

CITY OF ST. MARYS, GEORGIA
418 Osborne Street
St. Marys, GA 31558
(912) 510-4039

**ITEMS TO BE SUBMITTED WITH THE
APPLICATION FOR A NEW ALCOHOL LICENSE**

- (1) Complete and accurate application form. NOTE: Incomplete applications or applications lacking the necessary attachments such as articles of incorporation, partnership agreements, criminal history, etc., will not be processed. Council will not act upon incomplete or inaccurate applications. Applications filed with the Clerk may not be amended.

- (2) Current plat of **survey** prepared by a Georgia registered land surveyor. The survey must be dated within 90 days of the date of application. The survey must depict or show the proximity of the location to be licensed to:
 - (a) **church;**
 - (b) **school building, college campus, public or private;**
 - (c) **Housing Authority** properties;
 - (d) establishments **other than** eating establishments within 600 feet of any church building, school building, education building, school ground, college campus or public housing;
 - (e) eating establishment within the C1 **Central Business District** where meals are actually regularly served within 100 feet of any church building, school building, education building, school ground, college campus or public housing;
 - (f) **eating establishment** serving a part of the meal or restaurant where meals are served regularly shall lie within 150 feet of any church building, educational building, school ground, or college campus;
 - (g) **existing establishment** or business within 600 feet holding or possessing alcohol beverage license for on-premises consumption shall be measured from the front entrance of the existing licensed establishment to the front entrance of the proposed location along the nearest practical street route;
 - (h) all **dwellings or residences** within 100 feet of the location sought to be licensed.

Survey must also verify the **street address** of the property to be licensed.

Please review the entire Alcoholic Beverage Ordinance for requirements before making application. The Alcoholic Beverage Ordinance is available at www.municode.com.

- (3) Complete and detailed **plans of the building and outside premises** of the location to be licensed.
- (4) Copy of **lease agreement** if location to be leased by applicant.
- (5) Copy of **franchise agreement** if business to be licensed is subject to a franchise agreement.
- (6) **Letter from Clerk of Camden Superior Court** (Woodbine) certifying the absence of pending criminal proceedings or prior convictions of the applicant and/or owner.
- (7) **Criminal history** record information consent form and copy of driver's license. (Form obtained from the City Clerk's Office.)
- (8) Copy of **certificate of incorporation and articles of incorporation and/or partnership agreement**.
- (9) If **applicant is not a city resident**, all licensed establishments must designate and continuously maintain a resident of Camden County upon whom any process, notice or demand required or permitted by law or under Chapter 10 Alcohol Beverages Ordinance to be served upon the licenses or owner may be served. The applicant shall file the name of such representative, along with the written consent of such person, if different from applicant, with the City Clerk and shall be in the form of a letter, witnessed and notarized.
- (10) **GAPS live scan fingerprints:** (Record information must be provided to the City Clerk's Office prior to scanning) A Credit Card or Money Order in the amount of \$52.90 for live scan fingerprints at the following location:

Camden County CASA
696 East William Avenue
Kingsland, GA 31548
(Mon-Thru 8:30 a-4:30p)
- (11) A Money Order or Cashier's Check in the amount of \$97.10, payable to the "City of St. Marys" for the application processing fee, to cover advertising cost, etc.
- (12) All ad valorem and personal property taxes must be current. The City Charter provides that the City may deny and/or revoke an alcohol license in the event that ad valorem or any other fees due the City are not paid.
- (13) **Occupational Tax** (business license) requirements must be current.

PLEASE NOTE: The actual license fee (\$1,100.00 for beer/wine and \$1,650.00 for spirituous liquor) does not have to be paid until the license has been granted by City Council.

After the state alcohol license has been granted, the City of St. Marys **mandatory Alcohol Servers Training Program must be completed for all owners, managers and employees serving alcohol and provide a copy of the Certificate of Completion to the City Clerk's office and St. Marys Police Department prior to obtaining a servers permit.** Training is available at www.eeando.unl.edu/rbst/ga or by contacting Camden Children's Alliance & Resources, Inc. at 912-882-7295. The State Alcohol license number is required to access the website. **A State alcohol license is also required prior to serving alcohol.** Application information for a State alcohol license may be made at the following location:

Georgia Department of Revenue
Alcohol and Tobacco Division
1800 Century Center Blvd., NE
Suite 1530
Atlanta, Georgia 30345
(404) 417-4477

Darlene M. Roellig
City Clerk

License # _____

City of St. Marys, Georgia
20_____

APPLICATION FOR ALCOHOL BEVERAGE LICENSE

TYPE OF LICENSE

		<u>ON-PREMISE</u>		<u>OFF-PREMISE</u>	
BEER & WINE	\$ 1,100.00	<input type="checkbox"/> With Food	<input type="checkbox"/> Without Food	<input type="checkbox"/> With Food	<input type="checkbox"/> Without Food
SPIRITUOUS LIQUOR	\$ 1,650.00	<input type="checkbox"/> With Food	<input type="checkbox"/> Without Food	<input type="checkbox"/> With Food	<input type="checkbox"/> Without Food
BEER/WINE/LIQUOR	\$ 2,750.00	<input type="checkbox"/> With Food	<input type="checkbox"/> Without Food	<input type="checkbox"/> With Food	<input type="checkbox"/> Without Food
PRIVATE CLUBS	\$ 550.00	<input type="checkbox"/> With Food	<input type="checkbox"/> Without Food		
TEMPORARY - DAILY	\$ 110.00	<input type="checkbox"/> With Food	<input type="checkbox"/> Without Food	(Two days per year.)	

Before the undersigned attesting officer, duly authorized by law to administer oaths, personally appeared the undersigned applicant for a license or permit for the sale of alcoholic beverages in the City of St. Marys, Georgia, and, being first duly sworn, on oath, states that the information given, statements made, and questions answered in this application are true and correct:

1. State the official name under which the business or establishment to be licensed will be conducted:

2. State the business name under which the business or establishment to be licensed will be conducted:

3. If natural person(s), state the name(s), Social Security number(s), telephone number(s), mailing address (es), and birth date(s) of all applicant(s) and/or owner(s) of business licensed:

4. If applicant is a partnership of any kind, state the names, Social Security numbers, telephone numbers and mailing addresses of all members of the partnership:

5. Attached a copy of partnership Agreement or Articles of Partnership to this Application.

6. If Applicant is a corporation, state the following:

(a) Shareholders' names, Social Security numbers, telephone numbers, and addresses:

(b) Officers' names, Social Security numbers, telephone numbers, and addresses:

President: _____

Vice President:

Secretary:

Treasurer:

(c) Members of Board of Directors names, Social Security numbers, telephone numbers and addresses:

Board Member:

7. If applicant is a corporation, attach a copy of the Articles of Incorporation and Certificate of Incorporation.

8. State the name(s), Social Security number(s), telephone number(s), and mailing address (es) of any persons or entities, other than those named above, who have any financial interest or beneficial ownership interest in the establishment or business to be licensed:

9. State the name(s), Social Security number(s), and mailing address (es) and birth date(s) of each person who manage the establishment or business licensed:

10. State whether or not the above-named manager(s) has ever been convicted of a crime or has ever been the subject of an alcoholic beverage license suspension or revocation by the State of Georgia or any other city or jurisdiction:

11. If the response to the preceding was in the affirmative, state the date, nature, and name of said revoking or suspending body or agency:

12. State whether or not the applicant and/or any of the officials, entities, or persons named above have ever been convicted of violating any ordinance, regulation, or law of any jurisdiction with regard to the sale or distribution of alcoholic beverages:

13. If your response to the preceding was in the affirmative, give a detailed description of such violation, including the name of the jurisdiction where the violation occurred:

14. State whether or not the applicant and/or any of the officials, entities or persons named above have ever been the subject of a suspension or revocation proceeding which regard to any alcoholic beverage license or permit:

15. If the answer to the preceding was in the affirmative, state a detailed description of such adverse administrative action and the name of the jurisdiction wherein such action occurred:

16. State whether or not any of the individuals or entities identified above have been convicted of any crime and, if so, state a detailed description which includes the nature of the offense, date of conviction, and name of the jurisdiction:

17. If applicant or any of the individuals or entities named above holds an alcohol beverage license from any other jurisdiction or from the State of Georgia, state the name of each such jurisdiction and of the licensed location for any State license or attach a copy of each such license to this application:

18. State the physical address of the location licensed:

19. If the location for which the license is sought has been or is now licensed, state the name of the business or establishment and the name of the license:

20. State the nature of the business conducted at or upon the location licensed (i.e., restaurant, convenience store, lounge or bar, pool hall, etc.):

The undersigned hereby stipulates and states that all statements given in this application are true and correct and made for the purpose of inducing aforesaid City to issue or renew said alcoholic beverage license(s). Applicant further states this document is sworn to and subscribed hereto with the full knowledge that any statement herein, given falsely shall constitute perjury and may result in the revocation of the license granted or the refusal to grant such license. The applicant agrees to comply and abide by the City's Alcoholic Beverage Ordinance.

Applicant further acknowledges that application must be fully completed at the time of filing and that applications may not be supplemented, amended, or revised after filing with the Clerk, except to correct misspelling or names.

