

Ordinance #2016-03
An Ordinance Amending Chapter 6 of the Statesboro Code of Ordinances
(Alcoholic Beverages)

WHEREAS, the City has previously adopted an ordinance regulating alcoholic beverages; and

WHEREAS, the Mayor and City Council has determined there is sufficient reason and need to amend Chapter 6 (Alcoholic Beverages) of the Code of Ordinances, City of Statesboro, Georgia;

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Statesboro, Georgia, in regular session assembled as follows:

SECTION 1:

Chapter 6 (Alcoholic Beverages) to the Code of Ordinances of the City of Statesboro is hereby amended in its entirety and shall read as follows:

Sec. 6-1.- Privilege, Not a Right

Sec. 6-2.- Purpose; Intent

Sec. 6-3.- Definitions.

Sec. 6-4.- License and Permits—Required; classes; fees.

Sec. 6-5.- Application procedure; contents of application; contents to be furnished under oath.

Sec. 6-6. - When issuance prohibited.

Sec. 6-7. - General regulations pertaining to all licenses.

Sec. 6-8. - Regulations pertaining to certain classes of licenses only.

Sec. 6-9.- Minors and Persons under 21 years of age

Sec. 6-10. -Employment Regulations for Licensees Selling Alcoholic Beverages for On Premises Consumption.

Sec. 6-11. - Conduct of Hearings Generally.

Sec. 6-12. – Duties of City Clerk Upon Application; Right to Deny License; Right to Appeal Denial.

Sec. 6-13 - Approval by Mayor and City Council; Public Hearing.

Sec. 6-14- Order Required; Disorderly Conduct Prohibited.

Sec. 6-15. - Dive defined; prohibited; penalty for violation.

Sec. 6-16. - Alcohol promotions; pricing of alcoholic beverages.

Sec. 6-17. - Open containers; Sales and Service in Public Areas.

Sec. 6-18. - Furnishing alcoholic beverages in violation of state law.

Sec. 6-19. - Compliance; violations; penalties.

Sec. 6-20. – Excise Tax on Distilled Spirits sold by the drink.

Sec. 6-21. – Excise Tax on the Wholesale of Malt Beverages, Wine, and Distilled Spirits.

Sec. 6-22. – Adoption of Rules and Regulations for the Administration of this Chapter

Sec. 6-1.-Privilege, Not a Right

Nothing in this Chapter shall be construed as giving a person a right to sell or otherwise deal in alcoholic beverages. Manufacture, distribution and sale of alcoholic beverages are declared to be privileges in the City of Statesboro, and not rights.

Sec. 6-2.-Purpose; Intent

This chapter is enacted for the purposes of establishing reasonable and ascertainable standards for the regulation and control of alcoholic beverages in a manner designed to promote the health, safety and general welfare of the community while giving effect to zoning and land use plans, preserving residential areas with reasonable consideration for their character and with the general intent of promoting desirable living conditions and sustaining the stability of neighborhoods and property values. Further, this chapter is designed to permit the manufacture, distribution, dispensation and/or sale of alcoholic beverages by qualified persons within the corporate limits of the City of Statesboro as permitted by Title 3 of the Official Code of Georgia Annotated, O.C.G.A. § 3-3-1, *et. seq.*, as amended, and Title 560, Subtitle 560-2 of the Administrative Code of Georgia, Ga. Comp. R. & Regs. § 560-2-1-.01, *et seq.*, as amended, provided, however, that nothing in the Chapter shall be construed to permit any activity or conduct that is inconsistent with the provisions contained herein, or any other provisions of state, federal or local law that may otherwise apply to a licensee.

Sec. 6-3. - Definitions.

These words and terms shall have the following meanings and, where applicable, be subject to the limitations set forth within such definitions, when used in this Chapter:

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

Alcoholic beverage: Includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

Alcohol Treatment Center: Any privately owned, state owned or state operated hospital, community mental health center, or other facility utilized for the diagnosis, care, treatment, or hospitalization of persons who are alcohol dependent and any other hospital or facility within the State of Georgia approved for such purpose by the department.

Bouncer: an individual primarily performing duties related to verifying age for admittance, security, maintaining order, or safety, or a combination thereof as provided for in O.C.G.A. § 3-3-24.1(a)

Brew pub: Any restaurant in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form.

Brewer: A manufacturer of malt beverages.

Broker: Means any person who purchases or obtains an alcoholic beverage from an importer, distillery, brewery, or winery and sells the alcoholic beverage to another broker, importer, or wholesaler without having custody of the alcoholic beverage or maintaining stock of the alcoholic beverage.

Brown bag establishment: Any private club, restaurant, music hall, theater, bowling alley or any other establishment providing food or entertainment in the normal course of business in which the owners or their employees or agents knowingly allow patrons to bring in and consume on the premises the patrons' own alcoholic beverages.

Brown bagging: The act of a patron or patrons entering any private club, restaurant, music hall, theater, bowling alley, or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patrons' own alcoholic beverages.

Catered Event: An event where alcoholic beverages are served by a licensed caterer for a particular function (i.e. retirement dinner, wedding reception, private party) to which the general public is not admitted where food is served, and the total cost of the food exceeds the cost of alcohol.

Church: A permanent building owned and operated exclusively by a religious organization and publicly designated a church where persons regularly assemble for religious worship which is located on a parcel of property which the Bulloch County Tax Assessor has designated exempt from state ad valorem taxation pursuant to O.C.G.A. § 48-5-4(a)(2.1)(A) and (B). The minimum distance requirements from church buildings shall not apply to space in a shopping center or residences also used for religious purposes.

Crime of moral turpitude: A crime which is contrary to justice, honesty, modesty, good morals or a person's duty to other people. Misdemeanors that are crimes of moral turpitude for the purpose of the chapter include but are not limited to theft, bad checks, shoplifting, making terroristic threats, giving false name to a police officer, false swearing, forgery, fraud or extortion.

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

Drive-through sale: The sale of alcoholic beverages by a Class B or C licensee where the customer remains in his vehicle and where the licensee consummates the sale through a drive-through window affixed to the licensed premises.

Election day: That period of time beginning with the opening of the polls and ending with the closing of the polls.

Financial interest: Includes, but is not limited to, holding any legal or equitable interest in business in indebtedness or security interest in a business.

Growler: means a properly sanitized reusable bottle made of glass that is capable of being sealed with a screw cap and with a plastic collar over the screw cap and is filled at the time of purchase by the customer, by the licensee or employee of the licensed establishment with beer from a keg for off premises consumption.

Hotel: A building or other structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests, such sleeping accommodations being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels.

Immediate family: Means any person related to the holder of an alcoholic beverage license within the first degree of consanguinity or affinity as determined according to canon law, which shall include a person's spouse, parents, stepparents, parents-in-law, brothers and sisters, stepbrothers and stepsisters, brothers-in-law and sisters-in-law, children, stepchildren, and children-in-law.

Importer: Means any person who imports an alcoholic beverage into this state from a foreign country and sells the alcoholic beverage to another importer, broker, or wholesaler and who maintains a stock of the alcoholic beverage.

In-room service: Means:

(a) The delivery of alcoholic beverages in unbroken packages by an employee of a hotel to a registered guest's room or to a registered guest at any location in the same building as the hotel when such alcoholic beverages have been ordered by the guest and when the guest shall be billed for the cost of such alcoholic beverages at the time of delivery and when the sale of such alcoholic beverages is completed at the time of delivery; and

(b) The provision of a cabinet or other facility located in a hotel's guest room which contains alcoholic beverages and which is provided upon written request of the guest and which is accessible by a lock and key only to the guest and for which the sale of the alcoholic beverages contained therein is deemed to be final at the time except for a credit which may be given to the guest for any unused portion.

Legal alien: A foreign national who possesses a valid United States government-issued I-551 card. An application for I-551 status does not meet the legal alien definition. Any other status which allows a person to enter the United States does not comply with this definition.

Legal resident: A United States citizen or a legal alien.

Licensed alcoholic beverage caterer: Any restaurant that holds a class D, E, or F alcoholic beverage license issued under this chapter and who otherwise qualifies with the provisions set

forth in O.C.G.A. Title 3, Chapter 11 regarding caterers who also obtains a Class J alcoholic beverage license.

Licensed premises: Includes all the space or area owned, leased and/or controlled by the licensee and used for the purpose of operating under the license, including but not limited to all rooms wherein alcoholic beverages are sold, furnished, served, or consumed, except when such a room is located in a hotel, motel, shopping center, or a similar facility in which case only such room and any adjoining storage, office, toilet, and other similar rooms shall constitute the licensed premises. For Class D, E, or F licenses, such premises include adjoining patios, decks, porches or sidewalk cafes. A floor plan for each licensed premise as defined herein must be submitted with each application for a license under this chapter.

Licensee: The person to whom a license under this chapter is issued.

Malt beverage: Means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

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

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

Manager: A person who has responsibility for management of the operations, including sale of alcoholic beverages, at the location to be licensed or supervision of management of the operations, including sale of alcoholic beverages, at the location to be licensed and who is a full-time employee of the corporation, partnership, proprietor, or other ownership entity.

Mixed drink: Any distilled spirit served for consumption on the premises, whether or not diluted by water or any other substance.

Package: A bottle, can, keg, barrel, or other original consumer container.

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

Private club: A corporation organized and existing under the laws of the State of Georgia, like fraternal or veterans' organizations, having bylaws and being a part of a national organization in

existence for at least one year immediately prior to the application for any license hereunder, having at least 75 members, regularly paying monthly, quarterly or semiannual dues, organized and operated exclusively for fraternal brotherhood, pleasure, recreation and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any stockholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining space and equipment, and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receive in the form of salary or other compensation, any profits from the sale of distilled spirits or any beverage licensed hereunder to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

Restaurant: Any public place kept, used, maintained, and advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment, having employed a sufficient number of cooks and kinds of employees to prepare, cook, and serve suitable food at all times the place is open for business at tables with seating, and holding a certificate of inspection and approval from the county health department. At least one meal per day shall be served at least five days a week, with the exception of holidays, vacations, and periods of remodeling, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall have 50 percent or more of its total annual gross sales of from the sale of prepared meals. The sale of ice, garnishes, soft drinks, mixers or beverages of any kind shall not constitute the sale of prepared meals.

Retail consumption dealer: Any person who sells alcoholic beverages for consumption on the premises only to consumers and not for resale.

Retailer or retail dealer: Any person who sells alcoholic beverages, either in unbroken packages or for consumption on the premises, at retail only to consumers and not for resale.

School building or educational building on a college campus: Governmental or church school buildings and such buildings at such other schools as teach the subjects commonly taught in the common schools and colleges of this state, and which are public schools or private schools as defined in subsection (b) of the official Code of Georgia annotated Section 20-2-690. Schools shall also be defined to include pre-schools and kindergartens.

Sidewalk café: an area of tables located on public, private pedestrian right of way, or the curtilage directly adjacent to a restaurant.

Violation: Each and every act committed by a licensee or any act committed by an employee, agent or representative of a licensee acting within the scope of their employment, agency or representation of the licensee that violates any provision of this Chapter.

Wholesale or wholesale dealer: Any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

Wine: Any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, and 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.

Sec. 6-4. – License and Permits—Required; classes; fees.

(a) *License and Permits required.* It shall be unlawful to sell, dispense, pour or offer to sell, dispense or pour any distilled spirits, alcoholic beverages, wine, beer or malt beverages as defined by Georgia law within the corporate limits of the City of Statesboro without first applying for and obtaining a license and/or permit therefor from the City of Statesboro.

(b) Licenses which may issue under this Chapter, including any combination of the following; provided, such combination is not otherwise prohibited by applicable law, including but not limited to Title 3 of the Official Code of Georgia Annotated, O.C.G.A. § 3-3-1, et. seq., as amended, and Title 560, Subtitle 560-2 of the Administrative Code of Georgia, Ga. Comp. R. & Regs. § 560-2-1-.01, et seq., as amended.

(c) *Classes.* The licenses shall be divided into the following classes:

- (1) Class A, reserved;
- (2) Class B, retail beer package;
- (3) Class C, retail wine package;
- (4) Class D, retail liquor by the drink;
- (5) Class E, retail beer by the drink;
- (6) Class F, retail wine by the drink;
- (7) Class G, wholesale liquor;
- (8) Class H, wholesale beer;
- (9) Class I, wholesale wine;
- (10) Class J, licensed alcoholic beverage caterer;

(11) Class K, brewer, manufacturer of malt beverages only;

(12) Class L, broker;

(13) Class M, importer;

(14) Class N, Reserved.

(15) Class O, manufacturer of wine only.

Sunday sales permits. All licensees who engage in Sunday sales as permitted under 6-7(o) shall also be required to obtain a separate Sunday sales permit as provided in the Rules and Regulations for administration of the Chapter.

