

**AN ORDINANCE FOR THE LICENSING, CONTROL, TAXATION, AND REGULATION OF THE SALE OF ALCOHOLIC BEVERAGES FOR BEVERAGE PURPOSES BY THE DRINK FOR CONSUMPTION ONLY ON THE PREMISES WHERE SOLD IN THE CITY OF STATHAM, GEORGIA**

**WHEREAS**, the Mayor and City Council of the City of Statham, Georgia desire to combat the undesirable secondary effects of businesses where alcoholic beverages may be sold for beverage purposes by the drink for consumption only on the premises where sold; and

**WHEREAS**, the Mayor and City Council of the City of Statham, Georgia desire to avoid negative experiences of other counties and municipalities regarding problems with certain businesses where alcoholic beverages are sold for beverage purposes by the drink for consumption only on the premises where sold, which include criminal activity, undesirable community conditions, the depression of property value in the areas surrounding certain establishments, increased expenditure for law enforcement, an increased burden on the judicial system because of increased criminal behavior, and acceleration of community blight (collectively referred to hereinafter as the "pernicious secondary effects"); and

**WHEREAS**, the Mayor and City Council of the City of Statham, Georgia have a substantial government interest in attempting to preserve the quality of life for the citizens of the City of Statham; and

**WHEREAS**, the Mayor and City Council of the City of Statham, Georgia desire to reduce and prevent criminal activity and the deterioration of property values in the City of Statham; and

**WHEREAS**, the Mayor and City Council of the City of Statham, Georgia desire to establish a comprehensive and consolidated ordinance for the licensing, control, taxation, and regulation of the sale of alcoholic beverages for beverage purposes by the drink for consumption only on the premises where sold.

**NOW, THEREFORE**, it is hereby resolved by the Mayor and City Council of the City of Statham, Georgia that the provisions contained herein shall apply regarding the sale of alcoholic for beverage purposes by the drink for consumption only on the premises where sold.

**ARTICLE I**  
**GENERAL PROVISIONS**

**SECTION 1: TITLE**

This ordinance shall be known as the "City of Statham Alcohol Ordinance."

## **SECTION 2: LICENSE IS A PRIVILEGE**

A) Alcoholic beverages may be sold in the City of Statham under a license granted by the Mayor and City Council upon the terms and conditions provided in this ordinance.

B) All licenses issued pursuant to this ordinance shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this ordinance and state law.

C) All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."

D) Any holder of a license issued in accord with this ordinance 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 state regulations and laws.

## **SECTION 3: DEFINITIONS**

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

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

**Alcoholic beverage** in this ordinance 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 14 percent alcohol by volume, and 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 any 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.

**City** means the City of Statham, Georgia.

**City Council, Mayor and City Council, or Mayor and Council** mean the Mayor and City Council of the City of Statham, Georgia.

**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.

**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 shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments. An eating establishment shall be prepared to serve food every hour the establishment is open and shall derive at least sixty percent (60%) of the gross receipts annually from the sale of prepared meals or food.

**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 Mayor and City Council of The City of Statham, Georgia.

**Hotel** means any building or other structure providing sleeping accommodations for hire to the general public, either transient, permanent or residential. Such businesses shall have one or more public dining rooms with an adequate kitchen. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment described in this ordinance, and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition.

**House of worship** means a building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

**Indoor commercial recreational establishment** means and is limited to an establishment that:

- 1) regularly serves prepared food with a full service kitchen (a full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments) prepared to serve food every hour the establishment is open and deriving at least sixty percent (60%) of its total annual gross sales from the sale of prepared meals or food and recreation activities; and

- 2) wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning a use that attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and

other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted in an outdoor commercial recreational establishment. Bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments.

**Licensee** means the individual to whom a license for the sale or distribution of malt beverages or wine under this ordinance. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees.

**Liter** means metric measurement currently used by the United States.

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

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

**Package sales** means the sale in packages or containers of malt or vinous beverages for consumption only off the premises.

**Person** means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi public.

**Pouring permit** means an authorization granted by the county to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.

**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.

**Tavern** shall mean a business location meeting all health department standards and fire codes which is operated for the purpose of selling malt beverages over the counter for consumption on the premises. No tavern shall remain licenses which allows any customer to consume a sufficient volume of malt beverages on the premises or sold from the premises to attain a level of intoxication equal to blood alcohol levels established to define the State offense of driving under the influence.