APPLICANT HEREBY AGREES AND CONSENTS PURSUANT TO PUBLIC LAW 93-579 OF THE PRIVACY ACT OF 1974, THE DISCLOSURE OF INFORMATION OBTAINED IN THIS APPLICATION MAY BE SUBMITTED TO ANY AGENCY OF THE CITY, COUNTY, STATE, AND FEDERAL GOVERNMENT FOR THE PURPOSES OF OBTAINING THE NECESSARY INFORMATION TO PROCESS THE APPLICATION.

Sworn to and subscribed to this _____ day of _____, 20_____

APPLICANT(s)

WITNESS

NOTARY PUBLIC
[SEAL]

City of St. Marys, Georgia

Date application and check received City: _____ City Clerk: _____



City of St. Marys
Affidavit Verifying Status
For City Public Benefit Application

By executing this affidavit under oath, as an application for a City of St. Marys, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for:

- Business License
- Georgia Occupational Tax Certificate
- Alcohol License
- Taxi Permit or
- Other public benefit

Please check one

Name: _____
Name of natural person applying on behalf of individual, business, corporation, partnership, or other private entity

1. I am a United States citizen

OR

2. I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States. *

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of the Code Section 16-10-20 of the Official Code of Georgia.

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
_____ DAY OF _____, 20_____

Signature of Applicant Date

Printed Name

Notary Public
My Commission Expires:

Alien Registration number for non-citizens

*Note: O.C.G.A. § 50-36-1 (e)(2) requires that aliens under the Federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provided their alien registration number. Because legal permanent residents are included in the federal definition of "alien," legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

St. Marys Police Department



563 Point Peter Road
St. Marys, Georgia 31558
912-882-4488



Timothy P. Hatch
Chief of Police

Rodger L. Wooten
Assistant Chief of Police

CONSENT FORM

I hereby authorize _____

To receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Full Name (print)

Address

Sex

Race

Date of Birth

Social Security Number

Signature

Date

Special employment provisions (check if applicable):

- Employment with mentally disabled (Purpose Code 'M')
 - Employment with elder care (Purpose Code 'N')
 - Employment with children (Purpose Code 'W')
 - Employment with criminal justice agency-civilian (Purpose Code 'J')
 - Employment with criminal justice agency-P.O.S.T. certified (Purpose Code 'Z')
-

Notary Signature & Stamp

Date



COGENT  SYSTEMS
Georgia Applicant Processing Services

Acknowledgement

I authorize Cogent Systems, Inc. to conduct a fingerprint based criminal history record check of me.

I understand that Cogent Systems, Inc. will send my fingerprints to the Georgia Crime Information Center for a search of criminal history information in its files and to the Federal Bureau of Investigation for a search of its files when a federal record check is so authorized.

I understand that the electronic results of this fingerprint check will be received by Cogent Systems, Inc. and forwarded to the agency responsible for determining my suitability for the position for which I have applied.

I further understand that Cogent Systems, Inc. will not maintain a copy of my record and that Cogent Systems, Inc. meets all confidentiality and security requirements for handling and dissemination of state and federal criminal history record information.

By: _____

Date: _____



CITY OF ST. MARYS
418 OSBORNE STREET
ST. MARYS, GEORGIA 31558
TELEPHONE: 912-510-4027
FAX: 912-510-4012

Alcohol License Holder
City of St. Marys, Georgia

RE: Mandatory Alcohol Servers Training Program

Dear Alcohol License Holder:

On January 14, 2008, Mayor and Council for the City of St. Marys approved a mandatory training program for *all owners, managers and employees serving alcohol*. This program is offered through two mediums. The first is an online "Responsible Alcohol Sales and Server Training" (RASS) program that is currently free of charge to license holders and their staff through Mother Against Drunk Driving Georgia (MADD) at <http://eeando.unl.edu/rbst/ga>. The second medium is an Alcohol Sales Training class presented by the Camden Children's Alliance & Resources, Inc. (CCAR) located at 102 Martha Drive, St. Marys at a cost of \$40.00 for materials. Please contact CCAR for the scheduled classes by calling 912-882-7295.

When training is completed, a certificate or card will be issued, which will be required when making application for a servers permit at the St. Marys Police Department. A copy of the brochure is attached for your review.

If you should have any questions, please do not hesitate to contact me at 912-510-4039 or 912-510-4019.

Sincerely,

Darlene M. Roellig
City Clerk

cc: Celenda Perry
St. Marys Police Department
Bilal Muhammed

DMR/rg

Enclosure (1)

City Clerk

Voice: (912) 510-4039 Fax (912) 510-4013 E-mail: darlene.roellig@ci.st-marys.ga.us

Alcohol Seller & Server Training

Free, easily accessible training for owners of establishments, sellers and servers of alcohol. The online program promotes a greater awareness of the laws and responsibilities that accompany liquor license holders and employees. Be a pioneer in this initiative—be proactive and obtain certification now!



Owners of establishments can set up accounts for employees to receive free, on-line training!

**Camden Community
Alliance & Resources, Inc.**



Alcohol Seller & Server Training: A Great Idea

Support Responsible Retail



Information Provided by
**Camden Community
Alliance & Resources, Inc.**

912.882.7295
www.camdenfamilies.org

Alcohol Seller & Server Training: A Great Idea

Alcohol seller and server training is quickly becoming mandatory across the United States. Georgia is one of only twenty-one states remaining that does not require seller and server training for those who own or work in an establishment in which alcohol is sold. This fast fact sheet has been created to help Camden County, Georgia liquor license holders become state pioneers of this effort by participating in free, on-line training. Here are some great FAQ's to help expedite the training process:

How do I access training?

Take advantage of the RASS (Responsible Alcohol Sales and Server Training) Program currently being offered through Georgia Tech. As of the date of this publication, the training is free of charge to anyone who owns or works for an establishment licensed to sell alcohol in Georgia. Training is available on the web, 24/7, so owners and employees can complete the program with ease. Visit <http://eeando.unl.edu/rbst/ga> or contact Camden Children's Alliance & Resources, Inc. for more information.

Why should I participate?

Initiatives are underway to add Georgia to the list of states that mandate this training. Besides the educational benefit of providing owners and employees with information on the law, improving awareness skills in recognizing fake identification and knowing when to say when to a patron, there is potential for future insurance benefits. Further, by participating in this Program, owners are sending an excellent message to the community about commitment to responsibility.

What do I need to begin? How long will this take?

The estimated time to complete the training is approximately two hours. To begin, an owner needs only the Georgia liquor license number and an internet connection. From there, owners can set up accounts for employees to complete the program. This allows for easy tracking of employees participation.



Licensees can set up accounts for employees so everyone can benefit from this FREE training!

FAST FACTS

- Current data supports that countywide, Camden County has an alarmingly high failure rate for alcohol compliancy checks.
- 2006 PRIDE Surveys indicated that 66% of 11th graders and 48% of 8th graders reported that alcohol was fairly easy for them to obtain in Camden County.
- In 2005, underage drinking cost the citizens of Georgia \$1.5 billion in damages including medical care, work loss and pain and suffering.
- Each year in the U.S., approximately 5,000 young people under the age of 21 die as a result of underage drinking; this includes about 1,900 deaths from motor vehicle crashes, 1,600 as a result of homicides, 300 from suicide, as well as hundreds from other injuries such as falls, burns, and drowning.

Visit

<http://eeando.unl.edu/rbst/ga>

for more information or call:

*Camden Children's
Alliance & Resources, Inc.*

912.882.7295

www.camdenfamilies.org

RASS

Responsible Alcohol Sales and Server Training



Responsible Alcohol Sales and Server (**RASS**) training is an interactive, web-based training program available free of charge to anyone who owns or works for an establishment licensed to sell alcohol in the state of Georgia. The training is an excellent tool for restaurants, bars and stores to offer managers and employees.

The training is designed to:

- Familiarize owners and employees of alcohol-licensed establishments with state liquor laws. The training specifically addresses the Georgia Dram Shop Law – the state law that prohibits businesses from selling alcohol to minors or to intoxicated persons; and
- Increase the skills, knowledge and awareness of individuals engaged in the sale and/or service of alcohol, including helping alcohol servers learn how to recognize fake driver's licenses and IDs, how to tell whether bar patrons have had too much to drink and how to stop serving disorderly, intoxicated customers.

RASS is available on-line seven days a week, 24 hours a day. It is convenient and easily accessible from any computer.

The following is required to begin the training:

- A computer with an internet connection; and
- A liquor license number issued by the State of Georgia. [Owners and managers can set up accounts for themselves and their employees based on an establishment's liquor license number.]

Estimated completion time for the training program is two (2) hours, and the training can be completed in increments.

A record of every person who completes and passes the training is stored electronically and after successfully completing the course and quizzes a certificate of completion can be accessed and printed. The training is transferable from one place of employment to another.

To access the **RASS** training login page, [click here](#).

How to get started using RASS Training:

1. From any computer with an internet connection, type the following address into your web browser:

<http://eeando.unl.edu/rbst/ga>

2. You'll see the welcome screen. On the bottom left side, click "Computer Set-Up" to ensure that you have the correct software to run the program. Any software that is missing from your computer can be downloaded from this page. When finished, you can close this window.

3. Then you'll need to set up the training program for your employees. Click on the box marked "For Managers." If you are creating an account for the first time, type in your **state of Georgia Liquor License number**. Then you will establish a username and password.

4. As a manager, you can give every employee a username and a password to participate in the training. Once you enter these into the program, those employees have complete access to the modules. You can also track their progress.

