

=ADDED TEXT

 =CODE FROM ORIGINAL DOCUMENT, VERIFY/CHANGE TO MATCH COA CODE

 =BUSINESS LICENSE MANAGER

XXXXX=LICENSE REVIEW BOARD

## Chapter 6 - ALCOHOLIC BEVERAGES<sup>[1]</sup>

### Footnotes:

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Cross reference— Amusements and entertainments, ch. 14; buildings and building regulations, ch. 18; businesses, ch. 22; offenses, ch. 62; parks and recreation, ch. 66; taxation, ch. 82; unified development code, app. A

**State Law reference—** Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.

### ARTICLE I. - IN GENERAL

#### Sec. 6-1. - Definitions.

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

Agent means an individual who does not have an ownership interest in the licensed premise, who meets the requirements of section 6-40 of this chapter, who is employed in a managing capacity and designated by the owner of the licensed premise to be licensee.

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

Alcoholic beverage means and includes alcohol, distilled spirits, malt beverage, hard cider, wine or fortified wine.

Amusement park means a place owned and operated permanently and exclusively for the purpose of providing amusement, attraction, and entertainment to the general public through the means of rides, live entertainment and games either on a seasonal or year round basis, which park has at least 25 rides and 50 games or attractions and the area of the amusement park is comprised of at least 80 acres exclusive of parking.

Applicant means the person making application for a license under this chapter for the sale of alcoholic beverages and, if applicable, any individual designated by that person to be licensee.

Bar shall be an establishment that does not meet the definition of a restaurant, nightclub, lounge, farm winery or hotel, and serves alcoholic beverages for consumption on premises. A licensee of a bar shall obtain and keep in force and affect a food service permit. In being classified as a Bar, the sales for alcoholic beverages must be a minimum of 75% of gross sales of the business.

Bottle house means any place of business open to the public or any private club providing food or entertainment in the normal course of business that allows guest, patrons or members to bring in and to consume alcoholic beverages on the premises.

Business area means any street length between intersections where 50 percent or more of the linear feet of that street length is in use for business purposes.

**Business license manager or supervisor means the individual employed by the City of Americus who handles alcoholic beverage licenses**, as such position presently exists, or by whatever name the position may be designated in the future.

Church means a permanent building where persons regularly assemble for religious worship and shall be publicly designated as a church.

City means the City of Americus.

Closed function means an event not open to the general public that must have a written, limited guest list prepared at least 48 hours in advance of the date on which the closed function is to occur, and which occurs on property owned and maintained by the city. No pay-at-the-door guest or drop-ins are to be permitted. Alcoholic beverages may be served without charge and consumed at closed functions, but the offer and sale of alcoholic beverages at such functions is prohibited; except that a general admission fee permitting attendance at the closed function may be collected in advance.

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

Convenience store means a retail establishment whose primary business is the sale of pre-packaged or unprepared food and grocery items and which may also sell fuel products, household items, or tobacco products and other goods commonly associated with the same.

Conviction means adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture of a bond when charged with a crime, but shall not include a discharge under provisions of what is commonly referred to as the State of Georgia First Offender Act, being O.C.G.A. § 42-8-60, or as may be amended from time to time.

Craft beer means an alcoholic beverage that is 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 six percent or more 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.

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

Distance means the measurement in linear feet from the center of the primary entrance as designated by the fire marshal for the proposed premises of a licensee in a direct line to the closest point of the applicable structure at issue under sections 6-42 and 6-43 of this chapter. A radius shall be measured from the center of any door of customer entry of the proposed premises of any licensee. Should the proposed premises contain two or more customer entry doors, the distance shall be the shortest measurement in linear feet from the center of any door of customer entry as determined by city officials to the property line or structure at issue. Applicant must provide a stamped survey, performed by a State Licensed Professional Surveyor, indicating the radius locations.

Drink means any spirituous liquor not in its original package served for consumption on the premises, which may or may not be diluted by any other liquid.

Family means any person related to the holder of an alcoholic beverage license within the first degree of consanguinity or affinity as determined according to **civil law**.

Farm winery means a domestic manufacturer of wine in quantities of less than 100,000 gallons of wine per calendar year, that is licensed by the state pursuant to O.C.G.A. § 3-6-21.1, or as may be

amended from time to time. Provided a license is issued as required by this chapter, a farm winery is authorized to sell wine by the package, by the drink and operate a wine tasting facility on the premises of the farm winery without additional license requirements, except as is required in the city zoning ordinance.

Food caterer means any person whose primary business is the preparation of food for consumption off the premises.

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

Good cause for discontinuing operations shall mean the licensee discontinued operations for a period of more than three months as a direct result of reasons beyond his or her control such as: an Act of God; civil disobedience of someone other than the licensee; delays caused by a governmental entity; fire; flood; material shortages; a natural disaster; a riot; strikes; and/or war.

Good cause for failure to open shall mean the licensee was unable to open the business within the allotted time for reasons beyond his or her control such as delays caused by: an Act of God; a construction delay; civil disobedience of someone other than the licensee; delays caused by a governmental entity; fire; flood; material shortages; a natural disaster; a riot; strikes; and/or war.

Grocery store means a retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed five percent of its total gross sales.

Growler means a container capable of being properly sanitized and which has a capacity that does not to exceed 128 fluid ounces.

Hard cider means an alcoholic beverage that contains at least one-half of one percent of alcohol by volume which is made by the fermentation of the natural juice of apples or pears.

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 such guests and having one or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least 40 people, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are 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 bar, lounge, restaurant or nightclub on their premises; and the holder of such franchise shall be included in the definition of hotel.

Indoor entertainment hall means a publicly or privately owned licensed commercial establishment that satisfies all of the following requirements: (i) provides, professional, live musical entertainment or concerts, performed on-site indoors, at least three nights a week on average over the course of a calendar year; (ii) regularly serves prepared food, with a full service kitchen, consisting of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments; (iii) is prepared to serve food every hour it is open; (iv) derives at least 25 percent of its total annual gross sales from the sale of prepared meals or foods, admission charges, ticket sales, sale of merchandise, vending sales, attendance fees, or other recreational, promotional, or operational activities; (v) does not provide any sexually related adult entertainment at any time; (vi) has at least 40,000 square feet of enclosed heated space; (vii) has an occupant capacity of at least 3,500; (viii) is located on a major thoroughfare; (ix) does not provide the sale of alcohol on Sundays, unless such establishment qualifies for Sunday sales under state law and the provisions of this chapter of the Americus Code of Ordinances; and, (x) does not allow the admission of any natural person who is under the age of 21 years of age during hours when alcohol is served, except in accordance with the provisions of section 6-90 of this chapter. Indoor entertainment halls shall be allowed to sell alcoholic beverages through concession sales.

License means the authorization by the mayor and city council of the City of Americus to engage in the sale of alcoholic beverages either by the package or consumption on the premises.

License review board means the board created by the governing body of the City of Americus.

- (a) There is hereby established a license review board.
- (b) The license review board established by this section shall have the following duties:
  - (1) To hear due cause hearings as provided in chapter 6 of this Code.
  - (2) To consider and act upon any matters specifically delegated to the license review board by any other city ordinance or resolution or action of the city council.
- (c) Applicants or licensee shall be given notice of the date, time and place when the license review board will consider the respective matter.
- (d) The license review board, other than as expressly provided in chapter 6, shall have no authority or jurisdiction to hear, consider or render decisions of any kind with respect to the suspension, revocation, probation or other disciplinary action against a license or licensee.
- (e) Any decision or recommendation of the license review board may be appealed to the city council pursuant to section 6-63. Any decision or recommendation of the license review board not appealed to the mayor and council must be approved by the city council or set down for a second due cause hearing before the city council.
- (f) The decision of the city council on an appeal under this article shall be final unless appeal is made to the superior court of the county. Any aggrieved party may appeal a decision of the city council by filing a petition for writ of certiorari to the superior court within 30 days of the decision of the city council.
- (g) The license review board shall have no jurisdiction or authority to hear any appeal from or to reverse, modify or set aside any decision of the city council.
- (h) The license review board members shall serve at the pleasure of the mayor and city council and shall be composed of five members. Three members of the license review board will serve 2 year terms and two members will serve 1 year terms
- (i) If there is a vacancy on the license review board by virtue of a member resigning, then the mayor shall appoint a replacement for the vacant position. The replacement shall serve temporarily until the city council ratifies such appointment, and in such case, the replacement for that position shall become permanent. If the council fails to ratify such replacement, then the mayor shall appoint a different replacement until a new member for that position is appointed and ratified as provided herein.
- (j) By majority vote, the city council may terminate any term prior to the expiration of such term. Terms of service by any board member shall automatically be renewed for an additional term unless terminated by majority action of the mayor and city council. There shall be a three consecutive term limit on the number of times such terms can be renewed. After three terms, the member is required to sit out one term prior to being reconsidered for a subsequent appointment.
- (k) The license review board shall meet at such times as necessary, to be determined by such board, and shall render decisions in public on the date of the consideration by the board. The decision shall then be memorialized in writing and delivered to the affected parties after such decision is announced in public.
- (l) The license review board shall select one of its members to serve as chair and one of its members to serve as secretary, to serve at the pleasure of the license review board. Minutes and records of all proceedings shall be kept and maintained in the office of the business license office.
- (m) Each member of the license review board shall either be a resident of the city or have an ownership interest as principal shareholder, general partner or sole proprietor in at least one business that is located in the city. No employee or elected official of the city shall be appointed to the board. The mayor may

appoint and the city council may ratify the appointment of any person who is an alcoholic beverage license holder, provided that only one such license holder, if any, serve on the board.

Licensee means a person holding any class of license issued under the terms of this chapter.

Lounge means a separate room in which alcoholic beverages are sold, connected with a part of and adjacent to a restaurant or located in a hotel as defined in this section with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least 50 people. A lounge, as defined in this section, which is operated on a different floor in the premises, or in a separate building, or is not connected to or adjacent to a restaurant, shall be considered a separate establishment and shall pay an additional license fee 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 "beer" and "malt beverage" are interchangeable throughout this chapter. The term does not include sake, known as Japanese rice wine.

Managing capacity means the president or chief executive officer of a corporation, or the managing member of a limited liability company, or the general partner of a limited partnership, or a person who has responsibility for management of the operations, including sale of alcoholic beverages, or who is authorized to act on behalf of the licensee in any capacity at the location to be licensed or supervision of management of the operation, including sale of alcoholic beverages, at the location to be licensed, whether or not such person is an employee of the licensee.

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

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

Minor means any natural person less than 18 years of age.

Nightclub means an establishment having a seating capacity of at least 100 people with all booths and tables being unobstructed and open to view, deriving its primary income from the sales of alcoholic beverages, and providing to its patrons a band and/or other professional live entertainment performed onsite, including, but not limited to, music, comedy, readings, dancing or acting. All nightclubs shall be equipped with air conditioning and shall maintain an adequate kitchen with a sufficient number of servers and employees for cooking, preparing and serving food and meals for their patrons, provided that nightclubs located in hotels having dining room and kitchen facilities may be excluded from the requirement of maintaining a kitchen in connection with such nightclub. The principal business of such nightclubs shall be entertainment, and the serving of food and spirituous liquors shall be incidental thereto.

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

Package store means a business establishment whose primary business activity is the retail sale of alcoholic beverages by the package.

Permit holder means that person authorized with a server permit and designated by the licensee to sell alcoholic beverages at the licensed premise.

Person means any individual, sole proprietor, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, limited liability company, limited partnership, limited liability partnership, general partnership or other group or combination acting as a unit, whether public, private or quasi-public. In the

case of a general partnership, it includes all partners. In the case of a limited partnership, it includes the general partner. In the case of a corporation, it includes all principal shareholders. In the case of a limited liability company, it includes all members who are deemed to be principal shareholders under the definition of that term contained in this section.

Pouring license means a license that authorizes on-premises consumption of alcoholic beverages.

Principal shareholder means a person who owns any shares of a corporation with less than 35 shareholders; or, if the corporation has more than 35 shareholders, a person who owns more than five percent of the shares of the corporation, except that a person who owns shares which are publicly traded shall not be deemed to be a principal shareholder or to have a beneficial interest in the corporation based solely on the fact of stock ownership. Principal shareholder shall also include a person who owns any membership interests in a limited liability company with less than 35 members; or, if the limited liability company has more than 35 members, a person who owns more than five percent of the outstanding membership interests in the limited liability company.

Private club means a non-profit association organized and existing under the laws of the state, actively in operation within the city, which has been in existence at least one year prior to the filing of its application for a license to be issued under this chapter; and which complies with all requirements set forth in this section: it has at least 75 members who regularly pay monthly, quarterly, or semiannual dues; and, it is organized and operated exclusively for pleasure, recreation and other non-profit purposes; and, no part of its net earnings inure to the benefit of any shareholders or members; and, it owns, hires or leases a building or space therein for the reasonable use to its members with suitable kitchen and dining room space and equipment; and, it maintains and uses a sufficient number of servants and employees for cooking, preparing and serving meals for its members and guest; provided, that no member or officer, agent or employee of the club is paid or receives, directly or indirectly, in the form of salary or other compensation, any profits from the sale of spirituous liquors to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meetings or by its governing board out of the general revenue of the club.

Private party function means an event held where alcoholic beverages are provided. The licensee must submit to and have the private party function approved by the supervisor of the city's business license office provided such function does not threaten the health, safety and welfare of the participants or public. In the event the private party function is not approved by the business license supervisor, the licensee may appeal said decision to the mayor and city council of the City of Americus. The mayor and city council shall have authority to approve the private party function provided the function does not threaten the health, safety and welfare of the participants or public.

Private residence means a house or dwelling wherein not less than one or more than two families customarily reside and shall not include a mobile home, an apartment house having facilities for housing more than two families, a boardinghouse or rooming house where there are five or more boarders or roomers, any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of any application for license, or any residence that shall be a nonconforming use in a commercial zone.

Properly sanitized means the container was: sanitized per the instructions of Star San sanitizer or any product that is the equivalent of Star San sanitizer; or, placed in an oven at a temperature of 340 degrees or higher for at least 60 minutes; or, washed in an automatic dishwasher for a full wash and heat dry cycle with or without the addition of detergent agents; or, sanitized in conformance with the sanitation requirements for glassware used in restaurants as set forth in the rules or regulations of the Sumter County Health Department.

