

PROPOSED ORDINANCE AMENDMENTS ARE UNDERLINED.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE AUGUSTA, GEORGIA CODE, TITLE 6, CHAPTER 2, ARTICLE 1, ALCOHOLIC BEVERAGES, SECTIONS 6-2-1 THROUGH SECTION 6-2-145; SO AS TO PROVIDE REGULATIONS FOR THE LICENSING OF ALCOHOL; TO INCLUDE ADDITIONAL DEFINITIONS, DAYS SALES ALLOWED, HOURS OF SALE, FEE FOR ALCOHOL LICENSES, DUE DATE FOR ALCOHOL LICENSE RENEWAL; TO REPEAL ALL CODE SECTIONS AND ORDINANCES AND PARTS OF CODE SECTIONS AND ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

NOW, BE IT ORDAINED BY THE AUGUSTA, GEORGIA COMMISSION AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF SAME THAT ALL ALCOHOL LICENSEES WITHIN THE JURISDICTION SHALL COMPLY WITH THE PROVISIONS OF THE AUGUSTA, GA CODE, AS FOLLOWS:

SECTION 1. Sections 6-2-1 through Section 6-2-145 of Augusta, Georgia Code, Title 6, Chapter 2, Article 1 are hereby deleted by striking these sections in its entirety; AND new Sections 6-2-1 through Section 6-2-145 are hereby inserted to replace the repealed sections as set forth in "Exhibit A" hereto.

SECTION 2. This ordinance shall become **effective December 1, 2014** ~~upon its adoption~~ in accordance with applicable laws.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted this ____ day of _____, 2014.

David S. Copenhaver
As its Mayor

Attest: _____
Lena J. Bonner, Clerk of Commission
Seal:

CERTIFICATION

The undersigned Clerk of Commission, Lena J. Bonner, hereby certifies that the foregoing Ordinance was duly adopted by the Augusta, Georgia Commission on _____, 2014 and that such Ordinance has not been modified or rescinded as of the date hereof and the undersigned further certifies that attached hereto is a true copy of the Ordinance which was approved and adopted in the foregoing meeting(s).

Lena J. Bonner, Clerk of Commission

Published in the Augusta Chronicle.

Date: _____

DRAFT

“EXHIBIT A”

Chapter 2

ALCOHOLIC BEVERAGES
ARTICLE 1 IN GENERAL

Sec. 6-2-1. Purposes.

This Chapter has been enacted in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages and operation of bottle houses, to protect and preserve schools and churches, to give effect to existing land use and to preserve certain residential areas, with reasonable consideration, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values, and to protect against the evils of concentration of the retail outlets for whiskey in one (1) family or to prevent undesirable persons from engaging in or having any interest in alcoholic beverages.

Sec. 6-2-2. Definitions.

The following are definitions of terms as used in this Chapter:

(a) *Alcohol*. Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever process produced.

(b) *Alcoholic beverage*. Alcoholic beverage includes all drinks or beverages containing alcohol, including, but not limited to, distilled spirits, beer, malt beverage, wine or fortified wine.

(c) *Alcoholic Treatment Center*: Any 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 alcoholics and any other hospital or facility within the State of Georgia approved for such purpose by the department, including the buildings and the surrounding property or campus directly incorporated into such use.

(d) *Bar/ Pub*: An established place of business which is licensed to sell alcoholic beverages for consumption on the premises and may serve meals to be consumed on the premises and which also may provide live entertainment or contests involving strength or skill and may provide electronic games or pool tables.

(e) *Beer*. Any alcoholic beverage obtained by the fermentation of barley, malt, hops, or any other similar product, or any combination of such product in water containing not more than 6% alcohol by volume, and including ale, porter brown style lager beer, small beer, and strong beer.

(f) *Caterer - Licensed alcoholic beverage caterer*. Any retail dealer who has been licensed by Augusta, Georgia pursuant to this chapter and pursuant to Georgia law.

(g) *Church*: A permanent building owned and operated exclusively by a religious organization and publicly designated a church where persons regularly assemble for religious worship. The minimum distance requirements from church buildings shall not apply to space in a shopping center or residences also used for religious purposes.

(h) *Dinner theater*: An established place of business that is defined as a restaurant as in section 6-2-2(u) with the exception that a fee may be collected upon entrance to the business which provides theatrical entertainment during the course of the meal.

(i) *Director of Planning and Development*. The person named as director of the Augusta Planning and Development Department, or any designated representative thereof.

(j) *Drinking alcohol on city streets prohibited*. Except as provided in paragraph (1) below, it shall be unlawful for any licensed establishment to dispense any alcoholic beverage in an open container for removal from the premises, and it shall be unlawful for any person to remove from an alcoholic beverage establishment any open container of alcoholic beverage or to drink or attempt to drink any alcoholic beverage from any open container or to possess in any open container any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private, within the limits of Augusta, Georgia.

(1) *Outside consumption of alcoholic beverage permitted in certain area*; Restaurants (eating establishments) as defined in Section 6-2-52 that have complied with Augusta-Richmond County Code Section 3-8-11 (a)(b) *Sidewalk Encroachments*, may allow customers to consume an alcoholic beverage at the outside table while dining.

(k) *Entertainment Venue* shall mean an establishment which is licensed to sell alcoholic beverages for consumption on the premises and which derives at least 50 percent of its total annual gross entertainment and beverages sales from the sale of entertainment admission tickets, and shall further mean an entertainment venue meeting criteria for license eligibility provided in section 6-2-52.

(l) *Growler*. The term growler shall mean a glass or ceramic bottle or jug not to exceed 64 ounces that is filled by a licensee or employee of a licensee with beer from a keg and securely sealed for off-premises consumption. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler and the filling of growlers by means of a tapped keg shall not constitute the breaking of a package as contemplated by

O.C.G.A. § 3-3-26 and they cannot be in the possession or control of retailer selling distilled spirits by the package.

(m) 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.

(n) Housing Authority Property means any property containing 300 housing units or fewer owned or operated by a housing authority created by Article 1 of Chapter 3 of Title 8, the "Housing Authorities Law".

(n) *Liquor.* Distilled spirits, which means any alcoholic beverage obtained by distillation or containing more than 21% alcohol by volume, including but not limited to all fortified wines.

(p) Lounge means a separate room connected with a part of and, adjacent to a restaurant or located in a hotel.

(q) Main entrance door/ front door means the principal entrance by which access may be obtained to the operational area of a structure.

(r) Nightclub: An established place of business which is licensed to serve alcoholic beverages for consumption on the premises (the sale of alcoholic beverages being the dominant part of its business) and which also may provide live entertainment.

(s) *Off-premises consumption.* The sale of alcoholic beverages in unbroken packages for consumption in a location other than the licensed premises.

(t) *On-premises consumption.* The sale of alcoholic beverages by the drink or in broken packages for consumption on the licensed premises.

(u) *Premises.* One physical identifiable place of business consisting of one room, or two or more contiguous rooms operating under the same trade name where distilled spirits by the drink are sold. On premises outlets which cannot be determine as one identifiable place of business shall require additional licenses regardless of such establishments having the same trade name, ownership, or management; provided nothing herein shall require additional licenses for service bars, or portable bars used exclusively for the purpose of mixing or preparing such drinks when such bars are accessible only to employees of the licensed establishment and from which drinks are prepared to be served in the licensed premises. Premises shall not include common facilities located in a shopping center area.

(v) *Package*. A bottle, can or other original consumer container.

(w) *Private club* means any nonprofit corporation or association organized under the laws of this state which:

(1) Has been in existence at least one year prior to filing an application for a license;

(2) Has at least 75 regular dues-paying members; and

(3) Owns, hires or leases a building or space within a building for the reasonable use of its members, which building or space:

a. Has suitable kitchen and dining room space and equipment;

b. Is staffed with a sufficient number of employees for cooking, preparing and serving meals for its members and guests; and

c. Has no member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits for the sale of alcoholic beverages beyond a "fixed salary," as such term is defined in O.C.G.A. § 3-7-1, as amended from time to time.

(x) *Restaurant*: An established place of business:

(1) Which is licensed to sell alcoholic beverages for consumption on the premises but promotes the sale of prepared food as a dominant part of the business;

(2) Which has adequate facilities and sufficient employees for cooking or preparing and serving such meals for consumption at tables in dining rooms on the premises and a seating capacity of at least 40 people;

(3) Which derives at least 50 percent of its gross food and beverage income from the sale of such meals prepared, served, and consumed on the premises;

(4) Which charges no fee for admission or contests nor allows an independent individual to charge fees for admission or contests on the premises;

(5) Which serves food during all hours of operation.

(6) Notwithstanding any other criterion in this section, licensees operating as **Hybrid Restaurants** may elect to operate as a bar and may charge after 9:00 p.m. cover charges for live entertainment and contests not adult oriented in nature subject to Section 6-2-52, provided that the licensee obtains a certificate from the Fire Marshall which states the maximum occupancy limits during restaurant operations and the maximum occupancy limit once food service stops and the restaurant functions as a bar, and **they meet all of the distance criteria in sections 6-2-64 and the 50 percent food sales criterion of subsection (3) of this section and provided further that no persons under the legal drinking age of 21 shall be allowed after the time such licensees begin to charge a cover charge** and provided that licensees post a sign which is visible upon entry to the establishment which shall read "*This establishment may charge a cover charge after 9:00 p.m. and no persons under the legal drinking age of 21 shall be allowed on the premises after 9:00 p.m. as per Section 6-2-2(w)(7) of the Augusta, Georgia Code.*" and upon initial application with the Planning and Development Department or upon annual renewal the licensee must indicate the intent to charge a cover charge under this section. Failure to declare the intent to charge a cover

charge may result in revocation of the alcoholic beverage license. Restaurants which elect to charge a covercharge are required to pay an annual regulatory fee as required is Section 2-1-3 (c) of the Augusta-Richmond County Code.

(y) *Retail sale.* The sale of alcoholic beverages either in unbroken packages or for consumption on the premises, only to consumers and not for re-sale.

(z) *St. Patrick's Day holiday period* means March 16 through March 18 of each year.

(aa) *Wine.* Any alcoholic beverage containing not more than 21% alcohol by volume, made from fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

(Fees are subject to change / contact the Planning & Development Department for the current fee schedule.)

Sec. 6-2-3. Sale a privilege, not a right.

Nothing in this chapter shall be construed as giving a person a right to sell alcoholic beverages, but the manufacture, sale, and distribution of alcoholic beverages is declared to be a privilege in this state and in Augusta-Richmond County. All alcoholic beverage licenses or permits issued hereunder to carry out such business during the term of the license is subject to all terms and conditions imposed by this chapter and related laws and other ordinances of Augusta Georgia relating to such business, as amended from time to time by the Mayor and Commission.

Sec. 6-2-4. In general.

It shall be unlawful for any person, corporation, partnership, association or any other entity, unless specifically exempt under this Ordinance, to engage in any of the following activities:

- (a) To drink, serve or offer for drinking or have possession for sale or distribution, any type of alcoholic beverage in any Augusta-Richmond County park, playground or building without a license and business tax certificate.
- (b) To sell or offer for sale, or serve for remuneration whether the payment is direct or indirect, any alcoholic beverage at retail or wholesale without a license and business tax certificate.
- (c) To engage in any act involving the sale, service or consumption of alcoholic beverages prohibited by laws of the State of Georgia.
- (d) To violate any of the provisions of this chapter.

Sec. 6-2-5. Consumption at parks, playgrounds, public streets and public areas owned or operated by Augusta.

(a) It shall be unlawful for any person to serve, to consume or offer for the purpose of consumption to anyone else or to be in possession of beer, wine, or any type of intoxicating liquor or beverages, in and on any public park, playground, or building thereon, or other public area, owned or operated by Augusta, at any time whatsoever, with the exception of Julian Smith Casino, Julian Smith Park Barbecue Pit, Fleming Park Community Center, Reynolds Park, Jamestown Community Center, Hephzibah Community Center and McBean Community Center, May Park, Brigham Center, Savannah Place, Warren Road Community Center, New Savannah Bluff Lock & Dam Recreation Area, Gracewood Community Center, McDuffie Wood, Diamond Lakes Community Center, Bernie Ward Community Center, Blythe Area Recreation Center, The Boathouse, Old Government House, Minnick Park, Augusta Municipal Golf Course, Eastview Park and Doughty Park, Sandhills Recreation Center, Augusta Common, 8th Street Plaza, Augusta Canal National Heritage Area or any other recreational facility or property owned, controlled, or maintained by Augusta, except in accordance with subsection (b), (c), and (d) below, or otherwise provided by the Augusta-Richmond County Code or Georgia law.

(b) Prior written approval must be obtained from the Sheriff of Richmond County, Georgia, and the Director of the Recreation Department, when alcoholic beverages are served or consumed at Julian Smith Casino, Julian Smith Park Barbecue Pit, Fleming Park Community Center, Reynolds Park, Jamestown Community Center, Hephzibah Community Center and McBean Community Center, May Park, Brigham Center, Savannah Place, Warren Road Community Center, New Savannah Bluff Lock & Dam Recreation Area, Gracewood Community Center, McDuffie Wood, Diamond Lakes Community Center, Bernie Ward Community Center, Blythe Area Recreation Center, The Boathouse, Old Government House, Minnick Park, Augusta Municipal Golf Course, Eastview Park and Doughty Park, Sandhills Recreation Center, Augusta Common, 8th Street Plaza, or any other recreational facility or property owned, controlled, or maintained by Augusta.