5. You can also customize the training to reflect your own management policies. Simply fill out the manager policy questionnaire. Your responses will automatically appear in the training modules taken by your employees. Examples of individual policies are also provided.

6. You can now distribute the account usernames and passwords to your employees. Employees can enter the program using the same web address as above, clicking on the "For Employees" panel.

R.A.S.S.

(Responsible Alcohol Seller Server) Training

Why should I use RASS training?

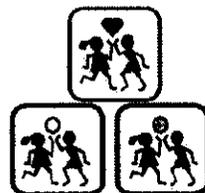
Take advantage of this training currently being offered through Georgia Tech. As of the date of this publication, **the training is FREE of charge to anyone who owns or works for an establishment licensed to sell alcohol in Georgia.** Training is available on the web, 24/7, so owners and employees can complete the program with ease.

<http://eeando.unl.edu/rbst/ga>

or contact Camden Children's Alliance & Resources, Inc. at (912) 882-7295 for more information.

What other details do I need to know?

The estimated time to complete **the training is approximately two hours.** To begin, an owner *needs only the Georgia liquor license number and an internet connection.* From there, owners can set up accounts for employees to complete the program. This allows for easy tracking of employees participation.



Camden Children's Alliance & Resources,
Inc.
102 Martha Drive
PO Box 5087
St. Marys, GA 31558
(912) 882-7295

Chapter 10

ALCOHOLIC BEVERAGES

***Editor's note:** Section 1 of an ordinance adopted May 13, 2002, repealed former ch. 10 in its entirety; § 2 of said ordinance enacted new provisions as ch. 10 as herein set out. Former ch. 10, §§ 10-1--10-43, 10-46, pertained to similar subject matter and derived from ordinances of March 23, 1998, § 2; and Dec. 11, 1989, §§ 1--6.

Charter references: Excise tax on alcoholic beverages, § 5-105.

Cross references: Buildings and building regulations, ch. 18; business, ch. 22; courts, ch. 38; offenses and miscellaneous provisions, ch. 70; public intoxication, § 70-5; taxation, ch. 90; zoning, ch. 110.

State law references: Use of proceeds of alcoholic 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; furnishing alcoholic beverages to persons under 21 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.

Article I. In General

Sec. 10-1. Sale within corporate limits of the city.

Sec. 10-2. Definitions.

Sec. 10-3. Penalties for violation of chapter.

Sec. 10-4. Sale or possession for sale without license or beyond boundaries of premises covered by license.

Sec. 10-5. Distance requirements.

Sec. 10-6. Separate application and separate license for each location of sale.

Sec. 10-7. Application forms.

Sec. 10-7.1 Documented nonprofit/not-for-profit temporary application forms.

Sec. 10-8. Advertisement, public hearing and method of granting licenses.

Sec. 10-9. Withdrawal, amendment and rejection of application.

Sec. 10-10. Licensing qualifications.

Sec. 10-11. License fee scale.

Sec. 10-12. Fees enumerated.

Sec. 10-13. Collection of fees or tax sums due.

Sec. 10-14. Transferability of license.

Sec. 10-15. Display of license at place of business.

Sec. 10-16. Expiration; renewal of license.

Sec. 10-17. Automatic forfeiture and cancellation for nonuse.

Sec. 10-18. Denials, suspension or revocation of license.

Sec. 10-19. Hearings.

Sec. 10-20. Notice.

Sec. 10-21. Reserved.

Sec. 10-22. Audits of licensees.

Sec. 10-23. Retailer to purchase from licensed wholesaler only.

Sec. 10-24. Retail consumption dealers to store inventory only on premises.

Sec. 10-25. Addition to contents of alcoholic beverages prohibited.

Sec. 10-26. Subterfuge prohibited.

Sec. 10-27. Employment of underage persons prohibited; exceptions.

Sec. 10-28. Failure to require and properly check identification.

Sec. 10-29. Sales to underage person prohibited.

Sec. 10-30. Purchase or possession of alcoholic beverages by underage persons.

Sec. 10-31. Registration and regulations as to employees and manager.

Sec. 10-32. Open areas and patio sales.

Sec. 10-33. No consumption outside premises.

Sec. 10-34. Specifications of premises.

Sec. 10-35. Solicitation prohibited.

Sec. 10-36. Inspection of licensed establishments by the police department.

Sec. 10-37. Establishment can be closed in cases of emergency.

Sec. 10-38. Sale on election days.

Sec. 10-39. Brownbagging prohibited.

Sec. 10-40. Hours of sale.
Sec. 10-41. Knowledge of chapter.
Sec. 10-42. Investigative and administrative costs.
Sec. 10-43. Levy and amount of excise tax; rate of tax, manner of imposition.
Secs. 10-44, 10-45. Reserved.

Article II. Open Containers

Sec. 10-46. Title.
Sec. 10-47. Definitions.
Sec. 10-48. Operation of motor vehicle.
Sec. 10-49. Occupancy of motor vehicle.
Sec. 10-50. Possession of open container in or on public place.
Sec. 10-51. Exceptions

ARTICLE I. IN GENERAL

Sec. 10-1. Sale within corporate limits of the city.

(a) Alcoholic beverages may be sold in the city under a license granted by the city council upon the terms and conditions provided herein.

(b) All licenses pursuant to this chapter shall have printed on the front these words: "This license is subject to suspension and/or revocation, and is subject to any further ordinance which may be enacted."

(c) Any holder of a license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, city licensees are required to abide by all applicable local ordinances and state laws and regulations.

(Ord. of 5-13-02, § 2)

Sec. 10-2. Definitions.

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

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

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.

Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than six percent alcohol by volume, including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic beer", which is made by fermentation of an infusion or decoction of barley, malt, hops, or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

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

Dwelling means a building or portion thereof that provides living facilities for person, persons or families, including single family and other multiple family dwellings, but not including hotels or motels.

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health department and city building official. An eating establishment shall be prepared to serve food every hour within which such establishment is open to the public, shall derive at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of alcoholic beverages, and shall have a seating capacity of at least 25 people. Such establishment shall also have employed therein a sufficient number of employees to prepare, cook and serve suitable food for its guests with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto.

Fortified wine means 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.

Governing authority means the city council.

Hotel means any hotel, inn, or other establishment which offers overnight accommodations to the public for hire.

In-room service means; (a) the delivery of alcoholic beverages in unbroken packages by an employee of the hotel to a registered guest's room or to a registered guest at any other location in the same building as the hotel when such alcoholic beverages have been ordered by the guest and when the guest shall be billed for the cost of such alcoholic beverages at the time of delivery and when the sale of such alcoholic beverages is completed at the time of delivery; and (b) the provision of a cabinet or other facility located in a hotel's guest room which contains alcoholic beverages and which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of the alcoholic beverages contained therein is deemed to be final at the time requested except for a credit which may be given to the guest for any unused portion.

License means an authorization granted by the city to operate as a retail consumption dealer, retail package dealer or wholesale dealer.

Licensee means the individual to whom a license is issued or, in the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation.

Liter means metric measurement currently used by the United States.

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. Manufacturer also means, in the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; in the case of malt beverage, any brewer.

Nonprofit/not-for-profit organizations are institutions that conduct their affairs for the purpose of assisting other individuals, groups, or causes rather than garnering profits for themselves. Nonprofit groups have no shareholders; do not distribute profits in a way that benefits members, directors, or other individuals in their private capacity; and often receive exemption from various taxes in recognition of their contributions to bettering the general social fabric of the community.

Package means a bottle, can, keg, barrel, or other original consumer container. Retail package alcoholic beverages shall include all alcoholic beverages in their original container, sold at retail to the final consumer, and not for resale.

Person means any individual, firm, partnership, limited 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, body politic, or political subdivision, whether public, private, or quasi-public.

Premises means the definite closed or partitioned establishment, whether room, shop or building wherein alcoholic beverages are sold or consumed. Premises shall also include the sidewalk serving area of sidewalk cafes permitted under section 10-33 and an outside, open air or patio-type serving area on the private property of an establishment. Such outside, open air or patio-type serving area must meet all planning and zoning commission requirements and adjoin or be connected to the main service building in such a manner as to prevent the movement of pedestrians or vehicular traffic between the outside serving area and the main service building.

Private club means:

- (1) A nonprofit corporation organized under the laws of the State of Georgia which:
 - a. Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this chapter;
 - b. Has at least 75 regular dues-paying members;
 - c. Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:
 1. Has suitable kitchen and dining room space and equipment; and
 2. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
 - d. Has no member, officer, agent, or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.
- (2) "Fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include any commission on any profits from the sale of alcoholic beverages.
- (3) Private clubs shall only serve to bona fide members and bona fide guests of members.

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

Retail package dealer means any person who sells unbroken packages, at retail, only to consumers and not for resale.

Wholesaler or wholesale dealer means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

Wine means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine

includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

(Ord. of 5-13-02, § 2; Ord. of 12-13-04, § 1; Ord. of 6-9-08(1), § 1)

Sec. 10-3. Penalties for violation of chapter.

Any person who violates any provision of this chapter may, upon conviction, be punished by a fine of up to \$500.00 or imprisonment for not more than six months, or both.

(Ord. of 5-13-02, § 2)

Sec. 10-4. Sale or possession for sale without license or beyond boundaries of premises covered by license.

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage where the person does not have a license granted by the city to sell or possess for sale these alcoholic beverages, or to sell or make deliveries beyond the boundaries of the premises covered by the license.

(Ord. of 5-13-02, § 2)

Sec. 10-5. Distance requirements.