Purchase price means the consideration received for the sale of spirituous liquors 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 or his agent to the purchases, without any deduction there from whatsoever.

Purchaser means any person who orders and gives present or future consideration for any alcoholic beverages by the drink.

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 prepared and served, without sleeping accommodations, such place seating a minimum of 40 or more people, and holding a certificate of approval from the county health department. A restaurant shall maintain a full-service kitchen which consists of, at a minimum, a three-compartment pot sink, a stove or grill permanently installed and a refrigerator. In order to be classified as a restaurant under this chapter, the licensee must derive a minimum of 40 percent of its total annual gross food and beverage sales, over any 12-month period of time, from the sale of prepared meals or food. In the case of an audit, the relevant time period shall be the 12 months immediately preceding the commencement of the audit. If the restaurant being audited has been in operation as a restaurant for less than 12 months, the audit period shall be the period of time the entity has operated as a restaurant, and the restaurant must derive a minimum of 40 percent of its total annual gross food and beverage sales for that audit period from the sale of prepared meals or food. If the restaurant previously operated as another type of business, e.g., a bar as that term is defined in this section, total annual gross food and beverage sales for the time period it has been operated as a restaurant shall be the only data relevant to the audit and the data for the period it operate as another type of business shall not be examined during the audit.

Retail consumption dealer means any person who sells distilled spirits for consumption on the premises at retail only to consumers and not for resale.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public. Such term shall also include, without limitation, the sale to any member of the public of any ticket or license, or the charging of any cover charge or fee, for admission to any event or premises where alcoholic beverages are available without further charge, as well as the sale of any ticket, stamp, token or similar item which may be redeemed or exchanged for alcoholic beverages.

Retailer or retail dealer means, except as to distilled spirits, any person who sells alcoholic beverages, either in unbroken packages or for consumption on the premises, at retail only to consumers and not for resale. With respect to distilled spirits, the term means any person who sells distilled spirits in unbroken packages at retail only to consumers and not for resale.

School means only such state, county, city, church or other schools that teach the subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in subsection (b) of O.C.G.A. § 20-2-690, or as may be amended from time to time, including any public or private location that teaches the Georgia Pre-Kindergarten Program and shall 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 and shall not include residences where home study programs are located.

Spirituous or alcoholic liquors means all beverages containing alcohol, obtained by distillation or containing more than 21 percent of alcohol by volume, including fortified wines.

Underage person means any person below the age at which alcoholic beverages may be legally purchased in the State of Georgia, as provided by O.C.G.A. § 3-3-23, or as may be amended from time to time.

Wine means an alcoholic beverage containing not more than 21 percent of alcohol by volume made from fruits, berries, or grapes either by natural fermentation or with natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section. The term does not include hard cider.

Wholesaler means any person engaged in distribution or selling to retailers for the purpose of resale of any alcoholic beverages as defined in this section.

(Code 1962, § 3-3; Code 1986, § 3-1; Ord. of 4-22-1985; Ord. No. O-06-10-36, 10-20-2006; Ord. No. O-2014-20, 10-20-2014)

**State Law Reference—Similar provisions, O.C.G.A. § 3-1-2.**

Sec. 6-2. - Purpose of chapter.

This chapter has been enacted in accordance with a plan designed for the purpose, 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, to protect and preserve schools and churches, to give effect to existing land use and to preserve certain residential areas, with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values.

Sec. 6-3. - Compliance required.

- (a) It shall be unlawful for any person to sell or offer for sale wholesale or retail any alcoholic beverages without having first complied with the provisions of this chapter.
- (b) The city shall have the authority to conduct an audit of the books and records of any licensee and/or require regular reporting of the books and records of any licensee to assure licensee's compliance with the provisions of this chapter. In such event, the city shall notify the licensee of the date, time and place of the audit or reporting requirements. In conducting such audit, the city may require the licensee to provide the books and records in electronic form if such books or records are maintained, in the regular course of business by the licensee, in electronic form.
- (c) Some of the business operations described in this chapter must, to continue operating as that type of business, maintain:
  - (1) In the case of an indoor entertainment hall, 25 percent of its total annual gross sales from the sale of prepared meals or foods, admission charges, ticket sales, sale of merchandise, vending sales, attendance fees, or other recreational, promotional, or operational activities.
  - (2) In the case of a grocery store, the sales of alcoholic beverages do not exceed five percent of its total gross sales.
  - (3) In the case of a restaurant, the licensee must derive a minimum of 40 percent of its total annual gross food and beverage sales, over any 12-month period of time, from the sale of prepared meals or food.
- (d) In determining whether these entities have complied with these percentages, the City of Americus shall be entitled to audit the books and records of the entities. The following shall be applicable to such audits:
  - (1) If the business has operated as that type of entity (e.g., a restaurant) for 12 months or more prior to the date on which the audit is commenced, the auditor shall consider the annual gross food and beverage sales, or the annual gross sales, or total gross sales, as the case may be, during the 12 months preceding the date on which the audit is commenced to determine whether the entity has maintained the required percentage set forth in the definition of that entity found in this chapter.
  - (2) If the business has operated as that type of entity for less than 12 months prior to the date on which the audit is commenced, the auditor shall consider the annual gross food and beverage sales, or the annual gross sales, or total gross sales, as the case may be, during the time that the business has operated as that type of entity to determine whether the entity has maintained the required percentage set forth in the definition of that entity found in this chapter.
  - (3) If the entity operated as one type of entity, e.g., a bar as defined in this chapter, and changed to another type of entity, e.g., a restaurant as defined in this chapter, the audit shall consider only the annual gross food and beverage sales, or the annual gross sales, or total gross sales, as the case may be, during the period it operated after the change of the type of entity to determine

whether the entity has maintained the required percentage set forth in the definition of that entity found in this chapter.

- (4) If the entity has failed to maintain the percentage required by the definition, the entity shall be placed on probation for a period of three months from and after the date the entity is notified of its failure to maintain the required percentage. The notification placing the entity on probation shall be in writing and provide the percentages determined as part of the audit. During that probationary time period, the entity can attempt to attain the percentage required by the definition for that entity. At the end of the probationary period, a second audit will be conducted. The second audit will audit only the annual gross food and beverage sales, or annual gross sales, or total gross sales, as the case may be, during the probationary period and whether the entity attained the percentage required by the definition for that entity during the probationary period. Should the entity fail to attain the required percentage during the second audit, the entity will be informed, in writing, that it can no longer operate as that type of entity, e.g., a restaurant that fails to maintain the percentage required by the definition for that entity will be notified that it can no longer operate as a restaurant and may operate only as a bar. Should the licensee change its entity, for instance from a restaurant to a bar, it shall be the licensee's responsibility to assure that it complies with all the requirements of these ordinances of the City of Americus, including, but not limited to, any licensing applicable to that entity.
- (5) The entity may appeal the audit decision generated by a failure to meet the required percentage during the second audit. Any such decision to appeal must be made, in writing, and filed with the City of Americus no later than ten calendar days from and after the entity's receipt of the decision appealed. If the results of the second audit are mailed by the auditor to the licensee, that decision of the auditor is deemed received by the licensee three days from and after the decision is mailed. The notice of appeal shall be filed with license review board and an additional copy filed with the city clerk. That notice of appeal must specify, in detail, why the entity believes the audit decisions are flawed. It shall be within the discretion of the license review board whether a hearing will be held on the appeal. If a hearing is scheduled by the license review board, the entity shall be provided written notice of such hearing no less than five calendar days prior to the date scheduled for the hearing. If the license review board upholds the auditor's decision, the entity shall have the right to appeal to the City Manager. Any such appeal to the City manager must be in writing and filed with the city clerk and the City Manager's office no later than ten calendar days from and after date on which the entity receives the decision of the license review board. If the decision of the license review board is mailed, that decision is deemed received by the licensee three days from and after the decision is mailed. The appeal to the mayor and the city council shall contain the following: a detailed explanation of why the entity believes the audit results and the decision of the license review board is flawed; statistics showing the entity has complied with the percentage contained in the definition for that entity found in this chapter; a copy of the results of the first and second audits; and, a copy of the decision of the license review board. Failure of the entity to submit all of the appeal documents shall be fatal to the appeal. It shall be within the discretion of the mayor and city council whether a hearing will be held on the appeal. If a hearing is scheduled by the City Manager of the City of Americus, the entity shall be provided written notice of such hearing no less than five calendar days prior to the date scheduled for the hearing.
- (6) The appeals shall consider only evidence of sales during the audit periods and shall not consider evidence of any sales during the appeal periods.
- (7) The entity shall be allowed to operate during the time it is appealing the decision of the audit.

(Ord. No. O-06-10-36, § 3-33, 10-20-2006; ord. No. O-08-11-37, 11-20-2008; Ord. No. O-10-08-24, 8-19-2010)

Sec. 6-4. - Territorial application of chapter.

The terms and provisions of this chapter shall apply only within the corporate limits of the city.

Sec. 6-5. - Sale, possession, or consumption.

No alcoholic beverages shall be sold, possessed or consumed by any person on or in any public park or public property except as otherwise approved pursuant to section 6-71, 6-72 or 6-73 of the Code of Ordinances, Americus, Georgia.

(Code 1962, § 3-46(c); Code 1986, § 3-8)

Secs. 6-6—6-30. - Reserved.

## ARTICLE II. - LICENSES

Sec. 6-31. - License required for manufacture, sale.

No alcoholic beverages shall be manufactured or sold at wholesale or retail, in the original package or by the drink, nor shall any bottle house be operated except under a license granted by the mayor and city council. A farm winery is required to obtain a license as provided in this chapter for the manufacture of wine, fortified wine, or hard cider.

(Code 1962, § 3-22; Code 1986, § 3-30)

**State Law reference**— Local permit or license for wholesale or retail sales of alcoholic beverages, O.C.G.A. § 3-3-2(a).

Sec. 6-32. - Separate licenses required for package sales and sales for on-premises consumption.

- (a) A licensee for the sale of alcoholic beverages by the drink or for the consumption of alcoholic beverages on the premises shall have the right to serve malt beverages, wine, fortified wine, or hard cider or allow the consumption of malt beverages, wine, fortified wine, or hard cider on the premises during the same hours as are permitted under this chapter for the serving of distilled spirits by the drink.
- (b) Licensees for the sale of distilled spirits by the drink that allow the consumption of alcoholic beverages on the premises and the sale of malt beverages by the drink shall not permit the sale of distilled spirits by the bottle or package. Such licensees shall have the right to sell wine, fortified wine, champagne, 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.

**State Law reference**— Governing authority to set forth ascertainable standards pertaining to the granting, refusal, suspension or revocation of alcoholic beverage permits or licenses, O.C.G.A. § 3-3-2(b)(1).

Sec. 6-33. - Sunday permits.

- (a) A separate permit is required for the Sunday sale of any alcoholic beverages.
- (b) Licensed establishments that derive at least 50 percent of their total annual gross food and beverage sales from the sale of prepared meals or food and licensed establishments that derive at least 50 percent of their total annual gross income from the rental of rooms for overnight lodging may apply to the **business license division manager** for a permit for the purpose of selling alcoholic beverages for consumption on the premises on Sunday from 12:30 p.m. until Monday 2:55 a.m. No Sunday sales

of alcoholic beverages shall be made by such an establishment without first having obtained the permit provided for in this subsection. A separate charge of \$550.00 shall be made for issuance of such permit.

- (c) Licensed establishments that have a package license for the sale of distilled spirits may apply to the **business license division manager** for a permit for the purpose of selling such distilled spirits on Sundays. Licensed establishments that have a package license for the sale of malt beverages, wine, fortified wine, or hard cider may apply to the **business license division manager** for a permit for the purpose of selling such malt beverages, wine, fortified wine, or hard cider. Sunday sales of such alcoholic beverages shall be limited to between the hours of 12:30 p.m. and 11:30 p.m., Sundays. No such Sunday sales of alcoholic beverages shall be made by an establishment holding a package license without first having obtained the appropriate permit provided for in this subsection. A charge of \$300.00 shall be made for the issuance of each such permit to any licensee holding a package license.

Sec. 6-34. - Application—Filing; form; contents; timing.

- (a) All persons desiring to obtain a license required under this chapter shall make written application to the city at the city hall for such privilege upon forms to be prepared and approved by the city. Such applications shall state the name and address of the applicant. If the applicant is other than an individual, the application shall state the owner of the license, the name of the proposed licensee and a d/b/a name of the proposed licensed premise, if applicable. The application shall state the address where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of the partners; if a corporation, the names of the officers and principal shareholders; and such other information as may be required by the mayor and city council, the **business license division manager**, or the police department, and shall be sworn to by the applicant or agent thereof.
- (b) All applications for a license under this chapter shall furnish all data, information and records requested by the city, through any authorized officer, such as the **business license manager** or chief of police, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. Applicants by filing an application agree to produce for oral interrogation any persons requested by the city through its duly authorized representative, such as the **business license manager**, chief of police, or city attorney, and considered as being important in the ascertainment of the facts relative to the issuance or denial of such license. The failure to produce such persons within 30 days after being requested to do so shall result in the automatic denial, with prejudice, of such application.
- (c) All applications for license, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interest, as defined in section 6-46, in retail liquor stores. This shall include:
  - (1) The names and addresses of all persons interested in the ownership of the business of selling at retail package liquor, together with any interest each person or any member of his immediate family has in any other retail liquor store;
  - (2) The ownership of the land and building where such retail business is operated;
  - (3) The amount of rental paid for such land and building and the manner in which the same is determined and to whom and what intervals it is paid;
  - (4) The names and addresses, by affidavit from the owner, lessor or sublessor of such land and building, of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the retail liquor store is located; and
  - (5) Any other information called for by the business license office or its duly authorized representative, such as the **business license division manager**, the police department, or city attorney.

- (d) Each application furnished under this section must be complete in its entirety before being accepted by the city for filing and processing.
- (e) As a prerequisite to the issuance of any new license under this chapter and as a prerequisite to the issuance of a renewed license under this chapter, all applicants and existing licensees shall be required to execute and deliver to the city a verified statement indicating receipt of this Code relating to alcoholic beverages.
- (f) After staff has determined that an application is complete, the request shall be heard following advertising as set forth herein at the earliest regularly scheduled meeting of mayor and city council, or as soon thereafter as possible. A decision shall be rendered not later than 45 days after the public hearing.