**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.

#### **SECTION 4: LICENSES, GENERALLY**

All licenses issued under this ordinance shall:

A) permit the licensees to sell or distribute the beverage or beverages for which the license is issued inside the City of Statham, Georgia pursuant to the terms of this ordinance and consistent with the laws of the State of Georgia and the United States;

B) expire on December 31 of each year and an application for renewal shall be made annually on or before the 30<sup>th</sup> day of November each year. Any licensee must annually meet the requirements set forth by the Mayor and City Council in order to obtain a renewal of any license. Any licensee making proper application with supporting documents for a license to operate during the following calendar year, and having filed such application before November 30, shall be permitted to continue to operate pending final approval of the licensee's application for the following year if final approval is not granted before January 1;

C) not be transferred from one person to another or from one location to another without prior approval from the Mayor and City Council upon written application from the licensee; and

D) permit the licensee to sell malt beverages, wines, or any combination thereof, depending upon the license issued, for beverage purposes by the drink for consumption only on the premises where sold.

#### **SECTION 5: TYPES OF LICENSES TO BE ISSUED**

The following licenses may be issued under this ordinance:

1) Combination licenses:

a. Malt beverages and/or wine to be served for consumption only on the premises.

- b. Distilled spirits to be served for consumption on the premises.
- c. Combined licenses for malt beverages, wine and distilled spirits to be served for consumption on the premises.

2) Package sales.

**SECTION 6: SALE OR POSSESSION FOR SALE WITHOUT LICENSE OR BEYOND BOUNDARIES OF PREMISES COVERED BY LICENSE, PENALTIES.**

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the city to sell or possess for sale the alcoholic beverages or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violations of this section shall result in a fine of not less than \$250.00.

**SECTION 7: PENALTIES FOR VIOLATION OF ORDINANCE**

Any person who violates any provision of this ordinance may, upon conviction, be punished by a fine of not less than \$250.00 for each offense and/or 30 days in jail, unless a different penalty is set out in this ordinance.

**SECTION 8: LOCATION OF LICENSED OPERATION: DISTANCE REQUIREMENTS FROM SCHOOLS AND CHURCH BUILDINGS**

A) Licenses shall be issued only for locations in areas zoned C-1 or C-2.

B) No person may sell or offer to sell (i) Any distilled spirits in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus; (ii) Any wine or malt beverages within 100 yards of any school building, school grounds, or college campus. This subparagraph shall not apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such application.

C) The school building referred to in this section shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public or private schools as defined in O.C.G.A. §20-2-690(b). The term "school building" includes only those structures in which instruction is offered.

D) The term "church building" as used in this section shall mean the main structure used by any religious organization for purposes of worship.

E) The term "alcohol treatment facility" shall include any alcohol treatment facility operated by the state or the county government.

F) For purposes of this section, distance shall be measured by the most direct route of travel by vehicle on the ground and shall be measured in the following manner:

(1) from the main entrance of the main structure of church building, school or alcohol treatment facility;

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

(3) along such public sidewalk, walkway, street, road or highway by the nearest route in direction allowed for vehicular traffic;

(4) to the main entrance of the establishment from which alcoholic beverages are sold or offered for sale..

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 or alcohol treatment facility 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) As to any location on City Square, the subsequent opening of a church, school or alcohol treatment facility within the distance prohibited in this section shall not prevent the issuance of a license to the current or subsequent owner of such property.

## **SECTION 9: SEPARATE APPLICATION AND SEPARATE LICENSE FOR EACH LOCATION OF SALE**

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

## **SECTION 10: QUALIFICATIONS OF LICENSEE**

A) No license for the 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. The applicant must not be less than 21 years of age; and must be a resident of Barrow County for not less than six consecutive months before filing the application unless the applicant specifically designates a resident of Barrow County who has resided within the county for at least six months before filing the application, which resident shall be responsible for any matter relating to the license.

B) If the applicant is a partnership or corporation, then 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. If the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this ordinance. In the case of a 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 shall be licensed.

C) If the applicant is a non-profit club, then the managing agent may be an officer of the organization rather than a full-time employee if such managing agent is qualified in accord with this section.