(a) No person knowingly and intentionally may sell or offer to sell and no license shall be issued for retail sale of alcoholic beverages in package form except as provided by the Georgia Alcoholic Beverage Code (O.C.G.A. § 3-1-2 et seq.) and the regulations of the state department of revenue adopted thereunder.

(b) (1) No person knowingly and intentionally may sell or offer to sell and no license shall be issued for retail sale of alcoholic beverages for sale for consumption on the premises:

a. Any distilled spirits as defined in the Georgia Alcoholic Beverage Code (O.C.G.A. § 3-1-2) in or within 600 feet of any church building or within 600 feet of any school building, educational building, school ground, or college campus;

b. Any wine or malt beverages within 600 feet of any school building, school grounds, or college campus;

c. Any distilled spirits, wine, or malt beverages within 900 feet of an alcoholic treatment center owned and operated by the state, county, or city. This subsection c., shall not apply to any business having a license in effect on July 1, 1981;

d. Any alcoholic beverages for consumption on the premises within 600 feet of any housing authority property as defined in O.C.G.A. § 3-3-21(e)(1).

(2) Unless otherwise provided by law, all measurements to determine distances as required herein for the issuance of a license shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- a. From the nearest portion or part of the structure from which beverage alcohol is sold or offered for sale.
- b. In a straight line to the nearest public sidewalk, walkway, street, road or highway.
- c. Along such public sidewalk, walkway, street, road or highway by the nearest route.
- d. To the front door of the nearest church, school building or educational building, or to the nearest portion of the school grounds, whichever is applicable to the appropriate section.

(3) The term "school building" or "educational building" shall not include dwellings or other structures within which "home schools" are conducted or operated by parents and guardians for children residing in that home.

(4) As used in this section, the term "college campus" shall apply only to the educational buildings of such state, county, city, church or other colleges as teach the subjects commonly taught in the common colleges of this state and shall not include private colleges where only specialized subjects such as stenography, business, music, art, vocational occupations and other special subjects are taught and shall not apply to college grounds, stadiums or recreational areas.

(c) Except C1 Central Business District eating establishments which for said eating establishment parameters are defined in subsection (h) below, nothing contained in this section shall prohibit the licensing of the sale of alcoholic beverages within any authorized zoning district by:

(1) Hotels of 50 rooms or more which have been in continuous operation for a period of a least five years preceding January 1, 1997.

(2) Hotels of less than 50 rooms for the retail sale of alcoholic beverages solely to occupants of the hotel and their guests by the drink for consumption only on the premises.

(3) An eating establishment, as that term is defined above, that sells alcoholic beverages as a part of the meal or to restaurant patrons waiting for a table to be served a meal in a public place, licensed as a restaurant, and kept, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served; provided further, however, that no new license shall be issued to such eating establishments which lie or are situated within 150 feet of any church building, school building, educational building, school ground, or college campus.

(d) No new alcoholic beverage license for on-premises consumption for establishments other than eating establishments shall be issued for a location which lies within 600 feet of an existing establishment holding an alcohol beverage license for on-premises consumption. For the purposes of this provision, the distance prescribed herein shall be measured from the front entrance of the existing licensed establishment to the front entrance of the proposed location along the nearest practical street route.

(e) No new alcoholic beverage license for off-premises or on-premises consumption shall be issued for establishment or location which lies or is situated within 100 feet of any dwelling located on or within property established or zoned as R-1, R-2, R-3, R-4, R-5 or MH under the zoning ordinance for the city. Such distance shall be measured in a straight line from the nearest exterior wall of the dwelling to the

nearest exterior wall of the building wherein the establishment to be licensed is located or is to be located.

(f) No location which is licensed to sell alcoholic beverages on the effective date of the ordinance from which this section derives shall be denied continued operation under an existing license, or denied any renewal of such license, nor shall any new owner of the location be denied a new license based upon the measurements set forth in this section.

(g) As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

(h) Nothing contained in this section shall prohibit the licensing of the sale of alcoholic beverages within the C1 Central Business District by:

(1) An eating establishment that sells alcoholic beverages as a part of the meal, licensed and held out to the public as a place where meals are served and where meals are actually and regularly served; provided further, however that no new license shall be issued to such eating establishments which lie or are situated within 100 feet of any church building, school building, educational building, school ground, college campus or public housing.

(2) A new alcoholic beverage license for an eating establishment as defined in subsection (1) above, for on premise consumption may be issued a maximum of one alcoholic beverage license per C1 Central Business District lot. The distance requirements as outlined in subsections (d) and (e) shall not apply.

(Ord. of 5-13-02, § 2; Ord. of 5-12-03, § 2; Ord. of 6-11-07(2), §§ 1, 2; Ord. of 6-9-08(1), §§ 2, 3)

Sec. 10-6. Separate application and separate license for each location of sale.

Separate applications must be made for each location and separate licenses must be issued.

(Ord. of 5-13-02, § 2)

Sec. 10-7. Application forms.

(a) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the city council.

(b) The application shall include, but shall not be limited to, the following:

(1) Full and complete name and address of the applicant;

(2) Social Security number or tax I.D. number of the applicant;

(3) The exact name of the business to be located at the licensed location;

(4) Complete and accurate street address and identification of the premises or location to be licensed;

(5) If applicant is a general or limited partnership, the complete names, Social Security numbers, and residence addresses of all partners, whether general, managing, or limited;

(6) If a corporation, the names, addresses, and titles of all officers, shareholders, directors, and registered agent for service of process;

(7) The names, Social Security numbers, and residence addresses of all on-site managers for the establishment to be licensed;

(8) The names, Social Security numbers, and residence addresses of all other persons who have or may have a financial interest in the operation and business of the establishment to be licensed;

(9) Complete and full disclosure of any prior criminal convictions, alcohol license suspensions or revocations, and other administrative sanctions imposed upon applicant, its principles, and manager(s) in relation to alcoholic beverage licensure by any governmental entity.

(c) All applicants shall furnish such data, fingerprints, and other documentation or records as required by the city council to ensure compliance with the provisions of this chapter. Failure to furnish information or documentation pursuant to such request shall automatically serve to dismiss the application with prejudice.

(d) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

(e) All applications shall be accompanied by a plat of survey prepared, signed and sealed by a registered land surveyor depicting or showing the proximity of the location to be licensed to:

(1) Churches;

(2) School buildings, educational buildings, and school grounds as defined in subsection 10-5(b)(3) of this article;

(3) Housing authority properties;

(4) Existing establishments holding or possessing an alcoholic beverage license;

(5) Any dwelling lying within 75 feet, such distance to be measured in a straight line from the nearest exterior wall of the building wherein the establishment is to be licensed is located or to be located and the nearest exterior wall of such dwelling;

(6) College campus or property employed as a college campus as defined in subsection 10-5(b)(4) of this article;

(7) Accurate street address or legal description of the property upon which the establishment is to be located.

(f) In all instances in which an application is denied under the provision of subthis chapter the applicant may not reapply for a license for at least 90 days from the final date of such denial.

(g) The city clerk shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.

(h) All applications shall be accompanied by a letter of clearance from the Clerk of the Camden Superior Court certifying that the applicant does not have any pending criminal charges and that applicant has no convictions from that court for the past ten years.

(Ord. of 5-13-02, § 2; Ord. of 6-9-08(1), §§ 4, 5)

Sec. 10-7.1 Documented nonprofit/not-for-profit temporary application forms.

(a) All persons desiring to sell alcoholic beverages, as defined in section 10-2 of this Code, shall make application on the form prescribed by the city council.

(b) The application shall include, but shall not be limited to, the following:

- (1) Full and complete name and address of the applicant;
- (2) Social Security number or tax I.D. number of the applicant;
- (3) The exact name of the business to be located at the licensed location;
- (4) Complete and accurate street address and identification of the premises or location to be licensed;
- (5) If applicant is a general or limited partnership, the complete names, Social Security numbers, and residence addresses of all partners, whether general, managing, or limited;
- (6) If a corporation, the names, addresses, and titles of all officers, shareholders, directors, and registered agent for service of process;
- (7) The names, Social Security numbers, and residence addresses of all on-site managers for the establishment to be licensed;
- (8) The names, Social Security numbers, and residence addresses of all other persons who have or may have a financial interest in the operation and business of the establishment to be licensed;
- (9) Complete and full disclosure of any prior criminal convictions, alcohol license suspensions or revocations, and other administrative sanctions imposed upon applicant, its principles, and manager(s) in relation to alcoholic beverage licensure by any governmental entity.

(c) All applicants shall furnish such data, and other documentation or records as required by the city council to ensure compliance with the provisions of this chapter. Failure to furnish information or documentation pursuant to such request shall automatically serve to dismiss the application with prejudice.

(d) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

(e) The city clerk shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.

(f) All applications shall be accompanied by a letter of clearance from the Clerk of the Camden Superior Court, certifying that the applicant does not have any pending criminal charges and that applicant has no convictions from that court for the past ten years.

(g) All applicants shall complete a criminal history record information consent form provided by the city clerk, and shall be sworn to by the applicant before a notary public or officer empowered by law to administer oaths.

(Ord. of 6-9-08(1), § 6)

Sec. 10-8. Advertisement, public hearing and method of granting licenses.