Sec. 6-35. - Same—Investigation; report.

- (a) All applications required by this chapter shall be investigated by the police department, including but not limited to, an investigation into the criteria as outlined in sections 6-34 and 6-45 of this chapter. After such investigation, the police department shall report its recommendation to the **business license manager**. No further action shall be taken by the city or by the applicant with respect to any application until completion by the police department of its investigation. Once the applicant has submitted all of the required information and provided any additional information requested by the **business license manager** or the police department, the police department shall make its recommendation.
- (b) All licensed premises shall be open for inspection by an inspector or member of the city police department, or any other person so designated by the mayor, council, city manager or chief of police.

Sec. 6-36. - Same—Advertisement of intent to engage in business.

- (a) All applicants for license under this chapter shall give notice of the purpose of making such application by advertisement at least one time per week for two consecutive weeks in the legal organ published in the county in which the legal advertisements of the city are carried, which notice shall contain a particular description of the location of the proposed business and shall give the name of the applicant, and if a partnership, the names of the partners, and if a corporation, the names of the officers, and the date and time the mayor and city council will hear the application. The advertisement referred to in this section shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch column advertisement.
- (b) The running of the advertisement required in this section in a newspaper may be concurrent with the time after the application for license is filed, and if the one day's advertisement in two weeks is not made before the filing of the application, the application shall state that the advertisement is being made.
- (c) The applicant shall cause to be placed upon the location of the proposed business a sign or signs stating the following: " \_\_\_\_\_ license applied for. A hearing before the mayor and city council of the city shall be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, whichever is applicable. All interested persons take notice." The sign or signs shall not be less than 18 inches by 24 inches, and shall face toward all public streets, sidewalks or other public property which adjoins the location so as to be clearly legible to persons using such public areas.

Sec. 6-37. - Same—Public hearing; approval.

All applications, with the exception of renewals under section 6-59, for license under this chapter shall be acted upon by the mayor and city council after a public hearing after advertisement as required in

this article. No license shall be issued until it has been approved by the mayor and city council. All reasons for denial or approval for license shall be recorded in the minutes of the hearing. Denial of application shall be provided to the applicant in writing providing the reasons for denial and mailed to the applicant.

Sec. 6-38. - Same—Acceptance and consideration after rejection.

When an application for license under this chapter is denied by the city, the city shall not accept or consider an application for a license under this chapter from that applicant or licensee within 12 months of the denial.

Sec. 6-39. - Architectural standards.

All applicants for license shall furnish plans and renderings of the proposed premises. Such premises shall be constructed, renovated or built so as to be equal to and compatible with the surrounding neighborhood or better. The exterior shall be of finished building material such as brick, stone or wood, but not concrete block. The applicant shall comply with all building, health and similar city and county codes. The applicant shall obtain and file with his application a certification of zoning certifying the property where the applicant shall operate his business to be zoned C-1, C-2, C-3, I, I-N, A-G, NS, or such other commercial districts as may be approved or adopted from time to time.

Sec. 6-40. - Citizenship, residence and age requirement.

- (a) Where the applicant for a license under this chapter is a corporation, any license for the sale of alcoholic beverages shall be applied for by and shall be issued to the corporation and either the principal shareholder thereof, or an agent, as agent is defined in this chapter.
- (b) Where the applicant for a license under this chapter is a partnership, any license for the sale of alcoholic beverages shall be applied for by and shall be issued to the partnership and either the general partner of the partnership, or an agent, as agent is defined in this chapter.
- (c) Where the applicant for a license under this chapter is a sole proprietor, any license for the sale of alcoholic beverages shall be applied for by and shall be issued to the sole proprietor, provided that the sole proprietor works in a full-time managing capacity on the licensed premises. If the sole proprietor does not work in a full-time managing capacity on the licensed premises, then the license shall be applied for by and shall be issued to the sole proprietor and an agent, as agent is defined in this chapter.
- (d) Each of the persons named in subsections (a), (b) and (c) of this section must be a U.S. citizen, or a legal alien for at least one year prior to making application.
- (e) Each of the persons named in subsections (a), (b) and (c) of this section must be 21 years of age or older at the time the application for a license is filed.
- (f) The principal shareholder in the case of a corporate applicant, the general partner in the case of a partnership applicant, the sole proprietor in the case of a sole proprietor applicant or the agent of such applicant shall be a resident of the State of Georgia at the time the application for a license is filed or renewed.
- (g) The licensee shall notify the city in writing and shall keep such notification current, of the name, address and telephone number for such licensee and the agent of such licensee at such address and telephone number for the purpose of receiving communication and notices required under this chapter.

Sec. 6-41. - Location of business—Districts where permitted.

- (a) Wholesaler's license. No license shall be issued to a wholesaler of alcoholic beverages except where the wholesale business is to be located in the area of the city which is C-1 or C-2.

- (b) License for on-premises consumption. No license for the sale of alcoholic beverages by the drink shall be issued unless the location has been zoned, C-1, C-2, C-3, I, I-N, A-G, NS, under the zoning laws on the city or is in use as a business under specific special use permit; provided, this subsection shall not apply to private clubs. No license shall be issued for a location that operates as a nonconforming use.
- (c) Package distilled spirits. No license to engage in the retail sale of distilled spirits in package form shall be issued to any person for the operation of such business except within the areas zoned, C-1, C-2, C-3, I, I-N, A-G, NS. No license shall be issued for a location that is a nonconforming use.
- (d) All licenses granted herein shall be further subject to O.C.G.A. 3-3-21, or as may be amended from time to time.

Sec. 6-42. - Same—Distance from residence; distance from housing authority.

- (a) No license for the sale of alcoholic beverages shall be granted for any location that is a distance of 300 feet or less from a property line of a lot where a private residence is located. However, if the mayor and city council consider evidence that the property values of the residence or other residences will not be affected, that the quiet enjoyment of the premises by the residents thereof shall not be adversely affected and the grant of such license shall not have any other adverse affect on the private residence, then the mayor and city council may waive this provision. This provision shall not apply to private residences located on commercially zoned property or within the bounds of the Central Business Improvement District as it exists now or may change from time to time.

**State Law reference—** O.C.G.A. § 3-3-21.

Sec. 6-43. - Same—Distance from schools, churches, parks, hospitals and public buildings.

- (a) No license shall be issued under this chapter where the place of business of the applicant is located within a radius distance of 300 feet of any school ground, college campus, church; provided, however, that at a public hearing by the mayor and city council, the mayor and city council may waive the distance requirement of this section if satisfactory evidence shall be produced that no adverse effect to property values or the use of the facilities for the aforesaid purposes would occur if a license was granted. This section does not apply any school ground, college campus, church within the bounds of the Central Business Improvement District as it exists now or may change from time to time.
- (b) The provisions of subsection (a) above notwithstanding, in no event shall a license be issued for:
  - (1) The package sale of any distilled spirits within 300 feet of any church building, school building, educational building, school grounds, or college campus.
  - (2) The package sale of any distilled spirits, wine, fortified wine, hard cider, or malt beverages within 300 feet of an alcoholic treatment center owned and operated by this state or any county or municipal government therein. This subsection shall not apply to any business having a license in effect on July 1, 1981.
  - (3) Any sale of any alcoholic beverage that violates any provision of state law.

Sec. 6-44. - Same—Additional considerations.

The mayor and city council may take into consideration in its discretion the zoning of the surrounding area, the nature of the area, and the impact on traffic as factors in the consideration of a license application under this chapter.

Sec. 6-45. - Conditions disqualifying application.

- (a) No application for any license under this chapter shall be granted, retained, renewed or transferred where the application or the evidence shows any of the following conditions to exist:
- (1) Evidence that the applicant, licensee or any individual having an ownership interest in said license, has been convicted within ten years immediately prior to the filing of the application for any felony.
  - (2) Evidence that the applicant has had revoked within the last twelve months any alcohol-related license or permit issued under the police powers of any county, state, municipality, or other governmental entity.
  - (3) Evidence that the applicant or licensee is family, as family is defined in this chapter, to any distributor or wholesaler of alcoholic beverages or employees thereof. This subsection shall not restrict a farm winery from selling at retail or wholesale.
  - (4) Evidence that the applicant or licensee has failed to answer any question on the alcoholic beverage application accurately or failed to provide accurate information to the mayor and city council, license review board, police department, business license division staff or any city official or city employee.
- (b) In addition to the standards stated elsewhere in this chapter, the following standards may also apply to the issuance, retention, renewal, transfer or denial of a license for alcoholic beverages either by the package or for consumption on the premises:
- (1) Evidence that the applicant has violated any law, regulation or ordinance relating to such business within a ten-year period immediately preceding the date of application.
  - (2) Evidence that the applicant has insufficient mental capacity to conduct the business for which application is made.
  - (3) Evidence that, despite compliance with the minimum distance requirement, the type and number of schools or number of churches in the vicinity causes underage persons to frequent the area.
  - (4) Evidence that the location and type of structure could create a difficulty in police supervision.
  - (5) Evidence that there are no licenses granted in the area or that the proposed area already is adequately supplied with such licenses.
  - (6) Evidence that a license for the location would be detrimental to the property values in the area.
  - (7) Evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking which would result in parking on the streets or adjoining property.
  - (8) Evidence that the conduct of the business creates a disturbance, congregation of intoxicated persons, congregation of underage persons, or consumption of alcoholic beverages on the premises by underage persons, or causes the police to answer complaints or make extra surveillance of the premises. More than three underage persons without supervision of a parent or one authorized by a parent shall be prima facie evidence of a congregation of underage persons.
  - (9) Evidence of unusual police observation or inspection in order to prevent the violation of any law, regulation or ordinance regulating such business, if the applicant is a previous holder of a license.
  - (10) Evidence that the application is a guise or dummy application for another person who cannot meet the qualifications of this chapter for the issuance of a license.
  - (11) Evidence that the applicant or any corporation or partnership of which the applicant is or was an officer, director, principal shareholder, general partner or managing agent is delinquent in the payment of any property tax or other tax or license fee payable to the city, the county or the state.

- (12) Evidence that alcoholic beverages have been sold to an intoxicated person or to an underage person.
  - (13) Evidence that the applicant, licensee or any individual having an ownership interest in said license, has been convicted of any misdemeanor within ten years immediately prior to the filing of the application.
- (c) The City Manager shall have authority to deny an application for a new license under this chapter upon a showing that any one or more of the conditions in subsection (a) exists. Upon such a denial, the applicant shall have a right to an appeal pursuant to the procedures set forth in section 6-63 herein within ten days of the decision to deny on such basis. Upon the showing that any one or more of the conditions outlined in subsection (c) exists on an existing licensee, the licensee shall be entitled to notice and a hearing pursuant to the procedures set forth in section 6-63 herein prior to any action taken on said license by the city.

Sec. 6-46. - Reserved

Sec. 6-47. - Reserved

Sec. 6-48. - Wholesale licenses prohibited from holding interest in other licenses.

No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license under the terms of this chapter. This section shall not apply to farm wineries.

Sec. 6-49. - License to be obtained within two weeks of approval; issuance.

- (a) All licenses must be obtained not later than two weeks from the date of approval of the application by the mayor and city council, and if not so obtained, the license granted by the mayor and city council shall be void.
- (b) When a license has been approved and the applicant has deposited with the city the required fee, the license shall be issued, subject to subsection (a).

Sec. 6-50. - Completion of proposed licensed premises.

Where a building in which a retailer or bottle house operator intends to operate under the provisions of this chapter is, at the time of the application for such license, not in existence or not yet completed or renovated, a license may be issued for such location, provided the plans for the proposed building show clearly a compliance with the other provisions of this chapter. No sales or consumption shall be allowed in such establishment until it has been completed in accordance with the plans and is in conformity with all of the other provisions of this chapter.

Sec. 6-51. - Time limit for commencement of business; forfeiture for nonuse.

- (a) All holders of licenses under this chapter must within three months after the issuance of such license open for business the establishment referred to in the license. Failure to open the licensed establishment within the three-month period shall serve as an automatic forfeiture and revocation of the unused license and no refund of license fees shall be made to the license holder. The time period in which to commence operations shall not be extended and the license revoked unless the time period to commence operations is extended by:
  - (1) The license review board pursuant to the procedures set forth in section 6-63 of the Code of Ordinances, Americus, Georgia; or
  - (2) The city manager or his or her designee after the licensee produces written proof in the form of an affidavit on a form approved by the city manager or his or her designee showing good cause for failure to open.

- (b) Any holder of a license under this chapter who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of such three months automatically forfeit his license, which license shall, by virtue of the failure to operate, be revoked without the necessity of any further action by the city. The license shall not be revoked under this subsection if, prior to the date which is three months from and after the cessation of business, the licensee produces written proof in the form of an affidavit on a form approved by the city manager or his or her designee showing good cause for discontinuing operations. In addition to such proof, the licensee shall provide an action plan concerning the date on which operations will be commenced. If the city manager or his or her designee finds that the licensee has produced the necessary proof showing good cause for discontinuing operations, the licensee shall have until the date set forth in his action plan to commence operations. Should the licensee fail to commence operations on the date set forth in the action plan, the licensee shall automatically forfeit his or her license. Nothing in this subsection shall relieve the licensee of his or her obligations to renew his or her license as set forth in this chapter.
- (c) No license holder whose license is forfeited or revoked pursuant to this section may apply for a new alcohol license for a period of 12 months from and after the date of such forfeiture or revocation.

Sec. 6-52. - License fees; duration.

