

AN ORDINANCE OF THE TOWN OF BRASELTON TO AMEND SECTIONS 31-107, 32-201 AND 4-102 OF THE TOWN OF BRASELTON CODE OF ORDINANCES TO ALLOW THE MANUFACTURE AND SALE OF ALCOHOLIC BEVERAGES AS PERMITTED BY THE TOWN COUNCIL; TO PROVIDE RULES, REGULATIONS, AND LICENSE REQUIREMENTS FOR THE SALE OF ALCOHOLIC BEVERAGES; TO PROVIDE FOR THE LEVY AND COLLECTION OF EXCISE TAXES ON THE SALE OF ALCOHOLIC BEVERAGES; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, it has been determined by the Mayor and Town Council that it is necessary and desirable to amend Sections 31-107, 32-201, and 4-102 of the Town of Braselton Code of Ordinances, to provide the Town Council with the authority to permit the manufacture and sale of alcoholic beverages; to regulate the sale and use of alcoholic beverages in the Town of Braselton; and to provide for the levy and collection of excise taxes on the sale of alcoholic beverages; and

WHEREAS, the Mayor and Council of the Town of Braselton have authority to adopt ordinances for the general welfare of the citizens of the Town;

NOW, THEREFORE, THE MAYOR AND TOWN COUNCIL HEREBY ORDAIN AND IT IS HEREBY ORDAINED BY AUTHORITY OF SAME:

Section 1. The Town of Braselton Code of Ordinances is hereby amended by deleting Sections 31-107, 32-201, and 4-102 of said Code in their entirety and by substituting in lieu thereof a new Section 32-201, which reads as follows:

"Section 32-201     Sales and Use of Alcoholic Beverages.

1. Definitions.

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

*Adequate parking* means the required parking for the relevant facility as set forth in the Town of Braselton Zoning Ordinance.

*Alcoholic beverages* means and includes but is not limited to malt beverages, wine, and distilled spirits.

*Auditorium* means a permanent building or hall used for concerts, speakers, plays and similar activities and that has a seating capacity in excess of 50 seats.

*Beneficial interest* means holding a retail liquor license, having an ownership interest, whether legal, equitable or other, in or control over a retail liquor business; holding a retail license for or having any ownership interest in a beer or wine business which is conducted in conjunction with or immediately adjacent to a retail liquor business; or holding a license for or having an ownership interest in any retail alcohol beverage and having a financially contractual or other business interest.

*Business area* means any street length between intersections where 50 percent or more is in use for business purposes.

*Church* means a permanent building where persons regularly assemble for religious worship.

*Distilled spirits or spirituous liquors* means all beverages containing alcohol obtained by distillation or containing more than 21 percent alcohol by volume, including fortified wines.

*Wine* means any and all wines.

*Election Day* means that period of time beginning with the opening of the polls and ending with closing of the polls for any election.

*Entertainment* means the live performance by any person, whether such person be a musician, dancer or otherwise, which occurs upon the premises of a licensed establishment.

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

*Government center* means a building owned or leased by and operated by the State or the County or the Town and which contains a lobby or atrium area or other room which is used for group functions. If a license is issued for premises within a government center, a government official or employee shall be the named licensee.

*Hotel* means a building or other structure kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of these guests, and having one or more public dining rooms, with an adequate and sanitary kitchen and a seating capacity of at least 25 where meals are regularly served to those guests, the sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are 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. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant or nightclub in their premises and the holder of the franchise shall be included in the definition of hotel.

*License* means the authorization granted by the Town to engage in the sale or consumption of alcoholic beverages on the premises.

*Licensee* means a person holding any class of license issued under this Ordinance.

*Lounge* means a separate room connected with a part of and adjacent to a restaurant or located in a hotel with all booths, stools, and tables being unobstructed and open to view. A lounge that is operated on a different floor in the premises or in a separate building or that is not connected to or adjacent to a restaurant shall be considered a separate establishment and an additional license fee shall be paid therefor.

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

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

- (1) For distilled spirits, any person engaged in distilling, rectifying or blending any distilled spirits;
- (2) For malt beverages, any brewer; and
- (3) For wine, any vintner. *Minor* means a person

less than twenty-one (21) years of age.

*Ordinance* means this Alcoholic Beverage Ordinance of the Town of Braselton as hereby adopted and as may be subsequently amended.

*Package store* means an establishment engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine, and whiskey for consumption off the premises and at which on-premises consumption is specifically prohibited, as distinct from a bar, restaurant or similar establishment which is licensed for the retail sale of alcoholic beverages of any type by the drink and/or for consumption on the premises. The term "package store" is considered synonymous with the term "liquor store".

*Person* means an individual or individuals, a partnership or partnerships, a corporation or corporations, an association or associations or any combination thereof.

*Premises* means the definite closed or partitioned-in locality, whether room, shop, tasting room, or building, wherein alcoholic beverages are sold or consumed. Premises also includes any area or patio immediately adjacent to the main licensed facility and located on property owned or leased by such licensee.

*Private club* means a corporation chartered, organized and existing under the laws of the State, exempt from federal income taxes pursuant to Ordinance 501(c) of the Internal Revenue Code, as amended, actively and continuously in operation within the Town as a nonprofit corporation for at least one year immediately prior to the application for a license under this Ordinance and during which time such corporation shall have had continuously not less than 50 members whose names, current addresses, and current telephone numbers shall have been kept listed on the club premises, which members shall have regularly paid quarterly, semiannual or annual dues. The nonprofit corporation shall be operated exclusively for pleasure, recreation, and other non-profitable purposes, and no part of the net earnings of the corporation shall inure to the benefit of any member, director, or officer. No member, director, officer, agent, or employee of the club shall be paid or directly or indirectly receive, in the form of salary or other

compensation, any profits from the sale of distilled spirits by or to the club or its members or guests, except such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

*Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six (6) days per week, with the exception of holidays, vacations and periods of redecorating, and the serving of those meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto.

*Resort* mean a property containing over 100 or more rooms for sleeping accommodations with additional amenities and more than one restaurant on premises.

*Resort facility* means a golf course facility and restaurant operated in connection therewith, and shall include any hotel and restaurant facility operated in connection with such golf course facility.