(a) *Advertising of license applications.* The council shall conduct, prior to the granting of a new license, a public hearing on the fitness and qualifications of the license applicant. Notice of the time and date of such public hearing shall be published in the official legal organ of the county at least two times during the two weeks immediately preceding the date of the public hearing.

(b) *Method of granting license* The city council at a regularly scheduled meeting shall consider the license application and/or application for license transfer and shall determine whether the applicant meets the requirements of this chapter. Council may, in its discretion, entertain or grant a license application at the meeting wherein the public hearing is held. Council shall either grant or deny such application within 90 days of the date of the receipt of a proper and complete license application by the city council.

(Ord. of 5-13-02, § 2)

Sec. 10-9. Withdrawal, amendment and rejection of application.

(a) Any license application may be withdrawn by the applicant at any time. If the application is withdrawn before advertising pursuant to subsection 10-8(a), all sums deposited as license fees will be refunded. Thereafter, any costs incurred by the city in advertising and otherwise processing the application shall be deducted from any sums to be refunded to the applicant.

(b) All license applications must be complete and accurate at the time of filing with the city clerk. Once filed, license applications may not be amended or revised. Upon the applicant's written request, an application requiring amendment or revision may be withdrawn, corrected, revised, or amended, and then re-filed. An additional \$100.00 fee must be paid at the time of the re-filing of a revised, corrected, or amended application.

(c) Applications which are incomplete or inaccurate with regard to any material matter or information, or which are filed with accompanying documents, data or information required in this chapter, may be rejected by city council at any stage of the license approval process and any costs incurred by the city in processing such incomplete, rejected application shall be deducted from license fees refundable to applicant.

(Ord. of 5-13-02, § 2)

Sec. 10-10. Licensing qualifications.

(a) No license for sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) Where the applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. Where the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its agent registered under the provisions of this chapter. In the case of a partnership or limited partnership, the license will be issued

to all the partners owning at least 20 percent of the partnership; or if no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership will be licensed.

(c) No person shall be granted any alcoholic beverage license or registration certificate if it shall appear to the satisfaction of the city clerk that any of the grounds for denial of a license exists as the same are set forth in section 10-18 of this chapter.

(d) It shall be unlawful for any city employee directly involved in the issuance of alcoholic beverage licenses under this chapter to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the city.

(e) No license for the sale of alcoholic beverages shall be granted to any person who has had any license for the sale of alcoholic beverages revoked, for reasons other than location requirements, revoked or suspended, by any governmental entity during a period of 24 months immediately preceding the date of the filing of a license application with the city clerk.

(f) The city council may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensees.

(g) If applicant is not a city resident, all licensed establishments must designate and continuously maintain a resident of Camden County upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licenses or owner may be served. The applicant shall file the name of such representative, along with the written consent of such person, if different from applicant, with the city clerk and shall be in such form as the city clerk may prescribe.

(h) A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(i) For purposes of this chapter, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which a defendant who was allowed to avail themselves of the Georgia First Offender Act (1968 Ga. Laws, page 324), as amended. Except, however, that any such offense shall not be ignored where the defendant has violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

(Ord. of 5-13-02, § 2)

Sec. 10-11. License fee scale.

Before a license shall be granted, the applicant shall comply with all rules and regulations adopted by the city council regulating the sale of alcoholic beverages and each applicant shall pay a license fee as set forth below.

(Ord. of 5-13-02, § 2)

Sec. 10-12. Fees enumerated.

License fees applicable to this chapter are set out as follows:

- (1) Retail dealers of distilled spirits to be consumed on the premises, per approved fee schedule, for first fixed bar;
- (2) Retail dealers of beer, wine and malt beverages to be consumed on the premises, per approved fee schedule;
- (3) Retail dealers of beer, wine and malt beverages sold in original packages for consumption off the premises, per approved fee schedule;
- (4) Retail dealers of distilled spirits to be consumed off the premises, per approved fee schedule;
- (5) Wholesale dealers in wine, whose principal place of business is in the city, per approved fee schedule;
- (6) Wholesale dealers in beer and wine, whose principal place of business is in the city, per approved fee schedule;
- (7) Any additional fixed bar at any previously licensed location for consumption of distilled spirits on the premises, per approved fee schedule;
- (8) Any movable bar at any previously licensed location for consumption of distilled spirits on the premises, per approved fee schedule; provided further, however, that such license fee shall not apply or be required for hotels and banquet rooms maintained and operated by licensed establishments;
- (9) Temporary license for nonprofit civic organizations, per approved fee schedule, up to a maximum of two days per year;
- (10) Nonprofit private club distilled spirits, beer wine and malt beverages to be consumed on the premises, per approved fee schedule;
- (11) Hotel/motel and bed and breakfast registered guests for only in-room service: per approved fee schedule for establishments having 25 rooms or less; per approved fee schedule for establishments having more than 25 rooms;
- (12) Wholesale dealers in distilled spirits whose principal place of business is in the city, per approved fee schedule.

(Ord. of 5-13-02, § 2; Ord. of 6-9-08(1), § 7)

Sec. 10-13. Collection of fees or tax sums due.

If any person shall fail to pay the sum due under this chapter, the city clerk or his or her designee shall issue an execution against the person so delinquent and his property, for the amount of the delinquent fee or tax.

(Ord. of 5-13-02, § 2)

Sec. 10-14. Transferability of license.

(a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.

(b) In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death or until expiration of the license or until approval of a new license, whichever shall first occur, provided that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the city clerk.

(c) If a license is surrendered or a licensee severs his association with a licensed establishment, the establishment may not continue to sell alcoholic beverages and no sale of alcohol beverages shall resume unless and until a new license is issued.

(d) Nothing in this section, however, shall prohibit one or more of the partners of a general or limited partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporation at the time of issuance of the license nor shall it prohibit transfers of stock which do not result in any person increasing his stock holdings to a total of ten percent or more of any class of stock.

(e) Except as provided in subsections (a) through (d) of this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license pursuant to this chapter automatically, without the necessity of any hearing.

(f) Violation of this section shall result in revocation of the license being used and a fine on the new ownership and the old ownership of not less than \$550.00. No license will be issued to the old or the new owner in the city for one year from the date of such violation.

(g) Application for transfer must be made by the licensee holding the license to be transferred. Should a licensee make application to the city clerk for a transfer of location and should such a transfer of a location be approved, with no change in ownership of the business, the license fee paid for the previous license shall be applied to the new location. Each applicant for transfer of location shall pay transfer fee in the amount of \$165.00.

(h) All applications changing the manager shall be accompanied by a letter of clearance from the Clerk of the Camden Superior Court, certifying that the new manager does not have any pending criminal charges and that manager has no convictions from the court for the past ten years.

(Ord. of 5-13-02, § 2; Ord. of 6-9-08(1), § 8)

Sec. 10-15. Display of license at place of business.

The city alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee.

(Ord. of 5-13-02, § 2)

Sec. 10-16. Expiration; renewal of license.

(a) All licenses granted under this chapter shall expire on December 31 of each year. Licensees who desire to renew their license shall file applications, with the requisite fee enumerated in section 10-11, with the city clerk on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed on or before November 30 of each year. Applicants for renewal application received after November 30 shall pay in addition to the annual fee, a late charge of 20 percent of the

license fee. If a license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs will be assessed.

(b) All licenses granted under this chapter shall be for the calendar year, and the full license fee must be paid for a license application filed prior to July 1 of the license year. One-half of a full license fee shall be paid for a license application filed after July 1 of the license year except for applications for temporary licenses under section 10-17, which shall not be halved.

(c) Any person renewing any license issued under this chapter who shall pay the required fee, or any portion thereof, after January 1, shall, in addition to the annual fee and late charges, pay interest on the delinquent balance at a rate of one percent per month.

(d) All eating establishments must provide an annual report of daily sales showing liquor, beer, wine and food sales separately when renewing any license under this chapter to the city clerk.

(Ord. of 5-13-02; § 2; Ord. of 6-9-08(1), § 9)

Sec. 10-17. Automatic forfeiture and cancellation for nonuse.

(a) All applicants for licenses hereunder must, within six months after approval and issuance of said license, open for business the establishment referred to in the license and begin the sale of the product or products authorized by the license. Failure to open such establishment within such six-month period shall result in an automatic forfeiture and cancellation of such unused license with no refund of the license fees previously paid, except extended by council.

(b) Unless an extension is granted by the city council for good cause shown, the failure of any licensee to operate the licensed establishment for a period of 90 consecutive days after commencing business and the exercise of the license granted hereunder shall result in the automatic forfeiture and cancellation of such license with no refund of license fees previously paid.

(Ord. of 5-13-02, § 2; Ord. of 6-9-08(1), § 10)

Sec. 10-18. Denials, suspension or revocation of license.

The council may deny, suspend, revoke or refuse to renew any alcoholic beverage license for one or more of the following reasons:

(1) The violation by the applicant, licensee or licensee's employees of any state or federal law or regulation or any provision of this Code or other municipal ordinance, at any time adopted, relating to the sale, use, possession or distribution of drugs or alcoholic beverages.

(2) The failure of the licensee or his employees to report promptly to the police department any violation of law or municipal ordinances, including but not limited to the sale of alcoholic beverages to underage persons, breach of peace, disturbance or altercation occurring in or adjacent to the licensee's premises.

(3) The conviction, plea of guilty or nolo contendere of the applicant or its partners, or officers or directors, if not a natural person, to any crime involving moral turpitude, illegal gambling, illegal possession or sale of alcoholic beverages, including sale or transfer of alcoholic beverages to minors, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy or any sexually related crime within a period of ten years immediately prior to the filing of such application.