- (a) The annual license fee for each classification of license under this chapter shall be set by the mayor and city council of the City of Americus in the business license schedule.
- (b) The schedule of fees for each license classification under this chapter shall be on file at the Americus City Hall at the business license office.
- (c) Any new license issued under this chapter shall be effective from the date of the license through December 31 of that year. Thereafter, the licensee shall be required to renew the license annually in January of each year. In the case of revocation or surrender of license before the expiration date of that license, the holder of the license shall not be entitled to receive any refund whatsoever.
- (d) Each person manufacturing or selling distilled spirits in the city shall pay a license fee based on the annually adopted Fee Schedule for the City of Americus:
- (e) On or after July 1 of a calendar year, all initial distilled spirits license and permit fees for that year shall be one-half of the basic fees set forth in subsection (d) of this section.
- (f) Each person selling malt beverages, wine, fortified wine, and/or hard cider in the city shall pay a license fee based on the annually adopted Fee Schedule for the City of Americus:
- (g) Each person selling any alcoholic beverage, including, but not limited to, malt beverages, wine, fortified wine, or hard cider on Sunday, shall pay a license fee of \$550.00.
- (h) Any person holding a license granted under any subsection of this section 6-52 is eligible for applying for a license to sell and/or re-fill growlers. The fee for a growler license shall be the sum of \$200.00 per calendar or any portion of a calendar year. The application shall be submitted on forms approved by the city manager or his or her designee. To be valid, the growler license must be approved by the mayor and city council.
- (i) The total for off-premise license fees shall not exceed the statutory maximum the statutory maximum prescribed in O.C.G.A. § 3-11-2(e), as amended. For retail package licenses, a half year is authorized as in subsection (e) of this section.
- (j) All license fees required under this chapter shall be paid in cash or by certified check or by cashier's check.

Sec. 6-53. - Penalty for late fee payment.

Any licensee, person or entity who fails to pay any fee, tax or other payment due to the city of any kind when due shall pay, in addition to such fee, tax or other charge, a one-time separate penalty equal to ten percent of the required fee, tax or other charge received more than 30 days after the due date.

Sec. 6-54. - Payment of fees, number of license, renewal; annual sales statement, inspection of records.

- (a) On an annual basis, the licensee shall submit renewed information and application on forms prescribed by the city no later than December 31 of each year in order to renew the license. The annual license fee under this chapter for those seeking renewal of a license accrues and is due and payable on December 31 of each year. The failure of the licensee to timely submit renewed information and application and/or the failure of the licensee to timely pay the annual license fee shall result in the expiration of the license.
- (b) Upon expiration of the license, the licensee shall cease the sale of alcoholic beverages until the licensee obtains a valid license under this chapter. If the licensee fails to cease the sale of alcoholic beverages, the licensee shall be subject to the penalty as provided in section 6-53, in addition to other remedies under state or federal law and/or actions taken by the license review board and/or the mayor and city council.
- (c) A person doing business at more than one place shall take out and pay for a separate license for each place of business.
- (d) Each licensee shall provide the city with a certified statement prepared by his bookkeeper or accountant of the gross sales of the business for the preceding calendar year. Copies of the state sales tax returns for the same period shall be attached to the statement. Such statement must be properly notarized and certified to be true and correct by the licensee or his agent under penalty of law, and shall accompany the basic license fee payment on or before December 31 of each year.
- (e) Any holder of or applicant for an alcoholic beverage license must make available for audit any and all records concerning such business upon request of the **business license division manager** or his representative. The books, records, inventory, stock and facilities of any alcoholic beverage license holder or applicant for same shall be open for inspection at any time for agents of the business license office and the police department.

Sec. 6-55. - Supplemental requirements for the sale of spirituous liquors for on-premises consumption.

No license for the sale of spirituous liquors by the drink or for the operation of a bottle house shall be issued to any applicant who does not meet the requirements of a bar, restaurant, hotel, or private club, lounge or nightclub as defined in this chapter. No bottle house shall operate unless it shall obtain a pouring license.

Sec. 6-56. - Event permits.

- (a) In order to distribute or sell alcoholic beverages at an event authorized pursuant to section 6-71 of the Code of Ordinances, Americus, Georgia, the applicant, who is a licensed alcoholic caterer, intending to sell such alcoholic beverages must:
  - (1) Provide the city with a copy of a valid license from a county or municipality within the state which authorizes the applicant to sell alcoholic beverages for consumption on the premises or by the package for consumption off the premises.
  - (2) Provide the city with a copy of valid annual off-premise license from the city which authorizes the applicant to sell alcoholic beverages in connection with an authorized catered function.
  - (3) Apply to the city for an event permit, providing the name of the applicant, the date, the applicant's address, the date or dates of the event, the time of the event, the applicant's alcoholic beverage caterer's license number.
  - (4) Pay an event permit fee as set forth in the fee schedule as approved by the mayor and city council.

- (5) Pay local excise taxes on the total quantity of alcoholic beverages brought into the city. This subsection only applies to those licensed alcoholic beverage caterers who are domiciled in a local political subdivision other than the city.
  - (6) Maintain the original event permit in the vehicle while transporting the alcoholic beverages to the event and post it in a conspicuous location at the event for the duration of the event.
- (b) In order to distribute or sell alcoholic beverages at an event authorized pursuant to section 6-72 of the Code of Ordinances, Americus, Georgia, the applicant intending to sell such alcoholic beverages must:
- (1) Provide the city with a copy of a valid liquor license from a county or municipality within the state which authorizes the applicant to sell alcoholic beverages for consumption on the premises or by the package for consumption off the premises.
  - (2) Provide the city with a copy of a valid annual off-premise alcohol license from the City of Americus; or, if the applicant does not have an off-premise alcohol license from the City of Americus, obtain one to submit with the application for an event permit.
  - (3) Apply to the city for an event permit, providing the name of the applicant, the date, the applicant's address, the date or dates of the event, the time of the event, the applicant's liquor license number.
  - (4) Pay an event permit fee as set forth in the fee schedule as approved by the mayor and city council.
  - (5) Pay local excise taxes on the total quantity of alcoholic beverages brought into the city. This subsection only applies to those applicants who are domiciled in a local political subdivision other than the city.
  - (6) Maintain the original event permit in the vehicle while transporting the alcoholic beverages to the event and post it in a conspicuous location at the event for the duration of the event.
- (c) The event permit is valid for the duration of the authorized event and shall expire at the end of the event. The event permit is also only valid for the sale of the same type of alcoholic beverages that the applicant is allowed to sell under his or her liquor license or off-premise license.
- (d) It shall be unlawful for any such applicant to employ any person who is less than 21 years of age who, in the course of such employment, would dispense, serve, sell, or handle alcoholic beverages. Any and all persons, regardless of the person's title or position, employed by the applicant who dispense, serve, sell, or handle alcoholic beverages at the event must have a valid server license issued by a governmental entity within the state. That server license must be carried by the licensee and available for review on request whenever the licensee is working at the event.
- (e) It is unlawful for any person or entity to distribute or sell any alcoholic beverages in connection with an event approved under section 6-71 of the Code of Ordinances, Americus, Georgia, without first having obtained an event permit as provided in subsection (a) of this section 6-56.
- (f) It is unlawful for any person or entity to distribute or sell any alcoholic beverages in connection with an event approved under section 6-72 of the Code of Ordinance, Americus, Georgia, without having obtained an event permit as provided in subsection (b) of this section 6-56.
- (g) The event permit as contemplated by this section 6-56 shall be granted or denied at the sole discretion of the mayor and city council, or the city manager of the city or his or her designee.

**State Law reference—** O.C.G.A. § 3-11-1 et seq.

Sec. 6-57. - Requirements for sale of alcoholic beverages at an amusement park.

- (a) When an amusement park is not open to the general public, the amusement park may sell or dispense alcoholic beverages to its private party function participants. Alcoholic beverages shall not

be removed from the amusement park premises, which premises shall not include the parking or amphitheater areas of the amusement park.

- (b) When the amusement park is open to the general public, the amusement park may sell or dispense alcoholic beverages at a private party function in restricted areas. Such restricted areas shall be:
- (1) Not open to the general public;
  - (2) Not an amphitheater or parking for the amusement park;
  - (3) Contain a fence or barrier which limits access to the restricted area; and
  - (4) The location of the restricted areas has been submitted to and approved by the **business license manager**.

In the event a designated area is denied by the **business license manager**, the owner/licensee may appeal said decision within ten days of said decision pursuant to the procedures set forth in section 6-63 herein. The license review board and/or the mayor and city council shall have the authority to approve a designated area provided it meets the standards of this subsection. Alcoholic beverages shall be limited to the restricted areas only and shall not be removed from the restricted areas.

Sec. 6-58. - Name of license and license number to be displayed.

The license itself shall be prominently displayed so as to be visible to the public inside the licensed premises.

Sec. 6-59. - Renewal—Required annually.

All licensees under this chapter shall, in order to continue such business, renew their licenses annually. Renewing licenses are not required to meet the posting and advertising provisions of section 6-34 and 6-36 of this chapter or to appear before the **license review board** or the mayor and council when the following requirements are satisfied:

- (1) Same applicant and information as contained in the formerly approved application.
- (2) Updated background check for criminal record or alcohol violations in the past year conducted by police department.
- (3) No prior, existing, or pending violations of the alcoholic beverage ordinance.
- (4) Compliance with all state alcoholic beverage regulatory statutes and regulations.
- (5) Timely payment of renewal fees and timely submission of renewed information.

Sec. 6-60. - Same—Application for existing licensed premises.

Any application for renewal of a license on an existing licensed location shall not be required to meet the **distance requirements** set forth in this chapter, if not originally in violation; provided, that no license may be issued in violation of state distance requirements. An application for license renewal filed under this section shall meet and qualify under all other requirements of this chapter for the granting of a new license.

Sec. 6-61. - Transfer of license, restrictions.

Licenses, under this chapter shall not be transferable as to location or ownership, except upon approval of the mayor and city council and issuance of and payment for the license, subject to the following:

- (1) In case of the death of any person holding a license, or any interest therein, such license may, in the discretion of the city, be temporarily transferred to the administrator, executor or the lawful heirs of the deceased person, for a period of up to 60 days, provided that such transferee otherwise meets the requirements for holding an alcohol license under this section.

- (2) Nothing in this section, 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. Such a withdrawal shall not however, serve to bring any new ownership into the partnership.
- (3) Nothing in this section, however, shall prohibit one or more principal shareholders in a corporation holding a license to withdraw from the corporation, who were principal shareholders at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the corporation.
- (4) Should a transfer of location be approved, there shall be no pro rata return of any license fee and the new location shall be considered under and meet the requirements of a new license under this chapter. Provided, however, where 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.
- (5) It shall be deemed a change of ownership when an owner or licensee adds an additional partner or partners or an additional principal shareholder or principal shareholders.
- (6) All applications for transfer of location shall be posted as required by section 6-36.
- (7) A change in ownership as set forth in this section requires an application for a new license and the payment of a new license fee according to the procedures in this chapter.
- (8) It shall be the duty of each licensee to promptly report any changes of any kind in the ownership or distribution of ownership to the business license office.
- (9) If a licensee desires to sell the business for which the license was issued, the purchaser of the business must be informed by the licensee that the purchaser of the business must make application for and obtain a license prior to operating the business. Any transfer of the business for which the license is issued without the new owners being licensed shall cause the automatic revocation of the license.
- (10) In the event that an alcoholic beverage license is issued to a corporation and an agent, and the owner of the license desires re-issuance of the license under an alternative agent, such re-issuance shall not be deemed to be a change of ownership; provided however, that the owner of the license provide the name of a principal shareholder or alternative agent for purposes of background investigation, including fingerprinting of such person. No license under this chapter shall reissue to such designated alternative person unless and until the city grants approval of such background investigation.

Sec. 6-62. - Licenses constitute grant or privilege.

- (a) All alcoholic beverage licenses constitute a mere grant or privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this chapter and related laws and other ordinances and resolutions of the city relating to such business.
- (b) All licenses under this chapter shall have printed on the front these words: "this license is a mere privilege subject to being revoked and annulled by the mayor and city council, and is subject to amendments to this ordinance or state law upon hearing prior to revocation with or without cause."

Sec. 6-63. - Procedure for suspension and revocation.

- (a) No alcoholic beverage license which has been issued or which may hereafter be issued shall be suspended or revoked except for due cause, as defined in this section, after a hearing and upon written notice to the holder of such license of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. Five days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the mayor or city manager may deem the circumstances to justify.

- (b) Due cause for the suspension or revocation of such license shall consist of the violation of any laws, regulations, ordinances regulating such business; the violation of regulations made pursuant to authority granted for the purpose of regulating such business; the violation of any state or federal law; any change in the area where such business is located, which change is deemed by the city council to authorize the city council to refuse the issuance of a license, including those circumstances as outlined in section 6-45; the arrest or conviction of a drug-related, alcohol or sex-related crime, or a crime involving moral turpitude; or any violation of this chapter.
- (c) The police department shall provide written notification to the city manager of any violation of this chapter or any facts that may constitute due cause for the suspension or revocation of a license. Such notification shall include facts constituting due cause and shall also include a history, if any, of previous violations of this chapter or previous findings of due cause for the probation, suspension or revocation of said license and the penalty, if any, imposed by the city for such violations or previous findings.
- (d) Upon receipt of the notification as provided in subsection (c), the city manager shall place the matter for a first due cause hearing by **the license review board**, provided that the licensee has not been on probation or suspension within the last 24 months from the date of the writing as provided in subsection (c).
- (e) If the licensee has been on probation or suspension within the last 24 months from the date of the writing as provided in subsection (c), then the city manager shall place the matter for a first due cause hearing by the mayor and city council, wherein the mayor and city council shall consider revocation of the license.
- (f) Written notice of the time, place and purpose of the first due cause hearing and a written statement of the charge or charges shall be provided to the licensee. Five days' notice shall be deemed reasonable, but shorter or longer periods shall be authorized as the mayor or city manager may deem the circumstances to justify.
- (g) After the due cause hearing as provided in subsection (d), **the license review board** may place on probation with conditions, recommend suspension for a period of time not to exceed 12 months or recommend revocation of the alcohol license. The city manager shall send written notice to the licensee of **the license review board's** decision and prepare a written report to the city council regarding the decision.
- (h) In the event that the **license review board** recommends that the alcoholic beverage license be on probation with conditions and/or be suspended for less than six months, the owner of the alcoholic beverage license, the licensee or both have no recourse to file an appeal with the city manager of such recommendation. In the event that the **license review board** recommends suspension for more than six months or revocation, then a second due cause hearing may be conducted before the mayor and city council.
- (i) For those hearings conducted by the **license review board** wherein **the license review board** recommended suspension for six months or more or revocation, upon review of the city manager's report, the city council shall either approve such recommendations or cause the matter to be placed before the mayor and council for a second due cause hearing.
- (j) In the event that **the license review board** recommends any probation, suspension, or revocation of a license under this section, the police department shall immediately place signage in or on the premises indicating that such recommendation has been made and the basis for such recommendation, pending review and approval by the mayor and council. Such signage shall remain in place until mayor and council shall take action on such recommendation.
- (k) In all hearings held pursuant to this section, the proceedings shall be as informal as compatible with justice and the following procedures shall prevail:
  - (1) The charges and specifications against the licensee and the responses, if any, filed by the licensee shall be read into the record, unless expressly waived by the city representative and the licensee.