(c) Prior written approval must be obtained from the Sheriff of Richmond County, Georgia and the Director of Riverwalk, when alcoholic beverages are served or consumed at Augusta Common or the 8th Street Plaza.

(d) Prior written approval must be obtained from the Sheriff of Richmond County, Georgia and the Augusta Canal Authority when alcoholic beverages are served or consumed at Augusta Canal National Heritage Area.

(e) It shall be unlawful for any person to serve, to consume or offer for the purpose of consumption to anyone else or to be in possession of beer, wine, or any type of intoxicating liquor or beverages, in an open container, cup, or glass, on any public street, sidewalk, alley, or other public area, owned or operated by Augusta, at any time whatsoever, except in accordance with subsection (b),(c), and (d) above, or otherwise provided by the Augusta-Richmond County Code or Georgia law.

Sec. 6-2-6. Right of Augusta-Richmond County officials to enter premises for enforcement purposes.

Agents and inspectors appointed by the Augusta-Richmond County Commission for the enforcement of this Ordinance, including officers of the Richmond County Sheriff's Department, are empowered and authorized to enter upon the premises of any person or entity engaged in the manufacture, sale, distribution, storage, or transportation of alcoholic beverages and liquors at any time for the purpose of inspecting said premises and shall have access during such inspection

to all books, records, and supplies relating to the manufacture, sale, distribution, storage, and transportation of alcoholic beverages and liquors.

Sec. 6-2-7. Notice to Augusta-Richmond County of disciplinary action against licensee.

(a) Disciplinary action as used herein means any action taken by any municipal, county, state, or federal agency against the licensee, his employees, or his place of business, including, but not limited to:

- (1) Arrest by local, state, or federal authorities of the licensee or of any of his employees.
- (2) Citations issued by local, state, or federal authorities, to the licensee or any of his employees.
- (3) Indictments, presentments, or accusations in any local, state, or federal courts against the licensee or any of his employees.
- (4) Conviction of, or penalties imposed pursuant to a plea of nolo contendere or non-vult against, the licensee or any of his employees in any local, state, or federal court.
- (5) Penalties imposed by any regulatory agency against the licensee or any of his employees.
- (6) Any other written charges or reprimands by local, state, or federal authorities.

(b) Any licensee who has any disciplinary action taken against him or his employees by any authority, either municipal, county, state or federal, shall notify the Augusta-Richmond County Commission in writing within forty-eight (48) hours of such action, and of the disposition of any charges or the time and place where such charges will be heard. Any licensee who fails to so notify the Commission within the prescribed time may be cited before the Commission to show cause why his license shall not be suspended or revoked. Notice shall be sent to the Commission, c/o Director of Planning and Development, P.O. Box 9270, Augusta, Georgia 30906.

Sec. 6-2-8. Days sales allowed.

(a) Consumption On-Premise licensees hereunder are allowed to sale on Sundays during the St. Patrick's Day holiday period (as defined) during the hours specified in 6-2-15; otherwise On-Premise licensees shall not permit the sale of any alcoholic beverage on Sunday (except as provided in sections 6-2-15 and 6-2-16).

(b) Off-Premise Consumption licensees hereunder may permit the sale of packaged alcoholic beverages seven-days a week as provided in sections 6-2-14. Furthermore, no liquor store may be open on ~~Thanksgiving Day~~ or Christmas Day.

(c) Election days. Pursuant to the delegation of authority granted to Richmond County by Act No. 750 (House Bill No. 247) approved April 10, 1985, amending Official Code of Georgia Annotated section 3-3-20(b)(B), the sale by wholesale and retail of alcoholic beverages, to wit: distilled spirits, wine and malt beverages, shall be lawful during the polling hours of any election; however, nothing herein shall authorize the sale of alcoholic beverages within two hundred fifty (250) feet of a polling place during such time as the polls are opened.

(d) Notwithstanding the foregoing, no alcoholic beverages of any kind shall be sold

during any day or part of the day when the sale of said alcoholic beverage is prohibited by state law.

(e) On all days and times that the sale of alcoholic beverages is prohibited by state law, consumption-on-premises licensees shall not open for any purposes (except as provided in sections 6-2-15 and 6-2-16 except with the prior written permission and consent of the Richmond County Sheriff's Department, for maintenance or similar purposes.

Sec. 6-2-9. Reading of regulations required.

No person shall be approved for a license hereunder, unless such person shall have read the Augusta-Richmond County wine, beer and whiskey regulations in full text, and shall certify in writing the fact of such reading and the knowledge thereof.

Sec. 6-2-10. Copy of regulations to be maintained on premises; employees to be instructed.

It shall be the duty of the management of the premises licensed under this Ordinance to maintain a copy of this Ordinance, or the ordinance from which this Ordinance derives, and all amendments thereto, on such premises, and to instruct each and every employee on the terms thereof.

Sec. 6-2-11. Adulteration of beverages, refilling bottles, etc.

It shall be unlawful for any person to add to the contents of any bottle labeled as containing an alcoholic beverage, or to refill any such empty bottle, or in any manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

Sec. 6-2-12. Illumination of certain premises.

All premises for which a Class A (on-premises consumption of beer), C (on-premises consumption of wine) or E (on-premises consumption of liquor) license has been issued under the provisions of this Ordinance shall be adequately illuminated so that all hallways, passage ways and open areas may be clearly seen by customers therein.

Sec. 6-2-13. Advertising signs.

Signs advertising alcoholic beverages must be turned off when the business is closed or the sale of alcoholic beverages is prohibited.

Sec. 6-2-14. Hours of sale.

(a) *Generally.* Any and all holders of licenses under the authority of this Ordinance shall observe the following schedule of hours of operation, which shall be determined by Eastern Standard Time or daylight savings time, whichever is in effect:

(1) Holders of Class A, C, and E licenses (on-premises consumption of beer, wine and liquor) shall not open for business earlier than 8:00 a.m. Monday through Friday and may serve any authorized alcoholic beverage until 2:30 a.m. on the

next following day; provided, further that said premises shall be vacated of all persons, including employees, by no later than 3:00 a.m. On Saturday, consumption on-premises license holders shall not open for business earlier than 8:00 a.m. and may serve authorized alcoholic beverages until 11:55 p.m. on Saturdays and the two (2) hours immediately following such time; provided, further, that said premises shall be vacated of all persons, including employees, by no later than 2:30 a.m. on Sunday.

~~Where the sale of alcoholic beverages is in conjunction with the sale of food, the aforesaid hours of sale shall be applicable only to the sale of alcoholic beverages and not applicable to the sale of food; provided, however, no alcoholic beverage shall be allowed to remain on any bars, tables, or be in possession of patrons after 3:00 a.m. Tuesday through Saturday and 2:30 a.m. Sunday, and the inventory of alcoholic beverages must be secured as described in section 6-2-17 of this Ordinance.~~

(2) Holders of a Class F license (off-premises consumption of liquor) shall not open for business earlier than 8:00 a.m. Monday through Saturday and may remain open for business until 11:45 p.m. Monday through Saturday. Holders of a Class F license (off-premises consumption of liquor) shall not open for business earlier than 12:30 p.m. on Sunday and may remain open for business until 11:30 p.m. on Sunday.

(3) Holders of Class B and D licenses (off-premises consumption of beer and wine) who are not licensed to sell liquor shall be prohibited from selling beer and/or wine only between the hours of 11:45 p.m. Saturday and 12:30 p.m. on Sunday and between 11:30 p.m. on Sunday and 6:00 a.m. on the Monday next following.

(4) No licensee, employee of such licensee, or any person acting on behalf of such licensee shall furnish, or give beverage alcohol to any person on any day or at any time when the sale of same is prohibited by law.

Sec. 6-2-15. Sunday Sales.

(a) The sale of alcoholic beverages is authorized for consumption on-premises in eating establishments, or inns, as defined herein, on Sundays between the hours of 12:30 p.m. and 2:00 a.m. Monday; provided further that said premises shall be vacated of all persons, including employees, by no later than 3:00 a.m. ~~Where the sale of alcoholic beverages is in conjunction with the sale of food, the aforesaid hours of sale shall be applicable only to the sale of alcoholic beverages and not applicable to the sale of food; provided however, no alcoholic beverage shall be allowed to remain on any bars, tables, or be in possession of patrons after 2:30 a.m. Monday, and the inventory of alcoholic beverages must be secured as described in section 6-2-17 of this Ordinance.~~ For the purpose of this subsection, eating establishment shall mean an establishment which is licensed to sell alcoholic beverages for consumption on the premises and which derives at least fifty (50) percent of its total annual gross food and beverages sales from the sale of prepared meals or food, and shall further mean a restaurant meeting criteria for license eligibility provided in section 6-2-52. For the purpose of this subsection, inn means an establishment which is licensed to sell alcoholic beverages and which derives at least fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging.

(b) The Augusta-Richmond County Commission recognizes the value of the Masters Tournament to tourism and recruitment of industry and business to Augusta, Georgia: that entertainment of visitors to Augusta during the Masters Tournament, including the Sunday immediately preceding the Masters Tournament and the Sunday of the Masters Tournament is an important resource to Augusta; and that allowing “eating establishments” and “inns”, that are not otherwise licensed for Sunday sales, to sell alcoholic beverages on the Sunday immediately preceding the Masters Tournament and the Sunday of the Masters Tournament enhance the ability of Augusta to attract tourism, economic development, and industry and businesses. Therefore, “eating establishments” and “inns” as provided in subparagraph (a) hereof, shall be allowed to secure a special license authorizing the sale of alcoholic beverages, for which they are otherwise licensed, on the Sunday immediately preceding the Masters Tournament and the Sunday of the Masters Tournament. The fee for such permit shall be \$100.00, and application for same must be made as provided in Augusta-Richmond County Code § 6-2-77 at least thirty (30) days in advance of the such event. The license provided for herein shall be in addition to any other license granted under Augusta-Richmond County Code § 6-2-77 or any other section of this Chapter.

(c) Policy Statement. The intent of this Sunday Sales Ordinance is to allow those full service restaurants that serve the public to sell alcoholic beverages with the meals on Sunday. It is not the intent of this Ordinance to encourage neighborhood taverns and bars to serve alcoholic beverages on Sunday via the mechanism of serving incidental meals on Sunday.

Sec. 6-2-16. Sunday sales of beer and wine in public stadiums.

Authorized holders of a Class A license or a Class C license may serve beer and wine for on-premises consumption in public stadiums owned or controlled by Augusta-Richmond County and having a seating capacity in excess of 2,500 people on Sunday between the hours of 12:30 p.m. and midnight.

Sec. 6-2-17. Inventory to be kept under lock and key when sale prohibited.

(a) On all days and times that the sale of alcoholic beverages or a particular type of alcoholic beverage is prohibited by state law and where the business is otherwise open and operating for the purpose of the sale of other items, it is required that all coolers designated as alcoholic beverage coolers be kept under lock and key during the period of time that sale of alcoholic beverages is prohibited and also that any inventory of alcoholic beverages must be kept under lock and key during these periods.

Sec. 6-2-18. Prices to be indicated.

Retailers shall indicate plainly, by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed, or on an exposed sign prominently placed, the price of all alcoholic beverages exposed or offered for sale.

Sec. 6-2-19. Furnishing to minors - Prohibited.

(a) Except as otherwise authorized by law:

(1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under twenty-one (21) years of age;

(2) No person under twenty-one (21) years of age shall purchase or knowingly possess any alcoholic beverage;

(3) No person under twenty-one (21) years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage; and

(4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for, or on behalf of, a person under twenty-one (21) years of age.

(b) The prohibitions contained in paragraphs (1), (2) and (4) of subsection (a) of this section shall not apply with respect to the sale, purchase or possession of alcoholic beverages for consumption:

(1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state;

(2) At a religious ceremony; or

(3) In the home of the parent or guardian, with the parent or guardian present.

(c) The prohibition contained in paragraph (1) of subsection (a) of this section shall not apply with respect to sale of an alcoholic beverage by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is twenty-one (21) years of age or older. For purposes of this subsection, the term proper identification means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and including, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. Sec. 40-5-100 through Sec. 40-5-104. Proper identification shall not include a birth certificate nor a traffic citation.

(d) If such conduct is not otherwise prohibited pursuant to section 6-2-26 nothing contained in this section shall be construed to prohibit any person under twenty-one (21) years of age from:

(1) Dispensing, serving, selling or handling alcoholic beverages as a part of employment in any licensed establishment;

(2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured;

(3) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.

(e) Each retail business establishment in Augusta-Richmond County which is licensed to sell alcoholic beverages of any kind shall post in a conspicuous place or places a notice which shall contain the provisions of the laws of this state which deal with the unlawful sale of such items to underage persons and the penalties for violating such laws.

(f) No person who holds a license or is responsible for the day-to-day operation of an establishment holding a license permitting the sale of alcoholic beverages for on-premises consumption shall allow any individual under the age of 21 to be in, frequent or loiter about the licensed premises unless such individual is accompanied by a parent or legal guardian except as provided herein. This prohibition shall apply regardless of whether or not said establishment on said date or time is operating for the purpose of the sale of alcoholic beverages for on-premises

consumption, and regardless of what other type of license or business tax certificate said establishment may have. This section shall not prohibit individuals under the age of 21 from being in a qualified eating establishment or entertainment venue as defined in this Ordinance or attending a special event for which a license for a single event is issued pursuant to this Ordinance, and does not apply to such individuals who are employees of the licensee with assigned duties in the licensed premises.

