

Chapter Six (6) ALCOHOLIC BEVERAGE ORDINANCE

State law references: Use of proceeds of alcohol beverage tax for prevention, education and treatment, Ga. Const. art. 3, sec. 9, par. 6; Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; furnishing to, purchase of or possession by persons under 21 years of age, use of false identification, O.C.G.A. § 3-3-23; public drunkenness, O.C.G.A. § 16-11-41; Local excise taxes on sale of distilled spirits by private clubs, O.C.G.A. §3-7-60, et. seq.; furnishing alcoholic beverages to persons under twenty-one years of age, jurisdiction of municipal courts, O.C.G.A. § 36-32-10; treatment of alcoholics and intoxicated persons, O.C.G.A. § 37-8-1 et seq.; driving under the influence of alcohol or drugs, O.C.G.A. § 40-6-391.

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ARTICLE I. IN GENERAL

Sec. 6-1. Purpose and authority to regulate alcoholic beverages in city.

(a) This chapter has been enacted in furtherance of the police powers of the City of Bremen and in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community by establishing reasonable standards for the regulation and control of the licensing and sales of alcoholic beverages. It is intended to protect and preserve schools and places of worship; to give effect to existing land use and to preserve residential areas, with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses; to minimize congestion in the roads and streets; to promote economic and development activity within those areas of the City having the road structure and sewerage capacity to handle additional and larger concentrations of lodging and dining facilities; and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values, it is intended to protect against the evils of concentration of ownership or control of the retail outlets for alcoholic beverages and to prevent persons of ill repute from controlling the retail alcoholic beverage industry within the boundaries of the City of Bremen.

(b) The provisions of this chapter are ordained under and by virtue of the authority granted by the laws of the State of Georgia, O.C.G.A. Chapter 3; Regulation of Alcoholic Beverages Generally. To adopt all reasonable rules and regulations as may fall within the police powers of the municipality to regulate and impose taxes on any such business; O.C.G.A. section 3-4-90, authorizing each municipality to issue licenses, through ordinance, to sell distilled spirits for beverage purposes by the drink, the sales to be for consumption only on the premises; O.C.G.A. section 3-4-110, granting each municipality the full power to adopt all reasonable rules and regulations governing the location and conduct of any such licensee including, but not limited to, the regulation of hours of business, types of employees, and other matters which may fall within the police powers of such municipality; O.C.G.A. section 3-5-40 and 3-5-42, authorizing municipal licenses for the business of manufacturing, distributing and selling malt beverages at wholesale and retail; and O.C.G.A. section 3-6-40, authorizing municipal licenses for the manufacturing, distributing and selling of wine at wholesale and retail; O.C.G.A. section 3-11-3 authorizing sales off premises for catered functions by licensed caterers; O.C.G.A. section 3-9-3, authorizing issuance of temporary permits for sale by nonprofit civic organizations of alcoholic beverages for consumption only on premises; O.C.G.A. section 3-9-10 and 3-9-11, authorizing licensing and regulation of in-room service of alcoholic beverages by licensed hotels and motels.

(c) The provisions of this chapter regulating the sale of alcoholic beverages and nudity on the premises are ordained by virtue of the authority granted by the constitution and laws of the United States and State of Georgia, as most recently delineated by the Supreme Court of Georgia in its decisions of *Gravelly vs. Bacon*, and *S.J.T., Inc. vs. Richmond County*, in order to avoid the effects of criminal interests and negative effects on the community by the decreased safety and welfare of the city's citizens, the hindering of commercial growth in the city, and the deterioration of the city's economic base.

(Ord. No. _____, dated _____)

Sec. 6-2. Definitions.

As used in this chapter the following terms shall have the meanings ascribed to them:

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

Alcoholic beverage: All alcoholic, distilled spirits, beer, spirituous liquors, malt beverage, wine, or fortified wine as defined in this section.

Brown bagging: The act of patrons entering any restaurant, private club, or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patrons' own alcoholic beverage.

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

Distilled spirits or spirituous liquors: Any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines, whiskey, rum, gin, brandy, vodka, tequila and all other alcoholic beverages of a similar nature and with similar alcoholic content.

Family: Any person related to the holder of a license within the first degree of consanguinity or affinity as computed according to civil law.

Fortified wine: Any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy.

Golf club means a corporation or association organized and existing under the laws of the state, actively in operation within the city prior to submitting an application for a license hereunder, having an 18 hole golf course of regulation size, a restaurant used exclusively for the purpose of preparing and serving meals with a seating capacity of at least 60 patrons, a golf club membership and has at least 100 paid-up members who have paid a membership fee for family or individual membership, and a full-time management staff for the social activities of the club, including the management of the premises where food and drink are sold. Food shall be served at least six days a week, with the exception of weeks including holidays, vacation and periods of renovation. As used in this section, "seating" shall mean that no more than 25 percent of such seating shall be at a common table or counter area or shall be other than individual tables or booths designed for seating of at least two individuals.

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of these guests, and having one or more public dining rooms, with an adequate and sanitary kitchen and a seating capacity of at least 40 where meals are regularly served to those guests, the sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Restaurants operated within the Hotel shall be licensed as a restaurant and shall meet the same food to alcoholic beverages ratios of sales as required for stand-alone restaurants.

Individual: A natural person not a corporation or a partnership.

Interest in license: An individual is deemed to have an interest in a license if:

- (1) He is the owner of the license.
- (2) He is the co-owner of the license.
- (3) He is a partner in any partnership that owns an interest in a license.
- (4) He is a stockholder holding more than five percent of the stock in any corporation and/or is a stockholder in any corporation which has fewer than 25 stockholders which owns an interest in a license.
- (5) He shares in any income or corpus of any trust fund having any interest in a license to sell at retail.

Licensee: The licensee for all businesses shall be:

- (1) A minimum of 21 years of age.
- (2) If the business is to be operated by an individual, the licensee shall be that individual.
- (3) If the business is to be operated by a partnership, the licensee shall be an individual who is a partner; or, if all partners are non-individuals, then the licensee shall be an individual who is an officer of any corporation which is a partner, or, an individual who is an officer, manager or agent of any unincorporated entity which is a partner.
- (4) If the business is to be operated by a corporation, the licensee shall be an officer of the corporation.
- (5) If the licensee is a resident of Haralson County or Carroll County and a manager of the business who is on the premises on a regular basis, the licensee may also be the license representative of the business. If not, a license representative shall be named in accordance with this chapter.

License representative: If a license representative is required, the license representative shall be a resident of Haralson or Carroll County, Georgia and a manager of the business who is on the premises on a regular basis.

Lounge/bar: For the purposes of this ordinance, a separate room connected with, a part of, and adjacent to, a restaurant, or a room located in hotels as defined herein, and which serves no food. A Lounge or bar that is not connected to, adjacent to and a part of a licensed restaurant that provides, prepares, sells food and meets the food to alcohol beverage sales ratio shall not be permitted to sell or serve alcoholic beverages for consumption by the drink on the premises.

Malt beverage: 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, but not limited to, ale, porter, brown, stout, lager beer, malt liquor, small beer and strong beer.

Meal, regular meal: A meal which is prepared on the premises according to the order of the patron or customer given to a waiter or waitress at the table, booth or counter area where the customer is seated and served by the-waiter or waitress at said table, booth or counter area. The term meal or regular meal does not include pre-packaged, individual meals.

Minor: Any person under the age of 21 years.

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

Person: Any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit.

Premises/outlet: A definite enclosed area or other outside area with controlled ingress and egress wherein spirituous liquors, alcoholic beverages, malt beverages, or wine is to be sold and consumed, or, as to malt beverages or wine only, to be sold therein by the package to be consumed elsewhere.

Private club: A corporation or association organized and existing under the laws of the state, actively in operation within the city prior to the application for a license hereunder, having at least 75 regular dues paying members, for at least one year prior to application for license, organized and operated exclusively for pleasure, recreation and other non-profit purpose, no part of the net earnings of which inures to the benefit of any shareholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable sanitary kitchen and dining room seating of at least 25 persons and equipment and maintaining and using a sufficient number of servants and employees for cooking, preparing and serving meals for its members and guests; provided that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of distilled spirits, wines, champagnes or malt beverages beyond the amount of such salary as may be fixed by its members at an annual meeting, or by its governing body, out of the general revenue of the club. As used in this section, "seating" shall mean that no more than 25 percent of such seating shall be at a common table or counter area or shall be other than individual tables or booths designed for seating of at least two individuals. For the purpose of this subsection tips, which are added to the bills under club regulations, shall not be considered as profits hereunder. In addition, at least 60 percent of the receipts from the operation of the kitchen and dining room and serving of meals shall come from the sale of food. To be included in the tabulation of receipts for the purpose of this calculation, are all receipts of all persons laboring on the premises, including the services of all independent contractors, performers, servers, entertainers, or other non-employee personnel not to include, however, persons who are called to the premises from other licensed businesses to perform services, repairs or construction on equipment or building premises. For purposes of this section, the calculations of receipts for alcoholic beverages shall be made pursuant to the scheduling of pricing and the regulations as set out in this ordinance. A private club organized or operated primarily for the selling or serving of alcoholic beverages by the drink shall not be licensed under this chapter, nor permitted to sell or serve such beverages at all. All distance requirements as set forth in this chapter shall apply. For the purpose of sale of distilled spirits by the drink for consumption on the premises, the Private Club must be within the City's C-2A zoning classification.