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

*School* means only such state, county, city church or other schools as teach the subjects commonly taught in the common schools of this state and does not include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

*Sports facility* means premises operated exclusively for the purpose of providing professional sporting events, such as professional football, auto racing or similar athletic or amusement events for attendance by the public.

*Tasting room* means an outlet operated by a winery for the promotion of a winery's wine by providing complimentary samples of such wine to the public and for the retail sale of such wine.

*Town* means Town of Braselton.

*Town Clerk* means the person appointed to such position by the Mayor and Town Council and Mayor.

*Wholesaler* means any person engaged in distribution or selling of alcoholic beverages to retailers for the purpose of resale.

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

ingredients so as to render it unfit for human consumption.

*Winery* means a manufacturer of wine.

**2. Purposes of Ordinance.**

This Ordinance has been enacted for the purposes of: (1) promoting the health and general welfare of the community; (2) establishing reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcohol beverages in the Town; (3) protecting and preserving the community; and (4) protecting against the undesirable effects of concentrating retail, manufacture, or wholesale of alcoholic beverages in one person, entity, or family.

**3. Compliance with Ordinance required.**

It shall be unlawful for any person to manufacture, or sell or offer for sale at wholesale or retail any alcohol beverages without having first complied with this Ordinance.

**4. Jurisdiction.**

This Ordinance shall apply to the corporate limits of the Town.

**5. Compliance assumed for existing licenses.**

All licensees holding a valid license for the manufacture or sale of alcoholic beverages issued by the Town at the time of the enactment of this Ordinance shall be deemed to have complied with all requirements as to application and issuance of licenses under this Ordinance. The licensees shall, however, meet all other requirements as to regulation and control as set forth in this Ordinance. The Town hereby rectifies its issuance of existing licenses pursuant to this Ordinance.

**6. Drinking in public.**

(a) It shall be unlawful for any person to drink any vinous, malt, or other alcoholic beverage while on any streets, sidewalks, alleyways, parking areas or other open areas operated and controlled by the Town, except for special events permitted by the Town pursuant to this Ordinance; further, nothing in this Ordinance shall be construed to prohibit the sale and consumption of vinous, malt or any other alcoholic beverage at any auditorium, government center, sports facility, or resort facility.

(b) It shall be unlawful for any person to open or to consume all or any part of any type of alcoholic beverage within 100 feet of any retail store where alcoholic beverages are sold in package form or within the boundary lines of the property on which such retail store is located, whichever constitutes the greater distance.

(c) The Town's police department shall be responsible for the enforcement of this Ordinance.

(d) Upon finding of guilty for violation of this Ordinance by Municipal Court, the offender shall be subject to imprisonment for a term not to exceed thirty (30) days or by a fine not to exceed \$1,000.00, either of such penalties to be in the discretion of the Municipal Court.

Such punishment may be probated by the Municipal Court for those offenders desiring to participate in a detoxification program.

**7. Disorderly while under the influence.**

(a) It shall be unlawful for any person within the corporate limits of the Town to be disorderly while under the influence of alcohol and on the streets, sidewalks, or other public places. The following acts are declared to be in violation of this Ordinance:

- (1) Any person who acts in a reckless manner so as to create an unreasonable risk of harm to persons or property in the vicinity while under the influence of alcohol or other drugs.
- (2) Any person who shall defecate or urinate on the streets or sidewalks or in the halls or elevators of public or commercial buildings, or on any property open to public view in the Town while under the influence of alcohol or other drugs.
- (3) Any person who, without provocation, uses to another, in such person's presence, fighting words, or who shall panhandle while under the influence of alcohol or other drugs.
- (4) Any person who while under the influence of alcohol or other drugs shall act in a violent or tumultuous manner toward another so as to endanger the life, limb, health or property of another.
- (5) Any person who while under influence of alcohol or other drugs shall lie down or otherwise obstruct, block or impede pedestrian or vehicular traffic on any sidewalk, street, or entrance or exit to any other public way, house of worship, business, public hall, theater, public conveyance or other public place and who shall refuse to remove themselves when ordered to do so by a Town police officer or other lawful authority.
- (6) Any person who, while under the influence of alcohol or other drugs, shall act in a boisterous, turbulent, or agitated manner, or who shall use profane, vulgar, loud or unbecoming language while on the streets, sidewalks, or other public places within the corporate limits of the Town.

(b) Upon a finding of guilty for violation of this Ordinance by Municipal Court, the offender shall be subject to imprisonment for a term not to exceed three months or by fine not to exceed \$1,000.00, either of such penalties to be in the discretion of the Municipal Court. Such punishment may be probated by the Municipal Court for those offenders desiring to participate in a detoxification program.

**8. Furnishing to, purchasing of, or possession by or for minors.**

(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 21 years of age;
- (2) No person under 21 years of age shall purchase or knowingly possess any alcoholic beverages;
- (3) No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage;
- (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 21 years of age; or
- (5) No person under 21 years of age shall misrepresent such person's identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.

(b) The prohibitions contained in Subsections (1), (2) and (4) of Subsection (a) of this Section 8 shall not apply with respect to the sale, purchase or possession of alcohol beverages for consumption:

- (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or
- (2) At a religious ceremony.

(c) The prohibitions contained in Subsections (1), (2) and (4) of Subsection (a) of this Section 8 shall not apply with respect to the possession of alcoholic beverages for consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person and when possession is in the home of the parent or guardian and such parent or guardian is present.

(d) The prohibition contained in Subsection (1) of Subsection (a) of this Section 8 shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 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 includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. § 40-5-100. "Proper identification" shall not include a birth certificate, any traffic citation or complaint form.

(e) If such conduct is not otherwise prohibited pursuant to O.C.G.A. § 3-3-24, nothing contained in this Ordinance shall be construed to prohibit any person under 21 years of age from:



- (1) Dispensing, serving, selling or handling alcoholic beverages as a part of employment in any licensed establishments;
- (2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured; or
- (3) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.

(0) Testimony by any person under 21 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this Ordinance, shall not be used in any administrative or judicial proceedings brought against such testifying person under 21 years of age.