Sec. 6-2-20. Same - Penalty for violation.

(a) Any licensee hereunder, or any person in the employ of the licensee or any person in the employ of the retail business establishment for which the license was granted, who violates the provisions of section 6-2-19 herein, shall subject the license of the licensee to suspension or revocation, and shall be guilty of an offense and, upon trial and conviction of a misdemeanor, shall be punished by a fine in an amount not to exceed five hundred dollars (\$500.00) and/or imprisonment in jail for a period not to exceed sixty (60) days.

(b) Whenever an Alcoholic Beverage License(s), under section 6-2-20(a) is suspended, or suspended and made subject to probation by the Augusta-Richmond County Commission for all or a part of said period of suspension, said license shall not be reinstated unless the licensee pays to the County a reinstatement fee of \$500.00. Said reinstatement fee shall be due and payable and remitted to Augusta-Richmond County not less than five (5) business days prior to the end of any period of suspension or probated suspension imposed by the Augusta-Richmond County Commission. Only one such fee shall be paid by any one license holder on any one occasion irrespective of the number of licenses to be reinstated. Any fee paid pursuant to this Code section shall be paid into the General Fund.

Sec. 6-2-21. Premises to be kept in orderly manner, with outside gatherings of patrons restricted.

(a) Owners and/or applicant, managers and employees shall be responsible for keeping an orderly place, and no patron shall cause a disturbance of any kind; nor shall any patron be allowed to stand, sit, mingle or assemble outside the building, in parking lots or autos, and drink alcoholic beverages except as provided in subparagraph (b) hereof.

(b) Businesses with on-premises alcoholic beverage consumption licenses may serve alcoholic beverages only within the definite closed locality, whether room, shop or building, where alcoholic beverages are sold by the drink. However, any business with such license, which has an outside patio area that is actually and permanently attached to the main building, may serve alcoholic beverages in the patio area; provided, however, a bar may not be set up in such an outside patio area, nor are portable bars, beer tents or other such facilities for the sale of alcoholic beverages permitted. Sales through doorways or windows to sidewalks, parking lots, or patio areas are also prohibited.

(c) The provisions of subsection (b) above shall not apply to the sale of alcoholic beverages in the area designated as Riverwalk. Sales in the Riverwalk area shall be allowed as provided in section 6-2-22 hereof.

(d) The alcohol license holder, or manager of an on-premise consumption alcohol licensed business, or any person giving any public amusement show, exhibition or performance, any public ball, any dances either public or private, or any gathering at public facilities when

alcohol is being served, or on any occasion where the Chief of the Fire Department and/or Sheriff determine in their sole discretion that due to the nature of the function and/or facility, attendance of sheriff's deputies and/or firefighters is necessary, it is then the responsibility of the alcohol license holder, or other person mentioned, to comply with the chief of the fire department and/or sheriff's decision.

(e) Any manager or other person mentioned in the preceding section shall apply to the sheriff's department and the fire department to learn whether or not the attendance of deputies and/or firefighters is required.

Sec. 6-2-22. Sales at Riverwalk.

Sales in the Riverwalk area shall be allowed in areas designated for alcohol sales by the Planning and Development Department as permanent locations.

Sec. 6-2-23. Sanitation requirements, monitoring occupancy limits.

(a) All premises used for the retail sale of alcoholic beverages or for the storage thereof for sale shall be kept in a clean and sanitary condition and shall be in full compliance with the regulations of the department of public health regulating the condition of premises used for the storage or sale of food for human consumption. All premises for which a Class A (on-premises consumption of beer), Class C (on-premise consumption of wine) or Class E (on-premises consumption of liquor) license has been issued shall afford therein adequate sanitary toilet facilities.

(b) Monitoring occupancy limit, continuous compliance required. Any establishment licensed by the city to dispense alcoholic beverages for consumption on the premises shall establish a procedure for monitoring the number of people in the establishment and shall be in continuous compliance with the occupancy limit as shown on the certificate of occupancy occupancy load for the premises.

(c) Open restrooms required. Any establishment licensed by the city to dispense alcoholic beverages for consumption on the premises shall at all times while open to the public keep restrooms open and operating in sufficient numbers to accommodate the needs of its customers. Such establishment shall be in continuous compliance with city building and plumbing code requirements regarding public restrooms.

(d) Cleanliness and code compliance required. All premises including the sidewalks and any adjacent public ways shall be kept clean and free of litter or trash, and such premises shall be and remain in full compliance with all requirements of the city inspections department.

Sec. 6-2-24. Games of chance; cause for suspension or revocation of license.

Gambling, betting, or the operation of games of chance, punchboards, slot machines, lotteries, or tickets or chances therein, or any other such scheme or device involving the hazarding of money or any other thing of value in any licensed place of business, or in any room adjoining the same owned, leased or controlled by him, shall be cause for suspension or revocation of his license; provided, however, nothing herein shall prohibit the operation of a

properly licensed Georgia Lottery outlet, bingo game or any device not otherwise prohibited by law.

Sec. 6-2-25. Visual obstructions prohibited.

No screen, blind, curtain, partition, article or thing shall be permitted in the window or upon the doors of the licensed premises which shall prevent a clear view into the interior of the premises from the street or road at any time, and no booth, screen, partition or other obstruction shall be permitted within the interior of the licensed premises, and the same shall be so lighted so the interior of the premises is plainly visible from the street or road day and night.

Sec. 6-2-26. Employment of persons under eighteen years of age prohibited.

(a) No person shall allow or require a person in his employment under eighteen (18) years of age to dispense, serve, sell or take orders for any alcoholic beverages.

(b) This section shall not prohibit persons under eighteen (18) years of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises.

Sec. 6-2-27. Adult entertainment establishments.

(a) Findings; public purpose. Pursuant to the Constitutional Amendment, ratified on November 8, 1994, to Article III, Chapter VI of the Constitution of the State of Georgia, which amendment added a new Section VII to said article and delegated the State's power to regulate, restrict, or prohibit activities involving alcoholic beverages to the counties and municipalities of this State; and

In recognition and reliance upon those certain studies, by the City of Austin, Texas and the City of Dallas, Texas, of the effects of adult entertainment establishments in which alcohol is consumed on the premises, which studies show that such establishments engender crime and create undesirable community conditions in the area surrounding them and which studies have previously been considered by the Board of Commissioners of Richmond County;

It is hereby declared that the purpose of this section is to regulate certain types of businesses including, but not limited to, adult entertainment establishments, to the end that the many types of criminal activities and undesirable community conditions frequently engendered by such businesses will be curtailed. However, it is recognized that such regulation cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. As to adult dance establishments, this section represents a balancing of competing interests: reduced criminal activity and protection of the neighborhoods through the regulation of adult entertainment establishments and the protected rights of adult entertainment establishments and patrons.

(b) Sale or consumption of alcohol prohibited. No holder of a license or business tax certificate for an adult entertainment establishment shall serve, sell, distribute or suffer the consumption or possession of any alcoholic beverage or controlled substance upon the premises of the licensee or business tax certificate holder; provided, however, nothing herein contained shall affect any vested rights.

Sec. 6-2-28. Financial transactions.

No licensee, or his business associates, shall borrow or accept from or give or lend to vending machine owners, lessors, suppliers or operators, money or other valuable considerations. Vending machines shall mean for payment of money devices dispensing goods, services, or amusements, or any other thing of value.

Sec. 6-2-29. Licensee purchases from licensed wholesaler.

No retail dealer or retail consumption dealer shall buy or arrange to buy or in any way effect the transfer of any beverage alcohol to him or for his account except from a licensed wholesaler. No arrangement whereby a wholesaler shall handle, clear or in any other way arrange to transfer for any licensed retail dealer or retail consumption dealer shall be permitted; and all sales by wholesalers to licensed retail dealers or retail consumption dealers shall be bona fide sales transactions from the wholesaler to the licensed retail dealer or retail consumption dealer. The making of any forbidden arrangements shall be cause for revocation of the licenses of all licensed wholesalers and retail dealers or retail consumption dealers involved.

Sec. 6-2-30. Solicitation of drinks.

No person while holding any license shall require, permit, suffer, encourage, or induce any employee or person other than the patron and guests of the patron, to solicit the purchase by the patron of any drink, whether alcoholic or non-alcoholic, or money with which to purchase the same; nor shall any licensee pay a commission or any other compensation to any person frequenting his establishment or to his agent or manager to solicit for herself, himself, or for others, the purchase by the patron of any drink, whether alcoholic or non-alcoholic.

Sec. 6-2-31. Consideration of goods bought or sold to be in cash; exceptions.

(a) The consideration for all alcoholic beverages sold by any licensee shall be cash only and the delivery and payment therefore shall be a simultaneous transaction within the licensed place of business. There shall be no maneuver, device or shifts, of any kind whereby credit is extended. The use of post-dated checks is prohibited.

(b) The use of a credit card for the purchase of alcohol beverages from a licensee shall not be prohibited provided such credit card represents an unqualified obligation to pay without recourse on the part of the person, institution or agency issuing such card. Hotels and motels licensed to sell beverage alcohol shall not be prohibited from billing guests of such hotel or motel for such beverage alcohol provided that payment is tendered at the time such guest leaves or checks out of such hotel or motel. The sale of beverage alcohol by bona fide private clubs and lodges wherein members pay all charges on a monthly basis shall not be prohibited provided the receivables from such transactions are promptly placed for collection consistent with sound business practices.

Sec. 6-2-32. Violations; unlawful activities.

(a) Any person holding any license issued pursuant to this Ordinance or any employee or agent of such person who violates any provision of this Ordinance, or directs, consents to, permits, or acquiesces in such violation, either directly or indirectly shall, by such conduct, subject the license to suspension or revocation. For purposes of administering and enforcing this Ordinance, any act committed by an employee, agent or representative of a licensee shall be deemed to be an act of such licensee.

(b) It shall be a violation of this Ordinance for any licensee to permit 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, state, county or municipal governing authority or regulatory agency. With respect to any such activity, it shall be rebuttably presumed that the same was done with the knowledge or consent of the licensee; provided however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence could not have discovered or prevented such activity.

Sec. 6-2-33. Subterfuge.

Any act which may be construed as a subterfuge in an effort to circumvent any provision of this Ordinance shall be deemed a violation of the section or subsection attempted to be circumvented.

Secs. 6-2-34 – 6-2-50. Reserved

ARTICLE 2 LICENSING

Sec. 6-2-51. License required.

(a) No alcoholic beverage may be sold, possessed for sale, or distributed in Augusta-Richmond County, other than in the City of Hephzibah or the City of Blythe if said municipalities legally authorize same, except under a license granted by the Augusta-Richmond County Commission.

(b) Licenses granted hereunder shall fall into one or more of the following classes:

- (1) Class A: On-premises consumption of beer
- (2) Class B: Off-premises consumption of beer
- (3) Class C: On-premises consumption of wine
- (4) Class D: Off-premises consumption of wine
- (5) Class E: On-premises consumption of liquor
- (6) Class F: Off-premises consumption of liquor
- (7) Class G: Brewer, Manufacturer of Malt Beverages
- (8) Class H: Brewpub Operator
- (9) Wholesale Beer
- (10) Wholesale Wine
- (11) Wholesale Liquor
- (12) Sunday Sales

Sec. 6-2-52. License for eating establishment, hybrid restaurants, and entertainment venue; authority to sell for consumption on the premises.

(a) For an eating establishment to be eligible to sell alcoholic beverages for consumption on the premises, it must be a public place kept, used, maintained, advertised and held out to the public as a place where substantial meals are served and where substantial meals are actually and regularly served, such place being provided with adequate and sanitary kitchen to include an appropriate stove, refrigerator, food preparation area, sink, and other items required by the County Health Department and Planning & Development Department for the preparation of foods, and shall have a printed or posted menu from which selections for prepared food can be made, and dining room equipment, and a seating capacity of at least 40 people, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable meals for its guests as a bona fide eating establishment operation. The serving of such meals shall be the principal business conducted, with the serving of distilled spirits to be consumed on the premises as only incidental thereto, and to qualify as an eating establishment under this section, such establishment must derive at least 50 percent of its total annual gross food and beverage sales from the sales of prepared meals and foods on-premises. The Planning & Development Department staff, upon receiving an application from an eating establishment to sell alcoholic beverages for consumption on the premises, shall inspect the restaurant to determine if the applicant is in compliance with the above requirements for a restaurant and shall advise the Commission the determination of his/her inspection.

(b) The licensee of any eating establishment desiring the privilege to sell or otherwise dispense distilled spirits, malt beverages, or wine in accordance with (a) above shall file an affidavit with the Planning & Development Department, certifying under oath that such establishment, if an existing business, derived at least 50 percent of its total annual gross food and beverage sales income from the sale of prepared meals or food on-premise during the preceding calendar year or, if a new business, fully intends and expects to derive at least 50 percent of its total annual gross food and beverage sales income from the sale of prepared meals or food on-premise during the remainder of the current calendar year. Such an affidavit must be submitted annually with such establishment's alcoholic beverage license renewal application if restaurant classification is to be continued. The hours of sale are set forth in Sections 6-2-14 and 6-2-15.