Private Function or Private Party: A prearranged private party, function or event, for a specific social or business occasion, either by invitation or reservation, and not open to the general public, where the guests and attendants are served in a room, rooms, or area designated and used exclusively for the private party, function, or event. The private party is normally booked, or set, in advance by a single contact person; it is normally composed of a cohesive group whose members are individually invited by the host of the event. Only those invited members may consume alcohol and they are not normally charged for the cost of the alcohol. Examples of qualifying groups as “private parties” include, but are not limited to, wedding receptions, family parties, corporate and company functions. It does not include an open invitation by a licensed establishment or business to the general public for a gathering at which the individual invitees are expected to pay for their food and beverages or for their admission to the functio

Private residence: A house, dwelling or structure wherein not less than one, nor more than two families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two families, nor a boarding or rooming house where there are five or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a private residence.

Restaurant: Any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served (not to include short order or quick or fast food shops), such place being provided with adequate and sanitary kitchen and dining room seating of at least 25 persons, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. Meals shall be served at least six days a week, with the exception of weeks including holidays, vacations and periods of renovation, and the serving of such meals shall be the principal business conducted, with the serving of distilled spirits, malt beverages and wines to be consumed on the premises as only incidental thereto. As used in this section, "seating" shall mean that no more than 25 percent of such seating shall be at a common table or counter area or shall be other than individual tables or booths designed for seating of at least two individuals. As used in this section, "principal business" shall mean that at least 60 percent of the receipts of such business shall come from the sale of food. To be included in the tabulation of receipts for the purpose of this calculation, are all receipts of all persons laboring on the premises, including the services of all independent contractors, performers, servers, entertainers, or other non-employee personnel not to include, however, persons who are called to the premises from other licensed businesses to perform services, repairs or construction on equipment or building premises. For purposes of this section, the calculations of receipts for alcoholic beverages shall be made pursuant to the scheduling of pricing and the regulations contained herein.

Retail consumption dealer: Any person who sells alcoholic beverages for consumption on the premises at retail.

Retail package dealer: Any person who maintains a retail shop for the sale of general merchandise, but also sells malt beverages or wines in unbroken packages for consumption off the premises at retail.

Sales by the drink: Any person who sells alcoholic beverages for consumption on the premises at retail only to consumers and not for resale.

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

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

(Ord. No. _____)

Sec. 6-3. Sale of packaged distilled spirits prohibited.

The wholesale and retail package sale of distilled spirits, except as provided herein, is prohibited and made unlawful within the limits of this city.

(Ord. No. _____)

Sec. 6-4. Sale, possession, etc., of alcoholic beverages on which state tax or license fee not paid prohibited.

It shall be unlawful for any person to sell at retail or otherwise within the city, possess, conceal, store or convey any wine, malt beverage, distilled spirits or other alcoholic beverages on which any tax or license fee imposed by the laws of the state or this chapter have not been paid, and any such beverages as above described that are found without a state tax stamp shall be seized as contraband and immediately delivered to the state revenue commissioner as provided by law. Any violation of this section shall be punished as provided for in section §6-141.

(Ord. No. _____)

Sec. 6-5. Purchase, possession, etc., by underage persons.

(a) Except as otherwise authorized by law:

- (1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.
- (2) No person under 21 years of age shall purchase or knowingly possess any alcoholic beverages.
- (3) No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage.
- (4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.
- (5) No person under 21 years of age shall misrepresent his identity to use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.

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

- (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state;
- (2) At a religious ceremony; or
- (3) In the home with parental consent, provided that such person is over 18 years of age.

(c) The prohibition contained in subsection (a)(1) of this section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. sections 40-5-100 through 40-5-104. "Proper identification" shall not include a birth certificate.

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

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

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

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

(e) Notwithstanding the provisions of subsection (d) above, no person shall allow, or require, a person under 18 years of age to take an order for alcoholic beverages for on-premises consumption or accept alcoholic beverages for check-out for off-premises consumption.

(Ord. No. _____)

Sec. 6-6. Consumption prohibited; open containers.

(a) As used in this section, "open container" means any container, containing alcoholic beverages, which is immediately capable of being consumed from or the seal of which has been broken.

(b) No person shall possess an open container of any alcoholic beverage while operating a motor vehicle in this city. An open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger. This provision is intended to prohibit the consumption of alcoholic beverages by the operator of a motor vehicle.

(c) No person shall possess an open container of an alcoholic beverage while walking, standing or otherwise occupying any public street, road, or highway, sidewalk adjacent thereto, public park, or public parking lot. Consumption of alcoholic beverages in or on other publicly-owned properties of the city is prohibited.

(d) No person shall possess an open container of and alcoholic beverage on the premises of any retail package licensee, including parking lots located adjacent thereto.

(e) No person shall enter or leave the premises of an establishment licensed to sell or dispense alcoholic beverages for consumption on the premises with an open container of any alcoholic beverage.

(Ord. No. _____)

Sec. 6-8. Quantity possession restricted. RESERVED.

Sec. 6-9. Sale of distilled spirits, malt beverages or wine by the drink for consumption only on the premises; combining retail package and retail consumption licenses prohibited.

(a) No person shall be allowed to sell, distribute, or give away distilled spirits, malt beverages, or wine by the drink for consumption only on the premises except as set forth in this chapter.

(b) No business licensed for the retail package sale of alcoholic beverages shall hold a license for, or allow the retail consumption of alcoholic beverages on the premises.

(c) No retail package license shall be issued for, or in connection with, any restaurant, cafe or eating place.

(Ord. No. _____)

Sec. 6-10. Establishments to be kept in orderly manner.

It shall be the duty of all persons or employees of persons granted a license under this article to keep the premises clear at all times of all persons who are rowdy and noisy, who are intoxicated, or who are becoming intoxicated, who fail to keep the peace, or who do anything tending to breach of the peace or to cause a public disturbance.

(Ord. No. _____)

Sec. 6-11. Times for sales.

(a) No beer, malt beverages, wine or distilled spirits shall be sold, or dispensed, or delivered, or given away to any person between the hours of 12 mid-night and 6:00 a.m. on weekdays and from 12:00 midnight on Saturday until 6:00 a.m. on the following Monday.

Notwithstanding the prohibition set forth herein, business establishments serving food, licensed to sell malt beverages, wine or distilled spirits by the drink for consumption only on the premises may permit alcoholic beverages purchased prior to 12:00 midnight an additional one hour to be consumed on the premises.

Notwithstanding the prohibition set forth herein, business establishments serving food, licensed to sell malt beverages, wine or distilled spirits by the drink for consumption on the premises only pursuant to this article, may sell malt beverages, wine, or distilled spirits until 2:00 a.m. on Sunday, January 1, in any year that January 1 falls on a Sunday.

(b) The sale of alcoholic beverages on election days is permitted within the city.

(c) The sale of alcoholic beverages on Christmas Day is permitted within the city provided that Christmas Day does not fall on Sunday.

(Ord. No. _____)

Sec. 6-12. Signs to be posted.

(a) Each outlet for the retail sale of packaged malt beverages and/or wines shall post in a conspicuous place within the outlet a sign with letters at least two inches high reading: "Sale of malt beverages or wine to persons under 21 years of age is prohibited."

(b) Each outlet for the retail sale of alcoholic beverages by the drink for consumption only on the premises shall post in a conspicuous place within the outlet, a sign with letters at least two inches high reading: "Sale of malt beverages, wine or distilled spirits to persons under 21 years of age is prohibited."

(Ord. No. _____)

Sec. 6-13. Possession to give away in order to induce trade.

It shall be unlawful for any person to keep on hand any fermented beverages made in whole or in part from malt, or any similar fermented beverages, wine or distilled spirits that contain more than one-half of one percent of alcohol by volume for the purpose of giving the same away as an inducement for trade or business.

(Ord. No. _____)

Sec. 6-14. Deliveries prohibited off premises.

(a) It shall be unlawful for any wholesaler or distributor to make deliveries of alcoholic beverages to any location within the City that is not a licensed location for the retail sale of such beverages.

(b) It shall be unlawful for any retail package dealer or person licensed to sell alcoholic beverages by the drink for consumption on the premises only to make deliveries of any malt beverages and/or wine or distilled spirits to any location off the licensed premises.

(c) The prohibition set forth in subsection (b) shall not apply to hotel in-room service which shall be regulated as set forth in Section 6-85.

(Ord. No. _____)

Sec. 6-15. Sales on licensed premises.

Only the named licensee or those individuals who are agents, clerks, or employees of the licensee shall handle, sell or serve alcoholic beverages on a licensed premises.

(Ord. No. _____)

Sec. 6-16. Sale to intoxicated person forbidden.

Alcoholic beverage licensees and their agents, clerks and employees are prohibited from selling, bartering, exchanging, giving, providing, or furnishing any alcoholic beverage to any person who is in a noticeable, or obvious, state of intoxication.

(Ord. No. _____)

Sec. 6-17. Alcoholic beverage sales for cash only.