(g) Any person convicted of violating any prohibition contained in Subsection (a) of this section shall be punished by a fine not to exceed \$1,000.00 or imprisonment for not more than three months or both; except that any person convicted of violating Subsection (a)(2) of this Section shall be punished by not more than 30 days' imprisonment or a fine of not more than \$1,000.00 or both. Any defendant charged shall be entitled upon request to have the case against such defendant transferred to the court having general misdemeanor jurisdiction in the county in which the alleged offense occurred. Any person charged with a second or subsequent offense under this Section shall be punished as for a misdemeanor of a high and aggravated nature in the court having general misdemeanor jurisdiction in the county in which the alleged offense occurred.

(h) Whenever any person who has not been previously convicted of any offense under this Ordinance or under any other law of the United States or this or any other state relating to alcoholic beverages pleads guilty to ,or is found guilty of a violation of Subsection (a)(2) or (a)(3) of this Section 8, the court, without entering a judgment of guilt and with the consent of such person, may defer further proceedings and place such person on probation upon such reasonable terms and conditions as the court may require. Upon violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed accordingly. Upon fulfillment of the terms and conditions of probation, the court shall discharge such person and dismiss the proceedings against such person. Discharge and dismissal under this Subsection shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Subsection or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Subsection may occur only once with respect to any person.

(i) Unless the officer has reasonable cause to believe such person is intoxicated, a law enforcement officer may arrest by issuance of a citation a person accused of violating only Subsection (a)(2) of this Section 8. The citation shall enumerate the specific charges against the person and either the date upon which the person is to appear and answer the charges or a notation that the person will be later notified of the date upon which the person is to appear and answer the charges. If the person charged shall fail to appear as required, the judge having jurisdiction of the offense may issue a warrant or other order directing the apprehension of such person and commanding that such person be brought before the court to answer the charges contained within the citation and the charge of such person's failure to appear as required.

Nothing in this subsection shall be construed to invalidate an otherwise valid arrest by citation of a person who is intoxicated.

A law enforcement officer arresting a person by the issuance of a citation may require any such person having a driver's license or instruction permit to deposit such license or permit with the arresting officer in order to ensure the appearance of such person to answer the charges against such person. The procedures and rules connected with the acceptance of such license or permit and subsequent disposition of the case shall be the same as provided for the acceptance of a driver's license as bail on arrest for traffic offenses pursuant to O.C.G.A. § 17-6-11.

**9 Minor persons on licensed premises.**

(a) No person who holds a license to sell alcoholic beverages shall allow any minor to be in, frequent or loiter about the premises of the licensee unless accompanied by a parent or legal guardian. However, minors shall be permitted in restaurants or private clubs without being accompanied by a parent or legal guardian. This Ordinance shall not apply to minors who are employees as authorized under this Ordinance.

**10 Proof of age.**

(a) No retail licensee licensed to sell alcoholic beverages for on-premises consumption who requires proof of age before permitting any person to enter the licensed premises shall require proof of age other than as provided in this Ordinance.

(b) Except as provided in Subsection (c) of this Section 10, any document issued by an agency of municipal, state or federal government for the purpose of identification that has affixed the name, date of birth and photograph of the individual to whom it was issued shall constitute acceptable proof of age, and the licensee shall require no other identification for proof of age.

(c) A person who produces proof of age from a local or state jurisdiction outside the state where no photograph is affixed as provided in Subsection (b) of this Section 10 may be required to produce additional proof of age at the discretion of the licensee or the licensee's designated employee; however, if such identification contains a photograph, no other identification for proof of age shall be required by the licensee.

**11 Hours of Sale.**

(a) For the sale of alcoholic beverage at retail and not for consumption on the premises: 7:00 a.m. to 11:55 p.m., Monday through Saturday.

(b) For the sale of alcoholic beverages for consumption by the drink on the premises of an inn or eating establishment where sold, 7:00 a.m. to 1:00 a.m., Monday through Saturday and 12:30 p.m. through 12:00 midnight on Sunday, provided, however as resort as defined below may sale such

alcoholic beverages for consumption on the premises until 3:00 a.m., Monday through Saturday. For the purposes of this Section 32-201.22(b) an "eating establishment" means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food, and an "inn" means an establishment which is licensed to sell distilled spirits, malt beverages or wines and which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging Resort

(c) The sale of alcoholic beverages at any other time is prohibited.

### **11.5 Gambling Machines Prohibited.**

No licensee under this Section shall allow on their premises any gambling machine which affords a player an opportunity to obtain money or other things of value, the award of which is determined by chance even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term does not include vending machines which do not incorporate recreational features, nor does the term include any coin-operated mechanical devices, kiddie rides, newspaper stands, telephones, cigarette vending machines, or juke boxes.

**12. Sale on election days.**

Pursuant to O.C.G.A. § 3-3-20(b), the sale of alcoholic beverages on election days is authorized.

**13. Inspection of establishments.**

Sworn officers of the police department shall have the authority to inspect establishments licensed under this Ordinance during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with this Ordinance.

**12. License Required.**

(a) No alcoholic beverages shall be manufactured, sold at wholesale or retail in the original package or by the drink, nor shall any alcoholic beverages be consumed on the premises of any place of business open to the public or any private club or tasting room except under a license granted by the Town Council and Mayor as provided in this Ordinance.

(b) No tasting room shall be operated except under a license granted by the Town Council and Mayor as provided in this Ordinance. The applicant for a tasting room license must be a winery and must meet all legal requirements contained in this Ordinance for the sale of wine by the package and for the sale of wine by the drink. A tasting room license shall allow the license holder to sell wine by the package and to give or sell wine samples at one location. No other license shall be required for the tasting room location pursuant to this Ordinance. Tasting room licensees are subject to all laws, rules and regulations of the State and are subject to license revocation for violation thereof.

(c) No licensee shall be authorized to operate a business until the license has been paid for in cash or the equivalent and the license delivered to the licensee by the Town Clerk.

(d) No license shall be issued for the retail sale in package form of distilled spirits for any business located or proposed to be located in the Town if issuance of such license shall provide for more than one (1) such licensed business for each one thousand (1000) residents of the Town, or portion thereof, based on most recent estimates of the Town's population as prepared either by the Town or the United States Bureau of the Census. Any existing license shall be exempt from the limitation set forth above.