D) No person shall be granted any alcoholic beverage license unless proper information establishes to the satisfaction of the Mayor and City Council or its designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or pled guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexually related crime within a period of five (5) years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, has been so convicted in the five (5) years preceding the filing of the application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make an applicant ineligible for an alcohol license. If any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, been convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages, including sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, then the license shall be immediately revoked and canceled.

E) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within five (5) years prior to the filing of application for such license.

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

G) No license for the sale of alcoholic beverages shall be granted to any



person who has had any license issued under the police powers of the city of Barrow County previously revoked within two (2) years prior to the filing of the application.

H) The Mayor and 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 licensee.

I) All licensed establishments must have and continuously maintain in Barrow County a registered agent as indicated in subsection (A). The licensee shall file the name of such agent, along with the written consent of such agent, with the Mayor and City Council and shall be in such form as the Mayor and City Council may prescribe.

J) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.

K) A license application may be denied to any applicant for any alcoholic beverage license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

L) The Mayor and City Council may, in its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If circumstances are such that granting of the license would not be in the best interest of the general public, then such circumstances may be grounds for denying the application.

M) For purposes of this ordinance, 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 if the defendant 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.

## **SECTION 11: APPLICATION FORMS**

A) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the Mayor and City Council.

B) The application shall include, but shall not be limited to, the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and resident address of the partners; if a corporation, the names of the officers;

the names and address of the registered agent for service of process; the name of the manager(s); and the name of all shareholders holding more than 20 percent of any class of corporate stock, or any other entity having a financial interest in each entity that owns or operates the establishment for which a license is sought. If the manager changes, the applicant must furnish the City Clerk and Chief of Police the name and address of the new manager and other information as requested within ten days of such change.

C) All applicants shall furnish data, fingerprints, financial responsibility and other records as set forth in Section 11:B to insure compliance with the provisions of this ordinance. The failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.

D) The fingerprints provided shall be forwarded to the Chief of Police and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the five (5) years immediately preceding the date of the application.

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

F) In all instances in which an application is denied under the provisions of this chapter, the applicant may not reapply for a license for at least one year from the final date of such denial.

G) The Mayor and City Council 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 ordinance.

## **SECTION 12: LICENSE FEE SCALE**

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the Mayor and City Council regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the Mayor and City Council and kept on file in City Hall. The full amount of the fee, plus the full amount of the investigative and administrative fee, shall be submitted with the application. If the application is denied, the funds submitted, less the investigative and administrative fee will be refunded. Once a license has issued, however, no portion of the application fee shall be refunded if the license is revoked, suspended, transferred or surrendered.

## **SECTION 13: FEE SCHEDULE**

License fees applicable to this ordinance shall be established from time to time by resolution of Mayor and Council.

## **SECTION 14: WITHDRAWAL OF APPLICATION**

Any license application made pursuant to this ordinance may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as license fees will be refunded. After issuance of the license, no refunds will be made. No refunds shall be made under any circumstances for investigative and administrative expenses required in this chapter.

## **SECTION 15: COLLECTION OF FEES OR TAXES SUMS DUE**

If any person shall fail to pay the sum due under this ordinance, then the Mayor and City Council or its designee shall issue an execution against delinquent person and such person's property for the amount of the fee or tax.

## **SECTION 16: GRANTING OF APPLICATION**

A) If the applicant is an individual and the license is granted, then the license shall be issued in the individual's name.

B) If the applicant is a partnership and the license is granted, then the license shall be issued in the name of a partner who is a resident of Barrow County or in the name of the Barrow County resident who was designated as the agent for matters relating to the license and the name of the partnership, jointly.

C) If the applicant is a corporation and the license is granted, then the license shall be issued in the name of the shareholder who is a resident of Barrow County or in the name of the appointed agent doing business in the name of the corporation.

D) In deciding whether or not an application will be granted or denied, the local government may consider not only the qualifications of the applicant, the location of the business and its proximity to other enterprises. The commission shall be authorized to and shall also consider:

- 1) the effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of properties surrounding the site; and
- 2) the number of alcoholic beverage licenses already granted in the neighborhood, and whether granting the application would be contrary to the public interest or welfare.

## **SECTION 17: TRANSFERABILITY OF LICENSE/CHANGE IN OWNERSHIP**

A) Individuals - In the event of a change of ownership of a business for which an individual has been issued a license, the new owner, if desiring a license, must meet the qualifications specified in Section 10 and must file an application as provided in Section 11 and tender with the application the investigative and administrative fee as provided in Section 12 and any license fee that may be due.