All sales of alcoholic beverages shall be for cash upon sale. Sales on credit are specifically prohibited except that the use of a credit card for the purchase of distilled spirits, malt beverages or wine shall not be prohibited provided such retail credit card represents an unqualified obligation to pay without recourse on the part of the person, institution or agency issuing such card. The running of a "tab" at a licensed consumption premises shall not be prohibited provided the consumer pays all charges prior to departing the premises.

(Ord. No. _____)

Sec. 6-18. Persons prohibited from interest in license.

No elected or appointed official or employee of the city may hold an interest in a license issued under this chapter.

(Ord. No. _____)

Sec. 6-19. Sale of alcoholic beverage without city license.

It shall be unlawful for any person to manufacture for sale, or possess, for the purpose of sale, any alcoholic beverage where such person does not have a license from the city to sell or possess for sale such alcoholic beverage.

(Ord. No. _____)

Sec. 6-20. Authorization to Issue License Granted to City Manager.

The Mayor and City Council do hereby delegate to the City Manager the power and authority to accept and review applications and issue licenses in accordance with this Ordinance, to applicants and premises meeting all the legal requirements of the laws of the State of Georgia and the Ordinances of the City of Bremen. The Mayor and Council reserve full right and authority to substitute itself as the hearing officer on the initial application hearing, and to review and suspend or revoke any license once issued, after hearing in accordance with section 6-110 herein. All decisions regarding the termination, revocation or suspension of a license shall be retained by the Mayor and City Council, provided however, the City Manager shall have the authority to temporarily suspend any license, for perceived violations of State law or the City's Ordinances, pending hearing before the Mayor and Council at its next regularly scheduled Council meeting.

Sec. 6-21 to 6-30. Reserved.

ARTICLE II: LICENSING

Sec. 6-31. License required to sell alcoholic beverages.

(a) Licenses for the sale of alcoholic beverages shall be issued by the City Clerk at an annual license fee as established herein:

(1) Retail Consumption Dealer on Licensed Premises.

- a) Distilled spirits, malt beverage and wine..... \$4,800.00
 - i). Initial license . . . \$4,800.00
 to be prorated from the first day of the month of issuance
 for the calendar year, for example, a license issued on
 July 15 would be prorated for six months and the license
 fee would be \$2400.00
 - ii). Additional facility licenses, each . . . \$1,500.00
- b) Malt beverage and/or wine \$ 480.00

(2) Retail package dealer

- a) Malt beverage and/or wine..... \$ 480.00

(3) Wholesale dealer

- a) Distilled Spirits..... \$1200.00
- b) Malt beverage and/or wine..... \$ 480.00

(b) All licenses issued herein shall constitute a mere grant of a privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this chapter, the charter, related ordinances of the Code of the City of Bremen, and the Constitution, laws and regulations of the State of Georgia and the United States of America applicable to such business.

(c) All licenses issued under this article shall have printed on the face the following words:

"THIS LICENSE IS A PRIVILEGE AND IS SUBJECT TO BEING REVOKED AND ANNULLED BY THE CITY COUNCIL OF THE CITY OF BREMEN AND IS SUBJECT TO ALL LAWS, ORDINANCES AND REGULATIONS PRESENTLY IN EFFECT OR HEREAFTER ADOPTED."

(d) The licensee, or the representative for the licensee, shall be the authorized and duly constituted agent for service of all notices and processes required to be served on, or given hereunder, for any action or proceeding or uses of any nature whatsoever permitted under the provisions of the chapter or under any other provisions of this Code.

(Ord. No. _____, dated _____)

Sec. 6-32. Contents of application for license.

(a) All persons desiring to obtain a license under this chapter for the sale of alcoholic beverages shall apply to the City Manager by properly completing a license application form(s) as provided by the City Clerk. The application shall be considered at a public meeting to be held by the City Manager, following the completion of the Notice requirements of Section 6-40. Such application shall state:

(1) The location of the proposed business;

(2) The nature and character of the proposed business;

(3) If the business is to be operated by an individual, the name and address of that individual;

(4) If the business is to be operated by a partnership, the names and addresses of all general partners, the licensee and the license representative;

(5) If the business is to be operated by a corporation, the name of the corporation, the address of the corporate office, the name and address of the registered agent for service of process for the corporation, and the name and address of the licensee and license representative;

(7) If the business is to be operated by a limited liability company (LLC), the name of the managing member or manager, the address of the principal place of business of the LLC, the name and address of the registered agent for service of process for the LLC, and the name and address of the licensee or license representative; and

(8) Such other appropriate information as may be required by the governing body, to include but not limited to the items required by Section 6-33 below.

(b) The truth of the contents of an application for a license shall be sworn to by the licensee and the license representative.

(c) The licensee shall also file with the City Clerk a completed State of Georgia Department of Revenue Alcohol Tax and Control Unit form ATT-17, which has been filed with the state.

(d) The application, when filed with the City Clerk, shall be accompanied by a non-refundable application processing fee of \$100.00. This processing fee is separate from, and shall not be credited to, the license fee.

(e) The Licensee shall be notified, in writing, that the Licensee application has been approved or denial. If approved, the license fee must be paid by certified funds or wire transfer within 30 days. The license shall not be issued by the Clerk until receipt of the license fee.

(f) If the person applying for a license fails to receive a license from the State of Georgia, any license fees paid to the city shall be refunded.

(g) Only one application form and accompanying documents may be filed for each business premises.

(h) In the event the application is denied, the Applicant may not reapply for a license for the same premises or location for a period of six (6) months.

(Ord. No. _____)

Sec. 6-33. Supporting documents to be filed with application.

Those applying for a license shall submit in support of the application for license the following documents;

(1) A certificate from a Georgia registered land surveyor showing a scale drawing of the location of the proposed premises and the shortest straight line distance from the closest point of the building or structure (licensed premises) being licensed to the nearest property line of any residence, church building, alcoholic treatment center building, school building, educational building, school, college building or college campus located within a radius of 100 feet, 200 feet, and 300 feet of the premises.

(2) The affidavit of each person whose name appears on an application for a license, pursuant to Section 6-32 of this chapter, swearing that said person has not, within five years prior to the date of the application, been convicted of, nor entered a plea of guilty, or nolo contendere, to any felony, misdemeanor, or other charge relating to the sale, manufacture, distribution, taxability, possession or use of alcoholic beverages or illegal drugs including the offense of driving a motor vehicle under the influence of alcohol or drugs; has not entered a plea of guilty, or nolo contendere, or been convicted of, a felony or a misdemeanor of a crime opposed to decency and morality. Provided, however, that a person designated as a registered agent of a close corporation or a limited liability corporation on an application shall not be required to submit the affidavit required by this subsection unless such person is also designated as the licensee or license representative on such application.

(3) A copy of a deed showing the applicant to be the owner of the premises for which the license is sought or a copy of a lease showing a leasehold interest in the premises, or a copy of a real estate contract for the purchase of the premises, contingent only upon the issuance of the license for which the application is filed, in which event the present owner of the property shall sign a consent form that shall be attached to the application.

(4) A certificate from the chief of police of the city certifying that each person named in an application pursuant to section 6-32 of this chapter has been investigated and found not to have been convicted of, and not to have entered a plea of guilty or nolo contendere to any felony, misdemeanor, or other charge relating to the sale, manufacture, distribution, taxability, possession or use of alcoholic beverages or illegal drugs within five years prior to the date of the application for the license; and that said person has not entered a plea of guilty, or nolo contendere, or been convicted of a felony or a misdemeanor of a crime opposed to decency and morality. For those applicants who, within the last five year period, have resided or do reside in a state other than Georgia, the applicant must furnish a certified copy of a driver history and criminal background history from the state or states in which he or she has resided or resides to the chief of police of the city. A person designated as a registered agent of a close corporation or a limited liability corporation on an application, however, shall not be required to submit a certificate from the chief of police of the city unless such person is also designated as the licensee or license representative on such application.

(5) If the same person is serving as the licensee and the license representative, he/she shall submit an affidavit certifying that he/she is at least 21 years of age, a resident of Haralson County, Georgia or Carroll County, Georgia and a manager of the business.

(6) If the licensee is not the license representative, an affidavit from the license representative certifying that he/she is at least 21 years of age, a resident of Haralson County or Carroll County and a manager of the business.

(Ord. No. _____)

Sec. 6-34. Required citizenship.

If the licensee for a pouring license for alcoholic beverages for consumption on the premises, only, is not a resident of Haralson County or Carroll County Georgia, the licensee must designate a license representative who shall be a resident of either Haralson County or Carroll County and who shall also be a manager of the business on the premises on a regular basis.

(Ord. No. _____)

Sec. 6-36. Misleading or omitted information.

Any untrue or misleading information contained in, or material omission, left out of an original application for a license under this article shall be cause for the denial thereof. If any license has been granted under these circumstances, there shall be cause for revocation of same.

(Ord. No. _____)

Sec. 6-37. Compliance with zoning regulations.

(a) No license under this chapter shall be issued unless the location meets currently applicable provisions of the zoning ordinances of the city as amended; further, except as provided in subsection (b), no license shall be issued unless the location is within the Commercial, Manufacturing or PUD districts. No license for sale of distilled spirits for consumption on the premises shall be issued unless the location meets the currently applicable provision of the zoning ordinances of the City as amended and lies within the boundaries of the C2A Commercial Overlay District.