### Criteria

In the event the population of the Town warrants an additional package license by virtue of the one of events set forth above and the Town receives multiple applications within the virtual same p other), the following criteria shall be utilized in determining which application shall obtain priority:

Primary Consideration: Distance from any existing package store located within the corporate limits of the Town of Braselton whereby it is desirous to achieve adequate spacing and separation as to provide greater accessibility for all Town residents and to not cluster package store in one area of the Town.

Secondary Considerations: (i) Accessibility to major thoroughfares or arterials; (ii) diversity of ownership interest from an existing licensee; (iii) character of surrounding land uses.

### Selection

Town staff shall select the applicant based on the criteria set forth above and rank an alternate(s) if applicable.

Section 2. Nothing herein shall waive or diminish any existing regulations or requirements governing an alcohol beverage license. If the licensee's application is not approved, the Town shall then consider the next application.

Section 3. This Ordinance shall become effective upon passage by the Mayor and Town Council.

(e) No license shall be issued for the retail sale in package form of distilled spirits for any business located, or proposed to be located, within one-thousand (1000) feet of any other business licensed by the Town to allow the retail sale in package form of distilled spirits. For purposes of this subsection, distances shall be measured in a straight line from the nearest point on the building containing or proposed to contain the business seeking the license to the nearest point on the building containing the currently licensed business.

(f) No alcoholic beverage licenses shall be issued by the Town under this Code Section to any business regulated and licensed under Chapter 40 of the Code of Ordinances of the Town of Braselton.

**13. Separate licenses required for package sales and sales for on-premises consumption.**

(a) A licensee for the sale of malt beverages and wine by the drink or for the consumption of on the licensee's premises shall have the right to serve malt beverages or wine or allow the consumption of malt beverages or wine on the licensee's premises during the same hours as are permitted under this Ordinance for the serving of distilled spirits by the drink.

(b) Licensees for the sale of distilled spirits by the drink, and for the sale of malt beverages or wine by the drink, shall not permit the sale of distilled spirits by the bottle or package. These licensees shall have the right to sell wines, champagnes or malt beverages to the public by the bottle or package for consumption on the premises without the issuance of a separate retail license therefor.

#### **14. Annual renewal**

All licensees under this Ordinance shall be required to renew their licenses annually on forms prescribed by the Town Clerk on or before December 31 of the calendar year in which the licensee proposes to operate.

#### **15. License constitutes grant or privilege.**

All licenses shall be a mere grant or privilege to carry on the business during the term of the license, subject to all the terms and conditions imposed by the Charter and Town Ordinances and related State laws.

#### **16. Keeping or storing without appropriate license.**

It shall be unlawful for any person operating a place licensed for the sale of malt beverages, wine, or distilled spirits to store or have therein any alcoholic beverage for which the person does not have a license to sell.

#### **17. Application.**

(a) All persons desiring to obtain a license shall make written application to the Town Council and Mayor upon forms to be prepared and approved by the Town Clerk. The application shall be signed by the applicant or agent thereof and shall contain, but not be restricted to the following statements and information:

- (1) The name, age, address, and length of residency of the applicant;
- (2) The name, place and description where the proposed business is to be located;
- (3) The nature and character of the business to be carried on;
- (4) If a partnership, the names of the partners;
- (5) If a corporation, the names of the directors, officers, and shareholders;
- (6) The name of any person who shall have, own, or enjoy any ownership, interest in, share in the profit from, or otherwise participate in the business of alcoholic beverages for which the applicant is seeking a license;
- (7) A statement of whether the applicant or any person with an interest in the application has made application at any previous time for any alcoholic beverage license and the disposition of such application;
- (8) Whether the applicant or any person within the application has ever been convicted of a crime, other than for traffic violations;

- (9) Whether a previous license issued to the applicant or any person within the application has been revoked by any state or subdivision thereof or by the federal government and the reason therefor;
- (10) Whether any other person is to be directly or indirectly in the profits or losses or both of the proposed business;
- (11) Such other information as may be required by the Town Clerk;

(b) Applicants, by filing an application, agree to cooperate with the Town Clerk in investigating facts relative to the license. Failure to cooperate within 30 days after requested to do so by the Town Clerk shall result in automatic dismissal, with prejudice, of the application.

(c) No alcoholic beverage license shall be issued to any person unless detailed plans of the building in which the business will be located and outside premises are attached to the application. Each applicant for an alcoholic beverage license shall attach to his application evidence of ownership of the building or a copy of the lease if the applicant is leasing the building.

(d) All new applications for alcoholic beverage licenses shall be accompanied by either cash, by a certified check or cashier's check, payable to the Town of Braselton, Georgia, in the proper amount of the license fee. If the license is refused, the same shall be returned to the applicant.

(e) All applications for renewal of alcoholic beverage licenses shall be filed with the Town Clerk prior to November 15. All applications for a renewal of license for the ensuing year shall be treated as applications for new licenses. Payment of license fees for a renewal of license may be made at the time of application or by December 31.

(f) When there is a pending application for a new license or renewal on a prior existing licensed premises, the authority of the prior licensee to operate the business shall be extended for a maximum period of thirty (30) days beyond the termination date of the prior license.

#### **18. False information in applications.**

The inability of the Town Clerk to verify any statement of information required to be disclosed or to be able to adequately conduct a full investigation of an applicant or a place of business due to foreign background, ties or interest or for any reason beyond the Town Clerk's control shall be, in addition to all other grounds, cause for denial of any license and if any license has been granted shall be cause for revocation of the license. Any material omission or untrue or misleading information contained in application for a license under this Ordinance shall be cause for the denial thereof, and if any license has previously been granted, these circumstances shall constitute cause for revocation, cancellation, or refusal.



**19. Public hearing on application.**

All applications for licenses under this Ordinance shall be acted upon by the Town Council and Mayor.

**20. Time limit for obtaining license after approval of application.**

(a) All licenses required under this Ordinance must be obtained and fees paid not later than 30 days from the date of the approval of the application by the Mayor and Town Council, and if not so obtained, the license granted by the Town Council and Mayor shall be void.