B) Partnerships or Corporations - In the event of a change of any ownership interest in a business which is owned or operated by a partnership or corporation and for which a license has been issued, the licensee shall report such change to the County Commission in writing within five days. "Change of ownership interest" as used herein includes, but is not limited to, any change in:

1. Division of profits and/or losses;
2. Division of net gross or sales;
3. Method of paying or amount of rent paid;
4. Ownership of leased premises, or buildings or land used in the business;
5. Members of a partnership;
6. Stockholders of corporate stock; and
7. Management.

C) If, as a result of any change of ownership interest, the licensee would not qualify under other provisions of this ordinance for the issuance of a license, then the license issued to the licensee shall be subject to revocation and shall not be subject to renewal.

D) Each application for transfer of a license shall have attached thereto a completed copy of the notice of change of interest required by the State Revenue Commissioner. After receipt of such application, the Mayor and City Council shall notify the applicant within thirty days of any objection to the transfer. The license shall remain in effect pending approval or disapproval of the transfer. If the transfer is approved, the Mayor and City Council shall permit the license to be transferred upon payment of a transfer fee equal to one-half of the annual license fee. All applications for transfer of a license shall be accompanied by the aforesaid transfer fee, together with an investigative and administrative fee of \$150.00. If the transfer is not approved, then the transfer fee will be refunded, but the investigative and administrative fee will not be refunded. Renewal application requires a \$75.00 investigative and administrative fee.

E) Upon the death of a licensee, the Executor or Administrator of the licensee's estate may continue to operate under the license for the balance of the calendar year without payment of any additional fee or may delegate the operation of the business to another person if the person operating under the license, whether the executor, administrator, or delegatee, would otherwise be qualified as a licensee under the provisions of this ordinance.

## **SECTION 18: DISPLAY OF LICENSE AT PLACE OF BUSINESS**

The 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.

## **SECTION 19: EXPIRATION; RENEWAL OF LICENSE**

A) All licenses granted under this ordinance shall expire on December 31 of each year. Licensees who desire to renew the license shall file applications, with the requisite fee enumerated in Section 13 and a \$75.00 administrative and investigation fee, with the Mayor and City Council on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to the annual fee, a late charge of 20%. If 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, full investigative and administrative costs will be assessed.

B) All licenses granted under this ordinance 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 license fee shall be paid for a license application filed after July 1 of the license year, except for applications for a temporary special event license under Section 57 which shall not be halved.

C) Any person renewing any license issued under this ordinance who shall pay the required fee, or any portion thereof, after January 1, shall, in addition to the annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

## **SECTION 20: AUTOMATIC LICENSE FORFEITURE FOR NON-USE**

A license issued pursuant to this Ordinance shall be valid only so long as the licensee is actually engaged in the business of sale of alcoholic beverages for consumption only on the premises where sold. Any holder of any license under this ordinance who shall for a period of 60 days after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the 60-day period, automatically forfeit the license without the necessity of any further action.

## **SECTION 21: REVOCATION OR NON-RENEWAL OF LICENSE**

The Mayor and City Council may revoke any license issued under this Ordinance, or refuse to issue the same, if the licensee or applicant for renewal:

A) is convicted of a felony or any crime involving moral turpitude;

B) makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the Mayor and City Council;

C) fails to timely give written notice of any change of ownership interest as required in Section 8;

D) violates any rules or regulations promulgated by the Mayor and City Council under this Ordinance, of which the licensee has reasonable notice; or

E) becomes disqualified under this Ordinance to hold a license.

F) The Mayor and City Council shall revoke the license of any licensee whose license has been suspended three or more times in any consecutive 12-month period.

G) The Mayor and City Council shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.

H) Whenever it can be shown that a licensee under this ordinance no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the city.

## **SECTION 22: SUSPENSION OF LICENSE**

A) The following shall be grounds for the suspension of a license issued under this Ordinance for such period of time as the Mayor and City Council shall, in its sole discretion, determine appropriate:

- 1) a violation by the licensee of any state or federal law or regulation, or any provision of this ordinance or the regulations promulgated under its authority;
- 2) the failure of the licensee and employees or agents of the licensee to promptly report to the Chief of Police any violation of law/breach of peace, disturbance, or altercation occurring on or near the licensee's premises;
- 3) the violation of any law, regulation or ordinance pertaining to alcoholic beverages, malt beverages and wines, by any employee or agent of the licensee in connection with the operation of the business of the licensee;
- 4) operation of the business of the licensee in such a manner as to

create a public nuisance, or in a manner contrary to public welfare, safety, health or morals;

- 5) failure to furnish the Mayor and City Council on request any information or records that would be necessary to needed for use in determining the licensee's compliance and qualifications under this ordinance; or
- 6) to knowingly sell malt beverages or wines to any person while such person is in an intoxicated condition.