(b) A license under this chapter may be issued to golf clubs located within the Planned Unit Development district provided the planned development:

- (1) Has not less than 100 acres of contiguous land area;
- (2) Has at least 100 residential sites, platted and recorded in the office of the clerk of the Superior Court of either Haralson County or Carroll County, depending on the actual physical location of the golf club;
- (3) Has a social club with:
 - a. An 18 hole golf course of regulation size;
 - b. A restaurant or eatery used exclusively for the purpose of preparing and serving meals, with a seating capacity of at least 50 patrons;
 - c. A golf or social club membership that has at least 50 paid-up members who have paid a membership fee for family or individual membership
 - d. A membership policy whereby membership is not denied or limited by an applicant's race, color, creed, sex, religion, or national origin; and
 - e. A full-time management staff for the social activities of the club, including the management of the premises where food and drink are sold.

(c) The provisions of this section shall not apply to those business establishments holding a valid retail package license for the sale of malt beverages and/or wine on the date of adoption of this chapter provided that such license remains current and does not become and remain inactive for a period exceeding 12 months from the date last issued.

(Ord. No. _____)

Sec. 6-38. Payment of taxes and other debts to city.

The City Clerk shall cause an inquiry to be made into the tax records to determine if any applicant or other party interested in an application have any outstanding taxes, special assessments, unpaid utilities or any other monies owed to the city. No license shall be issued, renewed, or considered for issuance, to an applicant that has any outstanding taxes or other debts owing to the city.

(Ord. No. _____)

Sec. 6-39. No licenses issued within prohibited distances.

(a) No license shall be issued pursuant to this chapter for the sale of any alcoholic beverages on premises located:

(1) *Distilled spirits, malt beverages, or wine by the drink.* No license shall be issued to any person to sell distilled spirits, malt beverages or wine by the drink for consumption on the premises, where the place of business of the licensee is located within three hundred (300) feet from any church, school, or college campus.

(2) *Wine.* No license shall be issued to any package wine retailer hereunder where the place of business of the licensee is located within three hundred (300) feet of any church, school, or college campus.

(3) *Malt beverages.* No license shall be issued to any package malt beverage retailer where the place of business of the licensee is located within three hundred (300) feet of any church, school, or college campus.

(4) *Private residences.* No licenses shall be issued to any person to sell any alcoholic beverages hereunder where the place of business of the licensee is located within one hundred 100 feet of any private residence; provided however, this restriction shall not apply to mixed commercial and residential development within the PUD zoning classification, or in those instances where the owner of the licensed premises maintains his/her personal residence or a manager/caretaker residence on the grounds of the licensed premises or within the same building as the licensed premises.

(5) *Alcoholic treatment center.* No license shall be issued for the sale of alcoholic beverages within three hundred (300) feet of any alcoholic treatment center owned and operated by the state, Haralson County or Carroll County, respectively, or the city.

(6) *Schools applicable.* The schools or colleges referred to herein shall include only such state, county, city, church or other public or private schools as teach the subjects commonly taught in the common schools and colleges of this state, and shall not include private schools or colleges wherein only specialized subjects, such as law, stenography, business, music, art, medicine, dentistry, and other special subjects are taught.

(7) *Church applicable.* Church referred to herein shall include only such churches (the physical structure or building) which maintain a permanent place of public religious worship, and include only those church owned properties upon, or within, which such activities take place.

8) *Method of measuring.* The distances set out in subsections (1), (2), (3), (4), and (5) above, shall be measured along the shortest straight line distance from the closest point of the wall of the physical building or structure located on the licensed premises (from which alcoholic beverages are sold) to the nearest property line upon which the residence, church, school, college campus, library, day care center, or treatment center is located. For licensed premises that are leased and which lie entirely within a mall, shopping center, or larger enclosed structure used for commercial activity (not to include a Hotel), the measurement shall begin at the boundary line of the leased premises and not the larger structure.

(b) The provisions of this section shall not apply to those business establishments holding a valid retail package license for the sale of malt beverages and/or wine on the date of adoption of this chapter provided that such license remains current and does not become and remain inactive for a period exceeding 12 months from the date last issued.

(c) The provisions of this section shall not apply to those business establishments holding a valid pouring or on-premises consumption license for the sale of malt beverages and/or wine on the date of adoption of this chapter provided that such license remains current and does not become and remain inactive for a period exceeding 12 months from the date last issued.

(d) The provisions of this section shall not apply to those golf clubs holding a valid pouring or on-premise consumption license, provided that sales of alcoholic beverages will not occur within 100 feet of any private residence, church, school, college campus, public library, or alcoholic treatment center, said distance to be measured from an area designated as a golf cart path to the property line of said private residence, church, school, college campus, public library, day care center, or alcoholic treatment center. (Ord. No. _____)

Sec. 6-40. Notice of application advertisement.

(a) All persons applying for a license under the terms of this chapter shall give notice of that application by placing a notice in the city legal organ for two consecutive weeks prior to the week when the application shall be heard by the City Manager. An affidavit from the publisher of said legal organ shall be filed with the City Clerk prior to the hearing.

Said notice shall contain the location of the proposed business, names of all persons as they appear on the application as required by Section 6-32 of this chapter, and the date and time the City Manager will hear the application. The advertisement shall be the type used for legal ads in the legal organ of the city, and the notice referred to shall be in the following form, with the blanks filled in as applicable:

"NOTICE OF APPLICATION FOR RETAIL LICENSE TO SELL ALCOHOLIC BEVERAGES:

_____ has/have made application to the governing authority of the City of Bremen for a retail license to sell alcoholic beverages at the following location: _____. The proposed Licensee is: _____. The proposed Licensee Representative is: _____. The application will be heard by the City Manager at a public hearing to be held at _____ o'clock _____ m. on the _____ day of _____ 20_____.

Signed _____
Proposed Licensee"

Note: Names of the individual, general partners, corporation, licensee and license representative must be shown.

(b) Those applying for a license shall place signs upon the location of the proposed business. Said signs shall be printed in type of not less than two inches in height and shall read as follows:

"Alcohol beverage license applied for. Hearing before the City Manager of the City of Bremen, Georgia on the _____ day of _____, 20_____."

The signs described above shall be posted on the location of the proposed business for two weeks prior to the week of the hearing on the issuance of the license. Each sign shall be not less than 18 inches high and 24 inches wide, and shall face toward all public or private property adjoining the proposed location. Such signs shall be placed where they can be easily seen from all public or private property adjoining the proposed location. An affidavit from the applicant certifying posting shall be filed with the City Clerk prior to the hearing.

This subsection shall not apply when application is made for a license transfer pursuant to section 6-46 of this chapter at the same location.

(Ord. No. _____)

Sec. 6-41. Issuance of license by City Clerk.

Upon approval of the application for license by the City Manager and the timely payment of the license fee, the City Clerk shall issue the appropriate license for the year in which said approval was granted. In the event of a denial of the application by the City Manager, the applicant may appeal the denial and request hearing on the application before the Mayor and City Council at the next regularly scheduled hearing of the Mayor and Council. There shall not be a requirement for new advertisement or notice. The appeal of the denial must be made by submitting a written request therefor to the City Clerk, within thirty (30) days after the issuance of the denial by the City Manager. Failure to file a written request within said time period shall result in a waiver of any right of appeal to the Mayor and City Council on the denial of the Application.

If issued to a corporation, said license shall be issued in the name of said corporation, the licensee and the license representative.

If issued to a partnership, said license shall be issued in the name of all the general partners, the licensee and the license representative.

If issued to an individual, said license shall be issued to that individual as licensee and the license representative.

(Ord. No. _____)

Sec. 6-42. Payment of license fee, pro-rated.

(a) For any new license granted hereunder for pouring distilled spirits for consumption on the premises only between the effective date of this ordinance and December 31, 2005, the licensee fee shall be pro-rated on a monthly basis as of the first day of the month in which the application is filed.

(b) For any new license granted hereunder prior to June 30 of each year, the licensee shall pay the full annual license fee.

(c) For any new license granted hereunder subsequent to July 1 of each year, the license fee shall be reduced by one-half.

(Ord. No. _____)

Sec. 6-43. Renewal of licenses by City Clerk.

All licenses shall be issued on a calendar year basis and shall be renewable as herein set forth:

(1) The City Clerk shall send a letter to all license holders on or before the first day of October of each year to remind said license holders of renewal deadline for the subsequent year.

(2) The licensee shall file a renewal application form with the City Clerk on or before November 1, of each year.

(3) The application shall be referred to the chief of police, who shall report on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year.

(4) If the chief reports any activity which constitutes probable cause for not renewing a license, the renewal shall not be made by the City Clerk. "Due cause" shall consist of any violation as set forth in Section 6-110 of this chapter.

(5) Written notice of the reason or reasons for such non-renewal shall be mailed or delivered to the licensee at the licensed premises or mailed to the address shown on the renewal application. Licensee shall have ten days from the date of the written notice to request a public hearing before the city council, as provided for in section 6-110 of this chapter.

(6) Provided that "due cause" does not exist for denial of the license renewal, the City Clerk shall issue the renewal license upon payment of the annual license fee by the licensee on or before the last business day in November preceding the year for which the license is sought.