- (2) The city representative shall present evidence and then the licensee shall present evidence, with the opportunity for each party to present rebuttal evidence, examination and cross examination of witnesses, and interrogation by the city manager or city council. No evidence shall be presented which is not relevant to the charges. Evidence of previous probation(s) and suspension(s) is relevant.
- (3) The **license review board** and the mayor and city council, through the city manager, shall be authorized to issue subpoenas when such subpoena power is authorized by law. All testimony taken by the board shall be under oath. The board shall apply to the Americus Municipal Court for the enforcement of any subpoena issued by the board.
- (l) After any due cause hearing under this section by the mayor and city council, if the mayor and city council determine that due cause exists, the mayor and city council may place on probation, suspend with or without conditions or revoke the license. The city manager shall send written notice to the licensee of the city council's decision.
- (m) In the event a license to sell alcoholic beverages is suspended as a result of selling alcoholic beverages to an underage person, an intoxicated person or an unauthorized Sunday sale, a sign issued by the city business license office shall be placed at each entrance to the facility wherein alcoholic beverages were sold with a sign providing: "THE LICENSE TO SELL ALCOHOLIC BEVERAGES ISSUED TO OWNER AND LICENSEE OF THIS BUSINESS HAS BEEN SUSPENDED FROM \_\_\_\_\_ TO \_\_\_\_\_ AS A RESULT OF SELLING ALCOHOLIC BEVERAGES TO AN UNDERAGE PERSON, AN INTOXICATED PERSON OR AN UNAUTHORIZED SUNDAY SALE".
- (n) In the event that the license to sell alcoholic beverages is revoked as a result of selling alcoholic beverages to an underage person, an intoxicated person or an unauthorized Sunday sale, a sign issued by the city business license office shall be placed at each entrance wherein alcoholic beverages were sold with a sign providing: "THE LICENSE TO SELL ALCOHOLIC BEVERAGES ISSUED TO OWNER AND LICENSEE OF THIS BUSINESS HAS BEEN REVOKED AS A RESULT OF SELLING ALCOHOLIC BEVERAGES TO AN UNDERAGE PERSON, AN INTOXICATED PERSON OR AN UNAUTHORIZED SUNDAY SALE." The sign shall stay in place for the period of suspension or in the case of a revocation for a period of 30 days.

Sec. 6-64. - State revocation revokes city license.

Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the city license to manufacture or deal in such products shall thereupon be automatically revoked without any action by the mayor and city council.

Sec. 6-65. - Removal of signs where license revoked, suspended or denied.

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

Sec. 6-66. - False information in application.

Any material omission, or untrue or misleading information contained in or left out of an original, renewal or transfer application for any license issued under this chapter shall be unlawful, and shall be the cause for the denial thereof, and if any such license has previously been granted under these circumstances, such shall constitute due cause for the revocation of such license.

Sec. 6-67. - Reserved.

Sec. 6-68. - Joint sales of alcoholic beverages by the drink and by the package prohibited.

A pouring license shall not permit the sale of alcoholic beverages by the bottle or package. This section shall not apply to farm wineries selling wine, fortified wine, or hard cider by the package.

Sec. 6-69. - Mandatory workshop for licensee; mandatory training for permit holders.

- (a) Licensee policy workshop. All applicants for an alcoholic beverage license shall attend an alcohol sales and service policy workshop for owners and managers, which workshop shall be provided by an external training firm, approved by the **business license manager**. The applicant shall attend such workshop prior to the issuance of any alcoholic beverage license. Such workshop shall be at the applicant's expense. If, at the time the application is considered by the mayor and city council, the applicant has not provided evidence that the applicant has successfully completed the alcohol sales and service training workshop, the application shall be denied. This provision shall not be waived.
- (b) Training of permit holders.
  - (1) Licensees are required to provide information to all permit holders on provisions of the law of this state regarding the sale of alcoholic beverages to intoxicated and underage persons and the penalties for violating such laws.
  - (2) Licensees shall provide regular information and training to all permit holders on the methods, procedures and measures to be taken in order to request, obtain and examine proper identification of patrons to be certain that such patrons are of legal age to purchase alcoholic beverages.
  - (3) Detailed records of such training, including the date, time, persons attending and substance of such training shall be maintained for a minimum of 48 months of the training. Evidence of such training records shall be made available upon request for inspection by the city.
- (c) The failure of the licensee to comply with this subsection regarding the attendance of a policy workshop and the training of permit holders shall be grounds for due cause to suspend and/or revoke the license to sell alcoholic beverages.

Sec. 6-70. - Permit holders of licensees—Applications, issuance, and denials.

- (a) For whom required. The following persons shall be required to apply for and obtain a valid server permit from the City of Americus for each establishment that sells alcoholic beverages at which such person works:
  - (1) All employees and independent contractors who sell and/or serve alcoholic beverages at a premise licensed under this chapter.
  - (2) Any person acting in a managerial and/or security capacity, except for law enforcement personnel, at the licensed premise, regardless of whether such person sells and/or serves alcoholic beverages.
- (b) Exemption. The licensee to whom an alcoholic beverage license has been issued under this chapter is not required to obtain a server permit.
- (c) Application and issuance. Except as otherwise provided, no person requiring a server permit may be employed by an establishment holding a license under this chapter until such person has been issued a server permit from the Americus Police Department indicating the person is eligible for employment. All applications required by this section shall be investigated by the police department and shall include, among other things, (1) fingerprinting; (2) an appropriate photo taken by the Americus Police Department that accurately represents the appearance of the applicant; (3) proof of acceptable identification; (4) a copy of the applicant's Social Security card to verify that it is unrestricted; and, (5) an investigation of the criminal record, if any, of the applicant. Acceptable identification for purposes of this subsection shall mean any of the following: (i) a copy of a valid Georgia photo identification issued to the applicant; (ii) a valid Georgia driver's license issued to the applicant; (iii) a valid driver's license or identification card issued by another state to the applicant along with a copy of student identification card from a college or school located in the State of

Georgia; or, (iv) a valid passport together with a resident alien card or a permanent resident card issued by the United States government to the applicant. The applicant must pay a reasonable fee as determined by the city for processing and issuance of the server permit; said fee must be paid in cash, by check, or by other method of payment considered acceptable by the city; and, if paid by check the city may place a hold on the issuance of the server permit until the check clears the bank. Failure to provide any of the documentation or information referenced above, or the omission or falsification of any material information in an application for server permit shall be a violation of this chapter and grounds for the denial, suspension or revocation of any such server permit.

- (d) Time limit. All persons subject to the provisions of this section shall report to the Americus Police Department for purposes of being fingerprinted and make application and be approved for a server permit before beginning work at any establishment holding a license for alcoholic beverages.
- (e) Letter of eligibility; term; fee. Any server permit issued under this section shall expire 12 months from and after the date of issue unless earlier suspended or revoked by the mayor and city council of the City of Americus. The Americus Police Department may prescribe regulations for certifying the eligibility for continued employment without the necessity of the employee being again fingerprinted. The Americus Police Department may prescribe reasonable fees for certifying the eligibility for a server permit.
- (f) List of employees to be filed. It shall be the duty of all persons holding any license to sell alcoholic beverages to keep on file on the premises the actual current server permit or a copy of the current server permit for all persons required to have such permit who work at that establishment.
- (g) Possession of permits by employees. Each and every server permit holder shall, at all times during his or her working hours, have his or her server permit available for inspection at the premises of the licensee.
- (h) Permit holder on premises. At all times that the business is open, the licensee shall have at least one server permit holder on the premises.
- (i) Other grounds for denial of server permit. In addition to the other requirements in this section, the Americus Police Department shall not issue server permit to any applicant:
  - (1) Who is not a citizen of the United States or an alien admitted for permanent residence and who has been granted employment authorization to work within the United States by the United States Department of Homeland Security or a person who has otherwise been granted employment authorization by the United States Department of Homeland Security to work within the United States.
  - (2) Who has been convicted within five years immediately prior to the application for server permit of soliciting for prostitution, pandering, letting premises for prostitution, or any charge relating to the sale of alcoholic beverages.
  - (3) Who has been convicted or pled guilty to within five years immediately prior to the application for server permit of:
    - a. Any felony under the laws of any state or of the United States of America;
    - b. Two or more convictions for any alcohol or drug related offense; or,
    - c. For whom there exists any outstanding warrant charging such person with any crime described in this section, provided that this section shall not apply to private clubs as defined in this chapter.
  - (4) Who is on probation or on parole for any drug or alcohol related offense.
- (j) Appeal of denial of server permit. Any applicant who is not issued a server permit for any reason shall have the right to appeal such decision within ten calendar days from and after the applicant's the receipt of that denial. The appeal must be made to the City of Americus's [the license review board](#) That appeal shall set forth, in writing, all reasons that the applicant believes he or she should receive a server permit. Failure of the applicant to set forth such reasons shall be fatal to the appeal

and the appeal shall be denied and the denial of the server permit upheld. That board shall have the authority to require the city to issue a server permit if the board feels the circumstances justify such an issuance despite the requirements of this section. If the board upholds the denial of the permit, the applicant may appeal that decision to the mayor and city council of the City of Americus within ten calendar days from and after the applicant's receipt of written notice of the board's decision. The appeal to the mayor and the city council shall also set forth all reasons that the applicant believes he or she should receive a server permit. Failure of the applicant to set forth such reasons shall be fatal to the appeal and the appeal shall be denied and the denial of the server permit upheld. The mayor and city council shall have the authority to require the city to issue a server permit if they feel the circumstances justify such an issuance. If an applicant is denied a server permit and that denial is upheld on any appeal, the applicant will not be allowed to apply again for a server permit for a period of six months from and after the date of such denial or, if the applicant appealed, from and after final decision on that appeal.

- (k) Grounds for suspension, revocation, probation. No server permit that has been issued or which may hereafter be issued under this section shall be suspended, revoked or placed on probation except for due cause as defined in this subsection, and after a hearing and upon written notice to the permit holder of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. Five calendar days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the city manager may deem the circumstances to justify so long as the permit holder is provided reasonable notice of the hearing. "Due cause" for the suspension or revocation of the server permit shall consist of the violation of any laws or ordinances regulating the sale of alcoholic beverages or the violation of any state or federal law or local ordinances set out in this section; or for the omission or falsification of any material in any application; or for any reason which would authorize the refusal of the issuance of a permit; or any violation of this chapter. All hearings shall be before **the license review board** at a specially called meeting and shall be conducted in the manner provided in section 6-63 of this chapter. After the hearing, if **the license review board** determines due cause exists **the license review board** may suspend, revoke or place on probation for a maximum of 12 months, with or without conditions, the server permit. The permit holder whose server permit was suspended, revoked or probated by **the license review board** may appeal to the mayor and city council of the City of Americus pursuant to section 6-63 of this chapter.

#### Sec. 6-71. - Closed functions

A. The requirements for obtaining a closed function permit are as follows:

- (1) The organization sponsoring any closed function which seeks to serve alcoholic beverages must first apply for and obtain a special permit from the city manager or his/her designee in order to serve alcoholic beverages at the closed function. This permit must be posted in a conspicuous location at the closed function at all times during the event. The special permit shall specify the hours in which the closed function is permitted to function.
- (2) The organization sponsoring any closed function which seeks to serve alcoholic beverages must hire an off-duty City of Americus police officer to monitor the function. The city manager or his/her designee shall have the discretion to allow the sponsoring organization to hire an off-duty police officer from another jurisdiction to monitor the function if the circumstances warrant.
- (3) The special permit as contemplated herein shall be granted or denied at the sole discretion of the city manager or his/her designee.

B. One-day alcoholic beverage permit for bona fide nonprofit civic organizations.

- (1) In accord with the provisions of O.C.G.A. § 3-3-9, the city shall be authorized to issue a permit to a bona fide nonprofit civic organization to sell and serve alcoholic beverages for consumption only on the premises where sold for a period not to exceed one

day, subject to compliance with the provisions of this section. The sale and serving of such alcoholic beverages shall be made by the drink, and a permit shall be required hereunder at any event held or sponsored by such organization where alcoholic beverages are to be purchased or served, or both, whether such alcoholic beverages are purchased by the attendees by the payment of dues to the organization or as a result of the purchase of a ticket or the payment of an entry fee to the event. Notwithstanding the foregoing, any such organization which already has a valid alcoholic beverage license from the city shall not be required to obtain a permit hereunder.

(2) For purposes of this section, a "bona fide nonprofit civic organization", shall mean a nonprofit corporation licensed and authorized to do business in the State of Georgia which has been issued a letter or certificate of exemption from the payment of federal income taxes by the United States Internal Revenue Service under [26 U.S.C.S. § 501\(c\)](#). Written proof of such exemption shall be filed with the application.

(3) The temporary one-day permit authorized by this section shall be applied for utilizing such forms as may be provided by the city finance director. Such application shall be submitted to the city finance director no later than 20 calendar days in advance of the event. The city shall approve or deny such application within five calendar days of the city's actual receipt of such application. Written notice of the decision approving or denying the application shall be provided to the applicant by the city finance director within such five-day period. Upon approval of such application, the city finance director shall issue a written permit on such forms as the city finance director may provide, and the written permit shall be displayed at all times at the location of the event. The application fee shall be \$25.00. Such fee shall be submitted with the application, and if the application is denied, the fee shall be refunded to the applicant. The permit issued in accord with this section shall be valid only for the physical location specified in the permit. No permit shall be issued unless the sale of distilled spirits, wine or malt beverages is lawful in the place and during the time of day for which permit is issued.

(4) Final approval or denial of such applications based upon the provisions of this section, shall be by the city manager of the city. No more than two permits shall be issued to any single organization under this section during any calendar year. There shall be no appeal from any denial of such an application.