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

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

(6) The revocation by the state of any state license to sell any alcoholic beverage shall result in the automatic revocation of the license issued under this chapter without any action by the council or any city officer or employee. Upon revocation or suspension of a license by the state, such license holder(s) shall report said revocation or suspension to the city clerk.

(7) All licenses issued under this chapter shall be subject to the rules and regulations set forth in the Georgia Alcoholic Beverage Code, as now or hereafter amended, and those regulations prescribed by the state department of revenue; and violation of these statutes and regulations shall be violations of this Code.

(8) The violation by and conviction of the applicant under the city's noise ordinance or adult entertainment ordinance.

(9) An act or omission of a licensee, owner of more than 20 percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or any provision of this chapter will subject the licensee to suspension or revocation of its license in accordance with the provisions of this chapter, when the city clerk determines to his or her own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues; provided, however, in the case of any employee, the city clerk must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.

(10) Whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the city, the city clerk, at his or her discretion, shall revoke the license of such licensee.

(11) The council shall not revoke, suspend or refuse to renew any license provided for in this chapter without notice and an opportunity for a hearing as provided for herein.

(12) Any licensed establishment where three or more violation of this chapter or violation of the Georgia Alcoholic Beverage Laws and Regulations, have occurred within any 36-month period shall be punished as follows:

a. For the third offense within any 36-month period, suspension of license(s) for a period not to exceed 90 days; and

b. For the fourth and any subsequent violation within any 36-month period, suspension of license(s) for a period not to exceed one year; and

c. In any event, no suspension shall be for a period of time longer than the time remaining under the license.

As to the penalties as set forth above, if there is a change in a majority of the licensed establishment's owners, partners or shareholders, the violations under the prior ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violation of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

(13) Wherever this chapter permits the city to suspend any license issued under this chapter, the council, in its discretion, may determine the period of suspension within the following guidelines.

a. No suspension shall be for a period of time longer than the time remaining on such license; and

b. The following factors shall be considered on any revocation or suspension as set out above:

1. Consistency of penalties mandated by this chapter and those set by the city clerk.
2. Likelihood of deterring future wrongdoing.
3. Impact of the offense on the community.
4. Any mitigating circumstances or remedial or corrective steps taken by licensee.
5. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.
6. The cumulative number of prior violations of federal, state or local laws, ordinances and any provisions of this Code since the original license was issued.
7. Whether such violation was committed by any employee of the licensee and whether such employee has been terminated permanently from licensee's employment.

(14) Notwithstanding any provision contained in this chapter to the contrary, the conviction, plea of guilty or nolo contendere of the applicant or its partners, officers or directors, if not a natural person, of any crime involving the sale, possession or distribution of narcotics or controlled substances as defined in the Georgia Criminal Code, or any crime involving the sexual abuse, molestation, or exploitation of a minor, shall be grounds for the denial of or renewal of a license application or the suspension of a license previously granted, regardless of the period of time which has elapsed since the date of the conviction or entry of the conviction, plea of guilty or nolo contendere and the date of the filing of such application.

(15) Notwithstanding any provision contained in this chapter to the contrary, the existence or pendency of a criminal charge, whether in the form of an accusation, warrant or indictment, or pending appeal of a criminal conviction of a crime of any kind or nature stemming from or related to the management, ownership or operation by an applicant or its partners, officers or directors, if not a natural person, of another establishment licensed for the sale of alcoholic beverages in a jurisdiction other than the city shall be grounds for denial of a license application.

(Ord. of 5-13-02, § 2; Ord. of 5-12-03, § 1)

Sec. 10-19. Hearings.

(a) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section. This provision does apply to registration certificates for employees of licensed establishments.

(b) The city clerk shall provide written notice to the applicant or licensee of his or her order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or licensee of the right to appeal under the provisions of this chapter. Any applicant or licensee who is aggrieved or adversely affected by a final action of the city clerk may have a review of a final action by appeal to the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the city clerk and, in order to defray administrative costs, must accompanied by a filing fee of \$100.00; except that the filing fee for appeals relating only to pouring permits for employees shall be \$25.00. The city council may, at the request of the appellant, refund the filing fee by a majority vote.

(c) A hearing shall be conducted by the city council on each appeal within 30 days of the date of filing with the city clerk unless a continuance of such date is agreed to by the appellant and the city clerk. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, then such request must be made at least three days prior to such hearing.

(d) The findings of the city council shall be forwarded to the city clerk within 15 days after the conclusion of the hearing, and it shall be the duty of the city clerk to notify the appellant of the action of the city council.

(e) The findings of the city council shall not be set aside unless found to be:

- (1) Contrary to law or ordinances;
- (2) Unsupported by substantial evidence on the records as a whole; or
- (3) Unreasonable.

(f) The findings of the city council shall be final unless appealed within 30 days of the date of the finding by certiorari to the Camden County Superior Court.

(Ord. of 5-13-02, § 2)

Sec. 10-20. Notice.

For the purpose of this chapter, notice shall be deemed delivered when personally served by certified mail, within three days after the date of deposit in the United States mail.

(Ord. of 5-13-02, § 2)

Sec. 10-21. Reserved.

Editor's note: Section 3 of an ordinance adopted May 12, 2003, repealed former § 10-21 in its entirety, which pertained to advertising and sign location requirements and derived from section 2 of an ordinance adopted May 13, 2002.

Sec. 10-22. Audits of licensees.

(a) If the city clerk deems it necessary to conduct an audit of the records and books of the licensee, he or she shall notify the licensee of the date, time and place of the audit. The city clerk may designate the city's internal auditor or other qualified person to perform any audit authorized in this Code. The licensee shall cooperate with the audit or forfeit any license(s) issued under this chapter.

(b) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises:

(1) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).

(2) Daily cash register receipts such as "Z tapes" or guest tickets.

(Ord. of 5-13-02, § 2)

Sec. 10-23. Retailer to purchase from licensed wholesaler only.

(a) No retailer shall purchase alcoholic beverages from any person other than a wholesaler licensed under this chapter. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter; provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.

(b) The city clerk may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.

(Ord. of 5-13-02, § 2)

Sec. 10-24. Retail consumption dealers to store inventory only on premises.

No retail consumption dealer licensed under this chapter shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler.

(Ord. of 5-13-02, § 2)

Sec. 10-25. Addition to contents of alcoholic beverages prohibited.

No person shall add to or permit the adding to or refilling of any alcoholic beverage manufacturer's container in any manner.

(Ord. of 5-13-02, § 2)

Sec. 10-26. Subterfuge prohibited.

Any act, practice or conduct of or on the part of a licensee or employees or agents of a licensee which may be construed as a subterfuge in an attempt or effort to circumvent any provision of this chapter shall be deemed a violation of the provision attempted or sought to be circumvented.

(Ord. of 5-13-02, § 2)

Sec. 10-27. Employment of underage persons prohibited; exceptions.

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

(Ord. of 5-13-02, § 2)

Sec. 10-28. Failure to require and properly check identification.

It shall be a violation of this chapter not to require and properly check identification to ensure that an underage person is not sold, served, or does not have in his or her possession, alcoholic beverages while in a licensed establishment. Identification in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card.

(Ord. of 5-13-02, § 2)

Sec. 10-29. Sales to underage person prohibited.

It shall be unlawful for any holder or employee of the holder of a license authorizing the sale of alcoholic beverages to:

- (1) Sell or offer to sell any distilled spirits, wines, malt beverages, or any other alcoholic beverage to any person under the age of 21 years.
- (2) The prohibition in subsection (1) of this section shall not apply with respect to the sale of distilled spirits to a person when such person has furnished proper identification showing that the person to whom the distilled spirits are being sold is 21 years of age or older. For the purposes of this subsection proper identification means any document issued by a government agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, including but not limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to person who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.
- (3) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his employees.
- (4) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.
- (5) No person who holds a license to sell alcoholic beverages by the drink shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment or lounge unless such minors are accompanied by a parent, legal guardian, or custodian; provided, however, that such minors shall be permitted in eating establishments, as defined in this chapter without being accompanied by a parent, legal

guardian, or custodian and provided further that this section shall not apply to minors who are employees under the terms of this chapter.

(6) Any licensed establishment where three or more violations of this chapter or violation of the Georgia Alcoholic Beverage Laws and Regulations, have occurred within any 36-month period shall be punished as follows:

- a. For the third offense within in any 36-month period, suspension of license(s) for a period not to exceed 90 days; and
- b. For the fourth and any subsequent violation within any 36-month period, suspension of license(s) for a period not to exceed one year.

As to the penalties in subsection (6), if there is a change in a majority of the licensed establishment's owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

(Ord. of 5-13-02, § 2)

Sec. 10-30. Purchase or possession of alcoholic beverages by underage persons.

- (a) No person under the age of 21 years of age shall purchase or possess any alcoholic beverage.
- (b) No person under the age of 21 years of age shall attempt to purchase any alcoholic beverage or misrepresent his or her age in any manner whatever for the purpose of obtaining alcoholic beverages.

(Ord. of 5-13-02, § 2)

Sec. 10-31. Registration and regulations as to employees and manager.