(7) Any change in the name of the licensee or license representative shall require the filing of the application and payment of the fee set forth in section 6-46(b) herein.

(Ord. No. _____)

Sec. 6-44. Completion of proposed licensed premises; additions to licensed premises.

(a) Prior to the construction, renovation or completion of a licensed premises, the City Manager may allow a license to be issued only if plans for the proposed premises comply with applicable provisions of this chapter; however, no sales of alcoholic beverages shall be allowed upon said premises until they are completed according to the plans submitted and unless all other provisions of this chapter are complied with.

(b) Prior to the beginning of construction of any addition to a licensed premises, the licensee shall submit to the City Clerk, a new survey and plans showing the location and dimensions of the addition to the licensed premises. Following completion of the addition, the licensee shall furnish a certificate from the surveyor stating that the completed addition to the licensed premises is as shown on the plat previously submitted. If any addition to the licensed premises violates any provisions of this chapter, the license granted hereunder shall be automatically canceled and all fees forfeited.

(Ord. No. _____)

Sec. 6-45. Time limit for commencement of business in licensed establishment; forfeiture for nonuse.

(a) All holders of licenses hereunder must within six months after the issuance of said license open the establishment referred to in said license. If said license holder fails to open the licensed establishment or receive a time extension from the City Manager within said six-month period the license shall be canceled and all fees forfeited.

(b) Any holder of a license who, after beginning operation, ceases to operate the business for a three-month period automatically forfeits his license, and said license shall be automatically canceled and all fees forfeited, provided however, if the cause of the cessation of operation is due to fire, wind or other casualty resulting in serious damage to the premises or facility located thereon, the license shall not be forfeited pending completion of reconstruction or renovation, so long as the licensee diligently proceeds with said renovation or reconstruction.

(Ord. No. _____)

Sec. 6-46. License transfers, change licensee, or license representative or relocation of business.

(a) Retail alcoholic beverage licenses may be transferred from one owner to another with the approval of the City Manager provided;

(1) The business has existed at the same location and licenses have not been transferred for more than one year.

(2) All existing alcoholic beverage licenses issued to the existing owner for that location shall be transferred;

(3) All provisions of section 6-33 of this chapter shall be completed by the new owner except for subparagraph (1) provided such information was previously supplied by the previous owner or previous owners and has not changed.

(4) A transfer fee in the amount of \$100.00 is paid to the City Clerk upon filing of the request.

(b)(1) All requests for a change in licensee or license representative must be approved by the City Manager and shall provide all appropriate information or supporting documents required under sections 6-32 and 6-33 of this chapter as outlined in an approved form to be supplied by the City Clerk for that purpose.

(2) A fee in the amount of \$100.00 is to be paid to the City Clerk upon the filing of the request.

(c) So long as there is no change in ownership, a temporary license representative may be appointed by the licensee for a period not to exceed 30 days, subject to the following conditions:

(1) That temporary license representative makes application by providing all appropriate information or supporting documents required under sections 6-32 and 6-33 of this chapter as outlined in an approved form to be supplied by the City Clerk for this purpose;

(2) That application is approved by the City Clerk prior to the issuance of an amended license;

(3) There shall be no residence requirement for a temporary license representative; and

(4) There shall be no extension of the 30-day period of operation for any temporary license representative, without approval of the City Manager.

(5) No fee shall be required at the time of filing the application for a temporary license representative provided that within ten calendar days a request for a change in the license representative is filed in accordance with section 6-46(b) herein.

(d) All business relocations must be approved by the City Manager and the licensee and license representative shall provide all appropriate information and supporting documents as required under sections 6-32 and 6-33 of this chapter. Requirements of section 6-40 relating to advertising and posting must be met. Additional license fees shall not be required provided there is no change in the named licensee or license representative.

(e) Any violation of this section shall constitute due cause for probation, suspension or revocation of the license or licenses granted by the City.

(Ord. No. _____)

Sec. 6-47. Standards to be applied by the City Manager in granting licenses; failure of applicant to attend public hearing.

(a) The standards to be applied by the City Manager, acting in its administrative capacity to grant or deny a license, shall include whether, in the best judgment of the City Manager, the applicant, based on all information obtained in the application process, possesses the qualities of sound judgment and discretion necessary for one who dispenses alcoholic beverages to the public generally.

(b) In addition to the foregoing standards, should any applicant, an official, or representative of the applicant, fail to attend a public hearing before the City Manager for a new license, a request to transfer a license, a request to change a license or a license representative, or a request to relocate the business of a licensee, the City Manager may consider such application or request to have been withdrawn by the applicant.

(Ord. No. _____)

Sec. 6-48. Applicants meeting standards will be granted license; reason for denial to be given in writing.

All applicants for a license meeting the ascertainable standards of this chapter will be granted the license or licenses requested, upon the hearing; and the City Manager in applying the facts to the licensing criteria will act in an administrative capacity. Whenever an application for license is denied by the City Manager the reasons for such denial shall be stated in writing and entered upon the minutes of the meeting and maintained as a part of the City records.

(Ord. No. _____)

Sec. 6-49. Persons who are not entitled to a license.

It shall be unlawful to grant a license for the sale of alcoholic beverages to:

- (1) A person who is not of good character and reputation in the community in which he resides.
- (2) A person who has, within a five-year period prior to the date of application for a license, entered a plea of nolo contendere, or a plea of guilty, or been convicted of a felony, or of a crime opposed to decency and morality; or who has, within a three-year period prior to the date of application for a license, entered a plea of nolo contendere, or a plea of guilty, or been convicted of a crime involving a violation(s) of the ordinances of the city relating to the use, sale, manufacture, distribution, taxability or possession of beer, wine or liquor or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation, use, or sale of beer, wine or intoxicating liquors, or taxability thereof.
- (3) A person whose license under this chapter has been revoked for cause or who has had a license under this chapter revoked for cause.
- (4) A person whose place or business is conducted by a manager or agent unless such manager or agent qualifies as the license representative.
- (5) Any person who is under the age of 21 years or a person who is not of sound mind and memory.
- (6) Any law enforcement officer and officer or employee of the city or county.
- (7) Any person who is not eligible for a state alcoholic beverage license

(Ord. No. _____)

Secs. 6-50--6-59. Reserved.

ARTICLE III. REGULATION OF PACKAGE SALES

Sec. 6-60. Retail sale of package malt beverages, wine conducted in conjunction with other business.

No person shall be allowed to sell at retail, package malt beverages, or foreign and domestic wines unless the same be sold in conjunction with some other kind of business.

(Ord. No. _____)

Sec. 6-61. Physical requirements of applicant's premises.

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

(b) Where a building in which a retailer 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, 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.

(c) No sales shall be made from such establishment until it has been completed in accordance with said plans and is in conformity with all of the other provisions of this chapter.

(Ord. No. _____)

Sec. 6-62. Sanitary regulations, immoral conduct, etc.; inspection and report by fire department.

(a) All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption. It shall be unlawful to permit any disturbance of the peace, obscenity, or public indecency on the premises.

(b) The fire department shall, upon request of the City Clerk, inspect such premises and report its findings to the City Clerk. All premises licensed hereunder shall conform at all times with all fire regulations of the city.

(Ord. No. _____)

Sec. 6-63. Interior visibility required.

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

(Ord. No. _____)

Sec. 6-64. Lighted electric advertising signs on wine or malt beverage establishments.

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

(Ord. No. _____)

Sec. 6-65. Slot machines, etc., prohibited on retail package sale premises.

(a) Except as otherwise permitted in this section, no retail licensee of malt beverages and/or wine shall permit on such licensee's premises any slot machines, video games, mechanical music boxes, pinball machines or coin-operated amusement machines of any kind or character.

(b) Convenience stores, the primary purpose of which is the sale of food items, may utilize coin-operated amusement devices as provided by the section of this Code regarding the regulation and licensing of coin-operated amusement machines, provided all such machines shall be located in a separate room from the room in which package alcoholic beverages are stored or offered for sale.

(Ord. No. _____)

Sec. 6-66. Sale in poolrooms and billiard parlors prohibited.

It shall be unlawful to sell package beer, malt, beverages and wine in poolrooms or billiard parlors. This section is not intended to forbid the placement of pool tables or billiard tables in amusement rooms adjacent to and operated as a part of a licensed restaurant facility that meets the required food to alcohol beverage sales ratio.

(Ord. No. _____)

Sec. 6-67--6-79. Reserved.

ARTICLE IV. REGULATION OF SALES BY THE DRINK

Sec. 6-80. Licenses.

Any type consumption on the premises license may be granted only to: A restaurant, a private club, or a hotel/motel as defined under section 6-2, lying within the City's C2A zoning classification overlay district.

(Ord. No. _____)

Sec. 6-81. Sale of Food, Cover Charge Not a Part of Food Sales.

(a) In order for an establishment to qualify for a pouring license for alcoholic beverages for consumption on the premises, only, as a restaurant, private club, golf club, or restaurant in a hotel such establishment must have at least 60 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises; and for this purpose, if a restaurant makes a minimum charge, cover charge, or admission charge, or any other non-food or non-alcoholic beverage charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale;

(Ord. No. _____)

Sec. 6-82. Standards to determine sleeping or seating capacity; inspections; compliance with fire requirements.