(c) Notwithstanding any other criterion in this section, licensees desiring to operate as Hybrid Restaurants may elect to operate as a bar and may charge after 9:00 p.m. cover charges for live entertainment and contests not adult oriented in nature subject to:

- (1) the licensee obtains a certificate from the Fire Marshall which states the maximum occupancy limits during restaurant operations and the maximum occupancy limit once food service stops and the restaurant functions as a bar;
- (2) the licensee complies with the distance criteria in sections 6-2-64 and the 50 percent food sales criterion of subsection (a) and (b) of this section;
- (3) no persons under the legal drinking age of 21 shall be allowed after the time such licensees begin to charge a cover charge;
- (4) the licensee post a sign ~~provided by Augusta, Georgia Government~~ and which is visible upon entry to the establishment which shall read "This establishment may charge a cover charge after 9:00 p.m. and no persons under the legal drinking age of 21 shall be allowed on the premises after 9:00 p.m. as per Section 6-2-52(c) of the

Augusta, Georgia Code";

(5) the initial application with the Planning and Development Department or upon annual renewal the licensee must indicate the intent to charge a cover charge under this section. Failure to declare the intent to charge a cover charge may result in revocation of the alcoholic beverage license; and

(6) restaurants which elect to charge a cover charge are required to pay an annual regulatory fee as required is Section 2-1-3 (c) of the Augusta-Richmond County Code.

(d) For an entertainment venue to be eligible to sell alcoholic beverages for consumption on the premises; it must have a minimum seating capacity of 200 fixed seats, affixed to the floor or attached to each other in rows of at least five seats in each row, in a theatre-like design in front of a stage; and it must be a public place kept, used, maintained, advertised and held out to the public as an entertainment venue. Entertainment shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto, and to qualify as an entertainment venue under this section, such establishment must derive at least 50 percent of its total annual gross entertainment and beverage sales from the sales of entertainment admission tickets. The Director of Planning and Development, upon receiving an application from an entertainment venue to sell alcoholic beverages for consumption on the premises, shall inspect the location to determine if the applicant is in compliance with the above requirements for an entertainment venue and shall advise the commission the determination of his/her inspection. The sale of alcoholic beverages is authorized for consumption on-premises in entertainment venues as defined herein, on Sundays between the hours of 12:30 p.m. and 11:00 p.m. provided, further that the ~~venue area where alcoholic beverages are being sold and/or served shall be vacated of all persons, including employees, by no later than 12:00 midnight. No alcoholic beverage shall be allowed to remain on any bars, tables, or be in possession of patrons after 12:00 midnight.~~ For the purpose of this subsection, entertainment venue shall mean an establishment which is licensed to sell alcoholic beverages for consumption on the premises and which derives at least 50 percent of its total annual gross entertainment and beverages sales from the sale of entertainment admission tickets, and shall further mean an entertainment venue meeting criteria for license eligibility provided in section 6-2-52.

(1) Any business operating as an entertainment venue as defined in this Code shall be required to have a business tax certificate. The requirements for obtaining, renewing and maintaining such certificate shall be governed by the applicable provisions of the Augusta-Richmond County Code, Title 2, Chapter 2. The regulatory fee for a business tax certificate issued to any entertainment venue shall be as set forth in section ~~2-1-3(c).~~

(e) Upon renewal of an alcoholic beverage license at a premise where an eating establishment, hybrid restaurant, or entertainment venue is in operation, verified records of sales of food or admission tickets as they relate to the total sales of food and beverages or admissions shall be furnished. Verifications must be submitted by both the license holder and the management of the establishment. The Director of Planning and Development may cause an audit of the books of a qualifying eating establishment, hybrid restaurant, or entertainment venue to be made at any time. Failure of a licensee which is a qualifying eating establishment, hybrid restaurant, or entertainment venue to cooperate in the execution of the audit shall be a violation of this Ordinance. Any untrue or misleading information contained in, or material omission left

out of, shall be cause for action to be taken against the alcohol license as provided for in Section 6-2-74.

Sec. 6-2-53. Licenses for brewpubs and breweries.

(a) *Required.* No individual shall be permitted to own or operate a brewpub without first obtaining a proper license from the Augusta-Richmond County Commission, and each brewpub license holder shall comply with all other applicable state and local license requirements.

(b) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Ordinance:

(1) *Brewpub.* Any eating establishment 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. As used herein, the term eating establishment means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least fifty percent (50%) of its total annual gross food and beverages sales from the sale of prepared meals or food on premises.

(2) *Brewer.* A manufacturer of malt beverages.

(c) *Terms of license.*

(1) A brewpub license authorizes the holder of such license to:

a. Manufacture on the licensed premises not more than 5,000 barrels of beer in a calendar year solely for retail sale on the premises and solely in draft form; and

b. Operate an eating establishment that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under licenses issued by the Augusta-Richmond County Commission, including wine, distilled spirits, and malt beverages, provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only; and, provided, further, that in addition to draft beer manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.

(2) Possession of a brewpub license shall not prevent the holder of such license from obtaining a retail consumption dealer's license or a retailer's license for the same premises.

(3) A brewpub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.

(4) A brewpub licensee shall not offer or permit any free sampling of beer by its customers on the premises of a brewpub.

(5) A brewpub licensee shall:

a. Pay all state and local license fees and excise taxes applicable to individuals licensed as manufacturers, retailers, and, where applicable, wholesalers under this title; and

b. Measure beer manufactured on the premises and otherwise comply with applicable regulations respecting excise and enforcement tax

determination of such beer as required by Georgia law and the Ordinances of Augusta-Richmond County.

Sec. 6-2-54. License for off-premises consumption and sale by the drink at same location.

A license holder may have his license for off-premises consumption and his license for on-premises consumption at the same location, but they must be separate premises with separate addresses and trade names.

Sec. 6-2-55. Holder of license for off-premises consumption of liquor selling by the drink without license for on-premises consumption prohibited.

It shall be unlawful for the holders of licenses for off-premises consumption of liquor to offer liquor for sale by the drink on such premises licensed for off-premises consumption. Any premises where alcoholic beverages are sold by the drink at more than one (1) location within the premises shall be required to have a license for each location within the premises.

Sec. 6-2-56. Brown-bagging, etc.

(a) No individual shall be allowed to consume alcoholic beverages in any restaurant, lounge, or bar with an occupation tax certificate from Augusta-Richmond County that does not have a license for on-premises consumption of alcoholic beverages under this ordinance. The occupation tax licensee for any restaurant, lounge or bar in Augusta-Richmond County shall not allow any individual to consume alcoholic beverages on their premises when such alcoholic beverages were not purchased from the restaurant, lounge or bar.

(b) No person shall charge admission to any dance or other event at which alcoholic beverages will be served, provided or otherwise available for consumption, without first obtaining a single event license or an alcoholic beverage license.

Sec. 6-2-57. Augusta-Richmond County employees holding licenses prohibited.

It shall be unlawful for any elected or full-time employee of Augusta-Richmond County, or his or her spouse or members of the immediate family residing in the same household, to hold any license hereunder if that elected official or full-time employee's duties include the regulation or policing of alcoholic beverages or licenses or any alcohol tax-collecting activity.

Sec. 6-2-58. Applicant for new license to give public notice, furnish proof of advertisement.

(a) All persons, firms or corporations desiring to engage in the sale of alcoholic beverages shall give notice of their intention to make application for a license to do so by advertisement in form prescribed by the Augusta-Richmond County license inspector. Advertising, as referred to in this section, means there shall be a sign posted thirty (30) days prior to the hearing of the application in a prominent position on the property (e.g., front window where it can be read from the road); also, all new license applicants shall be required to advertise three (3) times in the legal gazette (Augusta Chronicle) before applications are heard by the Augusta-Richmond County Commission or a committee thereof. Advertising in the legal gazette

shall be during the 30-day period prior to the hearing of the application by the Augusta-Richmond County Commission.

(b) When an application is submitted for a license for a new location, the property designated for the operation of the business shall be posted for thirty (30) days preceding the date of any hearing to be held on said application with a sign reading as follows:

This establishment has applied to the Augusta-Richmond County Commission for an alcoholic beverage license authorizing it to sell Beer, Wine, Liquor (state the appropriate types of beverage) for on/off premises consumption at this location. (State appropriate type).

This _____ day of, 20_____.

Name of applicant: _____

Address of applicant: _____

(The size of the sign to be posted on the property shall be no smaller than 15 inches by 27 inches. The sign is to be conspicuously displayed on that portion of the property most visible to the public.)

(c) For purposes of this section, any location which has never been licensed for the sale of alcoholic beverages before, or for which a license has been revoked, or where the sale of alcohol has ceased for nine (9) months, shall be considered a new location.

(d) Before the application is presented to the Augusta-Richmond County Commission, the applicant shall furnish proof that the advertisement has been completed as required herein above.

Sec. 6-2-59. Filing application.

(a) *Form; information to be provided.*

(1) A written application to the Augusta-Richmond County Commission for a license under this Ordinance shall be made on forms approved by the Augusta-Richmond County Commission. All questions and information required by the application form should be filled in and subscribed to by all applicants, under oath, and shall disclose among other information whether the applicant has been convicted of any crime, misdemeanor or a violation of any municipal ordinance (except minor traffic violations) in any state, county, municipal or federal court, and the particulars of same; the prior business of applicant for the past ten (10) years; names and addresses of three (3) persons who have known applicant for the past five (5) years; whether applicant has any existing liquor, beer or wine business in Georgia; whether the interest of applicant is total, partial, or exact extent of same, and, if partial, the names and addresses of all others having a partial interest in said business and the extent of such interest; and such other and further information as the Commission shall deem necessary.

(2) It is further required that all applicants for licenses allowing the sale of liquor shall submit with their applications personnel statements. These personnel statements shall be furnished to the Augusta-Richmond County license inspector

upon request and will be required for original licenses, and renewals of existing licenses upon request.

(3) Every license application shall be accompanied by a plat prepared by a registered surveyor, showing the distance of the premises for which the license is being applied from the nearest church, school, library or public recreation area, any housing authority property, or from any alcoholic treatment center owned and operated by a governmental entity, as measured under section 6-2-63 hereof. The license application shall be accompanied by a copy of the lease. If the license applicant leases the property and improvements, a copy of the lease shall be maintained on a current basis in the license file. If the license applicant is the owner of the real estate and improvement where the business will be located, a copy of the deed shall accompany the application and be maintained as a part of the license file.

(4) The application shall also include, but shall not be limited to, the name and address of the agent for service of process and the name of the manager. If the manager changes, the applicant must furnish the Augusta-Richmond County license inspector with the name and address of the new manager and other information as requested within ten (10) days of such change.

(b) *Date due.* All applications, including required documentation, shall be filed with the Director of Planning and Development not less than thirty (30) days prior to the date when the application is scheduled to be heard.

(c) *Fee.* Every such application, excluding renewals and transfers, shall be accompanied by a non-refundable application fee in the amount of one hundred twenty-one dollars (\$120.00), said fee to be paid by certified check, cashier's check or money order made payable to the Augusta-Richmond County Commission, as applicable.

(d) *Untrue or misleading information; material omissions.*

Any untrue or misleading information contained in, or material omission left out of, an original, renewal or transfer application for a license hereunder shall be cause for the denial of the license; and, if any license has been granted under such circumstances, the license shall be subject to revocation.

Sec. 6-2-60. Inspection of application by license inspector; investigation by Sheriff; provision of information to Planning & Development Department upon request.

(a) If so filed as to comply with the requirement of this Ordinance an application under this Ordinance shall be sworn to and directed to the Director of Planning & Development for Augusta-Richmond County, who shall inspect the application and refer same to the Richmond County Sheriff, who shall investigate the character and reputation of the applicant, owners, partners, officers of the corporation, shareholders, managers, employees, and others associated with the application, and the suitability of the location for the sale of alcoholic beverages.

(b) All applicants shall furnish all data, information and records requested of them by the License & Inspection Department and/or the Richmond County Sheriff's Department, and failure to furnish such data, information and records within thirty (30) days from the date of the request shall automatically serve to dismiss, with prejudice, the application. Applicants, by filing an application, agree to produce for oral interrogation any person or persons involved in any transaction pertinent to the application or any evidence relevant to the application as may be

requested by the Planning & Development Department or the Richmond County Sheriff's Department. Failure to produce such evidence, person or persons within thirty (30) days after being requested to do so shall result in the automatic dismissal of the application.

(c) The business owner and/or alcohol license applicant for all On-Premise Consumption license holders shall meet with the Sheriff's Office representative, Fire Department representative, and Business License Manager to review proposed measures for ensuring the safety of employees and patrons as required in Section 6-2-21.

Sec. 6-2-61. Review of application by the Augusta-Richmond County commission.

(a) *Procedures—Generally.* After the requirements of sections 6-2-58 through 6-2-60 have been fulfilled, all applications for original alcoholic beverage licenses of any type shall be submitted to the Public Services Committee of the Augusta-Richmond County Commission, which shall review the applications in such manner as the committee may determine to be necessary, and shall submit a recommendation to the Augusta-Richmond County Commission. After the investigation is complete, the Augusta-Richmond County Commission shall cause to be issued such license as it may determine to be warranted and needed by the applicant.

(b) *Order of consideration.* All applications presented shall be noted as to the date and exact time of filing, and such applications shall be presented, heard and considered by the Commission in the order of their filing.

Sec. 6-2-62. Criteria for license approval. Personal qualifications of applicants.

(a) *Citizenship; residency.* A license will be issued only to a person who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, and who is a resident of Augusta-Richmond County, Georgia. Where an applicant is other than a natural person, it must be an entity organized and existing under the laws of the United States or one of its states, an agent of the entity must meet the qualifications of the preceding sentence.

