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AN ORDINANCE NO. 0029-228

AN ORDINANCE TO REGULATE THE SALE FOR CONSUMPTION ON THE PREMISES OF BEER, MALT BEVERAGES, WINE AND DISTILLED SPIRITS AND THE SALE BY THE PACKAGE OF BEER, MALT BEVERAGES, AND WINE WITHIN THE CITY OF BALDWIN, GEORGIA; TO PROHIBIT THE SALE BY THE PACKAGE OF DISTILLED SPIRITS AND FORTIFIED WINE WITHIN THE CITY OF BALDWIN, GEORIGA; TO PROVIDE DEFINITIONS; TO PROVIDE THE PURPOSE OF THE ORDINANCE; TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE; TO REQUIRE LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES; TO PROVIDE REGULATORY FEES; TO ESTABLISH QUALIFICATIONS OF APPLICANTS FOR LICENSES; TO ESTABLISH CERTAIN DISTANCE PROHIBITIONS; TO PROVIDE FOR THE REVIEW OF APPLICATIONS; TO PROVIDE LIMITATIONS ON THE NUMBER OF LICENSES HELD; TO PROHIBIT CITY EMPLOYEES FROM HOLDING LICENSES; TO PROVIDE FOR LOCATIONS FOR BUSINESS PREMISES OF LICENSE HOLDERS; TO PROVIDE INVESTIGATION OF THE APPLICATION; TO PROVIDE GUIDELINES REGARDING THE LICENSES; TO PROVIDE FOR THE GRANT OR DENIAL OF LICENSES, AND THE APPEAL THEREFROM; TO PROVIDE FOR TRANSFERABILITY OF LICENSES; TO PROVIDE FOR SUSPENSION AND REVOCATION OF LICENSES UPON CERTAIN EVENTS; TO IMPOSE EXCISE TAXES UPON THE SALE OF ALCOHOLIC BEVERAGES; TO PROVIDE FOR THE DETERMINATION OF THE TAX AND THE PAYMENT OF THE TAX TO THE CITY; TO PROVIDE PENALTIES FOR NON-PAYMENT OF THE TAX; TO PROVIDE REGULATIONS REGARDING BUILDINGS OF APPLICANTS; TO REGULATE EMPLOYEES AND HOURS OF OPERATION OF THE BUSINESSES; TO PROHIBIT SALES TO PERSONS WHO ARE UNDER AGE; TO PROHIBIT OPEN CONTAINERS WITHIN THE CITY; TO PROHIBIT BROWNBAGGING; TO IMPOSE CERTAIN MERCHANDISE RESTRICTIONS; TO PROVIDE THAT BONA FIDE NON-PROFIT CIVIL ORGANIZATIONS MAY RECEIVE A SPECIAL USE TEMPORARY PERMIT AUTHORIZING THE ORGANIZATION TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES, TO SELL WINE AT RETAIL FOR OFF-PREMISES

CONSUMPTION, OR TO AUCTION WINE IN SEALED CONTAINERS, OR ANY COMBINATION THEREOF; FOR A PERIOD NOT TO EXCEED THREE DAYS, AND SUBJECT TO THE REGULATIONS AND REQUIREMENTS OF THIS ORDINANCES; TO PROVIDE FOR THE SALE OF ALCOHOLIC BEVERAGES BY FARM WINERIES; TO PROVIDE FOR THE SALE OF WINE BY THE PACKAGE WITH ANCILLORY WINE TASTING; TO PROVIDE FOR SALE OFF PREMISES FOR CATERED FUNCTIONS; TO PROVIDE FOR FURTHER REGULATIONS REGARDING THE SALE OF ALCOHOLIC BEVERAGES; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Baldwin, Georgia, on December 30, 1993, duly adopted an alcoholic beverage ordinance, that allowed the sales of malt beverages, beer and wine; and

WHEREAS, the City Council of the City of Baldwin, Georgia, finds that it will be to the economic benefit of the City of Baldwin, Georgia, and its citizens, to allow the sale of alcoholic beverages by consumption on the premises, but with said sales limited by the regulations provided by this ordinance; and

WHEREAS, the City Council of the City of Baldwin, Georgia, desires to promote and facilitate bona fide non-profit civil organizations by allowing said organizations to have fund raisers or other promotions whereby said organizations provide alcoholic beverages for consumption on the premises or otherwise; and

WHEREAS, the City Council of the City of Baldwin, Georgia, desires to regulate the sale of alcoholic beverages as provided by the regulations contained within this ordinance;

NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED by the authority of the City Charter and general law, as follows:

SECTION 1. AMENDMENT TO THE COMPILATION OF ORDINANCES OF THE CITY OF BALDWIN REGARDING THE SALE OF ALCOHOLIC BEVERAGES.

The compilation of ordinances of the City of Baldwin, Georgia, regarding the sale of alcoholic beverages, is hereby amended, by striking in their entirety, the Alcoholic Beverage Ordinance, and adopting new provisions regulating the sale of alcoholic beverages within the City of Baldwin, Georgia, and which shall read as follows:

ARTICLE 1. IN GENERAL

SECTION 1. DEFINITIONS.