Where a minimum sleeping or seating capacity is prescribed in this chapter, the same shall be judged by existing ordinances of the city, county or state regulations or by reasonable standards. The fire department, shall, upon request of the City Clerk, inspect such premises and report its findings to the City Clerk. All premises licensed hereunder shall conform at all times to all fire regulations of the city, county, and state.

(Ord. No. _____)

Sec. 6-83. Sales outside of licensed premises.

(a) Except as provided herein, it shall be unlawful for any sale of alcoholic beverages to be made outside of the premises licensed for such sale.

(b) For golf club facilities, "licensed premises" includes not only the room wherein alcoholic beverages are sold or served, but shall also include the entire building where the room is located and the entire boundary of the golf course except parking lots, alleyways, streets (private and public), and lakes. Golf clubs are authorized to sell and serve malt beverages only in the manufacturer's original containerized receptacle outside the room and building on the licensed premises as defined above. Patrons may consume the same on the licensed premises as defined above. Cart sales are permitted on the course.

(Ord. No. _____)

Sec. 6-84. Pricing.

(a) Each licensee shall maintain a schedule of the prices charged for all alcoholic beverages to be served and consumed on each licensed establishment or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner as to be in view of the paying public, and the schedule shall be effective for not less than one day.

(b) No licensee or employee or agent of a licensee shall:

(1) Offer or deliver any free alcoholic beverage to any person or group of persons.

(2) 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 that business day, except at private functions not open to the public.

(3) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public.

(4) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons at any one day at prices less than those charged the general public on that day, except at private functions not open to the public.

(5) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, by the pitcher, 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 that business day.

(7) Encourage or permit, on the licensed establishment, any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.

(8) Issue to any customer any coupon, receipt, ticket or other item purporting to authorize the receipt of any free or reduced-price alcoholic beverage.

(c) No licensee shall advertise or promote in any way, whether within or without the licensed establishment, any of the practices prohibited under subsection (b).

(d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time provided all patrons or customers are allowed equal access to such free food or entertainment. No provision of this section shall be construed to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person, or to prohibit any hotel or motel from offering room services to registered guests. No provision of this section shall prohibit a licensee from offering packages in which alcoholic beverages and food or lodging are offered as a unit; provided the value of the alcoholic beverage is established at a uniform level for each package so offered, and the alcoholic beverage delivered as part of the package does not exceed the package allowance, and the tax due on the package allowance is remitted in full to the city for each package sold.

No hotel or motel maintaining more than one licensed establishment upon its premises shall allow the promotion of one of its licensed establishments over another on the basis of prices for alcoholic beverages.

For the purposes of this section, "business day" shall mean that period running from 7:00 a.m. until 2:00 a.m. on the following day or 12:00 midnight on Saturday.

(Ord. No. _____)

Sec. 6-85. Hotel in-room service, not permitted.

Licenses obtained by hotels for restaurants within the Hotel, shall not include the right to serve alcoholic beverages by the drink to registered guests in their hotel rooms.

(Ord. No. _____)

Sec. 6-86. Maintenance of premises; improper conduct; nudity prohibited.

All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with provisions and regulations of the city, county and state governing the conditions of premises used for the storage and sale of food for human consumption.

(1) For purposes of this section:

- a. *Alcoholic beverage establishment* shall mean any restaurant or hotel/motel holding a license under this chapter for the sale of alcoholic beverages for consumption on the premises.
- b. *Substantially nude* shall mean dressed or undressed in a manner so as to plainly expose to view any portion of a male's or female's pubic hair, anus, cleft of the buttocks, vulva, or genitals, or any portion of the female breasts below the top of the areola.
- c. *Simulate* shall mean to counterfeit, feign, imitate, or pretend in such a manner that a reasonable observer could be led to believe that the actual act is or may be occurring.

(2) a. No person shall appear substantially nude in any alcoholic beverage establishment, and no owner or manager of an alcoholic beverage establishment shall permit any person to appear substantially nude on the licensed premises.

b. No owner or manager of an alcoholic beverage establishment shall permit any person to perform acts of, or acts which constitute or simulate:

- 1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, or any sexual acts which are prohibited by law.
- 2. The touching, caressing or fondling of the breast, buttocks, anus or genitals; provided that random acts of patrons or employees, whose actions do not constitute actions taken pursuant to encouragement or acquiescence of the management of the establishment and are not for the purposes of entertainment, promotion, publicity, or notoriety shall not constitute violations of this section.

(3) The restrictions of subsection (2) shall apply only to persons physically present on the licensed premises, and shall apply regardless of whether such persons are categorized as owners, agents, employees, patrons, independent contractors or otherwise.

(4) In addition to prosecution of any person for violation of this section, the alcoholic beverage license of any premises upon which a violation of this section occurs shall be subject to suspension or revocation. Any such revocation or suspension action shall follow the procedures outlined in section 6-110 of this chapter. Any conviction or plea of guilty or nolo contendere in the municipal court to a charge of violation of this section shall be admissible in a license suspension or revocation proceeding.

(5) Should any phrase, clause, or sentence of this section be found to be unconstitutional or otherwise illegal and unenforceable by a court of competent jurisdiction, such determination shall not affect the remaining provisions of this section, which provisions shall remain in full force and effect.

(Ord. No. _____)

Sec. 6-87. Reports of sales to be made quarterly, suspension, revocation.

(a) Licensees shall, within 30 days following the end of each quarter, file with the City Clerk a report, sworn to by the licensee, setting forth gross sales of licensee for the quarter, sales of food and non-alcoholic beverages, and sales of alcoholic beverages.

(b) Should the total sales from food and non-alcoholic beverages reported by any licensee for consumption on the premises not meet or exceed the required food to alcoholic beverage ratio as required by this chapter for any two consecutive reporting periods, the license held by the licensee may be suspended or revoked by the mayor and council after a hearing as provided for in section 6-110.

(Ord. No. _____)

Sec. 6-88. Additional certification.

In addition to the reporting requirements detailed in section 6-87, the City Clerk may require that licensee furnish a statement from a certified public accountant that reports the percentage of the licensee's total sales derived from the sale of food and non-alcoholic beverages sold on the premises compared to the sale of all alcoholic beverages sold on the premises in the licensee's most recent reporting period.

(Ord. No. _____)

Sec. 6-89. Areas of sales.

All restaurants, private clubs, and golf clubs eating areas, including all tables, booths, and other areas where customers are served and including all passageways for customers, shall be sufficiently well illuminated so that they may be viewed by those inside the premises. The sale of alcoholic beverages in any back room or side room that is not open to the general public is prohibited, except that this prohibition shall not apply with respect to:

- (1) Private parties which have been scheduled in advance;
- (2) Private clubs; and
- (3) Golf clubs.

(Ord. No. _____)

Sec. 6-90. Employment.

No licensee shall knowingly employ on any licensed premises, in any capacity whatsoever, including performers, dancers, entertainers, and musicians, any person who has been convicted within the preceding five years of any crime involving moral turpitude.

(Ord. No. _____)

Sec. 6-91. Employee prohibitions.

(a) It shall be unlawful for any employee of a restaurant, or private club to engage in the following:

- (1) Dance or sit with customers on the premises while on duty status, including "breaks;"
- (2) Allow any customer to purchase food or drink, alcoholic or non-alcoholic, for an employee while on duty status, including "break periods;"
- (3) For an employee to consume or simulate the consumption of any alcoholic beverage while on duty status at the premises of his or her employer, including "breaks;"

(4) Require, permit, suffer, encourage, or induce any employee or person to solicit at the licensed premises for himself or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic or non-alcoholic; or money with which to purchase same; nor shall any licensee pay a commission or any other compensation to any person frequenting his establishment or to his agent or manager to solicit for himself, or for any other, the purchase by the patron of any drink, whether alcoholic or non-alcoholic.

(b) For purposes of this section the term employee shall also apply to performers, dancers, entertainers, musicians engaged in temporary work, as well as regular employees.

(c) For purposes of this section breaks or break periods is defined as that period of time that the employee is off duty but remains upon the premises of the licensed establishment awaiting to go back on duty.

(Ord. No. _____)

Sec. 6-92. Size of containers.

Licensees under this chapter shall purchase distilled spirits in sizes of one liter or larger unless a particular brand is not packaged in these size containers in which case the licensee may purchase such brand in the nearest size to such containers.

(Ord. No. _____)

Sec. 6-93. Dancing on the premises.

Patron dancing shall be permitted at facilities licensed for consumption on the premises sales only where:

- (1) Adequate space exists;
- (2) All fire and safety regulations are met;

(Ord. No. _____)

Sec. 6-94. Consumption on the premises, only.

a) All alcoholic beverages sold by the drink for consumption on the licensee's premises shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises. Each licensee shall be responsible for ensuring that no person so removes any alcoholic beverages from the premises in any type of container.

(b) Each consumption on the premises licensee shall post in a prominent place at each exit from the licensed premises a sign in substantially the following form: "IT IS A VIOLATION OF CITY ORDINANCE TO TAKE ANY TYPE ALCOHOLIC BEVERAGE FROM THIS OUTLET". Such sign shall be uniform letters not less than one inch in height.

(Ord. No. _____)

Sec. 6-95. Prohibited advertising.