(b) When a license has been approved and the applicant has deposited with the Town Clerk the required fee, the license shall be issued.

**21. Annual license fee.**

(a) The annual license fee for each classification of license under this Ordinance shall be as shown in Exhibit A:

Exhibit A: ALCOHOLIC BEVERAGE RATE SCHEDULE

WINE:

Manufacture	\$250.00
Wholesale	\$250.00
Retail package	\$500.00
Consumption	\$500.00
Importer	\$200.00

MALT BEVERAGE:

Manufacture	\$750.00
Retail package	\$500.00
Consumption	\$500.00
Wholesale	\$250.00

DISTILLED SPIRITS:

Manufacture	\$1,000.00
Wholesale	\$1,000.00
Retail package	\$5,000.00
Consumption	\$4,000.00

SPECIAL CONSUMPTION:

Distilled Spirit Sunday Sales	\$500.00
Malt Beverage Sunday Sales	\$100.00
Wine Sunday Sales	\$100.00

**OTHER FEES:**

Movable bars	\$100.00 each
Hotel/Motel room service	\$100.00
Application/Investigation Fee	\$150.00

Additional licenses shall be required for all additional facilities such as lounges, restaurants, nightclubs, patios or other areas located within the same building. All restaurant patios and outdoor or open air eating areas which are immediately adjacent to restaurants shall be exempt from the additional facility license fee.

(c) No license shall be issued for less than a calendar year, and if a license is revoked or surrendered before the expiration of a calendar year, the holder thereof shall not be entitled to receive any refund.

**22. Prohibited Interests.**

Neither a manufacturer, producer, shipper, importer, broker, wholesaler, retail dealer, or retail consumption dealer, whether licensed in this State or not, nor any of his employees or members of such manufacturer's, producer's, shipper's, importer's, or broker's immediate family shall have, own, or enjoy any ownership interest in, or partnership arrangement or other business association prohibited by the State.

**23. Change in relationship.**

Any change in any relationship must be filed when made with the Town Clerk and failure to so file within 30 days after that change is made shall be grounds for cancellation by the Town Clerk.

**24. Completion of proposed licensed premises.**

If a building in which a retailer of alcoholic beverages intends to operate under this Ordinance is, at the time of the application for a license, not in existence or not yet completed, a license may be issued for the location, provided the plans for the proposed building show clearly a compliance with the other Town ordinances. No sales or consumption shall be allowed in the establishment until it has been completed in accordance with the plans and is in conformity with all the other Town ordinances.

**25. Time limit for commencement of business in licensed establishment.**

All holders of licenses must, within one year after the issuance of the license, open for business the establishment referred to in the license. Failure to open the licensed establishment within the one year period shall serve as automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

**26. Grounds for nonacceptance of Application.**

(a) The Mayor and Town Council shall have the authority to deny any application for new licenses, for transfer of location or transfer of ownership and to revoke, suspend or refuse to renew any license issued by the Town to any licensee for "due cause" as defined herein.

(b) As used in this Ordinance, the term "due cause" for the denial of applications for new alcoholic beverage licenses, for transfer of location or transfer of ownership, for renewals, for revocation, or suspension includes but is not limited to the following:

- (1) The selling to or serving of any person below the age of 21 years.
- (2) The conviction of any individual having any ownership, financial, or other interest in the applicant's alcoholic beverage business, directly or indirectly, beneficial or absolute, or the individual's spouse for any state or federal felony or misdemeanor. The term "conviction" includes an adjudication of guilt or a plea of guilty or the forfeiture of a bond when charged with a crime. If the violation is for a misdemeanor or forfeiture of bond the Town Council and Mayor may, after investigation, waive that disqualification.
- (3) Permitting the solicitation of patrons on the licensed premises for prostitution, any disturbance of the peace, obscenity, or any other unlawful act where the licensee or the licensee's employee or agent knew or should have known of such conduct.

- (4) The selling or serving of any alcoholic beverage to any person that the licensee or the licensee's employee or agent knew or should have known to be in a state of intoxication.
- {5) The failure to comply with any and all federal, state or municipal laws and regulations related to alcoholic beverages.
- (6) The failure to furnish any and all data, information and records related to the operation of licensed establishments, when such has been requested by the police department or the Town Clerk.
- (7) The failure to maintain any and all of the general qualifications applicable to the initial issuance of a license.
- (8) Failure by the licensee 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 utilizing the premises.
- (9) Sell or offer for sale alcoholic beverages by use of vending machines.
- (10) Sell, offer for sale, possess, or permit the consumption on the licensed premises of any kind of alcoholic beverages, the sale, possession or consumption of which is not authorized under the license.
- (11) Receive or cause to be delivered to the licensed premises any alcoholic beverages by any means other than by a conveyance owned and operated by a licensed wholesale dealer with a permit from the Town to make such deliveries, with the exception of wine of the wine manufacturer where the manufacturer is the retail licensee. Transportation of alcoholic beverages by any other means shall be grounds for revocation of all licenses concerned.
- (12) The failure of the license holder or his employee to report promptly to the Town Clerk any violation of law or municipal ordinance, breach of the peace, disruption or altercation resulting in violence, occurring on the premises.
- (13) The applicant has had a license issued by the Town previously suspended or revoked; provided, however, the Town Council and Mayor may waive this Subsection if two years have passed since any prior revocation of any license held by the applicant.
- (14) The application does not furnish evidence of adequate parking facilities available to the applicant's patrons.

- (15) The location that is the subject of the application is not suitable because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties, or on the neighborhood.
- (16) The location within an area where the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.
- (17) The location at which the operation of the proposed business would violate the Town zoning ordinances.
- (18) The location at which a previous alcoholic beverage license has been revoked or suspended, and where the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety welfare or morals that the sale of alcoholic beverages be permitted at such location.
- (19) The granting of such license would constitute a violation of State law or regulations.
- (20) Any applicant is an official of or employee of the Town.
- (21) Any conduct on the part of the license holder or his employee contrary to the public welfare, safety, health or morals.