All definitions set forth in the Georgia Alcoholic Beverage Code (O. C. G. A. Title 3) and State regulations, as amended, are adopted by this ordinance. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning (and with the definitions of State statutes and regulations controlling in the event of a conflict):

Adequate parking means the parking spaces for each premises of each package store and each consumption on the premises location required under the zoning and developmental ordinances of Baldwin. Such off-street parking shall have vehicular access to streets and shall be constructed of all-weather surface.

Adult entertainment establishments means any of the following: adult bookstores, adult dancing establishments, adult mini-motion theaters, adult motion picture arcades, adult motion picture theaters, adult video stores, erotic dance establishments, escort bureaus: introduction services, lingerie modeling studios, or nudist or naturalist facilities, campgrounds, restaurants, parks or recreational areas. The following terms used in this chapter defining adult entertainment establishments shall have the meaning indicated below:

Adult bookstore means an establishment having a substantial or significant portion of its stock in trade, merchandise, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising ten (10) percent of its net sales consisting of printed material and/or merchandise which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult dancing establishment means a business that features dancers displaying or exposing specified anatomical areas.

Adult minimotion picture theater means an enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motion picture arcade means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other impact producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater means an enclosed building with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult video store means an establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas or an establishment with a segment or section, comprising of five (5) percent of its total floor space, devoted to the sale or display of such material or which derives more than five (5) percent of its net sales from videos which are characterized or distinguished or relating to specified sexual activities or specified anatomical areas.

Erotic dance establishment means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dances, go-go dancers, strippers or similar entertainers, which such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Escort bureau: introduction services means any business, agency or person who, for a fee, commission, hire, reward or profit furnishes or offers to furnish names or persons, or who introduces, furnishes or arranges for person(s) who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with other about any place of public resort or within any private quarters

Lingerie modeling studio means any place or commercial establishment wherein the patron directly or indirectly is charged a fee or required to make a purchase in order to view entertainment or activity which consists of persons exhibiting or modeling swim suits, lingerie or similar undergarments.

Nudist or Naturalist facilities, campgrounds, restaurants, parks or recreational areas means any facility that has a formal or informal policy or allowing participants, guests, invitees, licensees or any natural person the option of or requiring said persons to not wear clothing which covers specific anatomical areas as defined herein.

Specific anatomical areas shall include any of the following:

- (a) Less than completely and opaquely covered human genitals or pubic region, buttock or female breast below a point immediately above the top of the areola; or
- (b) Human male genitalia area in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall include any of the following:

- (a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of sexual relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- (b) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- (c) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
- (d) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- (e) Masochism, erotic or sexually oriented torture, beating or the inflicting of pain; or
- (f) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
- (g) Human excretion, urination, menstruation, vaginal or anal irrigation.

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

Alcoholic beverage means any beverage containing alcohol and shall include but shall not be limited to all distilled spirits, alcohol, beer, malt beverages, wines, and fortified wines.

Ancillary wine tasting means samples of wine provided to customers of licensed wine-only package stores under the conditions set forth in Section 49 of this ordinance.

Authorized catered function means an event at a location not otherwise licensed for consumption of alcoholic beverages by the drink at which alcoholic beverages are furnished, for consideration, and sold, dispensed or provided free of charge to persons present at the event, by the drink, pursuant to a permit obtained under this ordinance.

Bed and breakfast means any establishment where five or more rooms used for sleeping accommodations are offered for pay to guests, which regularly prepares and serves breakfast, where there exists one or more dining rooms serving prepared meals, whether public or for the use of guests, with a seating capacity of at least ten, with a kitchen that has been approved by the health and fire departments.

Bona fide non-profit civic organization means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. §§ 501(c), 501(d), or 501(e).

Business means any person, corporation, partnership, limited liability company, or other legal entity which exerts substantial efforts within the City, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

Church means a permanent freestanding building located in an area designated for such use by the zoning ordinances where persons regularly assemble for religious worship, which shall be publicly designated as a church, but does not include a residence or place of business also used for religious purposes, and also does not include an administrative building or office for a church or religious organization. The term “church” shall also not include store front sites within retail shopping centers that are also used as a place of regular assembly for religious worship.

Convenience store means a small store or shop that sells, but is not limited to, such items as candy, ice-cream, soft drinks, water, lottery tickets, tobacco produce, newspapers, magazines, a selection of processed foods, sandwiches, a few items of groceries, ATM and money order services, as well as fuel, motor oils, etc., such as are typical in the City of Baldwin.

Distilled spirits means any beverage containing alcohol obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines. Distilled spirits cannot be sold by the package within the City.

Farm winery means a domestic winery as defined and regulated by O. C. G. A. § 3-6-21.1, which is licensed as a farm winery by the State of Georgia.