Distance waiver permit for restaurants. Any licensee who operates a restaurant that does not meet all of the distance requirements in Section 6-7(e) shall also be required to obtain a distance waiver permit for the restaurant as provided for in Section 6-5(p) and in the Rules and Regulations for administration of the Chapter.

Event Permit for Caterers. Pursuant to O.C.G.A. § 3-11-3 in order to distribute or sell distilled spirits, malt beverages, or wine at a catered event, a licensed alcoholic beverage caterer shall be required to obtain a Catered Event Permit as provided in the Rules and Regulations for administration of the Chapter.

(d) *Fees.* Unless otherwise provided for in this Chapter, the fees for each type of license and permit listed in paragraph (c) hereinabove, as well as any other fee described in this Chapter, shall initially be set by resolution, and from time to time amended by Mayor and City Council by incorporating and amending the Schedule of Fines and Fees as adopted by the Mayor and City Council except that private clubs as defined in Section 6-3 shall pay 70 percent of the applicable fees.

(e) *Change of business.* If a licensed premises changes ownership or changes its location a new alcohol application must be filed, and the fee for the license shall be the same as if the application was for an original or new alcohol license. An alcohol license is non-transferrable when there is a change in ownership, or a change in location.

(f) *Payment.* The fees referred to in this section shall be payable annually on a fiscal-year basis except for the initial year when they will be prorated for the number of quarters remaining in the calendar year at the time the license was purchased. If the license is purchased and the premises fail to open within forty-five (45) days of issuance, the license shall be automatically revoked, and there shall be no refunds for any portion of the fees. All new licenses must be paid and received by the business not later than 30 days from notification of approval. If payment is not received, the license granted shall be considered void and treated as if denied.

Sec. 6-5. - Application procedure; contents of application; contents to be furnished under oath.

(a) *Generally.* The applicant for a license or permit under this chapter shall make a written application under oath on the form as proscribed by the City Clerk or his or her designated representative. A floor plan for each licensed premise as defined herein must be submitted with each application for a license under this chapter. At the time of initial application, a plat from a registered surveyor shall be attached to the application which shall certify that all state and local proximity requirements for the proposed location have been met. Except as otherwise provided by law, such application shall be a public record and open to public inspection at a reasonable time and place.

(b) *Application fee.* The applicant, upon turning in his complete application to the City Clerk, or his or her designated representative, at the same time shall tender payment of the application fee to the City of Statesboro, plus any additional related fees required by any other governmental agencies or departments. An investigative fee must be paid for each additional investigation if more than one individual background check is required for the application, or there are additional background checks performed due to a change of managers. These fees are non-refundable.

Additionally, each applicant for a new license shall submit to the City Clerk such information as may be required by the Georgia Crime Information Center and by the Federal Bureau of Investigation, including classifiable sets of fingerprints, and such fees as may be set by the Georgia Crime Information Center and by the Federal Bureau of Investigation for a records check comparison by the Georgia Crime Information Center and by the Federal Bureau of Investigation. Application for a license under this chapter shall constitute consent for performance of a records check comparison.

(c) *Private Entities—Ownership.* Private entities other than individual persons shall list the names and addresses of all individual persons who have an ownership interest in such entity and the percentage ownership of each person, unless the corporate stock or other ownership interest is listed on the stock exchange or available for over the counter sales and subject to regulation by federal and state securities laws. If a named interest owner therein is another corporation or other entity, the same information shall be given for such corporation or entity. If during the life of the license, the identity of the interest owners or their percentage of ownership should change, that information shall be sent to the City Clerk or his or her designated representative for processing. A change in ownership shall be considered a new license and require a new application. Corporations, limited liability companies or other business entities required to register with the Secretary of State must file a compliance copy from the office of the Secretary of State showing active status as an incorporated business.

(d) *Additional data.*

(1) *Corporate, partnership, sole proprietors, and limited liability company applications.* All corporate applicants shall list the names and addresses of the officers of the corporation. All sole proprietors shall apply in the name of the sole proprietor. All limited liability applicants shall provide the names and addresses of all members and managers of the limited liability company.

In addition thereto, all applicants, including sole proprietors and partnerships if the sole proprietor or at least one partner is not working full-time in a managerial capacity on the premises, shall name a manager, whose name shall appear as such on the license issued to the corporation. The corporation, partnership, sole proprietor, or limited liability company shall provide the name and address of said manager, who shall be a full-time employee of the corporation, partnership, sole proprietorship, or limited liability company and who shall be the individual who does in fact have regular, managerial and supervisory authority over the business conducted on the licensed premises. In addition, the manager shall be an agent for service for the corporation, partnership, sole proprietorship, or limited liability company in addition to all other methods allowed for serving a corporation or other entity by the laws of Georgia. Any person who has been a manager of a corporation, partnership, sole proprietorship, or limited liability company whose license has been revoked is ineligible to act as manager for any licensee thereafter. A change of managers shall not require a new license application. However, in order to change managers an application to change managers must be submitted to the City Clerk with an investigative fee so a background check can be performed on the proposed new manager to determine whether the new manager's background complies with the requirements contained in Section 6-6 of this Chapter. If the City Clerk determines that the new manager meets the requirements of Section 6-6- of this ordinance, the City Clerk shall reissue the entities current alcohol license to identify the manager proscribed in Section 6-5(d)(1) of this ordinance. If the City Clerk denies the application to reissue the license to identify a new manager, the applicant shall have the right to appeal the City Clerk's decision pursuant to the procedure outlined in Section 6-12(e) et. seq. of this Chapter.

(2) *Intention to provide adult entertainment.* Every application shall inquire if the applicant intends to provide live nude performances on the licensed premises or other forms of adult entertainment regulated under Article VII of Chapter 18 of the Code of the City of Statesboro. It is mandatory for this question to be answered by the applicant.

(3) *Individual's requirements applicable to clubs.* In the case of a private club, fraternal or veterans order, its chief officer and general manager shall meet the same requirements that any individual applicant must meet and maintain.

(e) *Investigation.* The City Clerk or his or her designated representative shall investigate the application. Each applicant authorizes the City of Statesboro and its agents to secure from any court, law enforcement agency, or other public agency his or her criminal history and the criminal history of all individuals required to be listed on the application, including but not limited to sole proprietor, partners, members, corporate officers, stockholders, and managers, and authorizes the City of Statesboro to use such information in determining whether the license applied for shall be issued. Each applicant waives any right that he would otherwise have to preclude the City of Statesboro or its agents from obtaining and using such information and each applicant further waives any liability of the City of Statesboro or its agents for obtaining and using such information, and agrees to indemnify and hold the City of Statesboro harmless against the claims of any person listed by the applicant on the application and by doing so has authorized the City of Statesboro to investigate. The City Clerk or his or her designee shall make an arrest and conviction investigation concerning any applicants hereunder and all individuals required to

be listed on the application, including but not limited to sole proprietor, partners, LLC members, corporate officers, corporate stockholders, and managers.

(f) *Fire and Safety Inspection.* All businesses where alcohol is consumed on the premises shall satisfy all requirements of a fire and life safety inspection performed by the local fire official and city building official or his or her designee. The local fire official may cause to be inspected any building or portion of any building licensed under this ordinance.

(g) *Offenses.* Any person making a false or misleading statement in any application for a license or false statement in connection with renewal thereof, shall be subject to punishment as provided by state law relating to false swearing, and further, a license, if previously granted or renewed, may be revoked for the violation.

(h) *Duration; renewal.* All licenses are issued only on a fiscal-year basis and shall be eligible for renewal each year following issuance if and only if the licensed premises has passed a fire safety inspection within the 12 month period prior renewal of the license. Each licensee shall make a written application for renewal on or before May first of each calendar year which shall swear to the truthfulness of such information that is the same as the prior application and shall set forth facts which are different from the prior year's application. The renewal application form shall be approved by the City Clerk or his or her designated representative, and sworn to under oath by the applicant.

(i) *Penalty for filing renewal application and license fee payment after May first.* There shall be a penalty fee charged for filing alcoholic beverage renewal applications after May first and paying renewal license fee payments after May first. This penalty fee shall initially be set by resolution and shall be incorporated in the Schedule of Fees and Fines for the City as from time to time amended by the Mayor and City Council.

If an alcoholic beverage license renewal application and license fee have not been filed with and paid to the City Clerk by the last business day in June of each year, the license shall be declared to be abandoned and any relicensing shall require a new application.

(j) *Taxes, Fees, and Fines.* All taxes, fees and fines due to the City of Statesboro, including without limitation all ad valorem taxes due to the City of Statesboro as well as any fine imposed by the Municipal Court, by any individual, entity seeking an alcoholic beverage license, or an individual having an ownership interest in an entity seeking an alcohol license must be paid prior to an alcoholic beverage license being issued to or renewed by said individual or entity.

(k) *State license; forfeiture for failure to comply; revocation of state license.* A state alcoholic beverage license must be obtained by the applicant in order for the license issued by the City of Statesboro to be valid. Failure of the licensee to obtain a state license before beginning operation of the premises shall be an automatic forfeiture and cancellation of the license issued by the City of Statesboro, and no refund of license fees shall be made to the licensee. If a state alcoholic beverage license is revoked by the state, then the license issued by the City of Statesboro shall automatically be revoked and void effective as of the date of such revocation.

(l) *Licenses or permits constitute grant of privilege.* All alcoholic beverage licenses or permits issued hereunder constitute a mere grant of privilege to carry out such business during the term of the license subject to all terms and conditions imposed by this chapter including the rules and regulations for the administration of this chapter as well as related State and Federal laws and other ordinances of the City of Statesboro relating to such business, as amended from time to time by the Mayor and City Council.

(m) *Applications for Sunday sales permit.* The licensee of a business engaged in the retail package sales of beer and/or wine, any restaurant as defined in this chapter, or any licensed establishment which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging, desiring the privilege to sell, furnish or otherwise dispense distilled spirits, malt beverages, or wine on Sunday in accordance with paragraph 6-7(o) shall, before dispensing such beverages on Sunday, obtain a Sunday Sales Permit as provided for in the rules and regulations of the administration of this Chapter.

(n) *Reserved.*

(o) *Application for Distance Waiver Permit for Restaurant.* The Mayor and City Council, following application for a distance waiver permit for a restaurant, notice and hearing, may in its discretion grant a distance waiver permit for restaurant authorizing the issuance of a Class D, E or F license to a licensee of a restaurant notwithstanding the distance requirements in Section 6-7(e) from school buildings, alcohol treatment centers, educational buildings on college campus, churches and/or property lines of a private dwelling located in single-family residential zoning district for locations that sell alcohol for consumption on the premises only. The application for a distance waiver permit shall be obtained as provided in the rules and regulations of the administration of this Chapter.

(p) *Application for Event Permit for Caterers.* Prior to the sale of alcoholic beverages at a catered event a Catered Event Permit shall be obtained as provided for in the rules and regulations of the administration of this Chapter.

(q) *Application for Hotel in-room service, beer, and wine Permit.* Prior to the in-room sale of alcoholic beverages an in-room service, beer and wine permit shall be obtained as provided for in the rules and regulations of the administration of this Chapter. This permit shall be used in conjunction with a Class B and/or Class C license to allow for in-room package sales as defined in this Chapter.

Sec. 6-6. - When issuance prohibited.

Issuance of licenses and permits required under this Chapter is limited as set forth below.

(a) *Restrictions.* No license defined herein shall be issued to a person:

(1) who is not a citizen or legal resident of the United States;

(2) who is not at least 21 years of age prior to the date of application;

(3) who owes any debt or obligation to the City of Statesboro, including but not limited to excise taxes, occupational taxes, property taxes, or utility fees; or other fines.

(4) who indicates on the license application an intention to provide live nude performances on the premises or any other form of adult entertainment on the premises that requires an adult entertainment license pursuant to Article VII of Chapter 18 of the Code of Ordinances.

(b) *Convictions; Pending violations.* The term "conviction" as used in this paragraph shall include a finding or verdict of guilt, plea of guilty, or a plea of nolo contendere including also anyone currently on probation or otherwise currently under a court's supervision to avoid a judgment of guilt being entered under what is commonly referred to as "first offender sentence" or "pre-trial diversion program." No license for the sale of alcoholic beverages shall be issued to any person or applicant where the applicant or any individual person having an ownership interest in the business:

(1) has been convicted within fifteen years immediately prior to the filing of the alcoholic beverage application with the City Clerk of any felony or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal;

(2) has been convicted within five years immediately prior to the filing of the alcoholic beverage application with the City Clerk of the violation (i) of any state or federal law pertaining to the manufacture, possession, transportation or sale of malt beverages, wine or intoxicating liquors, or the taxability thereof except a first conviction of selling alcohol to underage persons; (ii) of a crime involving moral turpitude; or (iii) of a crime involving soliciting for prostitution, pandering, gambling, letting premises for prostitution, keeping a disorderly place, the traffic offense of hit and run or leaving the scene of an accident, or any misdemeanor serious traffic offense as defined in O.C.G.A. § 40-6-390 et seq., but excluding any first conviction for reckless driving or driving under the influence of alcohol or drugs in the past 10 years as measured from the date of arrest, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal;

(3) has been convicted of two violations of the ordinances of the City of Statesboro governing alcoholic beverages licensed hereunder within the last five years immediately prior to the filing of the licensee's application with the City Clerk, except as specifically provided in paragraph (c) below, concerning revocation of alcohol license, or paragraph (d) below, concerning selling alcohol to underage persons. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal.