(c) No application for a new license, for a transfer of location or transfer of ownership shall be denied and no license issued by the Town shall be revoked, suspended or refused renewal except upon a finding of due cause and after a hearing in front of the Town Council and Mayor where the applicant or licensee shall have the opportunity to show cause as to why the application should not be denied. The Town Clerk shall give notice to the applicant witness twenty days after receipt of the application, of any objection to the application. The Town Clerk shall give a five-day written notice to the licensee, stating the place, date, time and purpose of such hearing and setting forth the charge upon which the hearing shall be held. The applicant or licensee shall have the opportunity to present evidence and cross-examine opposing witnesses at the hearing.

(d) The Town Council and Mayor shall conduct the hearings. In lieu of suspension, revocation or the failure to renew, the Town Council and Mayor may impose a fine upon any licensee, such fine not to exceed \$1,000.00 for each violation occurring on the licensed premises.

(f) For due cause, if a violation of this Ordinance occurs which results in an emergency situation in which continued operation of the premises by the licensee endangers the health, welfare or safety of the public, the Town Council and Mayor may suspend any license. Any such suspension may be made effective immediately and shall remain in force until the next regular or called meeting of Town Council and Mayor.

(g) After denial, revocation or the failure to renew a license, the Town Council and Mayor, may refuse to accept or consider any application for a license to operate at the location for the sale of alcoholic beverages for a period of 12 months from the time of revocation or failure to renew such license. However, any new application for licensure at such location shall ask of the new applicant whether the location has been revoked or not renewed.

**27. Automatic revocation of Town license upon revocation of state license.**

Whenever the State shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the Town license to manufacture or deal in these products shall thereupon be automatically revoked without any action by the Town Council and Mayor.

**28. Removal of signs after revocation.**

When any license for selling alcoholic beverages is revoked, all signs indicating that those beverages may be sold or purchased shall be removed from the place of business, both outside and inside.

**29. Restrictions upon transfers.**

(a) Licenses under this Ordinance shall not be transferable, except as otherwise provided in this Ordinance.

- (1) No license may be transferred from one person to another or from one location to another without permission and approval of the Town Council and Mayor upon written application made.
- (2) Each application for transfer of a license shall have attached thereto a completed copy of the notice of change of interest of required by the State of Revenue Commissioner, State of Georgia.
- (3) After receipt of such application, the Town Council and Mayor shall notify such applicant within twenty (20) days of any objection to the transfer as set forth in the application. Said license shall remain in effect pending approval of the transfer. If the transfer application is approved by the Town Council and Mayor, the license may be transferred upon payment of a "transfer fee" equal to one-half (1/2) of the original license fee.
- (4) Upon the death of any license holder, his personal representatives or his heirs may continue to operate under the said license for the balance of the year without the payment of any fee in the discretion of the Town Council and Mayor if otherwise qualified as license holders, or the license may be transferred, if approved by the Town Council and Mayor, to a qualified transferee within thirty (30) days after the condition of the estate of the deceased licensee is settled.

- (5) Nothing in this Ordinance, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. The withdrawal shall not, however, bring any new ownership into the partnership.
- (6) Any licensee desiring to discontinue business at one location and commence business at some other location must make a complete new application for such location.
- (8) Should a transfer of a location be approved, there shall be no pro rata return of any license fee, provided, however, if a transfer of an existing location is approved and there is no change in the ownership of the business, the license fee paid for the old location shall be applied to the new location.
- (9) A licensee may take in partners or additional stockholders if 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 new facilities and if it appears that the licensee receives directly none of the additional capital invested. Under this Ordinance an additional partner or new principal stockholder must be approved by the Town Council and Mayor.

### **30. Temporary permit for special events.**

(a) Upon the filing of an application and payment of a filing fee of \$25.00 and a peixuit fee of \$50,00 per day, up to a maximum of \$2,000.00, and after investigation by the Town Clerk, the Town Council and Mayor may issue 'a permit to an individual or organization for the sale of alcoholic beverages for consumption on the premises only during a special event under the following conditions:

- (1) The applicant must already hold an annual license for the sale of alcoholic beverages for on-premises consumption.
- (2) The permit will allow sale of alcoholic beverages beyond the premises described in the annual license only in the area specifically described in the application and only during the special event named.
- (3) Food must be served during any period of time that alcoholic beverages are served.
- (4) The application for such permit must have been filed with the Town Clerk at least 30 days prior to the date of the special event.
- (5) The hours of any such special event must be between 9:00 a.m. and 11:00 p.m. Monday through Saturday. Alcoholic beverages may be sold on

Sundays pursuant to this Ordinance between the hours of 12:30 p.m. and 11:00 p.m. in public stadiums, coliseums and auditoriums and restaurants.

- (6) Each special event shall last a maximum of seven consecutive days, and no more than two special event permits shall be issued to any applicant in any calendar year.

(b) A special event permit may be immediately revoked by the Town Council and Mayor for a violation of this Ordinance which results in an emergency situation in which continued operation of the premises by the licensee endangers the health, welfare or safety of the public.

### **31. Permits for special events.**

Notwithstanding sections of this Ordinance, the Town Council and Mayor are authorized to issue permits for the drinking of alcoholic beverages in the Town for special events, in the manner set forth below:

- (a) A person seeking issuance of a special events permit shall file an application with the Town Clerk on forms provided by the Town Clerk. If the event is to be held in a park, such person must first obtain the approval of the government.
- (b) An application for a special events permit shall be filed with the Town Clerk not less than 30 days nor more than 90 days before the date on which it is proposed to conduct the special event.
- (c) The application for a special event permit shall set forth the following information:
  - (1) The name, address and telephone number of the person seeking to conduct the special event;
  - (2) If the special event is proposed to be conducted for, on behalf of or by an organization, the name, address, and telephone number of the headquarters of the organization, and of the authorized and responsible heads of this organization;
  - (3) The name, address and telephone number of the person who will be the special event chairman of the event and who will be responsible for its conduct;
  - (4) The date when the special event is to be conducted, and whether the special event will extend over a series of days;
  - (5) The hours when the special event will start and terminate;
  - (6) The estimated number of people who will attend the event;



