit any disturbance of the peace, obscenity, or public indecency on the premises.
- (b) The fire department shall, upon request of the city clerk or designee, inspect such premises and report its findings to the city clerk or designee. All premises licensed hereunder shall conform at all times with all fire regulations of the city.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-209. Interior visibility required.

No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or opening of any door of any convenience store selling retail package alcoholic beverages. No booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such retail store shall be so lighted that the interior of the store is visible day and night.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-210. Lighted electric advertising signs on wine or malt beverage establishment.

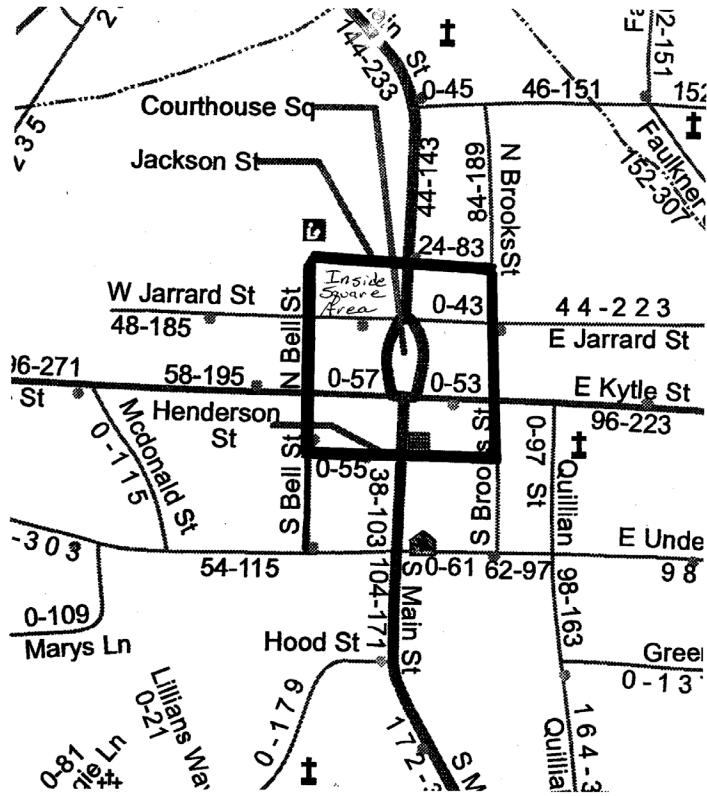
No licensee operating premises wherein package wine or malt beverages are sold shall operate lighted electrical signs or devices advertising such beverages except during the hours that such products are being offered for sale to the public.

(Ord. No. 2011-18, 11-14-2011)

Sec. 4-211. Prohibited advertising.

- (a) No advertising of alcoholic beverages shall be published or disseminated in the city which:
 - (1) Contains any statement, design, or pictorial representation which falsely implies that the product has been endorsed, made, or used by, or produced for, or under the supervision of or in association with the specification of any religious organization, the city, or any other local government entity.
 - (2) Contains any reference, directly or indirectly, which falsely implies an endorsement by, or relationship with, any school, college or university.
 - (3) Is directed to, or promotes in any way the sale of alcoholic beverages to, persons under the legal age to purchase alcoholic beverages in the state.

(Ord. No. 2011-18, 11-14-2011)



ATTACHMENT I: MAP

(Ord. No. 2011-18, 11-14-2011)