(c) For 24 consecutive months immediately following the date of a license revocation, no person or any individual person having an ownership interest in the business whose license was revoked shall be eligible for renewal of or issuance of a license at the same location for which the previously revoked license was issued. Furthermore, during said 24-month period, no person or any individual person having an ownership interest in the business whose license was revoked shall be eligible to apply for any additional licenses.

(d) Except as provided in paragraph (e) below, for 24 consecutive months immediately following the date of a citation for any violation for selling alcohol to underage persons within a licensed premise, no application for change in ownership of the license at the same location where the violation occurred shall be allowed unless there is a 100 percent change in ownership and control between the old licensee and the new applicant. For purposes of this subparagraph, 100 percent change in ownership and control shall mean a 100 percent change in all individuals, partners, officers, directors, shareholders, members, managers and/or all persons having any whole, partial, beneficial or other interest in the business where the alcoholic beverage license is located. 100 percent change in ownership and control shall not include a transfer in ownership and control to any person in the immediate family of any individuals, partners, officers, directors, shareholders, members, managers and/or any persons having any interest in the business where the alcoholic beverage license is located. The application for the alcoholic beverage license must be applied for and approved prior to the sale of the business. An alcoholic beverage license may not be issued until the new owner has established that the sale of the business is bona fide. The applicant for the new license must provide documentation concerning the sale, including but not limited to documentation concerning ownership of and all business interests in the old license in addition to documentation concerning the ownership of and all business interests in the new license, as requested by the City Clerk.

(e) For 24 consecutive months immediately following the date of a citation for any violation for selling alcohol to underage persons within a licensed premise, an application for less than 100 percent change in ownership and control between the old licensee and the new application shall be allowed only if the following requirements are met:

(1) The applicant for less than 100 percent change in ownership of the license at the same location where the violation occurred must agree as part of the application that any past violations for selling alcohol to underage persons within the licensed premise shall become part of the record of violations for the new business as if the new owners had been cited and found in violation. Such record of violations shall be taken into consideration in any future hearings against the new licensee.

(2) Such applications for less than 100 percent change in ownership shall be made prior to the sale of the business but after any pending citations for violations for selling alcohol to underage persons within the licensed premise are adjudicated.

(f) No person shall hold a license in any retail category hereunder and a license under any wholesale category at the same time.

(g) For twelve (12) consecutive months immediately following the revocation an alcoholic beverage license for a licensed premises, no alcoholic beverage license shall issue for the location of that licensed premises.

Sec. 6-7. - General regulations pertaining to all licenses.

(a) *License not transferable to another location.* Each license is issued for a specific location only and may not be transferred to another location. A new application is required for each licensed premise. No license may be issued to different licensees for the same location.

(b) *Transfer of license to another person.* No alcoholic beverage license shall be transferred from one person to another during the year in which the license or permit was obtained, except in the case of the death of a person holding a license, in which event his personal representative may continue to operate under the license for six months from the date of his qualification.

(c) *Location.* None of the above licenses shall be issued except in the following zones as defined in Appendix A (Zoning) of the Code of the City of Statesboro:

- (1) CBD, Commercial Business District;
- (2) CR, Commercial Retail District;
- (3) HOC; Highway Oriented Commercial District
- (4) LI; Light Industrial District

(d) *Proximity Requirements; Package sales for off-premises consumption governed by O.C.G.A. § 3-3-21.*

(1) Class B and C licenses shall be issued for a location only if the location complies with the proximity requirements provided by O.C.G.A. § 3-3-21 as measured by the Rules and Regulations promulgated by the Georgia Department of Revenue.

(2) Nothing in this subparagraph shall prohibit a grocery store licensed for the retail sale of only wine and malt beverages for consumption off the premises from selling wine or malt beverages within 100 yards of any college campus. As used in this subparagraph, the term "grocery store" shall, as provided in O.C.G.A. § 3-3-21(a)(1)(B), mean a retail establishment which has a total retail floor space of at least 10,000 square feet of which at least 85 percent is reserved for the sale of food and other nonalcoholic items, and conducts all of its sales inside the building containing its retail floor space and meets all other criteria by this ordinance.

(3) As further provided in O.C.G.A. § 3-3-21(a)(1)(B) the above proximity requirements shall not apply at any location for which a license has been issued prior to July 1, 1981, nor to the renewal of such license. Nor shall the above proximity requirements apply at any location for which a new license is applied for if the sale of wine and beer was lawful

at such location at any time during the twelve (12) months immediately preceding such application.

(e) Proximity Requirements; Sales for Consumption on the Premises; local regulation permitted per O.C.G.A. § 3-3-21(b)(3).

(1) Class D, Class E and Class F alcoholic beverage licenses shall not be issued for a location in which the nearest point on a wall of the building proposed as the licensed premises is closer than 100 yards in a straight line measurement to the nearest wall of a school building, an educational building on a college campus, or a church in existence at the time of the application for the initial license.

(2) No licenses shall be issued under this chapter for any location in which the nearest point on a wall of the building proposed as the licensed premises is closer than 100 yards in a straight line measurement to the nearest point of the property line of an alcohol treatment center which is in existence at the time of the application for the initial license.

(3) No licenses shall be issued under this chapter for any location in which the nearest point on a wall of the building proposed as the licensed premises is closer than 100 yards in a straight line measurement to the nearest point of the property line of a private dwelling located within a single-family residentially zoned district which is in existence at the time of the application for the initial license.

(4) The proximity requirements for Class D, Class E and Class F licenses shall be in effect for all districts in which such licenses are authorized, with the exception of any restaurant as defined in this chapter that is granted a distance waiver permit for a restaurant by the Mayor and City Council pursuant to subsection 6-5(o).

(f) At the time of initial application, a plat from a registered surveyor shall be attached to the application which shall certify that all state and local proximity requirements for the proposed location have been met.

(g) All licenses which are in existence and valid as of July 1, 2016 may continue to be renewed hereunder even though they may be in violation of this subsection regarding proximity requirements unless such renewal is in derogation of state or federal law, in particular, O.C.G.A. § 3-3-21; furthermore, that location may continue to be licensed hereunder so long as the premises are continuously used for the sale of alcoholic beverages hereunder, even though not under the same owner. At such time as the license for this premises is revoked, not renewed or is allowed to lapse, or a new license is not applied for the location within 365 days of the expiration or termination of the previous license, this subsection and the prohibitions herein shall apply to any new application for that location.

(h) After issuance of a license, no change in the location of the building or walls can be made that affects distance requirements so that the distance requirement would not be satisfied as a result of the change. The distance requirements must be met at all times during the term of the license.

(i) *Interests of public employees and officials; prohibited.* No license shall be granted to any city, state or federal employee or official whose duties include the regulation or policing of alcoholic beverages or licenses or any tax-collecting activity.

(j) *Inspection of books, accounts, ownership interests.* Upon demand by the City Clerk, or his or her designated representative, any person holding a license from the City of Statesboro, Georgia, shall open to the City Clerk, or his her designated representative, his place or places of business for the purpose of enabling the City Clerk or his representative to ascertain and gain such information as may be necessary for determination of compliance with applicable law, including but not limited to, this ordinance, Title 3 of the Official Code of Georgia Annotated, O.C.G.A. § 3-3-1, et. seq., as amended, and Title 560, Subtitle 560-2 of the Administrative Code of Georgia, Ga. Comp. R. & Regs. § 560-2-1-.01, et seq., as amended. Upon demand by the City Clerk, or his or her designated representative, any person holding a license from the City of Statesboro shall furnish the City Clerk or his or her representative under an affidavit swearing that all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sale receipts, inventory and other information, ascertained including exhibition of bank deposit books, bank statements, and copies of sales tax reports, operating agreements, shareholder agreements and any other such documents the City of Statesboro may deem necessary to determine compliance with this Chapter are a true and complete copies of the requested documents. Said documents shall be furnished within TEN (10) days of such request by the City Clerk or his or her representative. Any person holding a license from the City of Statesboro shall secure, preserve, maintain and keep for a period of three years books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sale receipts, inventory and other information, ascertained including exhibition of bank deposit books, bank statements, and copies of sales tax reports.

(k) *Verification of Gross Sales Income, ownership interests, and other relevant financial data.*

Upon request of the City Clerk a licensee shall furnish within THIRTY (30) days of the request certified financial statements and an affidavit from a Certified Public Accountant showing the ownership interests in the licensed premises, total gross sales of the licensed establishment, the gross sales of the licensed establishment derived from the sale of alcohol, the gross sales of the licensed establishment derived from the sale of prepared meals, the gross revenue derived from any other source in the operation of the licensed establishment for any period of time in the last three (3) years.

(k) *Failure to open.* All holders of licenses issued hereunder must within forty-five (45) days after the issuance of such license open for business the establishment referred to in the license. Failure to open the licensed establishment as referred to within such period shall serve as a forfeiture and cancellation of the unused license and no refund of the license fee shall be made to the license holder.

(l) *Adding to, refilling bottles, misrepresentations as to quantity, etc.* It shall be unlawful for a licensee hereunder, his employees, subcontractors or his agents, to add to the contents of a bottle or to refill an empty bottle or in any manner to misrepresent the quantity, quality or brand name

of any beverage licensed hereunder. The prohibition against refilling empty bottles shall not apply to the lawful sale of growlers as provided for in this Chapter.

(m) *Hours of operation.* The following hours of operation shall apply to the sale of alcoholic beverages licensed hereunder:

(1) All licensed premises for the sale of retail beer and/or wine by the drink or retail liquor by the drink (Class D, E and F licenses) shall only engage in the sale and service of alcoholic beverages upon the licensed premises, at a permitted outdoor event, or a permitted catered event between the hours of 7:00 am and 1:00 am the following day Monday through Saturday. Sale and service of alcoholic beverages pursuant to this subsection that begins on Saturday may continue until 1:00 a.m. Sunday morning without a Sunday Sales Permit.

(2) Only licensed premises for the sale of retail beer and/or wine by the drink or retail liquor by the drink (Class D, E and F licenses) which maintains a valid Sunday Sales Permit may begin the sale and service of alcoholic beverages on Sunday. All licensed premises for the sale of retail beer and/or wine by the drink or retail liquor by the drink (Class D, E and F licenses) which begins the sale and service of alcoholic beverages on Sundays shall only engage in the sale and service of alcoholic beverages upon the licensed premises, at a permitted outdoor event, or a permitted catered event between the hours of 12:30 p.m. and midnight on Sunday.

(3) All licensed premises for the package sales of beer and wine for off-premises consumption (Class B and C licenses) shall only engage in the sale of alcoholic beverages between the hours of 6:00 a.m. and midnight current time, Monday through Saturday.

(4) Only licensed premises for the package sales of beer and wine for off-premises consumption (Class B and C licenses) which maintain a valid Sunday Sales permit may sell alcoholic beverages on Sunday from 12:30 p.m. through 11:30 p.m.

(n) *Time limit for clearing patrons from premises.* All licensed premises for the sale of retail beer and/or wine by the drink (Class E and F) or retail liquor by the drink (Class D), shall be closed to the public, and the premises shall be cleared of all persons except employees of the licensed premises engaged in their employment duties within 45 minutes after the time set by subsection (m) of this section for discontinuance of the sale of alcoholic beverages on the premises. Thereafter all licensees shall remove or cause to be removed all alcoholic beverages from the area of the premises utilized by customers, patrons, and invitees; all alcoholic beverages shall be stored in original containers or storage containers on a shelf or cabinet; no alcoholic beverages shall be furnished to, consumed by, or possessed by any person within the premises 45 minutes after the time set by subsection (m) of this section for discontinuance of the sale of alcoholic beverages on the premises; and the premises shall remain closed for business until at least 7:00 a.m.

(o) *Sales prohibited, limited on certain days.* All alcoholic beverages licensed hereunder shall not be sold Sundays unless the licensee holds a valid Sunday Sales Permit. The sale of alcoholic beverages on any election day shall be permitted in accordance with O.C.G.A. § 3-3-20.

(p) *Sales, etc., to persons under legal age.* It shall be unlawful to provide alcoholic beverages to any persons under the age permitted by O.C.G.A. § 3-3-23.

(q) *Display of license.* Every licensee, its agents or employees, shall post the most current alcoholic beverage license issued for the licensed premises in public view at eye level (an approximate height of five feet from the floor) within 15 feet of the entrance to the licensed premises.