B) Wherever this ordinance permits the Mayor and City Council to suspend any license issued under this ordinance but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

- 1) No suspension shall be for a period of time longer than the time remaining on such license.
- 2) The following factors shall be considered on any suspension as set out above:
  - a) Consistency of penalties mandated by this ordinance and those set by the Mayor and City Council.
  - b) Likelihood of deterring future wrongdoing.
  - c) Impact of the offense on the community.
  - d) Any mitigating circumstances or remedial or corrective steps taken by licensee.
  - e) Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

## **SECTION 23: HEARINGS**

A) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section.

B) The Mayor and City Council shall provide written notice to the applicant or licensee of its intent to deny, suspend or revoke the license. Such written notification shall be hand delivered or sent certified mail to the applicant at the address shown on the application, and the applicant shall be directed to show cause, if any there be, why the proposed action should not be taken by the Mayor and City Council. The notice shall:

- 1) advise of the time and place specified for the hearing, which hearing shall be held not less than twenty days (if the notice is mailed) or fifteen days (if the notice is hand delivered), but not more than ten days from the date of the service of the notice.
- 2) shall set forth in reasonable detail the grounds for such action and the factual basis supporting those grounds; and
- 3) advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing.

## **SECTION 24: NOTICE**

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

## **SECTION 25: AUDITS OF LICENSEES**

A) If the Mayor and City Council or its designee deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license(s) issued under this ordinance. The audit shall be conducted at the establishment during normal business hours, unless the licensee requests otherwise in writing.

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) Monthly income or operating statements.
- 2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
- 3) Daily cash register receipts such as Z tapes or guest tickets.
- 4) Monthly state sales and use tax reports.
- 5) Federal income tax return with all Form 1099's.

The Mayor and City Council can waive all or some of the requirements of the foregoing sentence if it finds that no such records exist and it is not financially practical based on the net income of the licensed establishment to require them to keep such records.



## **SECTION 26: RETAIL CONSUMPTION DEALERS TO STORE INVENTORY ONLY ON PREMISES**

No retail consumption dealer licensed under this ordinance 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.

## **SECTION 27: POURED ALCOHOL TO BE TRANSPORTED BY EMPLOYEES**

Poured alcoholic beverages shall be transported from point of dispensing to the customer by permitted employees only. Permitted employees are those who have applied for and received a pouring license authorizing such employees to take orders and transport alcoholic beverages to customers.

## **SECTION 28: LICENSEES TO MAINTAIN A COPY OF THIS ORDINANCE: EMPLOYEES TO BE FAMILIAR WITH TERMS; LICENSEE RESPONSIBLE FOR VIOLATIONS**

Each alcoholic beverage dealer licensed under this ordinance shall keep a copy of this ordinance upon the licensed premises and shall instruct any person working there with respect to the terms of this ordinance; and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms of this ordinance.

## **SECTION 29: EMPLOYMENT OF UNDERAGE PERSONS PROHIBITED: EXCEPTIONS**

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

B) It is unlawful for any person under the age of 18 years of age to work as an entertainer in any establishment licensed under this ordinance without written consent from parents or guardian.

## **SECTION 30: FAILURE TO REQUIRE AND PROPERLY CHECK IDENTIFICATION**

It shall be a violation not to require and properly check identification to ensure that an underaged person is not sold, served, or does not have in his 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.

## **SECTION 31: SALES TO UNDERAGE PERSON PROHIBITED**

No holder or employee of the holder of a license authorizing the sale of alcoholic beverages, shall do any of the following upon the licensed premises:

- 1) sell or offer to sell any wine, malt beverage, or any other alcoholic beverage to any person under the age of 21 years.
- 2) sell or offer to sell wine, malt beverage, or any other alcoholic beverage to any person unless such person has furnished proper identification showing that the person to whom the alcoholic beverages 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 persons 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) the penalty for violation of this section by an individual shall be as follows:
  - a) For the first offense, a minimum fine of \$250.00.
  - b) For the second offense and subsequent violations within one year, a minimum fine of \$500.00.
- 6) any licensed establishment where three or more violations of this section, or Section 3-3-23 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.
  - 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 establishments' 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.