- (7) If the special event is to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file with the Town Clerk a written authorization from the person proposing to hold the special event, authorizing the applicant to apply for the permit on the applicant's behalf; and
  - (8) A reasonably detailed description of the event, together with all location of which alcohol will be consumed;
  - (9) Any additional information which the Town Council and Mayor shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (d) Filing fee shall be \$25.00 and issuance of a special event permit fee shall be \$50.00 per day for malt beverages and wine and \$50.00 per day for distilled spirits.
- (e) The Town Council and Mayor shall issue a permit as provided for in this Ordinance when, from a consideration of the application and from such other information as may otherwise be obtained, the Town Council and Mayor find that:
- (1) The conduct of the special event will not substantially interrupt the safe and orderly conduct of other patrons of the public places in which it will be held.
  - (2) The special event will not divert or disrupt police protection.
  - (3) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.
  - (4) The applicants for permit have not violated the terms of any previous special event permit granted to them or any terms of this Ordinance and have not caused undue traffic congestion and police problems under any previous special event permit.
- Ⓢ The Town Council and Mayor shall act upon the application for a special permit within 20 days after the filing thereof. If the Town Council and Mayor disapprove the application, the Town Clerk shall mail to the applicant, within 20 days after the date upon which the application was filed, a statement of the reasons for the denial of the permit.
- (g) Any person aggrieved shall have the right to appeal the denial of a special events permit to the Town Council and Mayor. The appeal shall be filed within five days after notice of denial.

**32. Temporary permit for nonprofit civic organizations.**

(a) Upon filing an application and payment of a fee of \$25.00 and after review by the Town Council and Mayor, the Town Council and Mayor may issue a permit authorizing a bona fide nonprofit civic organization to sell alcoholic beverages for consumption on the premises only, for a period not to exceed one day, subject to any law regulating the time for selling such beverages.

(b) Not more than two permits may be issued pursuant to this Ordinance to an organization in any one calendar year.

(c) Permits issued pursuant to this Ordinance shall be valid only for the place specified in the permit.

**33. Levy.**

**Wine.**

(1) It is hereby levied and imposed upon each wholesale dealer selling wine within the Town an excise tax in the amount of twenty-two cents (22) per liter and a proportionate tax at like rates on all fractional parts of a liter.

(2) Wines produced by a wine manufacturer and sold at retail by the package or for consumption on the premises of the manufacturer shall have levied thereon an excise tax as prescribed by Section 33(a)(1).

(3) Notwithstanding anything to the contrary which may be contained herein:

(a) No excise tax is levied hereunder upon bulk wine purchased by a wine manufacturer and used for blending purposes or blended, bottled, and sold other than at retail by a wine manufacturer.

(b) No excise tax is levied hereunder on wine produced by a wine manufacturer and sold by such manufacturer to persons outside of Town for resale or consumption outside of Town.

(c) The excise tax levied hereunder is imposed only on wine sold within the Town by wholesale dealers, with the exception of Section 33(a)(2).

(d) No excise tax is levied hereunder on wine produced by a wine manufacturer and distributed by such manufacturer as samples in its tasting room on the premises of the winery.

(4) There is hereby levied and imposed upon each wholesale dealer selling wine within the Town to a facility other than a winery facility, including a tasting room, or a resort facility, an excise tax in the amount of twenty-two

cents (22) per liter and a proportionate tax at like rates on all fractional parts of a liter.

**(b) Malt Beverages.**

There is hereby levied and imposed upon each wholesale dealer selling malt beverages within the Town, an excise tax of six dollar (\$6.00) on each container of draft beer sold containing not more than fifteen and one-half (15.5) gallons and a proportionate tax at the same rate on all fractional parts of fifteen and one-half (15.5) gallons and an excise tax of five cents (5 per twelve (12) ounces on each bottle or can of malt beverage and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces

**(c) Distilled Spirits.**

- (1) It is hereby levied upon each licensee within the Town with a license to sell distilled spirits by package at wholesale or retail, an excise tax in the amount of twenty-two cents (22) per liter of distilled spirits excluding fortified wine and a proportionate tax at like rates on all fractional parts of a liter.
- (2) It is hereby levied and imposed upon each licensee within the Town with a license for distilled spirits on the premise, an excise tax in the amount of three (3) percent of the purchase price of the distilled spirit drink. Said excise taxes shall be collected as provided by this Ordinance and the laws of the State.

**(d) Collection of excise tax.**

Unless otherwise authorized by the Mayor and Town Council, alcoholic beverage excise taxes shall be calculated monthly, and such taxes for a particular month shall be paid to the Town on the twentieth (20<sup>th</sup>) day after the close of such month. Notwithstanding the foregoing, the Mayor and Town Council may, upon application of a person that keeps financial records on a basis other than monthly, permit, in the Mayor and Town Council discretion, such person to calculate and remit such taxes based on the person's accounting period, provided that (1) such taxes are remitted to the Town within twenty (20) days of the end of the person's accounting period, (ii) such accounting period does not exceed five (5) weeks with respect to the filing and remittance of taxes, and (iii) at the beginning of its fiscal year, the person files with the Town its end dates for the person's fiscal year.

**Reporting excise tax.**

A summary of sales showing delivery by each supplier to retailers and/or consumption on the premises licensees or showing sales of distilled liquor drinks by each distilled liquor drink shall be furnished to the Town Clerk with each monthly payment. Any misstatement or concealment of fact in reports or applications shall be grounds for revocation of the license issued and shall make the applicant or licensee liable to prosecution for perjury under the laws of the State of Georgia.

**34. Determination if no return made.**

(a) If any licensee fails to make a return for the tax levied under this Ordinance, the Town Clerk 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 this Town which are subject to the tax. The estimate shall be made for the period in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the Town Clerk. Upon the basis of this estimate, the Town Clerk shall compute and determine the amount required to be paid the Town, adding to the sum thus determined a penalty equal to 15 percent thereof. One or more determinations may be made for one or for more than one period.

(b) In making a determination, the Town Clerk may offset overpayments for a period or penalties and against the interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in subsection (c) of this Subsection.

(c) The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or any fraction of a month from the 20th day after the close of the monthly period for which the amount or any portion thereof should have been returned, until the date of payment.