(r) *Bringing beverages purchased elsewhere onto premises.* No licensee for the sale of malt beverages, wine or distilled spirits shall authorize or permit any patron or customer to bring onto the premises malt beverages, wine or distilled spirits purchased elsewhere. Further, no licensee for the sale of malt beverages, wine or distilled spirits shall bring onto the premises any malt beverages, wine or distilled spirits purchased from a retailer for the purpose of resale.

(s) Brown bagging and brown bag establishments are defined in Section 6-1 are prohibited within the City of Statesboro.

(t) It shall be unlawful to permit on the premises so licensed any contest or form of entertainment which consists of the wetting or soaking of the upper torso of a female or the pelvic areas of a male or female.

(u) *Sales areas, activities, drive through sales.*

(1) It shall be unlawful for any licensee to make delivery of any alcoholic beverages licensed to be sold except within the premises or area licensed for sale thereof. Drive-through sales are prohibited. This prohibition shall not apply to the sale of alcoholic beverages to patrons of a sidewalk cafés located in Downtown Development Authority District, if such establishment is otherwise licensed to sell alcoholic beverages under the applicable laws and ordinances in the City of Statesboro.

(2) Except for hotels holding a Class B or Class C license holding an In Room Service Permit, no Class B or Class C licensee shall permit the consumption of alcohol sold by the package on the premises, or curtilage of the premises where the licensed establishment is located. Except for guests of a hotel holding a Class B or Class C license holding an In Room Service Permit; it shall be unlawful for individuals to consume the contents of such packages in or on the premises, or curtilage of the licensed establishment holding a Class B or C license.

(v) *Possession of unlicensed beverages.* All licensees hereunder are forbidden to possess, keep, maintain or otherwise store or keep on the licensed premises any alcoholic beverages for which the licensee does not hold a license.

(w) *Employee consumption during work hours.* It shall be unlawful for any employee, agent, or representative of any licensee to consume alcoholic beverages on the licensed premises of the licensee during such time that the employee, agent, or representative is acting within the scope of their employment, agency, or representation of the licensee.

(x) *Suspension of sales during civil emergency.* The Mayor or City Manager may, upon determining that there is an immediate danger of civil disorder or natural disaster or any other immediate threat to the public peace and order, by executive order, suspend the sales of all beverages licensed under this chapter until such danger or threat has passed and for a reasonable period of time thereafter.

Sec. 6-8. - Regulations pertaining to certain classes of licenses only.

(a) *Retail beer and wine by the package.*

(1) Retail beer and wine by the package (Class B and C) shall be permitted in food stores, grocery stores, supermarkets, convenience food stores and discount/general merchandise stores as an item incidental to the sale of foodstuffs, groceries, or other mercantile items.

(2) Except as specifically provided for in paragraph (b) below concerning growlers, the original retail containers of any alcoholic beverage sold by a retail beer and wine by the package licensee hereunder shall not open on the lot or premises of the location licensed for the sale thereof.

(3) *Visibility of premises from public street.* No licensee for the sale of alcoholic beverages by the package shall operate under the license, unless the front entrance to the licensed premises is clearly visible from the public street; provided, however, that this restriction shall not apply where the licensee is a motel, hotel, private club or is located in a shopping center or multiple-story business building.

(b) *Growlers.* The sale of growlers is authorized for Class B licensees. The sale of growlers shall comply with the rules and regulations for the administration of this chapter.

(c) *Brew Pubs.* Any restaurant holding a Class E license shall be allowed to operate as a brew pub upon obtaining a brew pub license from the State of Georgia.

(d) By the drink sales for consumption on the premises.

(1) *Removal of Beverages Prohibited.* All alcoholic beverages sold by consumption-on-the-premises licensees shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption-on-the-premises to any public streets, public or semi-public parking lot, sidewalks or rights-of-way within the city. This prohibition shall not apply to the sale of alcoholic beverages to patrons of a sidewalk cafe, if such establishment is otherwise licensed to sell alcoholic beverages under the applicable laws and ordinances in the City of Statesboro.

(2) *Special event permit for bona-fide non-profit, tax-exempt civic organization.* Upon the filing of an application as required by the City Clerk and payment of a fee of established by the Mayor and City Council by a bona-fide non-profit, tax-exempt civic organization, the City Clerk may issue a special permit authorizing the organization pursuant to Paragraph (e) below to sell

alcoholic beverages for consumption only on the premises for a period not to exceed one day, subject to provisions of this chapter regulating the time for selling such beverages.

- a. No more than six (6) permits may be issued to an organization in any one calendar year pursuant to this paragraph.
- b. Permits issued pursuant to this paragraph shall be valid only for the place specified in the permit. No permit may be issued unless the sale of distilled spirits, wine, or malt beverages is lawful in the place for which the permit is issued. The zoning restrictions and distance restrictions contained in Section 6-5(c) shall not apply.
- c. Proof of such non-profit, tax-exempt status, such as a determination from the Internal Revenue Service that the organization is exempt under Section 501-C of the Internal Revenue Code must be provided.

(e) *Requirements for caterers.*

(1) It shall be unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function or to any location not licensed hereunder without first having obtained a caterer's license and Catered Event Permit as provided herein.

(2) A licensed alcoholic beverage caterer may sell only that type of alcoholic beverage which is authorized by his alcoholic beverage license.

(3) *Sunday sales.* An alcoholic beverage caterer wishing to cater an event or function on Sunday must possess a valid Sunday sales license and comply with the requirements of this ordinance and state law with respect to the service of alcoholic beverages on Sunday.

(f) *Rental of licensed premises for private functions.* Class D, E, and F licensees are permitted to rent the licensed premises for private functions which have been scheduled in advance; provided that the licensee, its agents, managers, and employees, shall retain complete control over the licensed premises and over selling, serving, or furnishing alcoholic beverages during the private function to the same extent required as if the function were open to the public. Nothing in this paragraph shall be deemed to waive any provisions of this chapter or state law governing the sale of alcoholic beverages on the licensed premises. The licensed premises shall remain open to all agents of the state and the City of Statesboro for law enforcement and inspection purposes during such private functions. No doors to the licensed premises shall be locked preventing egress or ingress during such functions. Nothing in this paragraph shall be deemed to waive the prohibition governing selling, furnishing, or delivering alcoholic beverages to underage persons by any other person within the licensed premises.

Sec. 6-9.-Minors and Persons under 21 years of age

(a) In additions to the prohibitions set forth at O.C.G.A. §§ 3-3-23, 3-3-23.1, 3-3-24, and 3-3-24.1 as amended, which are hereby incorporated by reference herein, a licensee shall not allow a patron under the age of 18 years old to enter or remain upon the premises of an establishment licensed to sell alcoholic beverages for consumption on the premises beyond 11:00 p.m. unless accompanied by a parent or legal guardian, and either the licensed establishment is a restaurant where at least 50% of the establishment's annual gross revenue is derived from the service of prepared meals and such establishment offers its full, unlimited menu until and after 11:00 p.m., or the licensed establishment derives no more than 10% of its annual gross revenue from the sale of alcoholic beverages.

(b) In additions to the prohibitions set forth at O.C.G.A. §§ 3-3-23, 3-3-23.1, 3-3-24, and 3-3-24.1 as amended, which are hereby incorporated by reference herein, a licensee shall not allow a patron under the age of 21 years old to enter or remain upon the premises or part of a premises of an establishment licensed to sell alcoholic beverages for consumption on the premises where by name, common usage, knowledge and/or understanding the establishment or part of the establishment constitutes or operates as a bar, night club, lounge or similar business. Indicia of such use include, but are not limited to, some or all of the following:

- (1) A limited menu or no food service, particularly after 12:00 a.m.;
- (2) More than 50% of the premises is standing room only;
- (3) The establishment derives more than 40% of its annual gross revenue from the sale of alcoholic beverages;
- (4) Where a cover charge is imposed and collected by the licensee as a condition of gaining entry to the establishment and such a fee does not entitle the patron to a seat, whether by general admission or a particular designation;
- (5) The establishment utilizes the services of security forces and/or door personnel;
- (6) The establishment is open after midnight;
- (7) The establishment provides a full service bar which is the primary location from which patrons directly obtain alcoholic beverages.

(c) The entry and remaining on premises prohibitions contained in Section 6-9(b) shall apply to patrons of the licensed establishment, and not to employees of the establishment who are over the age of 18 years old, and employed by the licensed establishment to dispense, serve, sell or take orders of alcoholic beverages as allowed by O.C.G.A. § 3-3-24(a).

(d) The Chief of Police, or his designee, shall upon review of the license application, the renewal application, and/or review of the operation of the licensed establishment determine whether the licensed establishment is governed by subsection (a) or (b) of Section 6-9. The

Chief of Police, or his designee, shall have the authority to proscribe that a licensed establishment be governed by Section 6-9(a) on certain days and at certain times, and by Section 6-9(b) on certain days and at certain times. The Chief of Police, or his designee, shall have the authority to proscribe that certain rooms or sections of the licensed establishment shall be governed by Section 6-9(a) on certain days and at certain times, and by Section 6-9(b) on certain days and at certain times. The Chief of Police shall furnish the licensee in writing the reasons for the designation, and inform the licensee of the right of appeal provided for below.

(e) The licensee shall have five (5) days from receipt of the written finding of the Police Chief to file a notice of appeal with the City Clerk. Failure to file a timely notice of appeal shall render the decision of the Chief of Police final. Upon filing of a notice of appeal the City Clerk shall schedule a hearing before the City Manager no later than ten (10) days from the filing of the Notice of Appeal. The City Manager may reverse the Police Chief's decision only upon showing by clear and convincing evidence that the Police Chief's decision was clearly erroneous. The City Manager shall furnish the licensee and the Police Chief in writing the reason for the decision. The licensee and the Police Chief shall have five (5) days from the receipt of the written decision of the City Manager to file a notice of appeal with the City Clerk. Failure to file a timely notice of appeal shall render the decision of the City Manager final. Upon filing of a timely notice of appeal the City Clerk shall schedule a hearing before the Mayor and City Council of Statesboro as soon as reasonably possible, but not later than THIRTY (30) days from the date of the filing of the notice of appeal. The Mayor and City Council may reverse the City Manager's decision only upon showing by clear and convincing evidence that the decision of the City Manager was clearly erroneous. The decision of the Mayor and City Council shall be the final decision of the City of Statesboro. Appeal of the Mayor and City Council's final decision shall be by Petition for Certiorari to the Superior Court of Bulloch County.

(f) *Posting of Notice Regarding Age Restrictions:* All establishments licensed to sell alcoholic beverages for consumption on the premises shall, when governed by subsection (b) of Section 6-9, conspicuously post outside of every public entry point to the establishment, or, if applicable, every public entry point into the room or section to the establishment governed by subsection (b) of Section 6-9, a notice which states that no patron under the age of 21 years of age may either enter or remain upon the premises governed by subsection (b) of Section 6-9, or, if applicable, enter or remain in the room or section of a premises governed by subsection (b) of Section 6-9.

(g) It shall be unlawful for any patron under the age of 21 years of age to either enter or remain upon the premises governed by subsection (b) of Section 6-9, or enter or remain in a room or section of a premises governed by subsection (b) of Section 6-9.

Sec. 6-10. - Employment Regulations for Licensees Selling Alcoholic Beverages for On Premises Consumption.

(a) Every licensee that distributes or sells alcoholic beverages for on-premises consumption shall require all persons employed as managers, servers, bartenders, or bouncers, or any other employee, agent or subcontractor with the responsibility for handling, serving, mixing, dispensing alcoholic beverages, verifying the age of patrons, or providing security within or on the curtilage the licensed establishment to complete a Training for Intervention Procedures

alcohol course, or other similar training approved by Mayor and City Council within thirty (30) days of employment, and maintain a valid certification of completion for Training for Intervention Procedures alcohol course, or other similar training approved by Mayor and City Council throughout the term of employment for the licensee.

(b) Every licensee that distributes or sells alcoholic beverages for on-premises consumption shall maintain on the premises evidence of valid certification of completion for Training for Intervention Procedures alcohol course, or other similar training approved by Mayor and City Council for each employee encompassed by this section. To each certification shall be attached a copy of a government-issued photo identification for the subject employee. The certification/photo identification packages shall be readily available for inspection upon the request of any Statesboro Police Department officer, City Code Enforcement officer, or the City Manager or his designee.

(c) It shall be unlawful for any person within the City of Statesboro to work as bouncer, either as an employee, agent, or subcontractor, in an establishment that is licensed to sell alcoholic beverages for on-premises consumption without obtaining and maintaining a valid and appropriate Alcoholic Beverage Security Permit issued by the City of Statesboro pursuant to the Rules and Regulations that govern the administration of this Chapter.

(d) Any person within the City of Statesboro who works as a bouncer, either as an employee, agent, or subcontractor whose responsibilities in an establishment that is licensed to sell alcoholic beverages for on-premises consumption shall have their Alcoholic Beverage Security Permit on their person at all times while acting as an employee, agent or subcontractor of the licensee. An Alcoholic Beverage Security Permit shall be readily available for inspection upon the request of any Statesboro Police Department officer, City Code Enforcement officer, or the City Manager or his designee.