The following regulation shall apply to all establishments holding a license for consumption of alcoholic beverages on/off the premises:

(1) No person shall be employed to dispense, sell, serve, take orders, or mix alcoholic beverages, or serve in any managerial capacity by an establishment holding a license under this chapter unless and until such person has obtained or holds a registration certificate issued by the chief of the city police department.

(2) All persons desiring a registration certificate shall make application in a form prescribed by the city council. The application shall be accompanied by an administrative fee of \$5.00, and a copy of the "responsible alcohol sales and server training program" completion certificate.

- a. The application shall include, but shall not be limited to, the name, Social Security Number, date of birth, driver's license number, and prior arrest record of the applicant.

- b. The applicant shall participate in a City of St. Marys approved "responsible alcohol sales and server training program," which shall not be waived. A certificate will be awarded upon completion of the program. Instructors, trainers, or any persons associated or employed by the organization conducting the

training referenced in this subsection shall not appear before the city clerk, mayor, or council as a representative, attorney, advocate or witness for an applicant.

c. Any persons holding an out of state "responsible alcohol sales and server training program" completion certificate shall be given a grace period of six months to obtain the City of St. Marys approved "responsible alcohol sales and server training program" certificate.

(3) The chief of police or his designee may deny, suspend, revoke or refuse to renew any registration certificate upon conviction or nolo contendere plea by the holder thereof of any local, state or federal offense of selling or supplying alcoholic beverages to minors.

(4) In the event of a denial, suspension, revocation or refusal to renew a registration certificate the applicant shall be notified of such action by certified mail, return receipt requested whereupon such applicant shall have the right within 30 days of mailing of such notification to appeal such action to the city council under section 10-17 of this chapter.

(5) Such registration certificate must be in the possession of the employer by whom the permit holder is employed and must be available for inspection by officers of the police department.

(6) It shall be the duty of all alcoholic beverage licensees to file quarterly with the chief of police or his designee, a list of all employees holding such certificates.

(7) All temporary alcohol licenses approved by council shall have a designated individual who shall complete a city approved "responsible alcohol sales and service policy workshop" before being granted a temporary alcohol license. This individual will be responsible to insure responsible alcohol sales and service policy are adhered to and enforced. This individual shall also make application for a registration certificate as outlined in subsection 10-31(2).

(Ord. of 5-13-02, § 2; Ord of 1-14-07, § 1; Ord. of 6-9-08(1), § 11; Ord. of 11-24-08(2), §§ 1, 2)

Sec. 10-32. Open areas and patio sales.

(a) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the city council.

(b) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.

(c) The height of such structure shall be a minimum of three and one-half feet above ground level. It does not have to be solid, nor does it have to restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the city's building inspection department and the city's fire department, as required by their governing regulations or codes.

(d) The only exit from this type area is to be through the licensed establishment's main premises and through an approved fire exit, not for general public use unless an emergency exists. The fire exit

should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.

(e) If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the city council. Interior type patio/open sales areas must also meet the requirements of the city's building code.

(f) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel, provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. "Patio areas," as that term is used in this subsection, do not have to conform to the standards in this section.

(Ord. of 5-13-02, § 2)

Sec. 10-33. No consumption outside premises.

(a) It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption at a publicly owned or privately owned golf course.

(b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

(c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

(Ord. of 5-13-02, § 2)

Sec. 10-34. Specifications of premises.

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the city, regulations of the state revenue commissioner and the state. The proposed building shall also be subject to final inspection and approval when completed by the city building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building, or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by the customers therein.

(Ord. of 5-13-02, § 2)

Sec. 10-35. Solicitation prohibited.

No retail consumption dealers licensed under this chapter shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting his establishment or to his agent or manager to solicit for herself/himself or for the others, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage.

(Ord. of 5-13-02, § 2)

Sec. 10-36. Inspection of licensed establishments by the police department.

Certified officers of the police department shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the city during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other city officials to conduct inspections authorized by other provisions of this Code.

(Ord. of 5-13-02, § 2)

Sec. 10-37. Establishment can be closed in cases of emergency.

The chief of police, or his designee, may immediately close an establishment licensed under this chapter in case of emergency, for the safety of the public or to investigate a crime, for a period of time not to exceed 24 hours.

(Ord. of 5-13-02, § 2)

Sec. 10-38. Sale on election days.

Pursuant to the delegation of authority granted to this governing authority by Act No. 750 (House Bill No. 247) approved April 10, 1985, amending O.C.G.A. § 3-3-20(b)(2)(B), the sale of wholesale and retail of alcoholic beverages, to wit: distilled spirits, wine and malt beverages, shall be lawful during the polling hours of any election; provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

(Ord. of 5-13-02, § 2)

Sec. 10-39. Brownbagging prohibited.

Subject to the exceptions as hereinafter set forth, it shall be unlawful for a person, business, establishment, or employee thereof, which imposes, collects, or charges any admission charge, ticket charge, entertainment fee, cover charge, setup or mixer charge, or contribution and which is not licensed under this chapter for on-premises consumption to permit any container of alcoholic beverages to be possessed or consumed by any guest, patron, or customer while on such premises. It is the intent and purpose of this provision to prohibit the operation of bottle clubs and brownbagging establishments which do not obtain and hold a valid on-premises consumption license.

Such prohibition shall not, however, apply to activities or events sponsored or conducted by bona fide nonprofit civic or service organizations on an occasional basis.

(Ord. of 5-13-02, § 2)

Sec. 10-40. Hours of sale.

(a) *Off-premises consumption and package sales.* No alcoholic beverages shall be sold, offered for sale, dispensed or distributed by licensees holding package or off-premises consumption licenses between the hours of 2:00 a.m. and 6:00 a.m.

(b) *On-premises consumption* No alcoholic beverages shall be sold, offered for sale, dispensed or distributed by licensees holding on-premises consumption licenses between the hours of 2:00 a.m. and 6:00 a.m.. All customers and patrons of such licensees shall vacate the premises by 3:00 a.m.

(c) *Sunday sales* Notwithstanding any other provision of this chapter, the sale of alcoholic beverages for consumption on premises shall be permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment which derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

(Ord. of 5-13-02, § 2)

Sec. 10-41. Knowledge of chapter.

All licensees of licenses issued under this chapter shall keep a copy of this chapter on the licensed premises and shall instruct all employees of its terms and content. Licensees and employees shall at all times be familiar with the provisions of this chapter and ignorance or neglect shall not constitute a defense or excuse for noncompliance.

(Ord. of 5-13-02, § 2)

Sec. 10-42. Investigative and administrative costs.

Each application for a license under this chapter shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified or cashier's check or cash in the amount of \$150.00 to defray investigative and administrative costs. If the applicant is denied a state license, the deposit representing the license fee shall be refunded, but the \$150.00 cost paid for investigation and administrative costs shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

(Ord. of 5-13-02, § 2)

Sec. 10-43. Levy and amount of excise tax; rate of tax, manner of imposition.

The minimum excise tax allowable by state law for the sale of distilled spirits or wines and malt beverages shall be collected by the wholesale supplier from the retail seller and turned over to the city monthly. The wholesaler shall remit to the city on the tenth day of the month next succeeding the calendar month in which such sales were made, the tax as allowed by state law. The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of 15 percent of the amount of such remittance for each successive 30-day period or any portion thereof, during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to 25 percent of the amount of the remittance which would be required under an accurate and truthful report. Such tax is in addition to the fees imposed upon the licensee.

(Ord. of 5-13-02, § 2)

Secs. 10-44, 10-45. Reserved.

ARTICLE II.
OPEN CONTAINERS

Sec. 10-46. Title.

This article shall be known and may be cited as the "St. Marys Open Container Ordinance".

(Ord. of 5-13-02, § 2)

Sec. 10-47. Definitions.

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

Alcoholic beverage means and includes all alcoholic beverages, distilled spirits, malt beverage, wine or fortified wine as defined in O.C.G.A. title 3.

Broken package means a bottle, can, keg or other original container which has been opened, or the seal to which has been broken, so as to allow the contents thereof to be immediately consumed.

Motor vehicle means every vehicle which is self-propelled.

Occupant means any person who is occupying any vehicle on a public street, road or public place.

Open container means a glass, cup, jar, can or other receptacle designed for or capable of being used to hold liquids.

Public place means any and all public property, including, but not limited to, the federal government, the state government, the county government, the city government, or any political subdivision thereof; any area of a business enterprise where the public has general access; and any property other than a private residence and curtilage held in private ownership.

Street or road means the entire width between right-of-way lines publicly maintained when any part thereof is open to the use of the public for vehicular traffic.

(Ord. of 5-13-02, § 2)

Sec. 10-48. Operation of motor vehicle.

It shall be a violation of this article to operate a motor vehicle on a public road or street or public property in the city, while the operator or any occupant thereof has in his possession an open container or broken package containing alcoholic beverages.

(Ord. of 5-13-02, § 2)

Sec. 10-49. Occupancy of motor vehicle.

It shall be a violation of this article for any occupant of a motor vehicle being driven or parked on a public road or street or public property in the city to possess an open container or broken package containing alcoholic beverages.

(Ord. of 5-13-02, § 2)

Sec. 10-50. Possession of open container in or on public place.

It shall be a violation of this article for any person who is upon any public property of this city to possess an open container or broken package containing alcoholic beverages.

(Ord. of 5-13-02, § 2)

Sec. 10-51. Exceptions.