(1) For a license to be issued to a general partnership, the application must be made jointly by the partnership, any managing partner and all other partners owning at least a twenty (20) percent interest in the assets or revenues of the partnership. If there is no managing partner and there is no partner meeting the ownership requirements, then the application must be made jointly in the name of the partnership and the general partner owning the greatest percentage interest in the assets and revenues of the partnership, as agent. At least one (1) of the applicants shall be a natural person. If none of the applicants required above is a natural person, then the natural person having primary responsibility for the operation of the business for which the license is sought shall join in the application, as agent.

(2) Where the applicant for a license is a limited partnership, the application shall be made jointly by the limited partnership, its general partners, and any other partner, limited or general, owning at least a twenty (20) percent interest in the assets or revenues of the limited partnership. At least one (1) of the applicants must be a natural person. If none of the applicants required above is a natural

person, then the natural person having primary responsibility for the operation of the business for which the license is sought shall join in the application, as agent.

(3) Where the applicant for a license is a corporation, the application shall be made jointly in the name of the corporation and its president or vice president and any stockholder owning at least twenty (20) percent of the total outstanding capital stock of the corporation.

(4) Where the applicant for a license is a private club, the application shall be made jointly in the name of the private club and its president or general manager, as agent.

(5) Where the applicant for a license is an entity other than a natural person, a partnership, a corporation, or a private club, the application shall be made jointly in the name of the entity, the natural person having chief executive officer authority over the business activities of the entity and any other person having at least a five (5) percent interest in the assets or revenues of the entity, as agents. The application shall further disclose the type of entity making the application and every person having an ownership interest in the assets or revenues of the entity.

(6) Licenses issued to corporations, general partnerships, limited partnerships, private clubs or other types of entities must be issued jointly to the entity and all of the other persons required by this section to join in the application, as agents.

(b) *Moral character; criminal record.* No person, firm or corporation shall be granted an alcoholic beverage license unless it shall appear to the satisfaction of the Commission that such persons or partners in the firms or officers and directors of the corporation shall be of good moral character.

(c) *Age.* An applicant must be twenty-one (21) years of age or older.

(d) *Interest in Business; Involvement in Business.* The applicant must own a bona-fide interest in the business for which the license is sought. Further, the applicant must be involved in the day-to-day operation of the business for which the application is made. In the event the applicant is a corporation or partnership, the applicant must designate on the application or renewal application a manager or other supervisory employee (who is also a citizen of the United States and a resident of the State of Georgia and Augusta-Richmond County) as the individual responsible for the day-to-day operation of the business, and must comply with the provisions of section 6-2-70(d) herein.

(e) *Eligibility.* The applicant must not fall into any of the categories of individuals who are ineligible to hold a license under section 6-2-62.

Sec. 6-2-63. Individuals not eligible for license.

The following individuals are not eligible for an alcoholic beverage license, even if they possess all of the qualifications listed in section 6-2-61.

(a) Any person convicted of a felony who served any part of a criminal sentence, including probation within the ten (10) years immediately preceding the date of receipt of submission of the application.

(b) Any person who has been convicted of a misdemeanor who served any part of a criminal sentence, including probation within five (5) years immediately preceding the date of receipt of submission of the application.

- (c) Any person whose license to sell alcoholic beverages has been revoked for cause in any state or territory of the United States within the ten (10) years preceding the filing of the application.
- (d) Any person who has knowingly falsified information or made any material misrepresentation on the application for a license under this Ordinance or any application under the predecessor Ordinance for Richmond County or the City of Augusta submitted within the ten (10) years preceding the filing of the application.
- (e) Any person who has been convicted of a violation of any federal, state or local law pertaining to the possession, manufacture or sale of alcoholic beverages who served any part of a criminal sentence, including probation within the ten (10) years preceding the filing of the application.
- (f) Should any such applicant, partner or officer or director of any applicant entity, after a license has been granted, be convicted or plead guilty or nolo contendere to a crime involving moral turpitude, or to the violation of any laws of the State of Georgia regulating possession or the sale of narcotics, drugs, liquors, wine or beer or the lottery laws of this state, said license shall be subject after hearing to immediate suspension or revocation.

Sec. 6-2-64. Same—Location restrictions.

(a) Zoning. No license shall be issued for the sale, either at wholesale or retail, of alcoholic beverages unless the licensee's place of business is located in an area within Augusta-Richmond County that is properly zoned for the sale of alcoholic beverages.

(b) Proximity to churches, libraries, schools, and public recreation areas. No original license shall be issued hereunder where the place of business of the licensee is located within the following distances of the following establishments:

(1) Church or library buildings, or public recreation areas:

Whiskey: One hundred (100) yards.

Malt beverage: One hundred (100) yards.

Wine: One hundred (100) yards.

(1.1) Special alcohol license distance requirements for the Downtown Business District.

a. The "Downtown Business District" for purposes of this Ordinance is bounded:

1. North by the Savannah River;
2. East by the western right-of-way line of Fifth Street;
3. South by the north right-of-way line of Greene Street; and
4. West by the east right-of-way line of Fifteenth Street.

b. Any structure in the "Downtown Business District" as herein above defined and not originally built as a place of worship will not be considered in applying any distance requirement in reference to the issuance of any alcohol license by Augusta, Georgia after the effective date of this Ordinance.

c. Exceptions: This Ordinance shall not apply to any structure in said "Downtown Business District" not originally built as a place of worship and in use as a place of worship on the effective date of this Ordinance.

d. In the Downtown Business District as herein defined, new applications for

alcoholic beverage licenses submitted after the effective date of this Ordinance, shall be subject to distance requirements of 300 feet measured from the main entrance of the applicant's structure to the main entrance of the closest occupied structure originally built as a place of worship or any other structure not originally built as a place of worship and in use as a place of worship on or before the effective date of this Ordinance.

(2) School building or school grounds:

Whiskey: Two hundred (200) yards.

Malt beverage: One hundred (100) yards.

Wine: One hundred (100) yards.

The schools or colleges referred to herein shall include only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges in this state and shall not include private schools or colleges within which only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

(c) No license authorizing the sale of alcoholic beverages shall be issued for a new location unless such proposed location is at a greater distance than 300 feet from any alcohol treatment center owned and operated by a governmental entity.

(d) No person knowingly and intentionally may sell any alcoholic beverages for consumption on the premises within 100 yards of any housing authority property. This subsection shall not apply at any location for which a license has been issued prior to July 1, 2000 nor to the renewal of such license. Nor shall this subsection apply at any location for which a new license is applied for if the sale of alcoholic beverages for consumption on the premises was lawful at such location at any time during the 12 months immediately preceding such application. (O.C.G.A. 3-3-21)

(e) All measurements, to determine distances for the issuance of alcoholic beverage license shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

(1) From the front door of the structure from which alcoholic beverage is sold or offered for sale;

(2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;

(3) Along such public sidewalk, walkway, street, road or highway by the nearest route;

(4) To the front door of the building, or;

(5) To the nearest property line of the real property being used for school, educational purposes, or public recreation areas.

(f) No license in effect on the day of the adoption of this Ordinance shall be revoked before its day of expiration by reason of the method of measurement set out in this section if the license was granted in reliance on another method of measurement.

(g) Further, the Augusta-Richmond County Commission may, in its discretion, issue or deny any license when there is evidence that the type and number of schools, churches, libraries or public recreation areas in the vicinity of the place of business of the licensee causes minors to frequent the immediate area, even though there is compliance with the minimum distances as provided herein.

(h) Nothing contained herein shall prohibit the issuance of any license authorizing the sale or distribution of alcoholic beverages by:

- (1) Hotels or motels of fifty (50) rooms or more;
- (2) Bona fide private clubs owning their homes and subject to licensing by the State of Georgia as a private club;
- (3) Any establishment with a license to sell alcoholic beverages which meets the definition of a qualifying eating establishment as set forth in section 6-2-52 of this Ordinance, but not to include a Hybrid Restaurant; and
- (4) A location for a single event occasion.

(i) No license shall be issued under this Ordinance to any premises which do not meet the requirements of all state, county, and city laws, ordinances and regulations which would apply to said premises, including, but not limited to, building, fire, and sanitation codes.

(j) The restrictions on locations as stated herein are in addition to, and not in lieu of, any restrictions imposed by the laws of the State of Georgia.

(k) If an application is either withdrawn from consideration or denied, no application may be made by any person for the location for which the withdrawn or denied application was made, for a period of twelve (12) months from the date of withdrawal or denial; provided, however, if the application is withdrawn with the unanimous approval of the members of the Augusta-Richmond County Commission, the one (1) year prohibition shall not apply.

(l) If a license is suspended, no application may be made by any person for the location for which the suspended license was held, until such time as the period of suspension for said license expires.

(m) If a license is revoked, no application may be made by any person for the location for which the revoked license was held, for a period of twelve (12) months from the date of revocation.

Sec. 6-2-65. Same—Additional considerations.

(a) In determining whether or not any license applied for hereunder shall be granted, renewed, transferred or issued to a new location, in addition to all the provisions of this Ordinance, the following shall be considered in the public interest and welfare:

- (1) *Reputation, character.* The applicant's reputation, character, trade and business associations or past business ventures, mental and physical capacity to conduct this business.
- (2) *Previous violations of liquor laws.* If the applicant is a previous holder of a license to sell alcoholic liquors, whether or not he has violated any law, regulation or ordinance relating to such business.
- (3) *Manner of conducting prior liquor business.* If the applicant is a previous holder of a license to sell alcoholic liquors, the manner in which he conducted the business thereunder, especially as to the necessity for 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 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 business in the trading area of the place for which the license is sought.

(6) *Dancing.* If dancing is to be permitted upon the premises for which the license is sought and the applicant has previously permitted dancing upon any premises controlled or supervised by him, the manner in which he controlled or supervised such dancing to prevent any violation of any law, regulation or ordinance.

(7) *Previous revocation of license.* If the applicant is a person whose license issued under the police powers of any governing authority has been previously suspended or revoked or who has previously had an alcoholic beverages license suspended or revoked.

(8) *Payment of taxes.* If the applicant and business are not delinquent in the payment of any local taxes.

(9) *Congregation of minors.* Any circumstances which may cause minors to congregate in the vicinity of the proposed location, even if the location meets the distance requirement under section 6-2-64(b) herein.

(10) *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 twelve (12) months immediately preceding the date of application.

(11) *Previous Denial or Revocation.* The denial of an application, or the revocation of a license, occurring within the preceding twelve (12) months, which was based on the qualifications of the proposed location.

(b) If the application is denied, the Augusta-Richmond County Commission shall cause a written report to be prepared showing the reason or reasons for the denial. The Commission shall return the application showing its denial, together with the written report, to the Director of Planning & Development who shall notify the applicant of the denial within five (5) days of the denial. Notice to the applicant shall be made in writing, showing the reason or reasons for the denial and the day and time of the next scheduled meeting of the Commission. The applicant may appeal the denial of the application by serving notice on the Commission requesting reconsideration of the application. The applicant shall serve said notice, in writing, on the Commission within five (5) days of the receipt of the denial of the application.

(c) On reconsideration, the Commission shall hear evidence offered by the applicant and any entity opposing the issuance of the license. The applicant may be represented by counsel, may offer testimony by witnesses or any other evidence and may question any opposing witnesses. At the close of the evidence, the Commission shall either uphold its denial or shall approve the issuance of a license.

Sec. 6-2-66. Time limit for acquiring licenses once approved.

All licenses must be obtained not later than ninety (90) days from the date of the approval of the application, and, if not so obtained, the license shall be void. Extensions of time under this section shall be granted only by the Augusta-Richmond County Commission.

Sec. 6-2-67. License fee.

(a) *When due and payable.* When a license has been approved and granted, the same shall be paid for by certified check, cashier's check or money order for the full amount of the license fee.

(b) *Amount.* Each applicant shall pay a license fee as set out herein:

(Fees are subject to change / contact the Planning & Development Department for the current fee schedule.)

Retail and Wholesale:

	(Fee)	PROPOSED
(1) Class A: Consumption on-premises beer	\$625.00 - \$665.00	<u>\$690.00 - \$735.00</u>
(2) Class B: Retail beer	\$665.00	<u>\$735.00</u>
(3) Class C: Consumption on-premises wine	\$625.00 - \$665.00	<u>\$690.00 - \$735.00</u>
(4) Class D: Retail wine	\$665.00	<u>\$735.00</u>
(5) Class E: Consumption on-premises liquor	\$3,115.00 - \$3,330.00	<u>\$3,430.00 - \$3,665.00</u>
(6) Class F: Retail liquor	\$3,330.00	<u>\$3,665.00</u>
(7) Class G: Brewer, Manufacturer of Malt Beverages	\$665.00	<u>\$690.00</u>
(8) Class H: Brewpub Operator	\$665.00	<u>\$690.00</u>
(9) Wholesale liquor	\$6,050.00	<u>\$6,655.00</u>
(10) Wholesale beer	\$665.00	<u>\$690.00</u>
(11) Wholesale wine	\$135.00	<u>\$150.00</u>
(12) Sunday sales	\$1,245 - \$1,330.00	<u>\$1,370.00 - \$1,465.00</u>
(13) Alcohol Catering	\$340.00 - \$365.00	<u>\$405.00</u>
(14) Second Alcohol License	\$625.00 - \$665.00	<u>\$735.00</u>

Restaurants and Bars (On-premise consumption)

	<u>Occupancy Load</u>			
	<u>1 – 100</u>	<u>101 – 200</u>	<u>201 – 300</u>	<u>301+</u>
Beer	\$625 <u>\$690</u>	\$635 <u>\$700</u>	\$650 <u>\$715</u>	\$665 <u>\$735</u>
Wine	\$625 <u>\$690</u>	\$635 <u>\$700</u>	\$650 <u>\$715</u>	\$665 <u>\$735</u>
Liquor	\$3115 <u>\$3,430</u>	\$3175 <u>\$3,495</u>	\$3235 <u>\$3,560</u>	\$3330 <u>\$3,665</u>
Sunday Sales	\$1245 <u>\$1,370</u>	\$1270 <u>\$1,400</u>	\$1295 <u>\$1,425</u>	\$1330 <u>\$1,465</u>
Ale. Catering	\$340 \$375	\$345 \$380	\$355 \$395	\$365 \$405
Second Alcohol Lic.	\$625 \$690	\$635 \$700	\$650 \$715	\$665 \$735

(c) *Proration.* The full license fee must be paid for a license issued prior to July 1 of the license year. One-half (1/2) of the full license fee shall be paid for a license issued after July 1 of the license year.