(e) Alcoholic Beverage Security permits shall be subject to suspension, revocation, or non-renewal pursuant to the Rules and Regulations that govern the administration of the Chapter.

Sec. 6-11. - Conduct of Hearings Generally.

(a) In conducting any hearing provided for in this Chapter, or in the Rules and Regulations that govern this Chapter, the Mayor and City Council, or the city official responsible for conducting the hearing, shall have the authority to hear evidence and subpoena witnesses and shall conduct the hearing in accordance with the requirements of due process as required by the United States Constitution and the Constitution of the State of Georgia and provide, at a minimum, that at the hearing the applicant may be represented by counsel, may offer testimony by witnesses or any other evidence and may cross-examine any opposing witnesses or evidence. Any and all evidence relevant to the matter without regard to evidentiary rules regarding hearsay, or strict compliance with the Georgia Rules of Evidence as codified in Title 24 of the Official Code of Georgia may be considered.

(b) All parties to a hearing may compel the attendance of witnesses and/or the production of documents by subpoena issued by the City Clerk.

(c) A subpoena may be served by any sworn peace officer, sheriff, by his or her deputy, or by any other person not less than 18 years of age. Proof may be shown by return or certificate endorsed on a copy of the subpoena. Subpoenas may also be served by registered or certified mail or statutory overnight delivery, and the return receipt shall constitute prima-facie proof of service. Service upon a party may be made by serving his or her counsel of record.

(d) Failure to respond to such a subpoena shall be a violation of the this ordinance, and subject the offending party to the punishments allowed under section 5-3 of the Charter of the City of Statesboro, after hearing before the judge of Municipal Court.

(e) The City Clerk, or her designee, shall keep minutes of the hearing and shall keep records of examinations and other official actions, which shall be of public record. The record shall be an account of the proceedings, including a listing of all documents considered, a summary of testimony presented, and any rulings upon motions or objections raised. The applicant or any other party may have presented an official court reporter, certified in the State of Georgia, at his or her expense to record the proceedings. In the absence of an official court reporter, the minutes of the City Clerk shall be the written record of the hearing.

(f) Appeal of any final decision shall be by Petition for Certiorari to the Superior Court of Bulloch County.

Sec. 6-12. – Duties of City Clerk Upon Application; Right to Deny License; Right to Appeal Denial.

(a) Upon submission of a full and complete application and supporting documentation to the City Clerk, the City Clerk shall have thirty (30) days to complete an investigation of the application and supporting documentation.

(b) If the City Clerk upon review and investigation finds that the applicant is not prohibited from obtaining a license, the City Clerk shall set the matter down for a public hearing before the Mayor and City Council as provided in Section 6-13 of this Chapter.

(c) If the City Clerk upon review and investigation finds that the applicant is not prohibited from obtaining a license, the City Clerk shall have authority to grant the licensee a provisional alcohol license. The provisional alcohol license shall only be used by the licensee to begin the application process with Georgia Department of Revenue for their state alcohol license. The provisional alcohol license shall not allow the licensee to sell, dispense, pour or offer to sell, dispense or pour any distilled spirits, alcoholic beverages, wine, beer or malt beverages as defined by Georgia law within the corporate limits of the City of Statesboro. The privilege to sell, dispense, pour or offer to sell, dispense or pour any distilled spirits, alcoholic beverages, wine, beer or malt beverages as defined by Georgia law within the corporate limits of the City of Statesboro shall only be granted to the licensee upon approval by the Mayor and City Council pursuant to below Section 6-13.

(d) If the City Clerk upon review and investigation finds that the applicant has not met all requirements to obtain a license, the City Clerk shall deny the license; shall furnish the applicant in writing the reasons for the denial of the grant of the license, and inform the applicant of the right of appeal provided for below.

(e) If the City Clerk denies the license, the applicant shall have THIRTY (30) days to file a Notice of Appeal.

(f) Failure to file an appeal of a denial of a license shall render the City Clerk's decision final.

(g) Upon filing of a Notice of Appeal the City Clerk shall place the matter on the agenda for hearing at a regularly scheduled City Council meeting that occurs no later than THIRTY (30) days from the filing of the Notice of Appeal.

(h) Pursuant to O.C.G.A. § 3-3-2(b) the Mayor and City Council does not have the authority to grant a license to an applicant who does not meet the requirements provided for in this Chapter.

(i) The Mayor and City Council shall have authority to reverse the decision of the City Clerk and grant the relief to the applicant only upon showing by clear and convincing evidence that the City Clerk's decision that the applicant failed to meet the minimum requirements for a license was clearly erroneous.

(j) Within SIXTY (60) days of hearing the aforesaid appeal, the Mayor and City Council shall rule upon the appeal and shall state upon the record in a regularly scheduled City Council meeting or by written order the reasons for said ruling.

Sec. 6-13. - Approval by Mayor and City Council; Public Hearing.

(a) No new alcoholic beverage license to sell, dispense, pour or offer to sell, dispense or pour any distilled spirits, alcoholic beverages, wine, beer or malt beverages within the corporate limits of the City of Statesboro shall be issued to a new owner or new location until the application has been approved by the Mayor and City Council after a public hearing.

(b) At least seven days prior to the date of the public hearing a sign shall be erected on the location for which the application is made in a conspicuous place which may be observed by pedestrian and motor vehicle traffic passing by such location and shall not be removed by the applicant prior to the conclusion of such public hearing. The sign shall specify the nature of the license being requested, that the application applies to the premises where the sign is posted, that a public hearing is scheduled to be conducted in the chambers of the Mayor and City Council, on the second floor at City Hall, at a designated time and date.

(c) In determining whether any alcoholic beverage license applied for shall be granted, transferred, or issued to a new owner, entity or location the Mayor and City Council shall, in the interest of public safety and welfare, hear evidence at the public hearing relevant to the following:

(1) *Reputation.* The reputation, character, trade and business associations, and past business ventures of the applicant, owner, designated manager or any other person associated with the business.

(2) *Previous violations of alcoholic beverage laws.* If the applicant, owner, designated manager and any other person associated with the business is a previous holder of a license to sell alcoholic beverages, whether the applicant, owner, designated manager or any other person associated with the business has violated any law, regulation, or ordinance relating to such business.

(3) *Manner of conducting prior alcoholic beverage business.* If the applicant, owner, designated manager or any other person associated with the business is a current or previous holder of a license to dispense alcoholic beverages, the manner in which the applicant, owner, designated manager and any other person associated with the business conducted the prior business, especially as to the necessity of unusual police observation and inspection in order to prevent the violation of any law, regulation, or ordinance relating to such business.

(4) *Location.* The location for which the license is sought, as to traffic congestion, general character of the neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values.

(5) *Number of licenses in trading area.* The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.

(6) *Previous revocation of license.* If the applicant, owner, designated manager or any other person associated with the business is a current or previous holder of a license to dispense alcoholic beverages license issued under the police powers of any governing authority, and has had corrective action taken against said license including, but not limited to, suspension or revocation.

(7) *Previous denial or revocation for location.* The denial of an application or the revocation of a license which was based on the qualifications of the proposed location.

(8) *Prior incidents at location.* Evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location during any 12 month period in which the location was licensed to sell alcohol.

(9) The applicant, owner, designated manager or any other person associated with the business is not compliant with all matters bearing upon the conduct of any business venture within the City, including but not limited to zoning, permitting, taxes, code compliance, licensing and fees;

(10) Evidence that the type and number of schools, colleges, religious institutions, libraries, public recreation areas or other circumstances in the vicinity of the premises

cause minors or those under 21 years of age to frequent the immediate area even though in compliance with the minimum proximity requirements provided in this Chapter and in state law.

(d) In considering the application, the Mayor and City Council may impose conditions on the exercise of the privilege granted by the license, to the extent necessary, to minimize any adverse effects the proposed licensed premises may have on public safety and welfare if, after considering all of the evidence, the Mayor and City Council decides such conditions can reduce such adverse impacts on public safety and welfare to an acceptable and reasonable level. Violations of such conditions shall be a violation of this Chapter and the terms of the license.

(e) If the application is denied or conditions are placed on the license, the Mayor and City Council shall cause a written opinion to be prepared and approved by Mayor and City Council showing the reason or reasons for the denial of the license or placement of conditions on the license. Upon adoption by the Mayor and City Council the opinion shall be the final decision of the Mayor and City Council. The City Clerk who shall notify the applicant of the final decision of the Mayor and City Council within five days of the adoption of the final decision by the Mayor and City Council. In the absence of a formal written opinion, the minutes from the meeting shall constitute the written opinion.

(f) Appeal of the final decision of the Mayor and City Council shall be by Petition for Certiorari to the Superior Court of Bulloch County.

(g) The City Clerk may approve all applications for renewal of an existing license upon payment of all charges due, and the renewal application shows no change of ownership or location. If there has been a change of ownership or location the application must be approved by Mayor and City Council.

Sec. 6-14.—Order Required; Disorderly Conduct Prohibited.

(a) *Order required within establishment.* Owners, managers, and employees of a licensed business shall be responsible for keeping an orderly place and shall not permit any employee, patron, or other person to cause a disturbance or engage in unlawful, loud, boisterous, lewd, or obscene conduct or practice within the establishment.

(b) *Order required outside establishment.* The owner and manager of any alcoholic beverage establishment shall be responsible for monitoring parking lots and the curtilage around the establishment and prohibiting patrons and other persons associated with the establishment from standing, sitting, mingling, or assembling outside the licensed premises in a manner which causes or contributes to disturbances and/or illegal acts.

(c) *Disorderly conduct while intoxicated prohibited.* It shall be unlawful for any person within the corporate limits of the city, while intoxicated by alcohol or other drugs on the sidewalks, parks, squares, streets, public buildings, other public places, or in the curtilage of any private residence not his own other than by invitation of the owner or lawful occupant, to be disorderly which condition is made manifest by boisterousness, by indecent condition or act, by

vulgar, profane, loud or unbecoming language, or by acting in such a way as to endanger his or her life or safety or that of any other person or persons.

Sec. 6-15. - Dive defined; prohibited; penalty for violation.

(a) *Term defined.* As used in this section, the term "dive" shall mean any place or establishment where illegal drugs are found, possessed, kept or sold; or where any person possesses or consumes any illegal or unlicensed alcoholic beverage or possesses or uses any illegal drug; or where any person commits any illegal sexual act; or where any person engages in gambling activities.

(b) *Prohibition.* It shall be unlawful for any person or organization or group of persons to have, operate or maintain any place or establishment defined as a dive.

Sec. 6-16. - Alcohol promotions; pricing of alcoholic beverages.

(a) Unless otherwise stated, this section shall be construed to cover, include and apply to every type of alcoholic beverage licensed to be sold in the City of Statesboro.

(b) It shall be unlawful for any licensee or employee or agent of such licensee to engage in or allow any of the following practices in connection with the sale or other disposition of alcoholic beverages:

(1) Offer or deliver any free alcoholic beverage to the general public. This subsection shall not apply to events conducted in accordance with the grant of a special event permit granted pursuant to this Chapter, or to samples of beer offered in conjunction with the sale of growlers as provided for in Section 6-8(b).

(2) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than \$1.00.

(3) Sell, offer to sell, or deliver to any person or group of persons two or more alcoholic beverages during any set period of time at a fixed price.

(4) Sell, offer to sell, or deliver alcoholic beverages after 11:00 p.m. to any person or group of persons at reduced prices less than the normal retail price of the establishment for that alcoholic beverage charged the general public on that day.

(5) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage.

(6) Sell two or more alcoholic beverages for a price substantially the same as is charged for one such alcoholic beverage.

(7) Require or encourage the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased.

(8) Sponsor, conduct, encourage or allow on the licensed premises any game or contest or promotion which either:

- a. Involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as the prize; or
- b. Has as its primary purpose the increasing of the consumption of alcoholic beverages on the premises.

(9) Sell, offer to sell, or give away any coupons, tokens, tickets, receipts or other devices authorizing the serving of any alcoholic beverage drinks either on the current or subsequent day.

(10) Sell, offer to serve, or deliver any alcoholic beverage to be inserted into the mouth of a customer in any manner by anyone other than by the customer.

(11) Charge any minimum charge, cover charge, admission charge, or any other non-food or non-alcoholic beverage charge based on gender, race, creed, color or national origin.

(c) There shall be no advertisement or promotion in any way, whether within or without the licensed premises, of any of the practices prohibited under this section.

(d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time; provided all patrons or customers are allowed equal access to such free food or entertainment, or to prohibit licensees from including an alcoholic beverage as a part of a meal package, or to prohibit the sale or delivery of wine by bottle or carafe when sold with meals or to more than one person, or to prohibit any hotel or motel from offering room services to registered guests.