No advertising of alcoholic beverages shall be published or disseminated in the city which:

- (1) Contains any statement, design, or pictorial representation which falsely implies that the product has been endorsed, made, or used by, or produced for, or under the supervision of or in association with the specification of any religious organization, the city, or any other local governmental entity.
- (2) Contains any reference, directly or indirectly, which falsely implies an endorsement by, or relationship with, any school, college or university.

(3) Is directed to, or promotes in any way the sale of alcoholic beverages to, persons under the legal age to purchase alcoholic beverages in the state.

(Ord. No. _____)

Sec. 6-96. Lighted electric advertising signs on wine or malt beverage establishments.

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

(Ord. No. _____)

Sec. 6-97. Brown bagging, brown bag establishments.

"Brown bagging" and "brown bag establishments" as defined in this chapter shall be prohibited within the city.

(Ord. No. _____)

Sec. 6-98. Lounges, bars prohibited.

"Lounges" or "bars" as defined in this ordinance, not adjacent to, open to, and operated in conjunction with, a restaurant meeting the required food to alcoholic beverages sales ratios, shall be prohibited within the city.

(Ord. No. _____)

Section 6-99. APPLICABILITY OF ARTICLE TO DRUGGIST.

This article shall not apply to the possession by a druggist of intoxicating liquor purchased by him from a licensed vendor under the Liquor Control Act of the state, or intoxicating liquor lawfully acquired and transported into the state by him pursuant to such act, such liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative, nor shall this article apply to the sale of intoxicating liquors by druggists on prescription from a regularly licensed physician.

Secs. 6-100--6-109. Reserved.

ARTICLE V. SUSPENSION, REVOCATION AND PROBATION OF LICENSES; DUE PROCESS; HEARING

Sec. 6-110. Grounds for suspension or revocation; notice; hearing; bond for reinstatement.

(a) Any license which has been issued or which may hereafter be issued by the city may be suspended or revoked for due cause as hereinafter defined. "Due cause," for purposes of this section shall include, but not be limited to:

(1) Arrest or conviction (to include a plea of guilty or nolo contendere) by local, state or federal authorities of the licensee, a license representative, or any employee of the licensee (as to an "employee", for an act taking place while on duty at the licensed facility or in conjunction with the employee's employment), for any felony, or any misdemeanor of a crime opposed to decency and morality, or any law, regulation or ordinance involving beverage alcohol, gambling, or tax law violations;

(2) Citations issued by local, state or federal authorities to the licensee, license representative or any employees of the licensee for violations of any part of this chapter or any regulation pertaining to state or federal licensing of the possession, sale or distribution of beverage alcohol;

(3) Suspension or revocation of any state license required as condition for the possession, sale or distribution of beverage alcohol;

(4) Material falsification of any fact given in application for a license issued under this article or bearing upon the licensee's qualification therefor; any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this article shall be deemed a violation of the requirement attempted to be circumvented;

(5) The licensed business fails to properly account for, file, report and maintain any records or remit or pay any renewal license fee imposed, sales taxes, or excise taxes required under the city ordinances.

(6) Any other factors known to the licensing authority whereby it is objectively shown the licensee, by reason of business experience, financial standing, trade association, personal association, record of arrests, or reputation in any community in which he has resided, is not likely to maintain the operation for which he is licensed in conformity with federal, state or local laws.

With respect to this section, it shall be rebuttably presumed that the violative act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aide in such occurrence, or in the exercise of full diligence could not have discovered or prevented such activity.

(b) Action to suspend or revoke a license, other than a temporary or emergency suspension, shall be commenced by the City Clerk, or City Manager, making written recommendation to the city council, and giving written notice to the licensee, either by certified mail, return receipt requested, or by personal service upon licensee or his agent at the licensed location, stating the grounds therefor, and the date, time and place such matter will be heard by the city council. Notice shall be served at least ten days prior to the date of the hearing. Included in the notice shall be an advisement of the licensee's right to be heard before the council. Any licensee requiring subpoenas to compel the attendance of witnesses or documents at the hearing shall file a written request with the City Manager at least five days prior to the hearing. Hearings may be continued for good cause only.

(c) All final decisions to suspend or revoke a license shall be made by the city council, in writing with the reasons therefor stated. Notice of a final decision shall be given the licensee within seven full business days after the hearing. Failure to notify the licensee shall not result in an automatic approval for the continued operation of the licensed premises or the continued good standing of the license, but shall require a new hearing on the matter by the city council, after proper notice is once again given in accordance with subsection 6-110(b) above.

(d) Hearings, to suspend or revoke a license, shall only be as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney or his designee shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the license. The licensee may be represented by legal counsel, may confront and cross-examine witnesses, and shall have the right to call witnesses and present evidence in his behalf. A hearing record shall be maintained by the city; however, either party may arrange for transcription by a court reporter at his sole expense. Hearings shall be presided over by the mayor who shall preserve order and rule upon all matter of evidence. Irrelevant, immaterial and unduly repetitious evidence shall be excluded.

(e) Upon the second suspension or revocation of a license within any five-year period, as a prerequisite or reinstatement or reissuance of the license, the licensee, in addition to the requisite fees assessed under this article, shall post a surety bond, payable to the city, in the amount of \$5,000.00, conditioned upon the licensee maintaining the operation for which he is licensed in conformity with all federal, state and local laws, ordinances, rules and regulations. Upon any subsequent act giving due cause for suspension or revocation of the license, the bond shall be forfeited and the license revoked

(Ord. No. _____)

Secs. 6-111--6-119. Reserved.

ARTICLE VI. ALCOHOLIC BEVERAGE EXCISE TAXES

Section 6-120. Definitions.

When used in this article, the following words shall have the indicated meanings:

- a) "City manager" means the city manager of the City of Bremen or his or her agent.
- b) "Person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate, or any combination thereof, as well as to individuals.
- c) "Retailer" means a person who sells alcoholic beverages to the consumer or any other person for any purpose other than for resale in the form of tangible personal property and holds a city license for retail sales or for consumption on the premises.
- d) "Wholesaler" means a person who sells alcoholic beverages to jobbers or to another person other than the consumer anything in the form of tangible personal property.

(Ord. No. _____)

Section 6-121. Levy and Computation.

In addition to all other taxes or license fees imposed upon retailers selling malt beverages or wine at retail or malt beverages, wine or distilled spirits for consumption on the premises in the city, there is levied and imposed upon each such retailer the following excise taxes:

- (a) Where malt beverages are sold in individual containers of less than 15 ½ gallons, the tax shall be \$0.004166 per ounce sold by each wholesale dealer. When malt beverages are sold in individual containers with a capacity of 15 1/2 gallons or more, the excise tax shall be \$6.00 per 15 1/2-gallon container, or if the container is larger than 15 1/2 gallons, the tax shall be proportioned at the rate of \$0.387 per each additional gallon or portion of a gallon capacity of the container.
- (b) On the first sale or use of wine in the city at a rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (c) On the first sale or use of distilled spirits in the city at the rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

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

(Ord. No. _____)

Section 6.122 Retailers dealing with wholesalers-Registration of wholesalers.

a) No retailer of alcoholic beverages in the city shall purchase or otherwise receive alcoholic beverages from any wholesaler not registered under this section. Any retailer failing to comply with this requirement shall be subject to revocation of any and all city business licenses held by the retailer and any other penalty that may be imposed for violation of this code.

b) Unless a wholesaler in alcoholic beverages is licensed by the city, no wholesaler shall take orders from or make deliveries to any retailer in alcoholic beverages within the city unless and until the wholesaler registers with the city manager on a form provided by the city; and otherwise satisfies the requirements of this article placed on such wholesalers.

(Ord. No. _____)

Section 6.123 Wholesaler's reports--Tax collection--Payment--Records.

a) Each wholesaler registered under this article or licensed by the city shall file a report with the city manager by the tenth day of each month, itemizing for the preceding calendar month the exact quantities of all alcoholic beverages by size and type of container sold within the city. The report shall show the name and address of each retailer with which they did business in the city and any other information as may be required by the city manager.

b) Each wholesaler reporting under this section shall collect from each retailer with whom the wholesaler did business the amount of tax due the city under this article and shall hold the same in trust for the city.

c) The wholesaler's monthly report shall be accompanied by remittance to the city of all taxes due the city under this article for the preceding month from each retailer.

d) Each wholesaler hereunder shall keep true and correct records, including invoices of all sales, shipments or deliveries of beverages to retailers in this city. These records shall be preserved for at least one year and shall be made available on request for inspection by any authorized representative of the city.

(Ord. No. _____)

Section 6.124. Wholesaler's deposit.

Each new wholesaler, licensed by the city or registered with the city, whether located outside or within the city limits, shall be required to place three months of the estimated tax required by this article on deposit with the city. This deposit shall be an amount equal to three times the amount of tax paid by the wholesaler during the first month of operation in the city, and shall be deposited at the same time as the first payment of taxes. This deposit shall be retained by the city, to be applied to make up for any default on the part of the wholesaler and shall be refunded to the wholesaler upon its ceasing to do business in the city, provided that the wholesaler is current in its remission of taxes. This deposit shall be adjusted each year to be an average of one-twelfth (1/12) of the previous year's tax collections. A surety bond payable to the city may be posted in lieu of this deposit if such bond is in an amount equal to twice the deposit required. The deposit or bond required by this section shall be waived by the city manager upon a showing by the wholesaler that it has timely paid the tax levied by Section 6.123 for a period of five consecutive years; provided, however, that if such deposit or bond is so waived, the city manager shall have the right to reinstitute the requirement of making such deposit or posting such bond if the wholesaler thereafter fails to make timely payment of the tax levied by Section 6.123 with respect to any month.