(a) This article shall not apply to the passengers in any chartered bus designed for carrying more than ten persons when it is being used for the transportation of persons, or a passenger in a chauffeured limousine driven by a person holding a valid chauffeur's license issued by a state agency and which limousine service in addition has a valid city business license, or to the occupants in living quarters of a camper or motor home.

(b) This article shall not apply to broken packages contained in the locked compartment outside the motor vehicle.

(Ord. of 5-13-02, § 2)

Senate Bill 90

By: Senators Thomas of the 54th, Reed of the 35th, Unterman of the 45th, Schaefer of the 50th, Miles of the 43rd and others

AS PASSED

AN ACT

To amend Chapter 12 of Title 16 and Title 31 of the Official Code of Georgia Annotated, relating to offenses against public health and morals and to health, respectively, so as to provide comprehensive changes and additions to the prohibition on smoking in this state; to amend certain provisions relating to the prohibition against smoking in public places; to enact the "Georgia Smokefree Air Act of 2005"; to provide for definitions; to prohibit smoking in certain facilities and areas; to provide for exceptions; to provide that entire establishments, facilities, or outdoor areas shall be nonsmoking; to provide for posting of signs and removal of ashtrays; to provide for an informational program; to provide for enforcement; to provide that this prohibition shall be cumulative to other general or local acts, rules, and regulations; to provide for statutory construction; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, is amended by striking Code Section 16-12-2, relating to prohibited smoking in public places, and inserting in lieu thereof the following:

"16-12-2.

(a) A person smoking tobacco in violation of Chapter 12A of Title 31 shall be guilty of a misdemeanor and, if convicted, shall be punished by a fine of not less than \$100.00 nor more than \$500.00.

(b) This Code section shall be cumulative to and shall not prohibit the enactment of any other general and local laws, rules and regulations of state or local agencies, and local ordinances prohibiting smoking which are more restrictive than this Code section."

SECTION 2.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding after Chapter 12 a new Chapter 12A to read as follows:

CHAPTER 12A

31-12A-1.

This chapter shall be known and may be cited as the "Georgia Smokefree Air Act of 2005."

31-12A-2.

As used in this chapter, the term:

- (1) 'Bar' means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- (2) 'Business' means any corporation, sole proprietorship, partnership, limited partnership, limited liability corporation, limited liability partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity, whether for profit or nonprofit.
- (3) 'Employee' means an individual who is employed by a business in consideration for direct or indirect monetary wages or profit.
- (4) 'Employer' means an individual or a business that employs one or more individuals.
- (5) 'Enclosed area' means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.
- (6) 'Health care facility' means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, homes for the chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities. This definition shall not include long-term care facilities as defined in paragraph (3) of Code Section 31-8-81.
- (7) 'Infiltrate' means to permeate an enclosed area by passing through its walls, ceilings, floors, windows, or ventilation systems to the extent that an individual can smell secondhand smoke.
- (8) 'Local governing authority' means a county or municipal corporation of the state.

- (9) 'Place of employment' means an enclosed area under the control of a public or private employer that employees utilize during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, and hallways. A private residence is not a place of employment unless it is used as a licensed child care, adult day-care, or health care facility. This term shall not include vehicles used in the course of employment.
- (10) 'Public place' means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a public place unless it is used as a licensed child care, adult day-care, or health care facility.
- (11) 'Restaurant' means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term shall include a bar area within any restaurant.
- (12) 'Retail tobacco store' means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- (13) 'Secondhand smoke' means smoke emitted from lighted, smoldering, or burning tobacco when the person smoking is not inhaling, smoke emitted at the mouthpiece during puff drawing, and smoke exhaled by the person smoking.
- (14) 'Service line' means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.
- (15) 'Shopping mall' means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- (16) 'Smoking' means inhaling, exhaling, burning, or carrying any lighted tobacco product including cigarettes, cigars, and pipe tobacco.
- (17) 'Smoking area' means a separately designated enclosed room which need not be entered by an employee in order to conduct business that is designated as a smoking area and, when so designated as a smoking area, shall not be construed as to deprive employees of a nonsmoking lounge, waiting area, or break room.
- (18) 'Sports arena' means enclosed stadiums and enclosed sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and

other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

31-12A-3.

Smoking shall be prohibited in all enclosed facilities of, including buildings owned, leased, or operated by, the State of Georgia, its agencies and authorities, and any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special Act of the General Assembly or by ordinance or resolution of the governing body of a county or municipal corporation individually or jointly with other political subdivisions or municipalities of the state.

31-12A-4.

Except as otherwise specifically authorized in Code Section 31-12A-6, smoking shall be prohibited in all enclosed public places in this state.

31-12A-5.

(a) Except as otherwise specifically provided in Code Section 31-12A-6, smoking shall be prohibited in all enclosed areas within places of employment, including, but not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities.

(b) Such prohibition on smoking shall be communicated to all current employees by July 1, 2005, and to each prospective employee upon their application for employment.

31-12A-6.

(a) Notwithstanding any other provision of this chapter, the following areas shall be exempt from the provisions of Code Sections 31-12A-4 and 31-12A-5:

- (1) Private residences, except when used as a licensed child care, adult day-care, or health care facility;
- (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20 percent of rooms rented to guests in a hotel or motel may be so designated;
- (3) Retail tobacco stores, provided that secondhand smoke from such stores does not infiltrate into areas where smoking is prohibited under the provisions of this article;
- (4) Long-term care facilities as defined in paragraph (3) of Code Section 31-8-81;

- (5) Outdoor areas of places of employment;
 - (6) Smoking areas in international airports, as designated by the airport operator;
 - (7) All workplaces of any manufacturer, importer, or wholesaler of tobacco products, of any tobacco leaf dealer or processor, all tobacco storage facilities, and any other entity set forth in Code Section 10-13A-2;
 - (8) Private and semiprivate rooms in health care facilities licensed under Title 31 that are occupied by one or more persons, all of whom have written authorization by their treating physician to smoke;
 - (9) Bars and restaurants, as follows:
 - (A) All bars and restaurants to which access is denied to any person under the age of 18 and that do not employ any individual under the age of 18; or
 - (B) Private rooms in restaurants and bars if such rooms are enclosed and have an air handling system independent from the main air handling system that serves all other areas of the building and all air within the private room is exhausted directly to the outside by an exhaust fan of sufficient size;
 - (10) Convention facility meeting rooms and public and private assembly rooms contained within a convention facility not wholly or partially owned, leased, or operated by the State of Georgia, its agencies and authorities, or any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special Act of the General Assembly while these places are being used for private functions and where individuals under the age of 18 are prohibited from attending or working as an employee during the function;
 - (11) Smoking areas designated by an employer which shall meet the following requirements:
 - (A) The smoking area shall be located in a nonwork area where no employee, as part of his or her work responsibilities, shall be required to enter, except such work responsibilities shall not include custodial or maintenance work carried out in the smoking area when it is unoccupied;
 - (B) Air handling systems from the smoking area shall be independent from the main air handling system that serves all other areas of the building and all air within the smoking area shall be exhausted directly to the outside by an exhaust fan of sufficient size and capacity for the smoking area and no air from the smoking area shall be recirculated through or infiltrate other parts of the building; and
 - (C) The smoking area shall be for the use of employees only.
- The exemption provided for in this paragraph shall not apply to restaurants and bars; and

(12) Common work areas, conference and meeting rooms, and private offices in private places of employment, other than medical facilities, that are open to the general public by appointment only; except that smoking shall be prohibited in any public reception area of such place of employment.

(13) Private clubs, military officer clubs and noncommissioned officer clubs.

(b) In order to qualify for exempt status under subsection (a) of this Code section, any area described in subsection (a) of this Code section, except for areas described in paragraph (1) of subsection (a) of this Code section, shall post conspicuously at every entrance a sign indicating that smoking is permitted.

31-12A-7.

Notwithstanding any other provision of this chapter, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of subsection (a) of Code Section 31-12A-8 is posted.

31-12A-8.

(a) 'No Smoking' signs or the international 'No Smoking' symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it may be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public place and place of employment where smoking is prohibited by this article.

(b) All ashtrays shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager, or other person in control of the area, unless such ashtray is permanently affixed to an existing structure.

31-12A-9.

The Department of Human Resources and the agency designated by each local governing authority in this state may engage in a continuing program to explain and clarify the purposes and requirements of this chapter to citizens affected by it and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter.

31-12A-10.

The Department of Human Resources and the county boards of health and their duly authorized agents are authorized and empowered to enforce compliance with this chapter and the rules and regulations adopted and promulgated under this chapter and, in connection therewith, to enter upon and inspect the premises of any establishment or business at any reasonable time and in a reasonable manner, as provided in Article 2 of Chapter 5 of this title.

31-12A-11.

The county boards of health may annually request other governmental and educational agencies having facilities within the area of the local government to establish local operating procedures in cooperation and compliance with this chapter.

31-12A-12.

This chapter shall be cumulative to and shall not prohibit the enactment of any other general or local laws, rules, and regulations of state or local governing authorities or local ordinances prohibiting smoking which are more restrictive than this chapter or are not in direct conflict with this chapter.

31-12A-13.

- (a) This chapter shall not be construed to permit smoking where it is otherwise restricted by other applicable laws.
- (b) Nothing in this chapter shall be construed as to repeal the provisions of Code Section 16-12-2.
- (c) This chapter shall be liberally construed so as to further its purposes."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval only for purposes of promulgating rules and regulations; for all other purposes, this Act shall become effective on July 1, 2005.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.