(e) This section shall not limit or expand any privilege granted by the Commissioner of the Georgia Department of Revenue to a brewer licensed to manufacture malt beverages authorizing said brewer to conduct educational and promotional brewery tours pursuant to O.C.G.A. § 3-5-38

Sec. 6-17. - Open containers; Sales and Service in Public Areas

(a) *"Open container" defined.* The term "open container", as used in this chapter, means any bottle, can, glass, cup or other vessel which contains an alcoholic beverage not in its original container. The term "open container" shall also mean the original container of an alcoholic beverage and which contains an alcoholic beverage on which the seal has been broken or which is otherwise ready for consumption.

(b) *"Semipublic parking facility" defined.* The term "semipublic parking facility" shall include any privately owned area wherein motor vehicles may be parked by the public in conjunction with any business, enterprise, commercial establishment, office building, church, school, or multiple-family residential building.

(c) *Possession of open container prohibited.* Unless otherwise provided for by this Chapter, it shall be unlawful for any person to have in his or her possession any alcoholic beverages in any open container while on the public streets, sidewalks, alleyways or rights-of-way, or in any public or semipublic parking facility including areas of ingress and egress.

(d) *Exemptions to open container prohibition.*

(1) Any person shall have standing to request, and only the Mayor and City Council shall have authority to grant exemptions from the prohibitions contained in 6-18(c) for events occurring in the City of Statesboro. Any exemption shall be by resolution and clearly define the date, time and boundary area for such an exemption, and shall include any and all terms conditions deemed appropriate by the Mayor and City Council to maintain public safety and welfare.

(2) An application for an exemption to the open container prohibition shall be filed at least twenty (20) days prior to the event on a form prescribed by the City Clerk. The application shall be reviewed by the City Manager, or his designee, who shall consult with appropriate Departments Heads to determine the cost of the proposed exemption on city services. The City Manager shall calculate this cost and report same to the Mayor and City Council. The Mayor and City Council shall, by motion, make a finding as to the cost of the proposed exemption on city services.

(3) If the Mayor and City Council approve an exemption to the open container prohibition as provided in this Section, a condition precedent to the City Clerk issuing a permit for this exemption shall be the payment to the City of the cost of the proposed exemption on city services.

(4) Any exemption granted pursuant to this sub-section shall only constitute an exemption from the open container restrictions contained in this Chapter. Any exemption granted pursuant to this sub-section shall not be construed to permit any activity or conduct that is inconsistent with the other provisions contained this Chapter, or any other provisions of state, federal or local law that may otherwise apply to the applicant or licensee.

(e) *Application to property owned by Board of Regents.* This prohibition shall not apply to any property owned by the Board of Regents of the State of Georgia.

(f) *Application to sidewalk cafes.* The prohibition in subsection (c) above shall not apply to patrons of a sidewalk café located in Downtown Development Authority District, if such establishment is otherwise licensed to sell alcoholic beverages under the applicable laws and ordinances in the City of Statesboro.

(g) *Possession in automobiles prohibited.* See O.C.G.A. § 40-6-253.

(h) *Posting of notice by establishments.* All licensed alcohol establishments are hereby required to post in a conspicuous location inside such establishment a notice informing patrons that open containers are prohibited on the public streets, sidewalks or right-of-ways, or in any public or semipublic parking facility within the City of Statesboro.

(i) It shall be unlawful to furnish or dispense alcoholic beverages through kegs, barrels, cylinders or other portable receptacles containing tap or pump-type devices in which the flow of contents is controlled by the operator in a public place and facility, public streets, sidewalks, alleyways or rights-of-way, or in any public or semipublic parking facility including areas of ingress and egress. When receptacles are found in violation of this section and the person maintaining the receptacle cannot be identified, the receptacle shall be confiscated and held for 30 days by the city police. The receptacle may be claimed by the owner or lessor, but will be disposed of at the end of 30 days if unclaimed. Nothing in this section shall prohibit persons holding licenses pursuant to this chapter from dispensing through kegs, barrels, cylinders or other such receptacles inside an appropriately licensed premises.

Sec. 6-18. - Furnishing alcoholic beverages in violation of state law.

It shall be unlawful for any licensee, by himself or through another, to obtain, furnish or cause to be obtained or furnished, or permit any other person in his employ to obtain or furnish, distilled spirits, wines, malt beverages, or any other alcoholic beverages in a manner that is a violation of state law.

Sec. 6-19. - Compliance; violations; penalties.

(a) *Violations; penalties.*

(1) It shall be unlawful for any person to violate any provision of this Chapter. Upon conviction for the violation thereof each person shall be subject to the punishments allowed under section 5-3 of the Charter of the City of Statesboro, after hearing before the judge of municipal court.

(2) Unless otherwise provided in the Schedule of Fines and Fees, the minimum fine for a first conviction for violating any provisions of this Chapter in the last five years, as measured from the date of previous offense to the date of the current offense, shall not be less than \$300.00 per citation.

(3) Unless otherwise provided in the Schedule of Fines and Fees, the minimum fine for a second or subsequent convictions for violating any provisions of this Chapter in the last five years, as measured from the date of previous offense to the date of the current offense, shall not be less than \$725.00 per citation.

(b) *Duty of Municipal Court Clerk; Duty of City Clerk.*

(1) Upon filing of any citation(s), accusation(s) or warrant(s) in the Municipal Court of Statesboro that alleges a violation of this Chapter by a licensee, or an employee, agent or representative of a licensee, the Clerk of the Municipal Court shall forward copies of the citation(s), accusation(s), or warrant(s) to the City Clerk, and to the Special Agent in Charge of the Savannah Regional Office of the Alcohol and Tobacco Division of the Georgia Department of Revenue as required by O.C.G.A. §3-3-2.1.

(2) Upon conviction of a licensee or an employee, agent or representative of a licensee, of any provision of this Chapter or paragraph (1) of subsection (a) of Code Section 3-3-23, prohibiting the furnishing of alcoholic beverages to underage persons, the Clerk of the Municipal Court shall forward certified copies of the conviction to the Special Agent in Charge of the Savannah Regional Office of the Alcohol and Tobacco Division of the Georgia Department of Revenue as required by O.C.G.A. §3-3-2.1. The term "conviction" as used in this paragraph shall include a finding or verdict of guilt, plea of guilty, or a plea of nolo contendere.

(3) Upon receipt of copies of any accusation(s), citation(s) or warrant(s) from the Clerk of the Municipal Court alleging a violation of this Chapter by a licensee, or an employee, agent or representative of a licensee the City Clerk shall notify the Mayor, the City Manager, the City Attorney and the Chief of Police.

(c) Probation, suspension, revocation of license; administrative hearing, administrative hearing fee.

(1) The Mayor and City Council shall have exclusive jurisdiction over any action brought against any licensee holding a license issued pursuant to this Chapter seeking to revoke, suspend or place the licensee on probation. Said action may be brought by the City Solicitor, the City Manager, or the Police Chief, or their respective designees.

(2) The Mayor and City Council may suspend, revoke, or impose terms and conditions of probation on the licensee, or any combination of suspension and terms and conditions of probation for one or more of the following reasons:

a. The violation by the licensee, or licensee's employees or agents of any state or federal law or regulation or any provision of this Chapter or other ordinance of the City of Statesboro, at any time adopted, relating to the sale, use, possession, or distribution of alcoholic beverages.

b. The violation by the licensee, or licensee's employees or agents of any federal or state law or of any local ordinance of the City of Statesboro, which is related to building codes, fire codes, smoking, excise tax, property tax, health, solid waste disposal, illegal gambling, or controlled substances.

c. The operation of the licensee's business in such a manner as to constitute a threat to public safety, welfare or health or in such a manner as to constitute a nuisance, or the operation of a licensed business where violations of federal, state, or local laws or ordinances frequently or regularly occur.

d. The making of any untrue or misleading statement in the application for a license or any renewal thereof or the omission from such application or renewal of any information required in the application.

e. Permitting any person to engage in any activity on the premises for which the license is issued or within the place of business, which is in violation of the laws or regulations of any federal or state law or of any local ordinance of the City of Statesboro, which is related to building codes, fire codes, smoking, excise tax, property tax, health, solid waste disposal, illegal gambling, alcohol, or other controlled substances.

(5) Any person holding any license issued pursuant to this Chapter or any employee, agent, or representative of a licensee who violates any provision of this Chapter while acting within the scope of their employment, agency, or representation of the licenses, or directs, consents to, permits, or acquiesces in such violation either directly or indirectly shall, by such conduct, subject the license to suspension, revocation or probation upon conditions.

(6) For purposes of administrative action against a licensee, any act committed by an employee, agent or representative of a licensee in their capacity as an employee, agent or representative of the licensee that violates any provision of this chapter shall be deemed to be an act of the licensee.

(7) In order to take administrative action against a licensee, a hearing before the Mayor and City Council shall be held on a date and time certain which shall be reflected on the summons of administrative hearing issued by the City Clerk or any other person specifically authorized by this Chapter or other law to issue such summons to appear before the Mayor and City Council. The summons of administrative hearing shall contain a place, date and time certain of the administrative hearing and shall be served on responding party more than five days before any scheduled hearing.

(8) The notice of administrative hearing shall be served by certified mail return/receipt requested; or by leaving a copy thereof at the licensed business location with an employee working therein, or by personal service on the responding party, or on an agent authorized by law or by appointment to receive service of process. Said notice shall also be sent by regular mail to the agent set out on the license or listed on the license application. The City Clerk shall also forward a copy of this notice to the Special Agent in Charge of the Savannah Regional Office of the Alcohol and Tobacco Division of the Georgia Department of Revenue.

(9) The evidentiary standard for an action against a licensee is preponderance of the evidence.

(10) In considering the term of suspension, whether to permanently revoke the license or whether to impose terms and conditions of probation on the license, the Mayor and City Council shall consider the following factors:

a. The gravity of the violation;

b. Any previous violations within the past five years period as measured from the date of previous offense to the date of the current offense;

c. Actions of the licensee, its employees, subcontractors or agents in connection with the violation.

(11) The Mayor and City Council may promulgate any rules of procedure for the administrative hearing not in conflict with this ordinance or other law.

(12) If action is taken against the licensee the Mayor and City Council shall cause a written opinion to be prepared by Mayor and Council showing the reason or reasons for the revocation, suspension or probation of the license. The written opinion can be the minutes of the hearing kept by the City Clerk showing the evidence considered and the ruling issued. Upon adoption by the Mayor and City Council the opinion shall be the final decision of the Mayor and City Council. The City Clerk shall notify the applicant of the final decision of the Mayor and City Council within five days of the adoption of the final decision by the Mayor and City Council. Pursuant to O.C.G.A. § 3-3-2.1 the City Clerk shall forward a copy of this final decision to the Special Agent in Charge of the Savannah Regional Office of the Alcohol and Tobacco Division of the Georgia Department of Revenue.

(13) Appeal of the final decision of the Mayor and City Council shall be by Petition for Certiorari to the Superior Court of Bulloch County.

(d) *Temporary Suspension by City Manager Permitted.* Notwithstanding the foregoing, and upon determining it is in the interest of public safety the City Manager, upon a written recommendation of the Police Chief, or acting head of the Statesboro Police Department, and approval of the Mayor, may temporarily suspend any license provided for in this Chapter pending an administrative hearing and action by the Mayor and City Council in accordance with this Chapter. The City Manager shall issue a written administrative order stating the reasons for the temporary suspension. If a license is temporarily suspended by the City Manager, the Mayor shall call a special meeting of the City Council to hold an administrative hearing pursuant to this Chapter as soon as practically possible, but no later than 10 days from the day the license is temporarily suspended.

Sec. 6-20. – Excise Tax on Distilled Spirits sold by the drink.

(a) There is imposed upon the sale of any drink containing distilled spirits sold by the drink for consumption on the premises in the city a tax in the amount of three percent (3%) of the purchase price of the mixed drink containing distilled spirits to the consumer. Each licensee shall be allowed a deduction of three percent of the amount of taxes collected as reimbursement for collection of such taxes; provided that such tax is not delinquent at the time of payment. A record of each sale will be made in writing and maintained for inspection by any authorized agent of the city.

(b) Every consumption-on-the-premises licensee shall collect the tax imposed by this chapter from purchasers of any drink containing distilled spirits sold by the drink. The licensee shall furnish such information as may be required by the City Clerk to facilitate the collection of the tax. In all cases where the purchase is by deferred payment or credit, the licensee becomes liable

for the collection and payment of the tax at the time of delivery of the drink containing distilled spirits sold by the drink.

(c) On or before January 20th, April 20th, July 20th and October 20th of each calendar year, licensees shall be required to file with the city clerk an excise tax report showing the licensee's gross receipts from the sale of drinks containing distilled spirits; the amount of taxes collected or coming due thereon for the previous three months, and shall pay over the amount due of taxes collected under this chapter to the City at the same time the excise tax report is filed.