(5) The application shall be signed on behalf of the organization by a person having written authority to sign and deliver such application to the city. The person signing such application shall, in all events, be an officer of the organization at the time such application is submitted. At the time of submission, the person signing such application on behalf of the organization shall submit a copy of such person's Georgia driver's license. Such applicant shall be a resident of the City of Americus and shall be responsible for the lawful and proper conduct of the activities of the organization pursuant the permit issued hereunder.

(6) No organization which has had its alcoholic beverage license suspended or revoked within the previous 24 months shall be eligible to obtain a permit under this section. No organization which has been determined by the city to have violated any of the provisions of this section with respect to a previous permit issued hereunder, shall be eligible to obtain a permit under this section for a period of 24 months after the date of such violation.

(7) No organization which is delinquent or past due on any monetary obligations owed to the city, including, but not limited to, ad valorem taxes, business licenses, utility bills, sanitation fees, or any other taxes, fees or monetary obligations, shall be eligible for a permit under this section.

(8) The net proceeds from the sale of alcoholic beverages by the organization at such event shall be used only for the charitable purposes of the organization and for no other purpose.

(9) Except as otherwise provided in this section, the remaining provisions of this chapter relating to the sale of alcoholic beverages shall be applicable to any organization obtaining a permit hereunder. In addition, if the person signing the application on behalf of the organization would be disqualified from obtaining an alcoholic beverage license under this chapter, then the organization shall not be eligible to obtain a permit hereunder. Any one-day permit issued hereunder may be suspended or revoked in accord with the provisions of this chapter in the same manner and for the same reasons as an alcoholic beverage license may be suspended or revoked for regular alcoholic beverage license holders hereunder. Notwithstanding the foregoing, any suspension of such permit may also be made by the chief of police immediately should the organization be found to be in violation of any of the provisions of this section during the period of time that the one-day permit is in effect.

(10) No permit issued hereunder shall be valid for the sale or serving of alcoholic beverages thereunder unless the applicant shall also have been issued a valid one-day permit for the same event by the Georgia Department of Revenue, and such one-day permit from the Department of Revenue shall also be displayed at the location of the event in the manner required by the Department of Revenue.

#### Sec. 6-72. - Approved events.

The possession, transportation, consumption, and sale of alcoholic beverages on any public property are permitted at:

- (1) At an event at which the possession, transportation, consumption, and sale of alcoholic beverages on, in, or over public property is approved by the mayor and city council; or,
- (2) At an event at which the possession, transportation, consumption, and sale of alcoholic beverages on, in, or over public property is approved by the city manager of the city or his or her designee.

#### Sec. 6-73 Consumption of Alcohol on City Streets.

(a) Except for the area and circumstances specified in subsections (b) and (c) herein, it shall be unlawful for any person to possess an alcoholic beverage in an open container, either on their person, in a motor vehicle or otherwise on the streets, sidewalks, parks, squares or other public places within the City of Americus.

(b) Within the area of the Central Business District of the City of Americus, Georgia:

(1) During a permitted "Special Event" of the Americus Main Street and/or Downtown Development Authority, any person licensed to dispense alcoholic beverages for on premises consumption may sell one alcoholic beverage in a paper or plastic cup for removal from the premises; provided, however, that the alcoholic beverage is not placed in a can, bottle or other glass container and, further provided, that the licensee may dispense no more than one alcoholic beverage per person, and no person shall remove more than one alcoholic beverage from the premises;

(2) Any alcoholic beverage dispensed pursuant to this section shall not exceed 16 fluid ounces in size and no person shall possess an open container containing an alcoholic beverage in excess of 16 fluid ounces on the streets, sidewalks, parks, squares or other public places within the area described in this section;

(3) Unless specifically provided otherwise by ordinance, the regulations provided by this section shall be in full force and effect during any festival.

Secs. 6-74—6-86. - Reserved.

### ARTICLE III. - PROHIBITIONS AND RESTRICTIONS

Sec. 6-87. - Employment of minors.

No licensee shall allow or require a minor to dispense, serve, sell or take orders for any alcoholic beverages. It shall be unlawful for a minor to dispense, serve, sell or take orders for any alcoholic beverages.

Sec. 6-88. - Serving customers.

Alcoholic beverages by the drink permitted to be sold under this chapter shall only be served by employees of the licensee.

**State Law reference**— Employee solicitation of patrons for drinks on premises; O.C.G.A. § 3-3-42.

Sec. 6-89. - Sale to underage persons, incompetents, intoxicated persons.

No licensee under this chapter and no employee of such a licensee under this chapter shall furnish, sell or knowingly allow the possession of any alcoholic beverages, whether by the package or by the drink to:

- (1) Any person under the age at which such beverages may be legally purchased in the state; or
- (2) Any person in an intoxicated condition; or
- (3) Any person known to such licensee or his or her employee to be an habitual drunkard; or
- (4) Any person known to such licensee or his or her employees to be of intemperate habits or of unsound mind.

**State Law reference**— Offenses involving alcohol and underage persons, O.C.G.A. § 3-3-23.

Sec. 6-90. - Notice; allowing underage person on licensed premises.

- (a) Licensees that own, operate or manage a nightclub, indoor entertainment hall, bar, lounge or package store and/or their employees shall not permit underage persons on the licensed premises unless such person is (1) accompanied by a parent or legal guardian; or, (2) unless such person is an on-duty employee of the licensee and is at least 18 years of age. However, an indoor entertainment hall may allow persons who are at least 18 years of age to be on the premises without

a parent or legal guardian on specially designated days, whether they are designated "special events," "concert nights," or other similar term, not to exceed two days per calendar week, and only one of which may be a day other than Friday and Saturday, under the following conditions:

- (1) Every patron must be required to present valid identification and proof that the patron is at least 21 years of age at the point of sale within the indoor entertainment hall each time such patron attempts to purchase alcoholic beverages while on the premises. In lieu of checking identification and proof of age at the point of sale within the indoor entertainment hall, the licensee or the licensee's employees may check such identification and proof of age at the entrance to the indoor entertainment hall, provided that any person who is 21 years of age or older who enters the premises be provided with a handstamp, nonremovable wrist band, or similar method of confirmation that the patron is legally entitled to purchase alcoholic beverages while on the premises. In such event, no licensee or employee of licensee may sell, serve, or provide any alcoholic beverage on the premises to any patron who does not present such handstamp, nonremovable wristband, or similar method of confirmation that the patron is 21 years of age or older each and every time the patron attempts to purchase an alcoholic beverage.
  - (2) On days the indoor entertainment hall allows underage patrons on the premises in accordance with this section, no patron may be sold, served, or provided more than one alcoholic beverage during any single transaction.
  - (3) A conspicuous notice must be posted at the entrance to the indoor entertainment hall and at each point of sale within the indoor entertainment hall stating that it is illegal under state and local law for persons under the age of 21 years of age to purchase or consume alcoholic beverages, that it is illegal for any person under the age of 21 years of age to misrepresent his or her age in any manner whatsoever, that it is illegal for anyone to purchase alcohol for or on behalf of any other person under the age of 21 years of age, and that any person found in violation of any such law will be subject to arrest and criminal prosecution. "Conspicuous notice" as used in this chapter shall mean a sign on white background with red or black print with the printed message being 28 point type or larger.
  - (4) On days the indoor entertainment hall allows underage patrons on the premises in accordance with this section, licensee must employ or otherwise provide at least two uniformed, off-duty Americus police officers to patrol the exterior of the indoor entertainment hall, including the parking lot. The city manager or his/her designee shall have the discretion to allow the sponsoring organization to hire off-duty police officers from another jurisdiction to monitor the function if the circumstances warrant. Such officers shall not enter the indoor entertainment hall unless requested by licensee or licensee's employees or unless the officers otherwise have reason to believe that illegal activity has taken or is taking place within the indoor entertainment hall or that the health or safety of the patrons is immediately at risk.
  - (5) The indoor entertainment hall must require that each person entering the premises provide valid identification and proof at the entrance to the premises that the person entering the premises is at least 18 years of age. No person under the age of 18 years of age may be admitted to the indoor entertainment hall without a parent or legal guardian.
- (b) Each licensee shall post a conspicuous notice at the entrance to the indoor entertainment hall and at each point of sale within the indoor entertainment which shall contain the provisions of the laws of this state which deal with the unlawful sale of alcoholic beverages to underage persons and the penalties for violating such laws.

**State Law reference**— O.C.G.A. § 3-3-24.2.

Sec. 6-91. - Purchase, consumption or possession by or for underage persons.

- (a) It shall be unlawful for any underage person to purchase, drink or possess any alcoholic beverages.

- (b) It shall be unlawful for any person to keep or maintain a place where underage persons knowingly are allowed and permitted to come and purchase, drink or possess any alcoholic beverages.
- (c) It shall be unlawful for any person to buy any alcoholic beverage and furnish it to an underage person for consumption.
- (d) The prohibitions contained in subsections (a), (b) and (c) of section 6-91 of this chapter 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) When the parent or guardian of the person under 21 years of age gives the alcoholic beverages to the person and when possession is in the home of the parent or guardian and such parent or guardian is present.
- (e) It shall be the responsibility of the licensee to obtain and examine proper identification of patrons to be certain that such patrons are of legal age pursuant to the standard as set forth in O.C.G.A. 3-3-23(h), or as may be amended from time to time. The term "proper identification" means any document issued by a governmental agency containing the description of the person, the 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 state issued identification card for persons without a driver's license. "Proper identification" shall not include birth certificate, traffic citation and complaint form, or student (college/university) identification card.

**State Law reference**— Offenses involving alcohol and underage persons. O.C.G.A. § 3-3-23.

Sec. 6-92. - Same—Misrepresentation of age.

It shall be unlawful for any underage person to falsely misrepresent his/her age in any manner whatsoever.

Sec. 6-93. - Hours of operation.

- (a) Alcoholic beverages by the package. Licensees for the sale of distilled spirits by the package shall not engage in the sale of such beverages except between the hours of 8:00 a.m. and 11:55 p.m., Monday through Saturday. Licensees for the sale of distilled spirits by the package shall not engage in the sale of such beverages except between the hours of 12:30 p.m. and 11:30 p.m., Sunday; however, to engage in such sales the licensee must hold a license allowing it to sell such distilled spirits on Sundays. Licensees for the sale of malt beverages, and/or wine, and/or fortified wine, and/or hard cider by the package shall not engage in the sale of malt beverages, and/or wine, and/or fortified wine, and/or hard cider by the package except between the hours of 8:00 a.m. and 2:55 a.m. Monday through Friday, and 8:00 a.m. and 11:55 p.m. Saturday. Licensees for the sale of malt beverages, and/or wine, and/or fortified wine, and/or hard cider by the package shall not engage in the sale of malt beverages, and/or wine, and/or fortified wine, and/or hard cider by the package except between the hours of 12:30 p.m. and 11:30 p.m., Sunday; however, to engage in such sales the licensee must hold a license allowing it to sell such malt beverages, and/or wine, and/or fortified wine, and/or hard cider on Sundays.
- (b) Alcoholic beverages by the drink. Sale of any alcoholic beverages by the drink for on-premises consumption: licensees shall not engage in the sale of any alcoholic beverages between the hours of 2:55 a.m. and 8:00 a.m. daily. All alcoholic beverages will be consumed or removed no later than 45 minutes after legal sales have been terminated, provided that this subsection shall not apply to private clubs hereunder, and establishments holding a valid permit may be made in accordance with O.C.G.A. § 3-3-7(1), or as may be amended from time to time.

- (c) Wholesalers. The business hours of any wholesaler licensed under this chapter shall be sunup to sundown, exclusive on Sunday.
- (d) Sundays. A licensee for the sale of distilled spirits, malt beverages, and/or wine, and/or fortified wine, and/or hard cider by the package at retail shall be allowed to sell such alcoholic beverages between the hours of 12:30 p.m. and 11:30 p.m. on Sundays only if that licensee holds a permit from the city authorizing that licensee to engage in Sunday sales of the type of alcoholic beverages being sold.
- (e) Election days. The sale of alcoholic beverages in the city shall be permitted on election days as provided by O.C.G.A. § 3-3-20, as amended.
- (f) Nothing contained in this section shall prevent any restaurant that is licensed to sell alcoholic beverages for consumption on the premises to permit a patron to remove one unsealed bottle of wine and/or bottle of fortified wine per patron for consumption off premises, provided that the patron has purchased a meal and consumed a portion of the bottle of wine on the restaurant's premises. The securing, resealing and transporting of said bottle of wine and/or bottle of fortified wine shall be in accordance with procedures outlined in O.C.G.A. § 3-6-4.

**State Law reference**— Sale of alcoholic beverages on election days, O.C.G.A. § 3-3-20.

Sec. 6-94. - Requirements of wholesalers generally.

All wholesalers shall be licensed under the provisions of this chapter and shall comply with this chapter before they can sell or deliver any distilled spirits to any establishment in the city. Deliveries and sales shall only be made to retailers properly licensed under this chapter for the operation of establishments in the city. Deliveries shall be made in a conveyance owned and operated by a wholesaler licensed as set out in this section and shall at all times when deliveries are being made be subject to inspection by any duly authorized authorities of the city.

Sec. 6-95. - Retailers to purchase from properly licensed wholesalers; exception.

Retail dealers in distilled spirits licensed under the applicable provisions of this chapter shall not buy nor accept deliveries of distilled spirits from wholesalers or other persons offering distilled spirits for sale except from wholesalers duly licensed under this chapter. Such retail dealers shall only accept deliveries of distilled spirits directly to the premises for which their license and permit was issued, and by no means other than a conveyance owned and operated by a wholesaler licensed as required by this chapter; except that, on written request to the **business license division manager** of the city and upon the granting of permission by the city in writing, deliveries may in special instances be made otherwise upon terms and conditions as prescribed by the mayor and city council as to each delivery.

Sec. 6-96. - Sale or delivery to unlicensed premises or unlicensed caterers.

- (a) It shall be unlawful for any licensee under this chapter 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 under this chapter to allow the sale or delivery of any alcoholic beverage by the drink to any area other than the premises covered by the license.
- (c) It shall be unlawful for unlicensed individuals or caterers to sell alcoholic beverages.

Sec. 6-97. - Discrimination or interference by wholesaler.