## **SECTION 32: 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 other than as set forth in Section 29 hereof.

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

## **SECTION 33: RESERVED**

## **SECTION 34: OPEN AREA 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 Mayor and 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 the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the inspection department and the county's fire department as required by governing regulations or codes.

D) The only exit from this area is to be through the licensed establishment's main premises and through an exit posted with a sign that reads "No Alcoholic Beverages Beyond This Point."

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 Mayor and City Council. Interior type patio/open sales areas must also meet the requirements of the development and fire codes.

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.

### **SECTION 35: 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 on a golf course or the sale of wine or malt beverages outside on a golf course to golfers.

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.

### **SECTION 36: SPECIFICATION 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 local ordinances, 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 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, passage ways and open areas may be clearly seen by the customers therein.

### **SECTION 37: SOLICITATION PROHIBITED**

No retail consumption dealers licensed under this ordinance 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 the establishment or to an 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.

### **SECTION 38: PROHIBITED NOISE FROM ESTABLISHMENTS**

It shall be unlawful for any establishment licensed under this ordinance to make or cause to be made any loud, unnecessary or unusual sound or noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the county and that is audible to a person of normal hearing ability from the nearest property line of the business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this ordinance after the hours of 11:00 p.m.

### **SECTION 39: INSPECTION OF LICENSED ESTABLISHMENTS BY THE POLICE DEPARTMENT**

Sworn officers of the Statham Police Department shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the city during any time in which any persons are located at the premises consuming alcohol. These inspections shall be made for the purpose of verifying compliance with the requirements of this ordinance and state law. This section is not intended to limit the authority of any other official to conduct inspections authorized by other provisions of this ordinance.

### **SECTION 40: ESTABLISHMENT CAN BE CLOSED IN CASES OF EMERGENCY**

The Chief of Police or his designee may immediately close an establishment licensed under this ordinance 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.

### **SECTION 41: SALE ON ELECTION DAYS**

A) 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: wine and malt beverages, shall be prohibited 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.

B) All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

## **SECTION 42: BRING YOUR OWN BOTTLE (BROWN BAGGING) PROHIBITED**

It is prohibited for any person to bring in his own alcoholic beverage (brown bag) in any establishment either licensed or unlicensed to serve alcoholic beverages.

## **SECTION 43: TYPES OF ENTERTAINMENT, ATTIRE AND CONDUCT PROHIBITED**

### **A) Preamble and purpose:**

- 1) Based upon the experiences of other counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York; Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida, which experiences the Mayor and City Council believe are relevant to the problems faced by the city and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, as well as the testimony of citizens and experts received by this commission, the Mayor and City Council takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country.
  
- 2) Moreover, it is the finding of the Mayor and City Council that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "erotic entertainment", begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude or semi-nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcohol and also allow and/or encourage nudity or semi-nudity.

B) Prohibited activities.

Any establishment licensed under the provisions of this ordinance is prohibited from permitting or engaging in the following activities:

- 1) the employment or use of any person in any capacity in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
- 2) live entertainment that provides or features nude or semi-nude or erotic dancing or the performance of obscene acts that simulate:
  - a) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;
  - b) the touching, caressing or fondling of the breast, buttock, anus or genitals; or
  - c) the displaying of the pubic hair, anus, vulva or genitals.
- 3) the showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in subsection (2), above, which are obscene under state law; or
- 4) the holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.

C) Mainstream activity excluded:

Notwithstanding the prohibitions in subsection (B), nothing in this ordinance shall be or is intended to apply to theatrical or motion picture performance houses, museums, or to restaurants or places set apart for traditional family-oriented naturism where the consumption or service of alcohol is not a primary purpose or the mainstream activity of such establishment. The phrase "places provided or set apart for nudity" means as follows: places provided or set apart for traditional family oriented naturism including nudist parks, clubs, and resorts chartered by the American Association for Nude Recreation or affiliated with the Naturists Society or by traditional family oriented naturists groups.