Sec. 6-21. – Excise Tax on the Wholesale of Malt Beverages, Wine, and Distilled Spirits

(a) There is imposed by the city an excise tax on the first sale or use of malt beverages in the city, as follows:

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

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

(b) There is imposed by the city an excise tax on the first sale or use of wine in the city at a rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(c) There is imposed by the city an excise tax on the first sale or use of distilled spirits in the city at the rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(d) The excise taxes provided for in this section shall be imposed upon and paid by the licensed wholesale dealer. Such taxes shall be paid on or before the 20th day of the month following the month in which the alcoholic beverages are sold or disposed of by the wholesaler within the city.

Sec. 6-22. – Adoption of Rules and Regulations for the Administration of this Chapter

(a) The Mayor and City Council may adopt any rules and regulations for the administration of the Chapter not in conflict with this Chapter or other law.

(b) The rules and regulations adopted by the Mayor and City Council for the administration of the Chapter shall be kept on file with the City Clerk for review by the public during the regular business hours of City Hall.

(c) A copy of these rules and regulations shall be furnished to each licensee upon the grant of an alcohol license.

(d) The Mayor and City Council may, from time to time, amend these rules and regulations.

(e) Violation of any rule or regulations adopted by the Mayor and City Council shall constitute a violation of this Chapter.

SECTION 2. All other sections of the Code of Ordinances not here expressly amended here remain in full force and effect.

SECTION 3. As provide in Section 6-22 of the above ordinance attachment A of this ordinance is adopted as the Rules and Regulations for the administration of Chapter 6 (Alcoholic Beverages) of the Code of Ordinances of the City of Statesboro, and shall become effective at the stroke of midnight on June 30, 2016, and remain in full force and effect unless and until amended or repealed by further action by the City Council.

SECTION 4. Should any section, subsection, or provision of this ordinance be ruled invalid by a court of competent jurisdiction, then all other sections, subsections, and provisions of this ordinance shall remain in full force and effect.

SECTION 5. Except for Sections 6-10(a) and (b) which shall be effective at the stroke of midnight on December 31, 2016, this ordinance shall become effective at the stroke of midnight on June 30, 2016, and remain in full force and effect unless and until amended or repealed by further action by the City Council.

First Reading: February 16, 2016

Second Reading: March 15, 2016

THE MAYOR AND CITY COUNCIL OF THE CITY OF STATESBORO, GEORGIA

By: Jan J. Moore, Mayor

Attest: Sue Starling, City Clerk

ATTACHMENT "A"
OF ORDINANCE NO.:2016-03

**RULES AND REGULATIONS FOR THE ADMINISTRATION OF CHAPTER 6 OF
THE CITY OF STATESBORO CODE OF ORDINANCES--ALCOHOL**

1.1 PURPOSE

The purpose of this Section is to provide rules and regulations for the Administration of Chapter 6 of the Code of Ordinances of the City of Statesboro.

1.2. PROCEDURE FOR ISSUANCE OF PERMITS; RIGHT OF APPEAL OF DENIAL.

- 1.2.1 If the city official responsible for issuing any permit upon review the application finds that the applicant has met all requirements to obtain the requested permit, the city official shall grant the permit.
- 1.2.2 If the city official upon review finds that the applicant has not met all requirements to obtain a requested permit, the city official shall deny the grant of the requested permit; shall furnish the applicant in writing the reasons for the denial of the grant of the permit within FIVE (5) days of the denial.
- 1.2.3 If the city official revokes or suspends any permit, the city official shall furnish the applicant the reason for the suspension or revocation of the permit within FIVE (5) days of the suspension or revocation of the permit.
- 1.2.4 If the city official denies the grant of the requested permit, or revokes or suspends the permit, the applicant shall have FIVE (5) days to file a Notice of Appeal with the City Clerk.
- 1.2.5 Failure to file a timely appeal of a denial to grant the permit shall render the city official's decision final.
- 1.2.6 Upon filing of a Notice of Appeal the City Clerk shall schedule a hearing before the City Manager, or their designee, no later than TEN (10) days from the filing of the Notice of Appeal.
- 1.2.7 The City Manager, or their designee, may reverse the city official's decision only upon showing by clear and convincing evidence that the city official's decision was clearly erroneous.

- 1.2.8 The decision of the City Manager, or their designee, shall be the final decision of the City of Statesboro.
- 1.2.9 Appeal of this final decision shall be by Petition for Certiorari to the Superior Court of Bulloch County.

1.3 SUNDAY SALES PERMITS

- 1.3.1: The licensee of a business engaged in the retail package sales of beer and/or wine, or any restaurant as defined in this chapter which qualifies as an “eating establishment” as defined in O.C.G.A. § 3-3-7(h)(2), or any hotel which derives at least 60 percent of its total annual gross income from the rental of rooms for overnight lodging desiring the privilege to sell, furnish or otherwise dispense distilled spirits, malt beverages, or wine on Sunday in accordance with Chapter 6 of the Code of Ordinances of the City of Statesboro shall and Title 3 of Official Code of Georgia, before dispensing such beverages on Sunday, shall make a written application under oath on the form as provided by the City Clerk or his or her designated representative certifying that:

(A) such establishment holds or has applied for a current City of Statesboro occupation tax certificate for a business engaged in the retail package sales of beer and/or wine, or a restaurant which qualifies as an “eating establishment” as defined in O.C.G.A. § 3-3-7(h)(2) eating establishment, and, as applicable, or

(B) such restaurant, if an existing business, derived at least 50 percent of its gross sales income from the sale of prepared meals during the preceding calendar year and qualifies as an “eating establishment” as defined in O.C.G.A. § 3-3-7(h)(2); or if a new business, fully intends and expects to derive at least 50 percent of its total annual gross sales income from the sale of prepared meals during the remainder of the current calendar year and qualifies as an “eating establishment” as defined in O.C.G.A. § 3-3-7(h)(2). Such an affidavit may be submitted at any time the above stated conditions are met, and must be submitted annually with such establishment's alcoholic beverage license renewal application if Sunday sales authorization is to be continued, or.

(C) such hotel, if an existing business, derived at least 60 percent of its total annual gross income from the rental of rooms for overnight lodging during the preceding calendar year and qualifies for a Sunday sales permit; or if a new business, fully intends and expects to derive at least 60 percent of its total annual gross income from the rental of rooms for overnight lodging during the remainder of the current calendar year and to qualify for Sunday sales under this Chapter. Such an affidavit may be submitted at any time the above-stated conditions are met, and must be submitted annually with such establishment's alcoholic beverage license renewal application if Sunday sales authorization is to be continued.

1.4 RESERVED

1.5 RESERVED

1.6 DISTANCE WAIVER PERMITS FOR RESTAURANTS

1.6.1 The Mayor and Council, following application for a distance waiver permit for restaurant, notice and hearing, may in its discretion grant a distance waiver permit for a restaurant authorizing the issuance of a Class D, E or F license to a licensee of a restaurant notwithstanding the distance requirements in Section 6-5(c) from school buildings, alcoholic treatment centers, educational buildings on college campus, churches and/or property lines of a private dwelling located in single-family residential zoning district for locations that sell alcohol for consumption on the premises only. The application for distance waiver permit shall be obtained as provided below:

(A) An application for a distance waiver permit for a restaurant shall be on a form prescribed by the City Clerk and submitted simultaneously to the City Clerk with an application for an alcoholic beverage license. The applicant shall describe the proposed business in detail, including whether or not the business will have outdoor seating or amplified music, and shall be permitted to submit documentation supporting its application. A permit application fee of \$300.00 shall be submitted with the application. The City Clerk shall give the applicant written notice of the date that such distance permit application will be heard by the Mayor and City Council, which date shall be no more than six months from the date of the application. The hearing required by this paragraph shall not be set until the City Clerk determines that excluding the distance requirements under application for waiver, all other requirements of this Chapter for the type of alcoholic beverage license under consideration have been met. If all other requirements have been met, the City Clerk will notify the applicant of the date set for the hearing in time for the applicant to meet the notice requirements below.

(B) The applicant shall cause notice of such application containing the same information as required below for the sign to be advertised in the county legal organ for three consecutive weeks within the 30 days preceding the hearing date. The applicant shall cause the property designated for the operation of the business to be posted for 30 days preceding the date of the hearing with a sign reading as follows:

NOTICE OF APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE DISTANCE WAIVER PERMIT FOR RESTAURANT

This establishment has applied to the City of Statesboro for an alcoholic beverage license authorizing it to sell _____ (state the appropriate types of alcoholic beverages) for on-premises consumption at this location and for an associated distance waiver permit for a restaurant, which will waive distance requirements otherwise provided for in the Code of the City of Statesboro for distances from school buildings, educational buildings on college campus, churches, alcoholic treatment centers and/or property lines of a private dwelling located in single-family residential zoning district.

The Mayor and City Council of The City of Statesboro will consider the applicant's request for a distance waiver permit for restaurant _____/_____/_____, 20_____ at _____,m. at Council Chambers on the Second Floor of City Hall, 50 East Main Street, Statesboro, Georgia. A copy of the application may be reviewed in the Office of the City Clerk, First Floor, City Hall, 50 East Main Street, Statesboro, Georgia.

A qualified interpreter for the hearing impaired is available upon request at least ten days in advance of this meeting. Please call (912) 555-1212, [TDD (912) 555-5252] to request an interpreter or for more information.

This _____ day of _____, 20_____.

Legal Name of applicant and d/b/a if applicable

Address of applicant

(C) The size of the sign to be posted on the property shall be no smaller than 18 inches by 24 inches. The size of the copy on the sign shall be large enough to be visible to pedestrians and motorists. The sign is to be conspicuously displayed on that portion of the property most visible to the public and shall not be removed prior to the conclusion of the public hearing. At the hearing the applicant shall provide proof to the Mayor and City Council that the notice has been published as required herein and that the sign has been posted as required herein.

(D) In determining whether a distance waiver permit for a restaurant applied for hereunder shall be granted or renewed, the following factors shall be considered by the Mayor and City Council at the hearing in the public interest and welfare:

a. *Character of the location.* The location for which the license is sought, as to traffic congestion, noise, general character of neighborhood, and the effect such an establishment would have on the use and property values of the adjacent and surrounding property.

b. *Number of licenses in trading area.* The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.

c. *Congregation of minors.* Any circumstances which may cause minors or those under 21 years of age to congregate in the vicinity of the proposed location.

d. *Prior incidents.* Evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location during the 12 months immediately preceding the date of application, or a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location during any time period when an

establishment held an alcoholic beverage license operated at the proposed location.

e. *Manner of conducting prior alcoholic beverage business.* If the applicant is a previous holder of an alcoholic beverage license, the manner in which the applicant conducted the prior business, especially as to the necessity of unusual police observation and inspection in order to prevent the violation of any law, regulation, or ordinance relating to such business.

f. *Failure to satisfy notice requirements.* If the applicant has failed to satisfy the notice provisions required hereinabove, the Mayor and City Council shall deny the distance waiver permit.

(E) Hearings on the application for a distance waiver permit for restaurants shall be conducted informally, but in such a manner as to preserve decorum at all times. The parties may compel the attendance of witnesses by subpoena. The City Clerk shall keep minutes of the hearing showing the vote of each Councilman upon each application, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, which shall be of public record. The minutes of the City Clerk shall be the written record of the hearing. The record shall be an account of the proceedings, including a listing of all documents considered, a summary of testimony presented, and any rulings upon motions or objections raised. The applicant or any other party to the proceeding may have a verbatim transcript prepared by an official court reporter, certified in the State of Georgia, at his or her own expense; provided, however, a copy of the transcript shall be filed with the City Clerk and copies made available to other parties at actual cost. The hearing on the application for a distance waiver permit for a restaurant shall follow rules of procedure adopted by the Mayor and City Council that provide at a minimum that at the hearing the applicant may be represented by counsel, may offer testimony by witnesses or any other evidence and may cross-examine any opposing witnesses. The City Clerk, the Chief of Police, and the Director of Planning shall provide to the Mayor and City Council a staff report regarding the application for a distance waiver permit and make a recommendation to approve, approve with conditions, or to deny based on the factors listed above.

The applicant shall have the right to appear before the Mayor and City Council and present evidence in accordance with such rules of procedure. Following the hearing, the Council may approve the application, approve the application with conditions, or deny the application.

(F) In considering a distance waiver permit for a restaurant, the Council may impose conditions, to the extent necessary, to minimize any adverse effects the proposed restaurant may have on the adjoining properties if after considering all of the factors required, the Council decides certain conditions can reduce such adverse impacts upon adjoining properties to an acceptable and reasonable level. If the application is denied, the Council shall cause a written report to be prepared and signed by the Mayor showing the reason or reasons for the denial. The Council shall return the application showing its

denial, together with the written report, to the City Clerk who shall notify the applicant of the denial within five days of the denial. The decision of the Mayor and City Council shall be the final decision of the City of Statesboro with respect to the application.