No wholesaler may discriminate between retail dealers as to quantity, selections, and brands sold to the retail dealer, nor use any business technique so as to control the retail dealer's business and pricing policy, or in any way interfere with the free enterprise operation of the retail dealer.

Sec. 6-98. - Storage—Regulation generally.

All licensed retailers shall store all distilled spirits possessions on the premises for which the license was issued, and at no other place. All distilled spirits stock shall be available for inspection by authorized city officials. Any brand or type of distilled spirits found in any retailer's stock that is handled by a wholesaler who is not licensed to make sales and deliveries in the city shall be subject to immediate confiscation.

Sec. 6-99. - Breaking of packages; consumption on premises; possession of alcoholic beverages on unlicensed premises; spirituous or alcoholic liquors.

- (a) No retail dealer shall knowingly and intentionally allow or permit the breaking or opening of any package or packages containing alcoholic beverages on the premises where sold or allow or permit the drinking of the contents of such package or packages on the premises where sold. This section shall not apply with respect to sales pursuant to a license for consumption on the premises.
- (b) A restaurant, eatery, cafe, diner or other eating establishment not licensed under this chapter for on-premise consumption shall not knowingly and intentionally allow or permit the breaking or opening of any package or packages containing alcoholic beverages on the unlicensed premises or permit the drinking of the contents of such package or packages on the unlicensed premises.
- (c) It shall be unlawful for any licensee who is authorized to sell malt beverages, or hard cider, or wine, to sell, store or possess spirituous or alcoholic liquors without an appropriate license therefor.
- (d) Upon the suspension, revocation, denial of renewal or denial of transfer of any alcoholic beverage license under this chapter, the licensee shall remove from the licensed premises all alcoholic beverages within 48 hours of the effective date of such suspension, revocation or denial.

**State Law reference**— O.C.G.A. § 3-3-26.

Sec. 6-100. - Clear view of entrance and interior of licensed premises; lighting; private clubs. ????

- (a) No licensee for the sale of alcoholic beverages by the package shall operate under the license unless the front entrance to the licensed premises is clearly visible from the public street; provided, however, this restriction shall not apply where the licensee is a hotel, motel, private club or is located in a shopping center or multiple-story business building. Clearly visible shall mean that not less than 60 percent of the front area shall be glass. Front area shall mean the width of the premises from the ceiling to the floor.
- (b) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or upon the doors of any retail store for the sale of alcoholic beverages by the package, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such store shall be so lighted that the interior of the store is visible day and night.
- (c) Private clubs which have been granted licenses under this chapter to sell distilled spirits at retail by the package shall not have an outside or street entrance for such retail outlet to sell to the general public, nor shall any such establishment make any sales to any member of the general public who is not a member of the private club.

Sec. 6-101. - Sanitary and fire protection regulations; disturbances; inspections.

- (a) All premises licensed under this chapter shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises to include building, and property maintenance codes used for the storage and sale of food for human consumption.
- (b) It shall be unlawful for a licensee to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices on any licensed premises.

- (c) The fire inspector or city building official shall inspect, at least annually, the premises licensed under this chapter to determine compliance with subsections (a) and (d) of this section and report its findings to the city manager.
- (d) All premises licensed under this chapter shall conform at all times with all fire, building, life safety, and property maintenance codes of the city, county, and state.

Sec. 6-102. - Misrepresentation of alcoholic beverages.

It shall be unlawful for licensees or their employees 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. This section shall not preclude the sale and/or refilling of any growler so long as such sale or refilling complies with section 6-111 of this Code.

Sec. 6-103. - Prices to be conspicuously displayed.

Each retail licensee for sale in the package shall have conspicuously displayed within the interior of the licensed premises not less than four copies of a printed price list of the alcoholic beverages offered for sale; provided, however, a licensee, in lieu of having four copies of a printed list, may have the price placed on the bottles or on the bottom of the shelf where alcoholic beverages are exhibited for sale.

Sec. 6-104. - Exterior advertisements. Reference : State Code- O.C.G.A. § 3-4-3

§ 3-4-3. Retail dealer's **signs; signs** advertising Georgia lottery

(a) Except as otherwise provided in subsection (b) of this Code section, a licensed retail dealer in distilled spirits may display at the licensee's place of business unilluminated **signs**, using letters not larger than eight inches in height, flat against the outside of the building, below the roof line, bearing the words "liquor," "beer," "wine," "champagne," or any combination thereof, and "package store" or "liquor store," together with the trade name of the retail dealer. In addition to such **signs** flat against the outside of the building, the retail dealer may display at a location on the tract of property upon which the business is located, but not affixed to the building, one unilluminated **sign** using letters not larger than eight inches in height bearing the words "package store" or "liquor store" and the trade name of the retail dealer. Subject to any more restrictive size limitations contained in the ordinances of the political subdivision in which the place of business is located, a **sign** not affixed to the building may be no larger than 16 square feet in area.

(b) Notwithstanding the provisions of subsection (a) of this Code section, the commissioner shall be authorized by rules and regulations to permit licensed retail dealers in distilled spirits to display **signs** inside and outside their retail establishments which advertise or promote any lottery authorized under Chapter 27 of Title 50, the "Georgia Lottery for Education Act," provided that such **signs** are in compliance with said Chapter 27 of Title 50 and the rules and regulations of the board of directors of the Georgia Lottery Corporation.

**HISTORY:** Code 1981, § 3-4-3, enacted by Ga. L. 1987, p. 623, § 1; Ga. L. 1993, p. 1073, § 1.

Sec. 6-105. - Coin-operated devices, similar machines on licensed premises.

No retail dealer in distilled spirits by the package shall permit on his premises any slot machines, other food or cigarette vending machines, or any mechanical music boxes or pinball machines of any kind or character or any machines operated for amusement purposes.

Sec. 6-106. - Possession or consumption on public property.

\*\*\*May revise for Downtown area. Businesses already serving at outdoor seating areas

It shall be unlawful for any person to: possess or transport alcoholic beverages for the purpose of consumption on public property; consume alcoholic beverages on public property; or, sell alcoholic beverages on any public property, with the following exceptions: at a closed function permitted pursuant to section 6-71 or at an event approved pursuant to section 6-72 of the Code of Ordinances, Americus, Georgia.

Sec. 6-107. - Public intoxication.

It shall be unlawful for any person to be on public property within the city limits while intoxicated.

Sec. 6-108. - Reserved.

Sec. 6-109. - Pricing of alcoholic beverages.

- (a) This section shall be construed to cover, include and apply to every type of alcoholic beverage licensed to be sold in the City of Americus, including wine, fortified wine, hard cider, malt beverages and spirituous liquors.
- (b) No licensee or holder of any license to sell alcoholic beverages for consumption on the premises or in any part thereof, or employee or agent of a licensee, shall:
  - (1) Offer or deliver any free alcoholic beverage to the general public. This subsection shall not apply to tasting rooms of farm wineries where wine is offered in a quantity to only taste the product. This subsection shall also not apply to those persons or entities who are engaged in the business of refilling growlers who are allowed to provide samples to taste the product as set forth in section 6-111 of this chapter.
  - (2) Deliver more than two alcoholic beverages to one person at one time, or allow any patron to possess more than two alcoholic beverages at one time.
  - (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during any 24-hour period during which the price schedule required by this section is in effect, except at private functions not open to the public.
  - (4) Sell, offer to sell, or deliver to any person or group of persons two or more or an unlimited number of alcoholic beverages during any set period of time at a fixed price, except at private functions not open to the public.
  - (5) Sell, offer to sell, or deliver alcoholic beverages, by the pitcher or carafe, except to two or more persons at any one time.
  - (6) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same 24-hour period for which the price schedule required by this section is in effect.
  - (7) Encourage or permit on the licensed premises any game, event, competition, contest, or promotion that involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.
  - (8) Sell two or more alcoholic beverages for a price per beverage that is less than that charged for the one such alcoholic beverage.

- (9) Require or encourage the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased.
  - (10) Knowingly allow an alcoholic beverage purchased on the premises to be removed from the premises without having been consumed. "Premises," for the purpose of this section, shall be construed to mean the entire area under the supervision, management or control of the licensee, excluding areas for parking of motor vehicles; and, in the case of licensees whose licensed location is located on a portion of the premises of a club, organization, establishment or entity offering outdoor recreation (for instance, golf or tennis), the word "premises" shall extend to cover all areas operated as a part of the club or entity excluding areas for parking of motor vehicles.
  - (11) Sponsor, conduct or allow contests or promotions which have as their primary purpose the increasing of the consumption of alcoholic beverages on the premises.
- (c) There shall be no advertisement or promotion in any way, whether within or without the licensed premises, of any of the practices prohibited under this section.
  - (d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, or to prohibit licensees from including an alcoholic beverage as a part of a meal package, or to prohibit the sale or delivery of wine or fortified wine by bottle or carafe when sold with meals to more than one person, or to prohibit any hotel or motel from offering room services to registered guests, or to prohibit the sale of more than two drinks at one time which are to be consumed by the purchaser out-of-doors on the premises of the licensee, as described in this section, in connection with the purchaser's participation as a player of games of golf or tennis; otherwise, no food and alcoholic beverage package may be offered by any licensee; however, nothing contained in this section shall be construed to allow a licensee to circumvent the intent of this section by offering meals which include an alcoholic beverage as a device or scheme to promote drink sales at a price per beverage less than the daily listed price.

Sec. 6-110. - Additional activities prohibited; rationale and findings; exception.

(a) Rationale and findings.

Whereas, Article III, Section VI, Paragraph VII of the Constitution of the State of Georgia, delegates authority to Counties and municipalities "for the purpose of regulating, restricting, or prohibiting the exhibition of nudity, partial nudity, or depictions of nudity in connection with the sale or consumption of alcoholic beverages;" and,

Whereas, the United States Court of Appeals for the Eleventh Circuit has upheld a municipal ordinance prohibiting the serving or consumption of alcoholic beverages in adult entertainment establishments; and,

Whereas, the Supreme Court of Georgia has upheld a municipal ordinance prohibiting the serving or consumption of alcoholic beverages in adult entertainment establishments; and,

Whereas, among the undesirable community conditions identified with live nude entertainment and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order; increased burden on the judicial system as a consequence of the criminal behavior, and acceleration of community blight; *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *5634 East Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4279670 (11th Cir. Sept. 18, 2008) (per curiam); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and,

Whereas, the Supreme Court of Georgia, in *Chambers d/b/a Neon Cowboy v. Peach County, Georgia*, 266 Ga. 318, 467 S.E.2d 519 (1996), held that local governments may adopt ordinances designed to combat the undesirable secondary effects of sexually explicit businesses, and further held that a governing authority seeking to regulate adult entertainment establishments must have

evidence of a relationship between the proposed regulation and the undesirable secondary effects it seeks to control. The Georgia Supreme Court further held in the same opinion that in passing its regulations, a local government may rely on the experience of other counties and municipalities to demonstrate such a relationship; and,

Whereas, the United States Supreme Court, in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), held that a local government may rely on the experience of other Cities in enacting legislation to regulate adult entertainment businesses; and,

Whereas, Federal and State appellate courts, have previously held that before enacting an ordinance to combat undesirable secondary effects of adult entertainment, a legislative body is required to consider specific evidence of the undesirable secondary effects of adult entertainment establishments that it reasonably believes relevant to the interests it seeks to address by passing the ordinance; and,

Whereas, based on the experiences of other municipalities and counties including, but not limited to, Fulton County, Georgia; Adams County, Colorado; New York City, New York; Indianapolis, Indiana; Dallas, Texas; Sandy Springs, Georgia; Oklahoma City, Oklahoma; City of St. Mary's, Georgia; Hamilton County, Tennessee; Amarillo, Texas; Rome, Georgia; Gwinnett County, Georgia; Austin, Texas; Phoenix, Arizona; Manatee County, Florida; City of Garden Grove, California; Forth Worth, Texas; Houston, Texas; St. Cloud, Minnesota; Whittier, California; and the City of Los Angeles, California, which are found to be relevant to the problems faced by the City of Americus, the Mayor and City Council of the City of Americus note the documented negative economic, physical, and social impact adult entertainment businesses have on the community; and,

Whereas, based upon the experience of other urban counties and municipalities, which experiences the Mayor and City Council of the City of Americus find are relevant to the problems faced by the City of Americus, and which do not vary greatly among generally comparable communities within this country, the Mayor and City Council of the City of Americus find that public nudity, under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in adult entertainment establishments offering adult entertainment, begets criminal behavior and tends to create undesirable community conditions. *Flanigan's Enterprises, Inc. of Georgia et al. v. Fulton County, Georgia*, 596 F.3d 1265, 2010 WL 520542 (11th Cir. 2010); and,

Whereas, the Mayor and City Council of the City of Americus find and declare that nudity and sexual conduct and depiction thereof, coupled with alcohol in public places, encourages undesirable behavior and is not in the interest of public health, safety, and welfare; and,

Whereas, the Mayor and City Council of the City of Americus have chosen to avoid the disturbances associated with mixing alcohol and nude dancing by means of a reasonable restriction upon establishments which sell spirituous or vinous liquors or malt or brewed beverages; and,

Whereas, the ordinance furthers important governmental interests of reducing crime and protecting property values which are unrelated to the suppression of speech; and,

Whereas, it is the intent of the Mayor and City Council of the City of Americus to enact an ordinance, narrowly tailored, sufficient to combat the undesirable secondary effects of the serving and consumption of alcoholic beverages at adult entertainment facilities; and,

Whereas, it is not the intent of the Mayor and City Council of the City of Americus, in enacting this article to deny to any person the right to speech or expression protected by the United States or Georgia Constitutions, nor it is the intent to deny or restrict the rights of any adult to obtain or view any sexually oriented performance or materials protected by the United States or Georgia Constitutions, but to adopt a content neutral ordinance to combat the undesirable secondary effects of adult entertainment where alcoholic beverages are served or consumed; and,

Whereas, this Section is enacted to further the health, safety, and welfare of the citizens of the City of Americus;

Now, therefore, this Section is hereby enacted to further such health, safety, and welfare of the citizens of the City of Americus.