(d) *Refund.* In case of the revocation or surrender of such license before the expiration of the calendar year, the holder thereof shall not be entitled to receive any refund whatsoever.

Sec. 6-2-68. Term of license.

All licenses granted hereunder shall be for the calendar year.

Sec. 6-2-69. Display of license required.

(a) Every license issued under this Ordinance shall be kept prominently displayed by the holder thereof at his licensed place of business, and any alcoholic beverage kept, stored or found at said licensed place of business or at his warehouse shall be presumed to be his property.

(b) Nothing shall require additional licenses for service bars, or portable bars used exclusively for the purpose of mixing or preparing Alcoholic Beverage drinks when such bars are accessible only to employees of the licensed establishment and from which Alcoholic Beverage drinks are prepared to be served on the licensed premises.

Sec. 6-2-70. Licenses not transferable; exceptions; fee; new ownership.

(a) Generally. Licenses hereunder shall not be transferable, except as otherwise provided herein. Nothing in this section, however, shall prohibit one (1) or more partners of a partnership holding a license from withdrawing from the partnership in favor of one (1) or more of the partners who were partners at the time of the issuance of the license.

(b) Exceptions.

(1) Estate administration, etc. In case of the death of any person holding such a license, or any interest therein, the same may be transferred to the administrator, executor, or the lawful heirs of the deceased person, if otherwise qualified.

(2) Change of location. Should a transfer of a location be approved, there shall be no additional license fee, and the new location shall not be considered as a new license hereunder.

(3) Addition of partners or stockholders. A licensee may take in partners or additional stockholders where it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanding the facilities of the business, or for building a new facility, and, where it appears that the licensee himself receives directly none of the additional capital invested. Under this section an additional partner or new stockholder must be approved by the Planning & Development Department and the Richmond County Sheriff's Department.

(4) Procedure for application for exception. Any licensee desiring a transfer of a license pursuant to an exception hereunder shall notify the Director of Planning & Development of the basis of the exception and shall provide the Director of Planning & Development with any information and/or documentation requested in connection with the exception. The Director of Planning & Development shall then either approve or deny the exception. If the exception is approved, the license shall be transferred by the Planning & Development.

(c) Fee for transfers. There shall be a fee of one hundred and twenty dollars (\$120.00) for transfers pursuant to this section. (Fees are subject to change / contact the Planning & Development Department for the current fee schedule.)

(d) New ownership; retail alcoholic beverage licenses. No retail beer, wine or whiskey license shall be transferred, but where a change in ownership is contemplated, the new owner or owners shall file a new application for a license. Changes in license ownership from one (1) party at interest named in the original application to another party at interest as named in the original application, and changes of license from one (1) employer or manager to a successor employer or manager, shall not be deemed a transfer of license within the prohibition against transfer contained in these regulations, so long as there is no change in the ownership or location.

In each instance the Augusta-Richmond County Commission shall be advised in writing of such change and a complete disclosure of all facts in connection therewith shall be made at the time such request for change is presented. The Administrator shall have the authority to approve such a change of license. In the event that the Administrator denies such change of license, the applicant shall have the right within ten (10) days of such denial to appeal same to the Augusta-Richmond County Commission. An applicant for a change of license must follow the procedure for applying for an alcoholic beverage license, excluding section 6-2-58 and section 6-2-61. **A transfer fee from manager to manager shall be one hundred twenty dollars (\$120.00).** (Fees are subject to change / contact the Planning & Development Department for the current fee schedule.)

Sec. 6-2-71. Renewal of licenses.

(a) All licenses granted hereunder shall expire on December 31 of each year. Licensees who desire to renew their licenses shall file an application therefore, together with the requisite fee with the Planning & Development Department for such renewal, upon forms approved by the Director of Planning & Development, on or before December 15th of each year.

(b) All licenses to be renewed for the subsequent calendar year shall be submitted by the Planning & Development Department to the Commission for approval no later than November 15th of each year. Any licenses that have been placed on probation, suspension or have been revoked by the Commission during the year shall be submitted on a separate list by the Planning & Development Department for review and consideration for approval.

(c) There shall be a penalty fee charged for filing alcoholic beverage renewal application and license fee payment after the last business weekday of the current year. There shall be a penalty of 20% of the annual license fee but not less than \$300.00, whichever is greater.

If an alcoholic beverage license renewal application and license fee(s) have not been filed with the Planning & Development Department by January 31st of the renewal year, the license shall be declared to be abandoned and any relicensing shall require a new application.

Sec. 6-2-72. Denial of application to renew license.

(a) The possession of a license under this Ordinance is a privilege granted by Augusta, Georgia. The Augusta-Richmond County Commission is hereby authorized to deny the renewal of a license if it finds to exist any of the grounds constituting due cause to revoke, suspend or place on probation a license, as stated in section 6-2-74 herein.

(b) When the Sheriff recommends that an application to renew a license be denied, he shall provide the Director of Planning & Development with a written report describing the reason or reasons for the recommendation. The Director shall notify the Commission and shall serve written notice on the licensee at least five (5) days before the next scheduled meeting of the Commission. The notice shall state the reason(s) given by the Sheriff for his/her recommendation to deny the renewal of the license and the time and place of the next scheduled meeting of Commission.

(c) Commission shall receive evidence in the same manner described in section 6-2-74.

(d) At the conclusion of the evidence, the Commission shall consider the evidence and shall decide to grant or to deny the renewal of the license.

(e) If the application is denied, the Commission shall cause a written report to be prepared showing the reason or reasons for the denial. The Commission shall return the application showing its denial, together with the written report to the Director of Planning & Development who shall notify the applicant of the denial within five (5) days of the denial. Notice to the applicant shall be made in writing, showing the reason or reasons for the denial and the day and time of the next scheduled meeting of the Commission. The applicant may appeal the denial of the application, by serving notice on the Commission requesting reconsideration of the application. The applicant shall serve said notice in writing on the Commission within five (5) days of the receipt of the denial of the application. On reconsideration, the Commission shall hear evidence offered by the applicant and any entity opposing the issuance of the license. The applicant may be represented by counsel, may offer testimony by witnesses or any other evidence and may question opposing witnesses. At the close of the evidence, the Commission shall either uphold its denial or shall approve the issuance of the renewal license. Provided however, that the licensee may waive the five (5) day period if the next regular meeting of the Commission is scheduled within less than five (5) days from the date of the recommendation by the Sheriff.

Sec. 6-2-73. Cancellation of licenses.

(a) A license issued under this Ordinance expires on December 31 of the year in which issued, unless it expires or is revoked earlier pursuant to this section.

(b) A license issued under this Ordinance expires upon the individual licensee ceasing to act as licensee for any reason unless an extension is granted pursuant to subsection (c) herein.

(c) Failure to open for business. All applicants for licenses hereunder must, within one hundred eighty (180) days after the approval of said license, open for business the establishment referred to in the application and license and begin the sale of the product or products authorized by the license. Failure to open the establishment and begin the sales as referred to above within the 180 day period shall serve as automatic forfeiture and cancellation of the unused license, and no refund of license fee shall be made to the license holder. Any extension of time under this section shall be granted only by the Augusta-Richmond County Commission.

(d) Ceasing of operations. Any holder of a license hereunder who shall begin the operation of the business and sale of the product and products as authorized in the license, but who shall thereafter cease to operate the business and sale of the product or products authorized in the license for a period of at least nine (9) months, shall automatically forfeit his license, which license shall, by virtue of said failure to operate, be cancelled without the necessity of any further action. Any extension of time under this section shall be granted only by the Commission.

Sec. 6-2-74. Probation, suspension & revocation.

Any license issued under this Ordinance may be put on probation, suspended and/or revoked by the Augusta-Richmond County Commission after a finding of due cause. Due cause for the probation, suspension or revocation of a license shall include but shall not be limited to, the following:

(a) A violation of this Ordinance or any State or federal law governing the manufacture, transport, or sale of alcoholic beverages by the licensee or any person in his employ or in the employ of the establishment for which the license was issued.

(b) The conviction of the licensee of a crime which would render him or her ineligible to apply for a license. The term conviction as used herein includes a plea of guilty or nolo contendere.

(c) Failure by the licensee, or any person in his employ or in the employ of the establishment for which the license was issued, to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises, or on any property owned or leased by the licensee, including but not limited to parking lots and parking areas, or on any parking lots or areas which may be lawfully used by patrons of a licensed establishment, in order to protect the safety and well-being of the general public and of those using the premises.

(d) The revocation of the license or permit of the business to operate by any State, County, City or other governmental authority due to a violation of any law applicable to the business including, but not limited to, building codes and health codes.

(e) Falsifying information or making any material misrepresentation on the application for a license under this Ordinance.

Sec. 6-2-75. Procedure for probation, suspension & revocation.

(a) Upon cause to believe that due cause exists for the probation, suspension or revocation of a license under this Ordinance, the Director of Planning & Development or head of any department authorized to inspect the licensed premises, shall file a complaint with the Augusta-Richmond County Commission. The Director of Planning & Development shall notify the licensee, in writing, of the time and place of the next meeting when such complaint shall be heard by the Commission or a committee thereof. Such Notice shall be deemed sufficient when mailed to licensee at the address of the location at least five (5) days prior to said hearing.

(b) The Commission or committee thereof shall hear the evidence offered by the complaining authority herein and the evidence offered by the licensee. The licensee may be represented by counsel, may offer testimony by witnesses or any other evidence and may question the witnesses of the complaining authority. At the close of the evidence, the Committee shall revoke, suspend or sustain the license, or place the licensee on probation.

(c) If the Commission or committee thereof decides to revoke or suspend the license(s), all licenses issued to the location shall be surrendered to the Director of Planning & Development and no alcohol shall be sold, served or consumed on the premises.

(d) If the Commission or committee thereof decides to suspend the license(s), it shall state the number of days of the suspension. The licensee shall surrender the license or licenses to the Director of Planning & Development, who shall return the license(s) to the licensee at the end of the suspension period. No alcohol shall be sold, served or consumed at the location during the period of suspension.

(e) If the Commission or committee thereof sustains the license, the license shall remain in effect as issued.

(f) If the Commission or committee thereof decides to place the licensee on probation, it shall state the number of days of the probation. The licensee shall retain the license or licenses during the period of the probation period.

(g) The decision of the Commission or committee thereof may be appealed by either the licensee or the complaining authority by serving notice in writing on the Commission Chief Administrative Officer within five (5) days of the day of the hearing before the Commission or committee thereof. The filing of a notice of appeal shall have no effect on the status of the license as decided by the Commission or committee thereof and if the license was placed on probation, suspended or revoked, it shall remain so until said status is changed by the Commission.

(h) If a notice of appeal is filed with the Augusta-Richmond County Chief Administrative Officer, he/she shall notify the appellant of the next scheduled meeting of the Commission, at least five (5) days before the date of the meeting; provided, however, that the five (5) day period may be waived by agreement of both parties.

(i) At the appeal hearing, the Commission shall hear the evidence offered by the complaining authority and the evidence offered by the licensee. The licensee may be represented by counsel, may offer testimony by witnesses or any other evidence and may question the witnesses of the complaining authority. At the close of the evidence, the Commission shall affirm or reverse its prior decision.

(j) If the Commission decides to affirm its revocation of the license(s), all licenses issued to the location, if not already surrendered, shall be surrendered to the Director of Planning & Development and no alcohol shall be sold, served or consumed on the premises.

(k) If the Commission decides to affirm its suspension of the license(s), it shall state the number of days of the suspension. The licensee shall surrender the license or licenses, if not already surrendered, to the Director of Planning & Development who shall return the license(s) to the licensee at the end of the suspension period. No alcohol shall be sold, served or consumed at the location during the period of suspension.

(l) If the Commission reverses its prior action with regard to the license and the Director of Planning & Development has possession of the license or licenses, the license(s) shall be promptly returned to the licensee.

(m) If the Commission or committee thereof decides to affirm its decision to place the licensee on probation, it shall state the number of days of the probation. The licensee shall retain the license or licenses during the period of the probation period.

Sec. 6-2-76. Distance between locations of licensees.

(a) No retail dealer license (Class F) for the sale of distilled spirits shall be issued to any applicant whose proposed location is within five hundred (500) yards or less from an existing location or establishment for which Augusta, Georgia has issued a retail dealer license for the sale of distilled spirits.

(b) The distances provided for herein shall be measured in the same manner as provided in section 6-2-63(d) of this Ordinance.