1.6.2 The holder of a distance waiver permit for a restaurant shall apply for renewal of said permit each year upon application for renewal of the alcoholic beverage license on a form prescribed by the City Clerk and submitted simultaneously to the City Clerk with an application for an alcoholic beverage license, as provided below:

(A) A permit application fee set by the Mayor and City Council shall be submitted with the application. At the time of application, the applicant shall cause to be posted on the property notice of the application for renewal of the distance waiver permit as follows:

**"NOTICE OF APPLICATION FOR RENEWAL OF ALCOHOLIC BEVERAGE LICENSE
DISTANCE WAIVER PERMIT FOR A RESTAURANT**

This establishment has applied to the Mayor and City Council of The City of Statesboro for renewal of the distance waiver permit for a restaurant, which waives distance requirements otherwise provided for in the Code of the City of Statesboro for distances from school buildings, educational buildings on college campus, churches, alcoholic treatment centers and/or property lines of a private dwelling located in a single-family residential zoning district for this establishment to hold an alcoholic beverage license. The distance waiver permit shall be renewed if the alcoholic beverage license is renewed and if no objections to the renewal to the distance waiver permit for a restaurant are filed with the City Clerk of the City of Statesboro in writing on or before _____ [insert date at least 30 days from date of posting of sign for objections to be filed]. If objections are filed on or before this date, then a hearing on the application for a distance waiver permit for a restaurant will be held before the Mayor and City Council and notice of said hearing will be advertised in the legal organ of the City of Statesboro and posted on this property.

Written objections should be mailed to:

City Clerk

[address]

This _____ day of _____, 20_____.

Legal Name of applicant and d/b/a if applicable

Address of applicant"

(B) The size of the sign to be posted on the property shall be no smaller than 18 inches by 24 inches. The size of the copy on the sign shall be large enough to be visible to pedestrians and motorists. The sign is to be conspicuously displayed on

that portion of the property most visible to the public and shall not be removed prior to the last date for written objections to be filed. The applicant shall provide proof in its application that the sign has been posted as required herein.

(C) If a written objection is filed, then the City Clerk shall notify the applicant by providing copies of all written objections to the applicant. A hearing shall be held pursuant to the requirements of 1.4.1 (E) and (F) above. In the event that no objection is filed, then the City Clerk is authorized to issue the renewal distance waiver permit without a hearing if all other requirements of this Chapter for the type of alcoholic beverage license under consideration have been met.

- 1.6.3 Each distance waiver permit for a restaurant is issued for a specific location and the specific restaurant use only and may not be transferred to another location or another type of use at the same location. A new application is required for each licensed premise.
- 1.6.4 No distance waiver permit for a restaurant shall be transferred from one person to another during the year in which the license was obtained, except in the case of the death of a person holding the permit, in which event his personal representative may continue to operate under the license for six months from the date of his qualification.
- 1.6.5 If the application is denied, the Mayor and City Council shall cause a written opinion to be prepared and approved by Mayor and Council showing the reason or reasons for the denial of the permit. Upon adoption by the Mayor and City Council the opinion shall be final decision of the Mayor and City Council. The City Clerk who shall notify the applicant of the final decision of the Mayor and City Council within five days of the adoption of the final decision by the Mayor and City Council.
- 1.6.6 Appeal of the final decision of the Mayor and City Council shall be by Petition for Certiorari to the Superior Court of Bulloch County

1.7 GROWLERS

- 1.7.1 The sale of growlers is authorized for Class B licensees if said sales comply with the following rules and regulations:
- 1.7.2 Growlers must be filled from kegs procured from a duly licensed wholesaler. Each growler must be securely sealed and removed from the premises of the licensed establishment in its sealed condition.
- 1.7.3 The licensee must comply with all federal and state laws and regulations regarding packaging and labeling alcoholic malt beverages.
- 1.7.4 The licensee must comply with Georgia Department of Agriculture's General Rules 40-7-1-.40 requiring a "contamination free" transfer process for beverages and the use of washed, rinsed and sanitized growler fill tubes, which must be cleaned between each use.

- 1.7.5 The licensee must comply with the Georgia Department of Agriculture Best Management Practices for Growler Refilling.
- 1.7.6 A licensee selling growlers with a Class B alcohol license may provide samples of beer for consumption on the premises without a Class E license only if the samples of beers are from a tap, and no more than 16 ounces of samples are provided to any one individual in any 24 hour period.

1.8 CATERED EVENT PERMIT

- 1.8.1 An application for a Catered Event Permit should be filed at least 30 days prior to the date the event is scheduled to occur. Failure to file the application in a timely manner is grounds for denial of the permit.
- 1.8.2 Prior to the sale of alcoholic beverages at a catered event a licensed alcoholic beverage caterer shall make a written application under oath on the form as provided by the City Clerk or his designated representative that provides, at least, the following minimum information:
 - (A) The location of the catered event;
 - (B) The duration of the catered event and the times during which alcoholic beverages shall be provided or sold;
 - (C) The person or entity hiring the caterer;
 - (D) The nature of the function being catered, i.e. retirement dinner, wedding reception, private party;
 - (E) The numbered of expected guests at the catered event.
 - (F) The estimated total cost of the food expected to be served.
 - (G) The estimated total cost of the alcohol expected to be served.
- 1.8.3 As part of the application the licensed alcoholic beverage caterer shall swear and affirm under oath that the event is a bona fide catered event where alcoholic beverages are served for a particular function (i.e. retirement dinner, wedding reception, private party) food exceeds the cost of alcohol.
- 1.8.4 The licensed alcoholic beverage caterer shall maintain in their files receipts and documentation showing the actual total costs of food served at the event and the actual total costs of the alcohol served at the event. Upon request of the City Clerk these receipts and documentation shall be furnished to the City Clerk along with a sworn statement under oath that the receipts and documentation are a true and accurate reflection of the total costs of food and alcohol served at the catered event.
- 1.8.5 For purposes of calculating the total cost of food the sale of ice, garnishes, soft drinks, mixers or beverages of any kind for use or consumption on the premises with or in an alcoholic beverage shall not constitute the sale of food.

1.8.6 As part of the City Clerk's review, the City Clerk shall submit the application to the Statesboro Fire Department to review any life safety issues with the proposed venue of the catered event. If the City Clerk upon review the application finds that the applicant has met all requirements to obtain a Catered Event Permit, the City Clerk shall grant the license.

1.9. IN ROOM SERVICE PERMIT

1.9.1 Prior to a hotel engaging in the practice of in room service of beer and wine in conjunction with any privilege granted by a Class B or Class C license, an in room service permit must be obtained.

1.9.2 The hotel shall make a written application under oath on the form as provided by the City Clerk or his designated representative that provides, at least, the following minimum information:

(A) That the applicant meets the definition of hotel contained in Chapter 6 of the Code of Ordinances;

(B) That the applicant has a valid Class B and/or Class C license;

(C) That the applicant understands that in room service permit only allows:

(a) The delivery of alcoholic beverages in unbroken packages by an employee of a hotel to a registered guest's room or to a registered guest at any location in the same building as the hotel when such alcoholic beverages have been ordered by the guest and when the guest shall be billed for the cost of such alcoholic beverages at the time of delivery and when the sale of such alcoholic beverages is completed at the time of delivery; and

(b) The provision of a cabinet or other facility located in a hotel's guest room which contains alcoholic beverages and which is provided upon written request of the guest and which is accessible by a lock and key only to the guest and for which the sale of the alcoholic beverages contained therein is deemed to be final at the time except for a credit which may be given to the guest for any unused portion.

1.11 ALCOHOLIC BEVERAGE SECURITY PERMITS

1.11.1 A written application made under oath shall be filed with the Statesboro Police Department on a form provided by the Chief of Police or his designee.

1.11.2 The Chief of Police or his designee shall investigate all applications for ABS Permits, and may require the applicant to furnish fingerprints, and consent to a state and federal criminal background check.

1.11.3 The Chief of Police or their designee and shall refuse to issue an ABS Permit to any applicant who:

- (A) Fails to meet the age and any other requirements found in the general laws of the State of Georgia to work as a bouncer.
- (B) has been convicted within ten years of any felony or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred, or
- (B) has been convicted within five years of any violation (i) of any state or federal crime involving physical violence; (ii) of any local, state or federal law pertaining to the manufacture, possession, transportation or sale of malt beverages, wine or intoxicating liquors, or other controlled substances and the taxability thereof other than a first conviction for furnishing alcohol to a person underage (iii) of a crime involving moral turpitude; or (iv) of a crime involving soliciting for prostitution, pandering, gambling, letting premises for prostitution, keeping a disorderly place, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred, or
- (C) has been convicted within the past seven years of any serious traffic offense as defined in O.C.G.A. § 40-6-390 et seq., but excluding any first lifetime conviction for reckless driving that results from a guilty plea from an original charge of driving under the influence of alcohol or drugs, or any first lifetime conviction for driving under the influence of alcohol or drugs, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred, or,
- (D) within the previous five years has two or more convictions that involve providing alcohol to underage persons, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such second offense and for which no final disposition has occurred, or,
- (E) is currently on probation for, or currently under the supervision of a court under either a pre-trial diversion program or conditional discharge sentence for underage possession of alcohol, or for whom outstanding indictments, accusations or criminal charges exist charging such

individual with such offense and for which no final disposition has occurred.

- (F) The term "conviction" as used in this paragraph shall include a finding or verdict of guilt, plea of guilty, a plea of nolo contendere, a bond forfeiture, and also include anyone currently on probation or otherwise under a court's supervision for a term certain to avoid a judgment of guilt being entered under what is commonly referred to as "first offender" sentence or "pre-trial diversion program."
- (G) Measurement of the time between convictions shall be from the date of arrest or date of issuance of the citation of the offense to the date of arrest or date of issuance of the citation for the subsequent offense.

1.11.4 The Chief of Police, or his designee may refuse to issue an ABS Permit to any applicant whose background indicates employment in the alcoholic beverage industry would adversely affect the health, safety or welfare of the applicant or community. If an ABS permit is denied on these grounds, the Chief of Police, or designee shall state in writing the specific evidence and reasons for the denial of the ABS Permit.

1.11.5 In order to obtain an ABS Permit all applicants must complete a *Training for Intervention Procedures* alcohol course (see www.tipsalcohol.com), or other similar training approved by Chief of Police, and furnish proof of such training to the Chief of Police or his designee.

1.11.6 Upon the filing of an application and review of the initial application for an ABS permit the Chief of Police or his designee may issue a provisional Alcoholic Beverage Security permit that is valid for no more than TEN (10) days in order to provide the Chief of Police or his designee time to complete the background investigation, and to provide the applicant time to complete their required training. This provisional permit may be revoked at any time the Chief of Police or his designee.

1.11.7 Upon recommendation by the Chief of Police or his designee, the Prosecuting Attorney for the Municipal Court or an Assistant Prosecuting Attorney for the Municipal Court may revoke or suspend an ABC Service Permit for the following reasons:

- (A) The permit holder provided false or misleading information in their ABC Service Permit Application;
- (B) The permit holder no longer meets the eligibility requirements in section 1.11.3.
- (C) The permit holder's employment in the alcoholic beverage industry is determined to adversely affect the health, safety or welfare of the applicant pursuant to Section 1.11.4.

- (D) If the permit holder is charged with any crime listed in section 1.11.3 the ABS Permit may be suspended until the charge is adjudicated in court, and the permit holders continued eligibility under Section 1.11.3 and 1.11.4 can be determined.
- (E) If the permit holder is convicted of a first violation in five years of Chapter 6 of the Code or Ordinances of the City of Statesboro, or a crime involving furnishing alcohol to persons under age, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offense and for which no final disposition has occurred the ABS Service Permit may be suspended up to 120 days.
- (F) If the permit holder is convicted of second offense within the previous five years for violating Chapter 6 of the Code of Ordinance of the City of Statesboro or a crime that involves providing alcohol to underage persons, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such second offense and for which no final disposition has occurred, the ABC Permit may be revoked.
- (G) The term "conviction" as used in this paragraph shall include a finding or verdict of guilt, plea of guilty, a plea of nolo contendere, a bond forfeiture, and also include anyone currently on probation or otherwise under a court's supervision for a term certain to avoid a judgment of guilt being entered under what is commonly referred to as "first offender" sentence or "pre-trial diversion program."
- (H) Measurement of the time between convictions shall be from the date of arrest or date of issuance of the citation of the offense to the date of arrest or date of issuance of the citation for the subsequent offense.

1.11.8 Any applicant who is denied a ABS Permit, or any ABS Permit holder whose permit is suspended or revoked shall have right to appeal the denial ,suspension or revocation as provided in Section 1.2 of these Rules and Regulations.

1.12 SEVERABILITY

If any section, subsection, sentence, clause or phrase of these rules and regulations are for any reason held to be unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of the rules and regulations.