- (b) Activities prohibited; minimum clothing requirements; exception.
- (1) No person shall suffer or permit any person to engage in live conduct exposing to public view the person's genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks or any portion of the female breast below the top of the areola on the licensed premises.
  - (2) It shall be unlawful for any employee of any licensee to consume alcoholic beverages on the premises of the licensee during such employees working hours.
  - (3) No drugs or illegal or controlled substances of any kind shall be allowed, permitted, used, possessed or sold upon the premises of any licensee, and no gambling shall be allowed or permitted therein.
  - (4) No licensee shall allow any person to engage in specified sexual activities on the licensed premises.
  - (5) No licensee shall use any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva, and or genitals.
  - (6) No licensee shall allow the holding, promotion, or sponsoring of any contest, promotion, special night, event, or any other activity where patrons of the licensed establishment are allowed to engage in any of the conduct described in this section.
  - (7) Exception. Nothing contained in subsection (b) of this section shall apply to the premises of any theatre, concert hall, art center, museum, or similar establishment primarily devoted to the arts or theatrical performances, where the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

Sec. 6-111. - Sale and refilling of growlers.

- (a) The sale and refilling of growlers in compliance with this chapter is authorized for establishments holding a growler license issued pursuant to section 6-52(h) of this Code.
- (b) 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 or any provision or section of this Code.
- (c) Growlers may only be filled from kegs or containers procured by the licensee from a duly licensed wholesaler.
- (d) Growlers may only be filled with a malt beverage, craft beer, or hard cider.
- (e) Only growlers that are properly sanitized may be filled and made available for retail sale. It shall be the responsibility of the entity filling the growler to sanitize such growler prior to filling it.
- (f) Each growler must be securely sealed and removed from the premises in its original sealed condition. Each growler shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale and/or refilling, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extend over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the business filling the growler. The containers or bottles shall be identified as a malt beverage or craft beer, contain the name of the malt beverage or craft beer, and bear the name, address and telephone number of the business selling the malt beverage or craft beer.

(g) Each growler filled with a malt beverage or craft beer must contain the following warning label:

"GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a care or operate machinery, and may cause health problems."

It shall be the responsibility of the entity filing the growler to assure each growler has, on its exterior, a warning label containing the language set forth in this subsection.

- (h) Consumption of the contents of any growler on the premises where it was filled is strictly prohibited. However, the licensee may provide samples of any malt beverages or craft beer on tap. Each such sample shall not exceed one fluid ounce. The licensee shall not serve more than three samples to any individual within a 24-hour period.
- (i) Sales of growlers shall be limited to the legal hours during which the licensee may sell such alcoholic beverages and must be removed from the premises before the applicable closing time.
- (j) Any person filling a growler with a malt beverage or craft beer, or handling a growler after filled the growler is filled with either a malt beverage or craft beer must have a server license issued by the city in conformance with the provisions of Chapter 6, Alcoholic Beverages, of this Code.
- (k) The refilling of growlers shall not be a violation of section 6-102 of this Code.

Sec. 6-112. - Liability of licensee for acts or omissions of employees.

Because employees of licensee are able to sell alcoholic beverages only as a result of the city issuing a license to the licensee, the licensee shall be liable for all acts or omissions of those employees that amount to a violation of this chapter.

Secs. 6-113—6-130. - Reserved.

#### ARTICLE IV. - SOCIAL HOSTING

Sec. 6-131. - Findings and intent.

The mayor and the city council finds and declares as follows:

- (a) In 2007, the U.S. Surgeon General issued a report entitled "The Surgeon General's Call to Action to Prevent and Reduce Underage Drinking," which can be found at <http://www.surgeongeneral.gov/topics/underagedrinking/calltoaction.pdf>. ("Surgeon General's Call to Action").
- (b) "Early alcohol consumption by some young people will result in an alcohol use disorder—that is, they will meet diagnostic criteria for either alcohol abuse or dependence." Surgeon General's Call to Action, at page 4.
- (c) "A higher percentage of youth in 8th, 10th, and 12th grades used alcohol in the month prior to being surveyed than used tobacco or marijuana, the illicit drug most commonly used by adolescents." Surgeon General's Call to Action, at page 5.
- (d) Various surveys have found that: approximately ten percent of children who are nine to ten years old have started drinking alcoholic beverages; nearly 33 percent of youth start drinking alcoholic beverages before the age of 13; more than ten percent of youth who are 12 to 13 years old and over 33 percent of youth who are 14 to 15 years old reported drinking a whole alcoholic beverage in the year before they were surveyed, and the peak years of alcohol initiation are when youth are in 7th and 8th grades. Surgeon General's Call to Action, at page 6.

- (e) While adolescents typically drink alcoholic beverages less often than adults, when they do drink alcoholic beverages, adolescents tend to drink more alcoholic beverages at each event than adults. Surgeon General's Call to Action, at pages 6-7.
- (f) Persons who are less than the age of 21 often possess or consume alcoholic beverages at social parties or gatherings held at or on private residences and other private property under control of a person who either has provided the alcoholic beverages or who knows or reasonably should know of such conduct, but fails to take steps to prevent it.
- (g) "Annually, about 5,000 people under age 21 die from alcohol-related injuries involving underage drinking." Surgeon General's Call to Action, at page 10.
- (h) Underage drinking "[p]lays a significant role in risky sexual behavior, including unwanted, unintended, and unprotected sexual activity, and sex with multiple partners. Such behavior increases the risk of unplanned pregnancy and for contracting sexually transmitted diseases (STDs), including infection with HIV, the virus that causes AIDS." Surgeon General's Call to Action, at page 10.
- (i) Underage drinking increases the risk of physical and sexual assault." Surgeon General's Call to Action, at page 10.
- (j) Underage drinking "can cause a range of physical consequences, from hangovers to death from alcohol poisoning." Surgeon General's Call to Action, at page 11.
- (k) Underage drinking, "can cause alterations in the structure and function of the developing brain, which continues to mature into the mid- to late twenties and may have consequences reaching far beyond adolescence." Surgeon General's Call to Action, at page 11.
- (l) Underage drinking, "creates secondhand effects that can put others at risk. Loud and unruly behavior, property destruction, unintentional injuries, violence, and even death because of underage alcohol use afflict innocent parties. For instance, about 45 percent of people who die in car crashes involving a drinking driver under the age of 21 are people other than the driver." Surgeon General's Call to Action, at page 11.
- (m) Law enforcement agency responses to disturbances involving underage consumption of alcoholic beverages at parties or gatherings at or on private residences or other private property frequently require the use of extensive public resources. Further, when law enforcement personnel respond to such disturbances it limits their ability to respond to other service calls in the community, thereby placing the community at increased risk. Law enforcement is not currently reimbursed for their expenses when called to a party or gathering at or on a private residence or other private property.

Sec. 6-132. - Title.

This article shall be referred to as the "Americus Social Hosting Ordinance."

Sec. 6-133. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, or as set forth in section 6-1 of this Code, except where the context clearly indicates a different meaning.

Dwelling unit means, without limitations, any of the following:

- (1) Any single and multi-family residence including, but not limited to, any apartment, cabin, condominium, duplex, house, or log cabin, and the land on which it is located, whether owned, leased, rented, or occupied for no compensation by the occupant or occupants;
- (2) Any mobile home and the land upon which the mobile home is located, whether or not rent is paid for the mobile home, for the land upon which the mobile home is located, or for both;

- (3) Any recreational vehicle, whether located on privately-owned or publicly-owned property, and whether rent or not is paid for the recreational vehicle, and the land upon the recreational vehicle is located.

Gathering means an assembled group of people for the purpose of a social occasion or activity.

Legal guardian is a person who is lawfully vested with the power and charged with the duty of taking care of an underage person.

Other private property.

- (1) The term "other private property" includes the following locations:

- a. A hotel or motel room;
- b. An assembly hall or meeting room;
- c. A common room of a dwelling unit used for a party (e.g., a recreation room of an apartment building or a common room of a condominium complex);
- d. A site in a privately-owned campground;
- e. A privately-owned vacant lot; or
- f. Privately-owned land or real estate of any type.

- (2) Such locations constitute "other private property" under all of the following conditions:

- a. The location is occupied by one or more persons on a temporary or permanent basis;
- b. The location is occupied as a dwelling, permanent residence, or temporary residence, for a party or for any other social function;
- c. The location is owned, leased, rented, or used with or without compensation.

Parent means any person who is a natural parent, an adoptive parent, a foster parent, a step-parent, or who a person who stands in loco parentis.

Party means a gathering or event at which two or more persons assemble or gather for a social occasion or activity.

Person who has a right of possession means, with respect to a private residence or other private property, as follows:

- (1) Owner of the dwelling unit, private residence, or other private property;
- (2) The record owner of the title to the property as of the time of the party regardless of where that person currently resides;
- (3) Tenant or lessee of the dwelling unit, private residence, or other private property;
- (4) Landlord of another person who has a right of possession in the dwelling unit, private residence, or other private property;
- (5) The person or persons who are in charge of the dwelling unit, private residence, or other private property; or
- (6) Social host.

Private residence means the following:

- (1) A dwelling unit, whether occupied on a temporary basis, whether occupied as a dwelling or for a party or other social function, and whether owned, leased, rented, or used with or without compensation;
- (2) Any other item on the same land parcel as the dwelling unit, which includes, but is not limited to any of the following: an animal pen, an animal shed, a barn, a boat dock, a boat house, a cabana, an equipment shed, a free-standing office, a garage, a gazebo, a granary, a hot tub, a

hunting cabin, a corn crib, a sauna, a stable, a studio, a swimming pool, a private office, a shed, a silo, a tent, a tool shed, a tree-house, a tractor, or a vehicle of any type or nature;

- (3) Other items or areas accompanying or on the same land parcel as the dwelling unit, whether improved or unimproved, such as a yard (whether fenced or unfenced), patio, outdoor grilling or eating area, open fields, jetty, pier, dock, or lake shore;
- (4) Water bodies contiguous to or on the same land parcel as a dwelling unit, such as a basin, bayou, brook, creek, dam, lagoon, lake, marsh, pond, river, stream, or swamp.

Reasonable steps means steps that include, but are not limited to:

- (1) Controlling access to alcoholic beverages;
- (2) Controlling the quantity of alcoholic beverages;
- (3) Verifying the legal minimum drinking age of persons at the party or gathering by inspecting drivers licenses or other government-issued identification cards all of those persons in attendance; and
- (4) Supervising and monitoring the activities of underage persons at the party or gathering.

Social host means:

- (1) The person or persons who organize, supervise, officiate, conduct or control a party or gathering at or on or at a dwelling unit, a private residence, or other private property owned, leased, or otherwise controlled by that person or those persons;
- (2) The person or persons receiving money or any other type of consideration for granting access to a party or gathering at or on a dwelling unit, a private residence, or other private property owned, leased or otherwise controlled by that person.

Underage person means any person under the age of 21.

#### Sec. 6-134. - Prohibition.

- (a) It shall be a violation of this article for any person who has a right of possession of a dwelling unit, a private residence, or other private property to knowingly host, permit, or allow a party or gathering to take place or continue at or on such private residence or other private property if any underage person at the party or gathering possesses or consumes any alcoholic beverage and the person knows or reasonably should know, after taking all reasonable steps to prevent alcoholic beverage possession or consumption by the underage person, that the underage person is possessing or consuming any alcoholic beverage at the party or gathering.
- (b) It shall be a violation of this article for a parent or legal guardian to allow any underage person under the care of that parent or legal guardian to allow to attend a party or other social gathering if that parent or legal guardian knows or reasonably should know that the underage person will possess or consume any alcoholic beverage at that party or social event.
- (c) It is the duty of any person having a right of possession of a dwelling unit, a private residence, or other private property, who knowingly hosts, permits or allows a party or gathering at or on the dwelling unit, the private residence, or other private property, to take all reasonable steps to prevent the possession or consumption of alcoholic beverages by any underage person at the party or gathering. A breach of this duty shall be a violation of this article.
- (d) Any violation of O.C.G.A. § 3-3-23, as amended, shall also be a violation of this article.

#### Sec. 6-135. - Protected activities.

- (a) Nothing in this article should be interpreted to prohibit legally protected practices held at or on a dwelling unit, a private residence, or other private property that includes the possession and/or consumption of alcohol by persons under the age of 21:

- (1) As part of religious practices on private property; or
  - (2) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state and the consumption occurs on private property pursuant to and in accordance with that prescription; or
  - (3) When the parent or legal guardian of the underage person physically gives the alcohol to that underage person when in their own residence and while in their presence and as permitted under O.C.G.A. § 3-3-23, as amended.
- (b) Notwithstanding the exemptions for protected activities found in section 6-135(a) of this article, if an underage person leaves said private property intoxicated where he or she was provided the alcohol and is found in public, then said furnishers of alcoholic beverages to that underage person shall be held responsible in the same manner as furnishers of alcoholic beverages to underage persons at non-protected activities.

Sec. 6-136. - Separate violation for each incident.

Each incident in violation of section 6-134 shall constitute a separate offense.

Sec. 6-137. - Enforcement authority.

The city police department, the city attorney, and any other person designated by the city manager are authorized to administer and enforce the provisions of this article. The city police department, the city attorney, and any other person designated by the mayor and the city council may exercise any enforcement powers provided by law.

Sec. 6-138. - Enforcement remedies.

(a) Criminal penalties.

- (1) Consistent with O.C.G.A. § 36-32-10(a), the first violation of O.C.G.A. § 3-3-23 shall also be a violation of this article. Any person who violates O.C.G.A. § 3-3-23 shall be punished by a fine of not more than the maximum fine for which the Georgia Statutes provide for a violation of O.C.G.A. § 3-3-23.
- (2) Any parent who violates section 6-134(b) of this article may be assessed the maximum penalty for which the City Ordinances and Georgia Statutes provide for a misdemeanor.

(b) Civil penalties.

- (1) Any person who violates section 6-134(a), (b) and/or (c) of this article has committed a public nuisance constituting an immediate threat to public health, safety and welfare, warranting summary abatement and is guilty of a civil violation.
- (2) On the violation of section 6-134(a), (b) and/or (c), the violator shall be assessed a civil penalty for each such violation of not more than the maximum allowed by the city ordinances and the Georgia State Statutes.
- (3) Violations of section 6-134 of this article shall be noticed by citation, issued by the city police department. The citation shall also give notice of the right to request a hearing to challenge the validity of the citation, the time for requesting that hearing, and that the person has a right to appeal.