(c) The distance requirements provided for herein shall not be construed or interpreted as prohibiting an applicant, who is otherwise qualified, from being approved and granted a license which constitutes a transfer in ownership of an existing license for distilled spirits which was previously held by an owner or operator of an existing establishment.

Sec. 6-2-77. License for single event; occasional license.

(a) Application may be made for an occasional, single event license for on-premises consumption of alcoholic beverages as follows:

(1) *For-profit applicant.* If the applicant is an agent for a for-profit business, the applicant must possess a valid license for the sale of alcoholic beverages for on-premises consumption under this chapter.

(2) *Nonprofit applicant.* An agent for a non-profit organization may apply for a single event license whether or not he/she possesses a license under this chapter.

(3) *Advertisement.* All persons, firms or corporations desiring to engage in the sale of alcoholic beverages for a single event shall give notice of their intention to make such application by advertisement in form prescribed by Augusta-Richmond County Director of Planning & Development. Advertising, as referred to in this section, means there shall be a sign posted thirty (30) days prior to the hearing of the application in a prominent position on the property (e.g., front window where it can be read from the road); also, all new license applicants shall be required to advertise three (3) times in the legal gazette (Augusta Chronicle) before applications are heard by the Commission. Advertising in the legal gazette shall be during the thirty-day period prior to the hearing of the application by the Commission. Before the application is presented to the Commission, the applicant shall furnish proof that the advertisement has been completed as required hereinabove. The above provisions regarding advertisement shall not apply to an application to sell alcoholic beverages in or on any museum, cultural center or facility, public park, playground, or building owned or operated by Augusta-Richmond County, Georgia Port Authority, or at a location on Riverwalk which has been designated as An Alcohol Beverage Location by Riverwalk Augusta, nor shall the above provisions regarding advertisement apply to events held by non-profit organizations.

(4) *Form; information to be provided.* Application for a single event license must be made in writing as provided in section 6-2-58 hereof; provided, however, that no plat shall be required, but the approximate distance of the premises for which the license is being applied from the nearest church, school, library, public recreation area, housing authority property, or alcohol treatment center shall be stated on the application.

(5) *Date due; fee.* The application for a license hereunder shall be made at least one (1) month prior to the date of the scheduled event and in sufficient time to allow for advertisement, as required herein. A regulatory fee of sixty dollars (\$60.00) per day of the event shall be paid by certified check, cashier's check or money order made payable to the Augusta-Richmond County Commission. (Fees are subject to change / contact the Planning & Development Department for the current fee schedule.)

(6) *Occasional, single event.* The event for which the occasional, single event license is sought may not exceed seven (7) calendar days in duration and the licensee shall not be eligible for an occasional event license more frequently than once every three (3) months, except in any area in which no advertisement is necessary pursuant to Section (a)(3) above.

(7) *Untrue or misleading information; material omissions.* Any untrue or misleading information contained in, or material omission left out of, an

application for a license hereunder shall be cause for the denial of the license; and, if any license has been granted under such circumstances, the license shall be subject to revocation.

(8) *Grounds for denial.* In addition to the other grounds provided in this Ordinance for the denial of a license, an application for an occasional, single event license may be denied on one or more of the following grounds:

- a. The location or terrain for the proposed event may be hazardous to a person consuming alcoholic beverages.
- b. The number of anticipated attendants of the event renders the consumption of alcoholic beverages a danger to the safety of the public.
- c. The proposed location for the event is in an area in which numerous incidents requiring police intervention occurred.
- d. The applicant is not eligible for a license under this Ordinance pursuant to sections 6-2-61, 6-2-62 and/or 6-2-63.
- e. There is evidence from this or other jurisdictions that the activities combined with consumption of alcoholic beverages, may cause a danger to the safety of the attendants or the public.

(9) *Procedures.*

- a. The Director of Planning & Development shall forward the application to the Recreation Department Director, if applicable, and then forward to the Richmond County Sheriff, who shall indicate his approval or disapproval of the application. The Sheriff may condition the approval of such application on the licensee's providing a sufficient number of security personnel for the protection of the public during the event. If approved, the application shall be forwarded back to the License & Inspection Department for issuance of the Single Event License.
- b. For such applications from applicants other than nonprofit organizations, the Director of Planning & Development shall thereafter submit the application to the Mayor of Augusta, together with a written report showing why the license should be granted or denied. The Mayor of Augusta shall consider the application and the report of the Sheriff and shall grant or deny the license. If the license is granted, the application shall be returned to the Director of Planning & Development showing that the license was granted. The Director of Planning & Development shall issue the license. The license shall be valid for the location, date(s) and time(s) specified therein only. The Mayor of Augusta may impose such additional restrictions and conditions on the license as deemed necessary for the safety of the attendants or the public.
- c. If the Sheriff denies the application, he shall return the application to the Director of Planning & Development together with a report in writing showing the reason(s) for the denial. The Director of Planning & Development shall promptly notify the applicant in writing of the reason(s) for the denial.

(10) *Appeal.* An applicant may appeal the denial of a license under this subsection by filing written notice with the Augusta-Richmond County Commission Chief Administrative Officer within five (5) days of receiving notice of the denial. The

Commission shall hear the evidence and make its determination at its next regularly scheduled meeting. Notice of the next scheduled meeting of the Commission shall be served on the applicant at least three (3) days prior to the meeting, unless the three-day period is waived by the applicant. The Commission shall receive evidence in the manner provided in section 6-2-74 herein and shall decide to uphold or reverse the decision of the Chairman-Mayor of Augusta-Richmond County.

Secs. 6-2-78—6-2-100. Reserved.

ARTICLE 3 EXCISE TAX MALT BEVERAGES, WHISKEY, WINE

Sec. 6-2-101. Levy; schedule.

Each wholesaler who sells to retailers located in Augusta, Georgia shall pay an excise tax in the amount of \$0.22 per liter on the sale of liquors and wines, and an excise tax in the amount of \$0.05 per 12 ounces on the sale of malt beverages (or proportionately thereof so as to graduate the tax on bottles, cans and containers of various sizes) plus an excise tax on malt beverages of \$6.00 for each container of 15 and 1/2 gallons and a like rate for fractional parts thereof.

Sec. 6-2-102. In addition to other license fees, etc.

The excise tax provided for in this article shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages, whiskey or wine at retail or wholesale, within Augusta-Richmond County.

Sec. 6-2-103. Payment.

The excise tax shall be paid as follows: Each wholesale dealer selling malt beverages within Augusta-Richmond County shall file with the Planning & Development Department a report by the tenth day of each month showing, for the preceding calendar month, the exact quantities of beverages by size and type of container, constituting a beginning and ending inventory for the month, sold within Augusta-Richmond County. Each such liquor and wine wholesale dealer shall also remit to the Planning & Development Department, on the twentieth of each month succeeding the calendar month in which such sales were made, the amount of excise tax due by check payable to the Augusta-Richmond County Commission, in accordance with this section, with no discount by state law. All books and records of each such wholesale dealer shall be subject to inspection and audit by the Planning & Development Department to verify compliance with this section. Wholesale dealers of whiskey and wine shall file this report by the twentieth day of each month.

Sec. 6-2-104. Collection fee discount; penalties for nonpayment.

(a) Each wholesale dealer of whiskey or wine shall be allowed to deduct two and one-half (21/2) percent as a collection fee on the excise tax collected each month. Upon the failure to make a timely report and remittance on the twentieth day of the month next succeeding the calendar month in which such sales were made, the collection fee shall be forfeited. Failure to

make a timely report and remittance within thirty (30) days after the twentieth day of the month next succeeding the month in which such sales were made shall render a wholesale dealer liable for a penalty equal to ten (10) percent of the total amount due during the first thirty-day period following the date such report and remittance were due; and a further penalty of five (5) percent of the amount of such remittance for each successive thirty-day period, or any portion thereof, during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to fifty (50%) percent of the amount of remittance which would be required under an accurate and truthful report.

(b) Each wholesale dealer of malt beverages upon the failure to make a timely report and remittance on the tenth day of the month next succeeding the calendar month in which such sales were made shall render a wholesale dealer liable for a penalty equal to 5% of the amount due or \$50, whichever is greater; and a further penalty of five (5) percent of the amount of such remittance for each successive thirty-day period, or any portion thereof, during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to fifty (50%) percent of the amount of remittance which would be required under an accurate and truthful report.

Sec. 6-2-105. Appropriation of beer excise tax revenue.

All proceeds from the beer excise tax imposed by this article are hereby appropriated by the Augusta-Richmond County Commission.

Secs. 6-2-106—6-2-115. Reserved.

ARTICLE 4 MIXED DRINKS

Sec. 6-2-116. Definitions.

The following words, terms and phrases shall, for the purpose of this article, be defined as follows:

- (a) *Alcoholic beverage.* Any beverage containing alcohol obtained by distillation, including rum, whiskey, gin and other spirituous liquors by whatever name called, but not including malt beverages, fermented wines or fortified wines.
- (b) *Person.* An individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the Augusta-Richmond County Commission is without power to impose the tax herein provided.
- (c) *Purchaser.* Any person who orders and gives present or future consideration for any alcoholic beverages by the drink.
- (d) *Licensee.* Any person who holds a permit from Richmond County, the City of Augusta, or Augusta-Richmond County to sell alcoholic beverages by the drink.

(e) *Drink*. Any alcoholic beverage served for consumption on the premises, which may or may not be diluted by any other liquid.

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

(g) *Agent*. That person designated by a licensee in his application for a license to sell alcoholic beverages by the drink in Augusta-Richmond County.

(h) *Tax*. The tax imposed by this article.

(i) *Monthly period*. The calendar month of the year.

(j) *Director of Planning & Development*. That person named as director of the Richmond County Planning & Development Department, or any designated representative thereof.

Sec. 6-2-117. Imposition and rate of tax.

There is hereby imposed and levied upon every sale of an alcoholic beverage purchased by the drink in Augusta-Richmond County a tax in the amount of three (3) percent of the purchase price of said beverage.

Sec. 6-2-118. Purchaser's receipt; creditor deferred payment.

Every licensee for the sale of alcoholic beverages by the drink operating a place of business in Augusta-Richmond County shall, at the time of collecting for food and drinks served, give to the purchaser a receipt on which the price of alcoholic beverages served shall be itemized separately. Where the charges for food and drink are satisfied by credit card or deferred payment at hotels or motels, the payment of the tax to the licensee may be deferred in a like manner; however, the licensee shall be liable therefor at the time and to the extent that such credits are incurred.

Sec. 6-2-119. Persons liable for tax.

Every licensee or his agent is hereby authorized and directed to collect the tax herein imposed from purchasers of alcoholic beverages by the drink sold within his licensed premises. Such licensee or his agent shall furnish such information as may be requested by the Director of Planning & Development to facilitate the collection of this tax.

Sec. 6-2-120. Determinations, returns and payments.

(a) *Due date of taxes*. All taxes collected by any licensee or agent hereunder shall be due and payable to the Director of Planning & Development of Augusta-Richmond County monthly on or before the twentieth day of every month next succeeding each respective monthly period, as set forth in section 6-2-103 herein.

(b) *Return; time of filing; persons required to file; execution*.

On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the Director of Planning & Development of

Augusta-Richmond County in such form as the director may prescribe by every licensee or agent liable for the payment of tax hereunder.

(c) *Contents of return.* All returns shall show the gross receipts from the sale of alcoholic beverages by the drink, amount of tax collected or authorized due for the related period, and such other information as may be required by the Director of Planning & Development.

(d) *Delivery of return and remittance.* The person required to file the return shall deliver the return, together with the remittance of the net amount of tax due to Planning & Development Department, 1815 Marvin Griffin Road, Augusta, Ga. 30906, for Augusta-Richmond County.

(e) *Collection fee allowed operators.* Operators collecting the tax shall be allowed to receive a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the Georgia Retailers' and Consumers' Sales and Use Tax Act, approved February 20, 1951 (Ga. Laws, P. 360) as now or hereafter amended.

Sec. 6-2-121. Deficiency determinations.

(a) *Recomputation of tax; authority to make; basis of recomputation.*

If the Director of Planning & Development is not satisfied with the return or returns of the tax, or the amount of the tax to be paid to the Augusta-Richmond County Commission by any person, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more than one deficiency determination may be made of the amount due for one or more than one monthly period.

(b) *Interest on deficiency.* The amount of the deficiency determination, exclusive of penalties, shall bear interest at the rate of one (1) percent per month or fraction thereof from the twentieth day after the close of the monthly period in which the amount or any portion thereof should have been returned until the date of payment.

(c) *Offsetting of overpayment.* In making a deficiency determination, the Director of Planning & Development may offset overpayment, for a period or periods, against underpayment, for another period or periods, against penalties, and against the interest on underpayment. The interest on overpayment shall be computed in the manner set forth in subsection (b) above.

(d) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to negligence or disregard of rules and regulations, a penalty of twenty-five (25) percent of the amount of such deficiency shall be added thereto.

(e) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade any provisions of this article or other authorized rules and regulations, a penalty of fifty (50) percent of the deficiency shall be added thereto.

(f) *Notice of Director of Planning & Development's determination; service of.* The Director of Planning & Development, or his designated representative, shall give to the licensee written notice of his deficiency determination. The notice may be served personally or by mail; if by mail such service shall be pursuant to O.C.G.A. § 9-11-4 and shall be addressed to the licensee at his address as it appears in the records of the Director of Planning & Development. In

case of service by mail of any notice required by this article, the service is complete at the time of deposit in the United States Post Office.