## BEER AND WINE BY THE DRINK

### SECTION 44: TYPE OF RETAIL ESTABLISHMENT WHERE PERMITTED

No beer or wine shall be sold for consumption on the premises where sold except:

A) In sites in areas zoned C-1 or C-2 and which are being used as one of the following:

- 1) are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of sales from food;
- 2) are indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of its total annual gross revenue from the sale of prepared meals or food and recreation activities;
- 3) are an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments); prepared to serve food every hour they are open and deriving at least 50% percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels, motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure; or
- 4) at a golf course that derives at least 50% of its annual gross revenue from the sale of prepared meals or food and recreation activities, i.e. golf.
- 5) at a tavern, provided that taverns may only sell malt beverages.

These eating establishments must be located in a zoning district which permits



restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

#### **SECTION 45: LICENSE FEE AND AMOUNT TO DEFRAY INVESTIGATIVE AND ADMINISTRATIVE COSTS TO ACCOMPANY APPLICATION**

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$150.00 to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded, but the \$150.00 cost paid for investigative and administrative fees 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 ordinance. 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 \$75.00.

#### **SECTION 46: HOURS AND DAYS OF SALE**

A) Beer and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m. – 11:00 p.m. Sunday through Saturday.

B) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

#### **SECTION 47: Reserved.**

### **ARTICLE III**

#### **RETAIL SALES OF DISTILLED SPIRITS FOR CONSUMPTION ON THE PREMISES**

#### **SECTION. 47.51. LOCATIONS WHERE PERMITTED.**

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

(1) In sites in areas zoned C-1 or C-2 which meet the following requirements: In eating establishments regularly serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments), regularly serving food every hour they are open and deriving at least 50% of its gross receipts annually from the sale of prepared meals or food.

When eating establishments are located in hotels, motels, and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

### **SECTION 47.52. INVESTIGATIVE AND ADMINISTRATIVE COSTS.**

Each application for a license under this article shall be accompanied by cash or check for the full amount of the license fee, plus the amount of the administrative fee, as indicated on the fee schedule. The investigative fee shall be submitted to the police department. If the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the fee paid for investigation and administrative cost 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.

### **SECTION 47.53. HOURS AND DAYS OF SALE.**

(a) Distilled spirits may be sold for consumption on the premises between the hours of 10:00 a.m. to 11:00 p.m. Monday through Saturday.

(b) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

### **SECTION 47.54. CONSUMPTION SALES ONLY.**

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or bottle.

## **ARTICLE IV** **RETAIL PACKAGE SALES**

### **SECTION 47.60 TYPE OF RETAIL ESTABLISHMENTS**

Package sales licenses may be issued to package stores or to grocery stores or to convenience stores. Package sales licenses may be issued to taverns, provided that taverns may only sell malt beverages.

### **SECTION 47.61 INVESTIGATIVE AND ADMINISTRATIVE COSTS.**

Each application for a license under this article shall be accompanied by cash or check for the full amount of the license fee, plus the amount of the administrative fee, as indicated on the fee schedule. The investigative fee shall be submitted to the police

department. If the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the fee paid for investigation and administrative cost 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.

## **SECTION 47.62 HOURS AND DAYS OF SALE**

(a) Retail package licensees shall not engage in the sale of beer and/or wine except between the hours of 7:00 a.m. and 11:00 p.m. Monday through Saturday. The hours within which business may be carried on shall be determined by the standard time in force at the time of the sale thereof.

(b) Retail package beer and/or wine shall not be sold at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

(c) No retail package alcoholic beverages shall be sold on Sunday.

## **ARTICLE V** **HAPPY HOUR**

## **SECTION 48: PROMOTIONS AND SALES**

A) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:

- 1) offer or deliver any free alcoholic beverage to any person or group of persons;
- 2) deliver more than one alcoholic beverage to one person at a time, however, nothing herein shall prohibit a brew pub from offering a sampler of malt beverages in containers not exceeding four ounces. Each sampler shall not exceed four different types of malt beverages;
- 3) sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public;
- 4) sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public;

- 5) sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public;
- 6) sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (.947 liters), except to two or more persons at any one time;
- 7) increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week; or
- 8) encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.

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

C) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (A) of this section.

D) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.

E) It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.

F) The Chief of Police shall have responsibility for the enforcement of this article.

G) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.