Section 6.124. Unlawful retail sales

It is unlawful for any retailer within the city to sell any alcoholic beverages on which the taxes under this article have not been paid as herein provided by the retailer. No decal, stamp or other identifying marking shall be required on malt beverages sold within the corporate limits.

(Ord. No. _____)

Section 6.125. Penalty--Revocation of license.

a) The failure to make a timely report or remittance shall render a wholesaler, under this article, liable for a penalty equal to ten percent of the total amount due and a further penalty of ten percent of the amount of the remittance for each successive month or any portion thereof during which the report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesaler making the report liable for a penalty equal to ten percent of the amount of the remittance that would be required under an accurate and truthful report.

b) Any failure to make a timely report or remittance or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license or registration issued by the city to the wholesaler.

c) The above subsections shall be in addition to any other penalty which may be imposed for violation of this code.

(Ord. No. _____)

Secs. 6-126--6-129. Reserved.

ARTICLE VII. TAXATION OF BEVERAGES BY THE DRINK

Sec. 6-130. Definitions.

As used in this article the following terms shall have the meanings ascribed to them:

Agent. The license representative.

City. The City of Bremen, Georgia.

Drink. Any alcoholic beverage served for consumption on the premises that may or may not be diluted by any other liquid.

Monthly period. The respective calendar months of any year.

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

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

Tax. The tax imposed by this article.

(Ord. No. _____)

Sec. 6-131. Tax levied.

- a) Pursuant to the authority contained in O.C.G.A. § 3-4-130, there is imposed and levied a tax on the sale of distilled spirits by the drink by all licensed premises, to include private clubs, if applicable, which tax shall be equal to three (3%) percent of the charge to the public for such drink.
- b) Every licensee or his agent is hereby authorized and directed to collect the tax herein imposed from purchasers of alcoholic beverages (but not including malt beverages, fermented wines or fortified wines) by the drink sold within his licensed premises. Such licensee or his agent shall furnish such information as may be requested by the city to facilitate the collection of this tax.
- c) The tax imposed by this section shall be paid monthly, with payment due on the twentieth day of the month following the month for which such tax is to be paid. On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the City Clerk of the city, in such form as the city may prescribe, by every licensee or agent liable for the payment of tax hereunder. The person required to file the return shall deliver the return, together with the remittance of the net amount of tax due to the City Clerk, City Hall, 232 Tallapoosa Street, Bremen, Georgia 30110.
- d) Any taxes imposed by this section which are not timely paid shall incur a penalty of ten percent of the amount of said taxes and bear interest at the rate of one percent per month, or any fraction thereof.
- e) Operators collecting the tax for the sale of distilled spirits by the drink shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if said amount is not delinquent at the time of payment. The rate of deduction shall be three percent of the gross tax or twenty-five dollars (\$25.00), whichever is less.
(Ord. No. _____)

Sec. 6-132. Deficiency determinations.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the City Clerk is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the city by any person, the City Clerk may compute and determine the amount required to be paid upon the basis of any information within the clerk's possession or that may come into his/her possession. One or more than one deficiency determination may be made of the amount due for one or more than one monthly period.
- (b) *Interest on deficiency.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one (1%) percent per month, or fraction thereof, from the twentieth day after the close of the monthly period for which the amount of any portion thereof should have been returned, until the date of payment.
- (c) *Offsetting of overpayments.* In making a determination, the City Clerk may offset overpayments; for a period or periods, against underpayments; for another period or periods, against underpayments; for another period or periods, against penalties; and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in subsection (b) hereof.
- (d) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to gross negligence or disregard of rules and regulations, a penalty of fifteen (15%) percent of the amount of such deficiency shall be added thereto.
- (e) *Penalty for fraud or intent to evade.* If any part of the deficiency determination has been made is due to fraud or an intent to evade any provision of this article or other authorized rules and regulations, a penalty of twenty (20%) percent of the deficiency shall be added thereto, in addition to the fifteen (15%) percent penalty provided in subsection (d) hereof.
- (f) *Notice of City Clerk's determination; service of.* The City Clerk, or his designated representative, shall give to the licensee written notice of his determination. The notice may be served personally or by first class mail, postage prepaid; if by mail such service shall be addressed to the licensee at his address as it appears in the records of the City Clerk. In the case of service by mail of any notice required by this article, the service is complete at the time of deposit in the United States post office.

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

(Ord. No. _____)

Sec. 6-133. Determination if no return made.

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

(b) *Manner of computation; offsets; interest.* In making a determination, the City Clerk may offset overpayments for a period or periods against the interest, penalties or underpayments. The interest on underpayments shall be computed in the manner set forth in subsection (c) hereof.

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

(d) *Penalty for fraud or intent to evade.* If the failure of any person to file a return is due to fraud or an intent to evade this article or rules and regulations, a penalty of 20 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 15 percent penalty provided in section (a) hereof.

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

(Ord. No. _____)

Sec. 6-134. Penalties and interest for failure to pay tax.

Any person who fails to pay the tax herein imposed to the city or fails to pay any amount of such tax required to be collected and paid to the city within the time required, shall pay a penalty in the amount of fifteen (15%)percent of the tax plus interest on the unpaid tax or any portion thereof as set forth in subsection 6-134(c) hereof.

(Ord. No. _____)

Sec. 6-135. Administration; enforcement; rules; records; confidentiality of reports.

(a) *Authority of the City Clerk.* The City Clerk shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this chapter.

(b) *Rules and regulations.* The City Clerk shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the State of Georgia, or the constitution of this state or the United States for the administration and enforcement of the provisions of this article and the collection of the taxes hereunder.

(c) *Records required from licensee; form.* Every licensee for the sale of alcoholic beverages by the drink in the city shall keep such records, receipts, invoices and other pertinent papers in such form as the City Clerk may require.

(d) *Examination of records; audits.* The City Clerk, or the City Manager, or any person authorized in writing by the city, may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.

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

(Ord. No. _____)

Sec. 6-136. Ordinance Not Applicable to Bona Fide Private Function

This ordinance is not intended to regulate the social activities or rights of the individual citizen or a private company to provide beverages that may contain alcohol at truly private functions or a private party in the confines of the private residence or corporate office (for example, a Christmas party, or retirement party or a private dinner among friends and associates). To that end this ordinance shall not apply to a bona fide private function or a bona fide private promotional party, provided:

(1) It is held on the premises and within an enclosed building of a business establishment in an area zoned either, commercial, O-I, or industrial, or in a private residence;

(2) The party is hosted and sponsored by the owner of the place of business where the party is to be held or by an individual, partnership, corporation or association having a written agreement with the owner of the place of business where the party is to be held, or by the private residence owner;

(3) The party is not open to the general public;

(4) No money, cover charge, dues, fee, or other emolument for food or beverage is charged or otherwise collected, either directly or indirectly, from guests, attendees or others, provided however, in the case of a commercial establishment or facility, a fee for the use of the premises may be paid by the party host or sponsor to the owner of the place of business; and

(5) On-the-premises consumption of beverages of high or low alcoholic content is not used to induce or attract customers or clients to show, explain or sell to them products or services.

Sec. 6-137. Specific Repealer.

Upon the adoption of this Ordinance according to law, the provisions relating to the regulation and licensing of malt beverages and alcoholic beverages as set forth in the ordinances of June 8, 1978, June 20, 1978; June 16, 1980 and September 12, 1988, as referenced in Section 6.1 of the Code of Ordinances of the City of Bremen are hereby specifically repealed. Any other ordinance or parts thereof inconsistent herewith, are hereby repealed.

Sec. 6-138. Severability.

Should any part or parts of this ordinance be found or held to be invalid by any court of competent jurisdiction, the remaining part or parts shall be severable and shall continue in full force and effect.

Secs. 6-139. Reserved.

ARTICLE VIII. VIOLATIONS

Sec. 6-140. Violations prohibited.

No person shall violate any of the provisions of this chapter or assist another in evading or avoiding the licensing requirements, or in the payment of the taxes and fees imposed by this chapter.

(Ord. No. _____)

Sec. 6-141. Penalties.

Any person knowingly violating any provision of this chapter shall be guilty of an offense against the city, punishable upon citation before the municipal court. Any person convicted of violating any provision of this chapter shall be subject to punishment by a fine not to exceed \$1,000.00, imprisonment not to exceed 12 months, or both.

(Ord. No. _____)

Sec. 6-142. Record of Passage.

This Ordinance, introduced as a Bill for the Regulation of Alcohol Beverages in the City of Bremen, Georgia was read the first time and second time, discussed and voted upon this _____ day of _____, 2005.

COUNCILMEN:

SHARON SEWELL, Mayor

J. CHRISTOPHER COATS

W. STEPHEN McINTOSH

W. O. PARRISH

DANNY L. ROBINSON

Attested: _____
BEVERLY CASH, City Clerk