(d) If the failure of any person to file a return is due to fraud or an intent to evade this subdivision or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 15 percent penalty.

(e) Promptly after making a determination, the Town Clerk 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.

**35. Penalties and interest for failure to pay.**

Any licensee who fails to pay the tax imposed under this Subdivision to the Town or who fails to pay any amount of such tax required to be collected and paid to the Town within the time required shall pay a penalty of fifteen (15) percent of the tax or amount of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof.

**36. Collection of unpaid tax.**

(a) At any time within three years after any tax levied under this Subdivision or any amount of tax required to be collected under this Ordinance becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the Town Clerk may bring an action in the courts of this State or any other state or of the United States in the name of the Town to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(b) If any licensee liable for any amount under this Ordinance sells or terminates the business, the licensee's successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Town Clerk, showing that the amount has been paid or a certificate stating that no amount is due.

(c) If the purchaser of a business fails to withhold purchase price as required, the purchaser becomes personally liable for the payment of the amount required to be withheld by the purchaser to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the Town Clerk shall either issue the certificate or mail notice to the purchaser at the purchaser's address as it appears on the records 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 the business or at the time that the determination against the operator becomes final, whichever event shall last occur.

(d) Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously collected or received by the Town under this Ordinance, it may be offset. If the licensee believes it has overpaid or paid more than once, then it will have three years from date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved, the excess amount paid to the Town may be credited on any amounts due and payable from the licensee by whom it was paid or such person's successors or assigns.

### **37. Sale or delivery to unlicensed premises.**

(a) It shall be unlawful for any licensee to make deliveries of any alcoholic beverage by the package beyond the boundaries of the premises covered by the license.

(b) It shall be unlawful for any licensee to make or allow the sale or delivery of any alcoholic beverage by the drink to any area other than the premises covered by the license, private, meeting, and dining rooms located on the premises covered by the license and the designated rooms of any guest in a hotel or motel covered by the license. It shall also be unlawful for any person to remove any alcoholic beverage served by the drink to any area beyond the licensed premises.

### **38 Misrepresentation of contents alcoholic beverages.**

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

### **39. Advertisement of sale of alcoholic beverages.**

All advertising of the sale of alcoholic beverages by the package or for consumption on the premises is hereby prohibited except as provided for in the following:

(a) Package Sales Licenses.

(1) Notwithstanding any other provision to the contrary in the Town ordinances relating to signs, the Town shall provide a license to all retail licensees to post on the premises of their places of business. Licensees

shall not post more than one sign at their place of business without the prior approval of the Town Council and Mayor. Licensee shall not display any other signs, without the prior approval of the Town Council and Mayor, advertising, directly or indirectly, the sale of alcoholic beverages other than in the principal building for which the license is issued, and such signs displayed within the principal building shall not be displayed within view of the general public from the doors and windows of such principal building. Any other sign placed on or off the licensed premises, within view of the general public, with the intent to bring attention to the fact that alcoholic beverages can be bought at that location shall be in violation of this Ordinance unless such sign has been approved by the Town Council and Mayor

- (2) No retail or wholesale package licensee shall advertise the price or brand of any alcoholic beverages within the Town except wine retail package licensees shall be permitted to advertise by means of radio, television, or newspaper or as otherwise allowed by the Town ordinances.
- (3) Notwithstanding the foregoing, no trade name, corporate name or name of a business shall be allowed to use the word "wine" in such name; however, nothing in this Ordinance shall prohibit the use of the word "Winery" in such name or the advertisement by sign or otherwise of a winery and the sale of a winery's wine on the premises of the winery. Nothing in this Ordinance shall restrict the number and use of signs to advertise a winery and the sale of a winery's wine on the premises of the winery.

(b) Consumption on Premises Licenses.

- (1) Notwithstanding any other provision to the contrary in the Town ordinances relating to signs, the Town shall provide a license to all licensees to post on the premises of their place of business. Licensee shall not display signs advertising, directly or indirectly, the sale of alcoholic beverages other than in the principal building for which the license is issued unless there is approval from the Town Council and Mayor. Such signs displayed within the principal building shall not be displayed within view of the general public from the doors or windows of such principal building. Any sign placed on or off the licensed premises, within view of the general public, and with the intent to bring attention to the fact that alcoholic beverages can be bought at that location shall be in violation of this Ordinance, unless such signs have been approved by the Town Council and Mayor.
- (2) Wine consumption on the premises licensees shall be permitted to advertise by means of the radio, television or newspaper.
- (3) Notwithstanding the foregoing, no trade name, corporate name, or name of a business shall be allowed to use the word "Wine" in such name; however, nothing herein shall prohibit the use of the word "Winery" in

such name or the advertisement by sign or otherwise of a winery and the sale of a winery's wine on the premises of the winery.

**40. Purchase price of drinks credited against admission or cover charge.**

No licensee for the sale of alcoholic beverages by the drink shall authorize or permit the purchase price of any alcoholic beverage sold by the licensee to a customer to be credited against any minimum, admission or cover charge imposed upon the customer by the licensee.

**41. Reporting Violations.**

(a) Any violation of this Chapter that may warrant revocation of an alcoholic beverage license shall be reported by any person to the Town Clerk who shall have the power, in his or her discretion, to suspend the license for a period not to exceed ten (10) days pending a hearing before the Town Council and Mayor on the question of whether or not the license or permit shall be revoked for cause.

(b) Upon a charge that there has been a violation of this ordinance, the Town Council and Mayor is hereby authorized in his discretion to order the place of the licensed business charged closed, pending a hearing on the charge.

(c) The Town Council and Mayor shall have the right to suspend any alcoholic beverage license pending the hearing provided for in this Ordinance, wherein the judgment of the Town Council and Mayor such action is necessary to protect the public health, safety, welfare, or morals.

(d) Any suspension as provided for herein shall be in writing, with the reasons therefore stated and shall be delivered to a licensee or the person in charge of the place of business if the license cannot be located.

**42. Penalties.**

Unless expressly stated otherwise in this Ordinance, any violations of this Ordinance shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) and imprisonment for a term not exceeding six months and, if applicable, shall also subject a licensee to suspension or revocation of its license."

Adopted June 13, 2016.