H) Any person deemed guilty of violating this section may be punished by a

fine not to exceed \$1,000.00 and/or by imprisonment not to exceed 30 days in the common jail of the county. Licensees may further be subject to revocation proceedings.

## ARTICLE VI EXCISE TAXES

### **SECTION 49: PER DRINK EXCISE TAX**

A) Excise taxes received in the city after the 20th day of the month shall be charged a ten percent penalty.

B) If the Mayor and City Council deem it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee of the date, time and place of the audit.

C) Any licensee who violates any provision of this article may, upon conviction, be punished by a fine of not less than \$250.00, and the license of such location may be suspended or revoked.

D) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this article, and such licensee shall remit the same to the county on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the licensing and revenue manager to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended; provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.

### **SECTION 50: EXCISE TAX AND BOND REQUIREMENT ON WHOLESALERS**

A) There is hereby levied an excise tax computed at the rate of \$0.22 per liter or \$0.65 per ounce which shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in the City of Statham. Such tax shall be paid to the City Clerk by the wholesale distributor on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in the City of Stahtam as follows: each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the

tenth day of the month following. Excise taxes received in the planning and development department after the twentieth day of the month shall be charged a ten percent penalty. The \$0.22 per liter or \$0.65 per ounce shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of \$0.22 per liter or \$0.65 per ounce. It shall be unlawful and a violation of this chapter for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this chapter for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three percent of the amount of taxes collected as reimbursement for collection of the said tax.

B) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in the City of Statham at the rate of twenty-two cents (\$0.22) per liter and six dollars (\$6.00) for each container of tap or draft beer or malt beverage of fifteen and one-half (15 ½) gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

**SIZE OF CONTAINER    TAX PER CONTAINER**

7 ounces	\$	0.0291
8 ounces		0.0333
12 ounces		0.0500
14 ounces		0.0583
16 ounces		0.0666
32 ounces		0.1333
½ barrel (15 ½ gallon)		6.00
1 barrel (31 gallons)		12.00

All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages except the tax rate which is set out in this subsection and the reimbursement of three (3) percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

C) Each wholesale dealer prior to commencement of any business operation within the county shall post a performance bond with the City Clerk equal to one and one-half (1 1/2) times the estimated highest monthly payment to be made in a calendar year of the excise tax based on sales collected by the wholesaler dealer from the retailers to secure the payments for the tax imposed herein. These bonds shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the designee of the Mayor and City Council.

D) A wholesaler may be excused from posting the performance bond as provided herein after demonstrating full and satisfactory compliance with the provisions herein for a period of twelve (12) months subsequent to the commencement of business operations within the county. Continued exemption from the requirement of posting the

performance bond shall be conditioned upon continued compliance with the terms of this article and the payment of all sums as required by the provisions herein.

## **ARTICLE VII** **INCORPORATION OF STATE STATUTES**

The Mayor and City Council of the City of Statham hereby adopt and incorporate within this ordinance the following provisions of the Official Code of Georgia, which provisions are hereby made a part of this ordinance by reference thereto:

- 1) O.C.G.A. §3-3-40. Definitions.
- 2) O.C.G.A. §3-3-41. Performance of actual or simulated sexual acts.
- 3) O.C.G.A. §3-3-42. Employee solicitation of patrons of drinks on premises.
- 4) O.C.G.A. §3-3-43. Permitting persons to view sexually related acts or conduct performed on other premises.
- 5) O.C.G.A. §3-3-44. Permitting persons to remove alcoholic beverages to other premises to view sexually related conduct or activities.
- 6) O.C.G.A. §3-3-45. Employment of or assistance to persons engaged in sexually related conduct or activity or nudity.
- 7) O.C.G.A. §3-3-46. Grounds for suspension and revocation of alcoholic beverage license.

## **ARTICLE VIII** **SEVERABILITY**

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

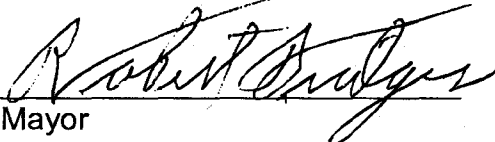
## **ARTICLE IX** **REPEALER**

The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed.

This Ordinance shall be effective ten days after final adoption by the City Council.

2007

Adopted and ordained this 19th day of February

  
Mayor

Vote:

Yes 3

No 0

Dates of Public Hearings: January 15, 2008  
Dates of Advertisement: December 30, 2007