(g) *Time within which notice of deficiency determination to be mailed.* Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of every month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

Sec. 6-2-122. Determination if no return made.

(a) *Estimate of gross receipts.* If any licensee fails to make a return, the Director of Planning & Development shall make an estimate of the amount of the gross receipts of the licensee, or as the case may be, of the amount of the total sales in Augusta-Richmond County which are subject to the tax. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is in, or may come into, the possession of the Director of Planning & Development. Upon the basis of this estimate, the Director of Planning & Development shall compute and determine the amount required to be paid the Commission, adding to the sum thus determined a penalty equal to fifteen (15) percent thereof. One (1) or more deficiency determinations may be made for one (1) or for more than one (1) period.

(b) *Manner of computation; offsets; interest.* In making a determination under this section, the Director of Planning & Development may offset overpayment for a period or penalties against the interest on the underpayment. The interest on underpayment shall be computed in the manner set forth in section 6-2-121(c).

(c) *Interest on amount found due.* The amount of the determination under this section, exclusive of penalties, shall bear interest at the rate of one (1) percent per month, or fraction thereof, from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

(d) *Penalty for fraud or intent to evade.* If the failure of any person to file a return is due to fraud or an intent to evade this article or rules and regulations, a penalty of twenty five (25) percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the twenty (20) percent penalty provided in section 6-2-121(d).

(e) *Giving of notice; manner of service.* Promptly after making his determination, the Director of Planning & Development shall give to the person written notice, to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Sec. 6-2-123. Penalties and interest for failure to pay tax.

Any licensee who fails to pay the tax herein imposed to the Augusta-Richmond County Commission, or fails to pay any amount of such tax required to be collected and paid to the Commission, within the time required, shall pay a penalty of ten (10) percent of the tax, or amount of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof, as set forth in section 6-2-121(b).

Sec. 6-2-124. Collection of tax.

(a) *Security, Director of Planning & Development may exact; amount; sale of; notice of sale, return of surplus.* The Director of Planning & Development, whenever he deems it necessary to ensure compliance with this article, may require any person subject hereto to deposit with him such security as the director may determine. The amount of the security shall be fixed by the director but shall not be greater than twice the person's estimated average liability for the period for which he files returns, determined in such a manner as the director deems proper, or ten thousand dollars (\$10,000.00), whichever amount is the lesser. The amount of the security may be increased by the Director of Planning & Development subject to the limitations herein provided. The director may sell the security at public auction, with the approval of the Augusta-Richmond County Commission, if it becomes necessary to do so in order to recover any tax or any amount required to be collected, interest or penalty due. Notice of the sale may be served upon the person who deposited the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his address as it appears in the records of the Director of Planning & Development. Upon any sale, any surplus above the amounts due shall be returned to the person who deposited the security.

(b) *Notice of delinquency to persons holding, credits or property of delinquent; time for; duty of persons so notified.* If any person is delinquent in the payment of the amount required to be paid by him, or in the event a determination has been made against him which remains unpaid, the Director of Planning & Development may, not later than three (3) years after the payment became delinquent, give notice thereof by registered mail to all persons in Augusta-Richmond County having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property or debts in their possession or under their control at the time they receive the notice until the director consents to a transfer or disposition or until twenty (20) days elapse after the receipt of the notice. All persons so notified shall, within five (5) days after receipt of the notice, advise the director of all these credits, other personal property, or debts in their possession, under their control or owing by them.

(c) *Action for tax; time for.* At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the Director of Planning & Development may bring an action in the courts of this state, or any other state, or of the United States, in the name of the Augusta-Richmond County Commission, to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(d) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount under this article sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount due and owing until the former owner produces a receipt from the Director of Planning & Development showing that he has been paid or a certificate stating that no amount is due.

(e) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold the purchase price as required under subsection (d) above, he becomes personally liable for the payment of the amount

required to be withheld by him to the extent of the purchase price valued in money. Within thirty (30) days after receiving a written request from the purchaser for a certificate, the Director of Planning & Development shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Director of Planning & Development of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall start to run at the time the operator sells out his business or at the time that the determination against the operator becomes final, whichever event occurs later.

(f) *Refund of tax, penalty or interest paid more than once or illegally collected.*

Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by Augusta-Richmond County under this Ordinance, it may be offset as provided in section 6-2-121(c) or it may be refunded, provided a verified claim in writing therefor, stating the specific ground upon which the claim is founded, is filed with the Director of Planning & Development within three (3) years from the date of payment. The claim shall be audited and shall be made on forms provided by the director. If the claim is approved by the director and the Augusta-Richmond County Commission, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the person from whom it was collected or by whom paid; and the balance may be refunded to this person, his administrators or executors.

Sec. 6-2-125. Administration of article.

(a) *Authority of Director of Planning & Development.* The Director of Planning & Development shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.

(b) *Rules and regulation.* The Director of Planning & Development shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of Augusta-Richmond County and the State of Georgia, or the constitution of this state or the United States for the administration and enforcement of the provisions of this article and the collection of the taxes hereunder.

(c) *Records required for operators, etc.; form.* Every licensee for the sale of alcoholic beverages by the drink in this county to a person shall keep such records, receipts, invoices and other pertinent papers in such form as the Director of Planning & Development may require.

(d) *Examination of records; audits.*

(1) The Director of Planning & Development, auditor of Augusta-Richmond County, or any person authorized in writing by the director, may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.

(2) Upon demand by the Director of Planning & Development, auditor, or designated representative, any person holding a license from Augusta-Richmond County, shall open to the Director of Planning & Development, auditor, or designated representative, his place or places of business for the purpose of enabling the director or his representative to ascertain and gain such information as may be necessary for determination of the proper classification of such license holder for license fee purposes and determination of the correct amount of license fee to which such person is subject. Upon demand by the Director of Planning &

Development, or his designated representative, any person holding a license from Augusta-Richmond County shall furnish the director or his representative, during normal business hours at such person's place of business, all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sale receipts, inventory and other information, ascertained and from which the correct amount of the fee to which he is subject may be determined, including exhibition of bank deposit books, bank statements, and copies of sales tax reports, employee W-2's, 1099 Forms, and any other such documents as Augusta-Richmond County may deem necessary. Any person holding a license from Augusta-Richmond County shall secure, preserve, maintain and keep for a period of three years the records and documents enumerated and referred to in this section.

(e) *Authority to require reports; contents.* In administration of the provisions of this article, the Director of Planning & Development may require the filing of reports by any person or class of persons having in such person's or persons' possession or custody information relating to sales of alcoholic beverages which are subject to the tax. The reports shall be filed with the Director of Planning & Development when required by the director and shall set forth the price charged for each sale, the date or dates of sale and such other information as the Director of Planning & Development may require.

(f) *Disclosure of business of operators, etc.; limitations on rule.* The Director of Planning & Development or any person having an administrative duty under this article shall not make known in any manner the business affairs, operations or information obtained by an audit of books, papers, records, financial reports, equipment and other facilities of any licensee or any other person visited or examined in the discharge of official duty, or the amount of source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this Ordinance, except in the case of judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed. Successors, receivers, trustees, executors, administrators, and assignees, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest and penalties.

Sec. 6-2-126. Revocation of license.

The continuous failure to pay the above prescribed tax shall render the dealer or person liable therefor subject to revocation of their alcoholic beverage license(s) in accordance with the procedures set out in the Code of Augusta-Richmond County.

Sec. 6-2-127. Severability.

If any section, provision, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such individuality shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby

declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

Secs. 6-2-128—6-2-140. Reserved.

ARTICLE 5. SALES OFF PREMISES FOR CATERED FUNCTIONS

Sec. 6-2-141. Definitions.

As used in this chapter, the term:

- (a) *Food caterer.* Any person who prepares food for consumption off the premises.
- (b) *Caterer - Licensed alcoholic beverage caterer.* Any retail dealer who has been licensed by Augusta, Georgia pursuant to this chapter and pursuant to Georgia law.
- (c) *Person.* Any individual, company, corporation, association, partnership, or other legal entity.

Sec. 6-2-142. Licensed alcoholic beverage caterers eligible for off-premise licenses; application fee.

(a) Any licensed alcoholic beverage caterer who additionally holds a valid license from a county or municipality in the State of Georgia which authorizes the licensee to sell malt beverages or wine by the drink for consumption on the premises may be issued from Augusta an off-premise license which authorizes such licensed alcoholic beverage caterer to sell malt beverages or wine by the drink off premises and in connection with an authorized catered function.

(b) Any licensed alcoholic beverage caterer who additionally holds a valid license from a county or municipality in the State of Georgia which authorizes the licensee to sell malt beverages or wine by the package for consumption off the premises may be issued from Augusta an off-premise license which authorizes such licensed alcoholic beverage caterer to sell malt beverages or wine by the drink off premises and in connection with an authorized catered function.

(c) Any licensed alcoholic beverage caterer who additionally holds a valid license from a county or municipality in the State of Georgia which authorizes the licensee to sell distilled spirits by the drink for consumption on the premises may be issued from Augusta an off-premise license which authorizes such licensed alcoholic beverage caterer to sell distilled spirits by the drink off premises and in connection with an authorized catered function.

(d) Any licensed alcoholic beverage caterer who additionally holds a valid license from a county or municipality in the State of Georgia which authorizes the licensee to sell distilled spirits by the package for consumption off the premises may be issued from Augusta an off-premise license which authorizes such licensed alcoholic beverage caterer to sell distilled spirits by the drink off premises and in connection with an authorized catered function.

(e) An alcoholic beverage caterer shall make application for an off-premise license as provided in subsections (a) and (c) or subsections (b) and (d) of this Code section with the Augusta-Richmond County Commission through the Director of Planning & Development, and shall pay to Augusta an annual license fee in the amount of three hundred sixty-five (\$365.00) dollars.

Sec. 6-2-143. Event permits.

In order to distribute or sell distilled spirits, malt beverages, or wine at an authorized catered function in Augusta, a licensed alcoholic beverage caterer shall be required to:

(a) Apply to the Augusta-Richmond County Commission through the Director of Planning & Development for an event permit. Augusta shall charge a fee of twenty-five dollars (\$25.00) for such event permit except as hereinafter provided for one whose alcoholic beverage caterer's license was issued by a political subdivision other than Augusta. The application shall include the name of the caterer; the date, address, and time of the event; and the licensed alcoholic beverage caterer's license number. When the catered function is domiciled in Augusta and the alcoholic beverage caterer's license was issued by a political subdivision other than Augusta, Augusta shall charge an event permit fee of fifty dollars (\$50.00) and levy local excise taxes on the total quantity of alcoholic beverages brought into such political subdivision by the caterer. Applications for event permits should be made to the Director of Planning & Development in accordance with the provisions of this Chapter; and

(b) Provide satisfactory reports to Augusta on forms provided by the Department of Planning & Development stating the quantity of any and all alcoholic beverages transported from the licensee's primary premises to the location of the authorized catered function and such other information as required by Augusta; and

(c) Maintain original local event permits and documents required by Augusta in the vehicle transporting the alcoholic beverages to the catered function at all times.

Sec. 6-2-144. Violations.

(a) It shall be unlawful for a food caterer to distribute or sell distilled spirits, malt beverages, or wine off the premises of the food caterer's business without a license issued pursuant to this chapter. This subsection shall not affect any other provisions of this chapter which may require a food caterer who has a license to sell alcoholic beverages on the premises of the food caterer's business.

(b) It shall be unlawful for a licensed alcoholic beverage caterer licensed under this chapter to distribute or sell distilled spirits, malt beverages, or wine off premises except in connection with an authorized catered function within the scope of the event permit.

(c) It shall be unlawful for a licensed alcoholic beverage caterer to distribute or sell.

(1) Distilled spirits in any jurisdiction which does not permit the sale of distilled spirits by the drink for consumption only on the premises.

(2) Malt beverages or wine in any jurisdiction which does not permit the sale of malt beverages or wine by the drink for consumption only on the premises.

(d) It shall be unlawful for a licensed alcoholic beverage caterer to distribute or sell distilled spirits, malt beverages, or wine during any hours in which the sale of alcoholic beverages by the drink for consumption only on the premises is not permitted by Augusta.

(e) Sunday sales. An alcoholic beverage caterer wishing to cater an event or function on Sunday must comply with the requirements of state law with respect to the service of alcoholic beverages on Sunday.

(f) It shall be unlawful for a licensed alcoholic beverage caterer to employ any person under twenty-one (21) years of age who, in the course of such employment, would dispense, serve, sell, or handle alcoholic beverages. It is the intent of this subsection to prevent any person

employed by such caterer, or any other employee, to knowingly violate any prohibitions contained in this Code relating to furnishing alcoholic beverages to, and purchase and possession of alcoholic beverages by, a person under twenty-one (21) years of age.

(g) Nothing in this chapter shall be construed to authorize the sale of alcoholic beverages by a caterer in any jurisdiction where the sale of distilled spirits by the drink for consumption only on the premises has not been legalized.

(h) Any licensee hereunder, or any person employed by licensee or business for which the license was granted, who violates the provisions of this Code section shall subject the license of the licensee to suspension or revocation, and the individual shall be subject to trial and conviction of a misdemeanor and shall be punished as provided in section 1-6-1 of this Code.

Sec. 6-2-145. Severability.

If any section, provision, or clause or any part of this article shall be declared invalid or unconstitutional, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.