Farm winery tasting room means an outlet for the promotion of a farm winery’s wine by providing complementary samples of such wine to the public and for retail sale of such wine as provided and regulated by O. C. G. A. § 3-6-21.1.

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. The term includes, but is not limited to, brandy.

Fuel means any petroleum product including but not limited to gasoline, diesel, kerosene, ethanol, and propane.

Grocery store means a store established primarily for the retailing of food. This term includes large grocery stores, such as supermarkets, that also stock products other than food, such as paper goods, cleaning supplies and household items in addition to food items. Grocery store shall also include those grocery stores operated as a part of a large retail commercial center such as those operated by Wal-Mart.

Hotel, motel or resort means every building or structure, or combination of buildings and structures, that is kept, used, maintained, advertised and held out to the public as a place where sleeping accommodations are offered for pay to travelers and guests, whether transient, permanent or residential, which contains ten or more rooms used for the sleeping accommodations of such guests, has one or more public dining rooms with kitchen and a seating capacity of at least 25, contains one or more conference/meeting/banquet rooms in either the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel, motel or resort operations.

Licensed Alcoholic Beverage Caterer means any person licensed for the sale of alcoholic beverages by the state and who possesses a license by a local government in the state authorizing such person to sell or dispense alcoholic beverages by the drink off licensed premises and in connection with an authorized catered function.

Lounge means a separate room connected with, a part of or adjacent to a restaurant or eating establishment, as defined in this section, provided that the seating capacity of the lounge shall not exceed that of its connected restaurant or eating establishment.

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

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

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

The manufacture of alcoholic beverages and distilled spirits is not allowed in the City, except for a brew pub which must meet the requirements of Section 51, or a farm winery which must meet the requirements of Section 53.

On-premises consumption dealer means any person who sells, at retail only to consumers and not for resale, distilled spirits, wine or malt beverages, or any combination thereof, for consumption on the premises. A bona fide non-profit organization may sell alcoholic beverages for consumption on the premises, or auction wine, pursuant to a special use temporary permit issued pursuant to this ordinance and conditioned upon compliance with the requirements of this ordinance.

Package dealer means any person engaged in selling, at retail only to consumers and not for resale, any wine or malt beverages in unbroken packages. The sale of distilled spirits by the package is not allowed in the City.

Person means any individual, limited liability company, any legal entity, firm, partnership, cooperative, non-profit 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.

Pour and *Pouring* mean the sale of alcoholic beverages by the drink for consumption on the premises.

Pouring outlet means any place where alcoholic beverages are poured or proposed to be poured.

Premises, when used in conjunction with package sales, means the floor space on and from which the package sale of alcoholic beverages is conducted, and when used in conjunction with consumption on the premises sales, means the premises licensed for such sales. Premises also means the space or area owned, leased and/or controlled by the licensee and used by him for the purposes of operating under the license. Premises is further defined as one (1) physically identifiable place of business consisting of one (1) room, or two (2) or more contiguous rooms operating under the same trade names where alcoholic beverages are sold. Any premises outlets which cannot be determined as one (1) identifiable place of business shall require additional licenses regardless of such establishments having the same trade name, ownership, or management; provided nothing herein shall require additional licenses for service bars, or portable bars, or portable bars used exclusively for the purpose of preparing drinks when such bars are accessible only to employees of the licensed establishment and from which drinks are prepared to be served in the licensed premises. As used within the context of the provisions of this ordinance, premises can also mean the entire building and lot, including parking area.

Residence means the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

Resident means a person whose primary residence is within the territorial limits of Habersham County or Banks County.

Restaurant means an eating establishment that is any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests, and which derives at least 50% of its total annual gross food and beverage sale from

the sale of prepared meals or food (not including the sale of alcoholic beverages). At least one (1) meal and food service for four (4) hours per day shall be served at least five (5) days a week during the months of April through October, and shall be served at least three (3) days a week during the months of November through March, except that restaurants that open for business more than five (5) days a week, shall be required to serve at least one (1) meal per day each day that the restaurant is open, with the exception of holidays, vacation and periods of redecoration, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall provide at least twenty-five (25) seats for customers. All types of eating establishments, in order to sell alcoholic beverages for consumption on the premises, by whatever name, including but not limited to pubs, taverns, bakeries, or otherwise, must meet the requirements of a "restaurant" except as provided herein in order to receive an alcoholic beverage license for consumption on the premises.

School means an organized source of education or training as an institution for the teaching of children with the presence of full-time faculty and full-time curriculum in which the traditional subjects and learning processes associated with the grades of the common public schools are taught.

Wholesaler means any person who sells alcoholic beverages to other wholesale dealers, or to package dealers.

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

SECTION 2. PURPOSE OF ORDINANCE.

This ordinance is enacted in furtherance of the police powers of the City to promote the health and general welfare of its citizens; to regulate and control the licensing and sale by consumption on the premises of alcoholic beverages and by the package of malt beverages and wine; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, and residential areas from the negative secondary effects attributable to establishments that sell alcoholic beverages; and to ensure that only qualified persons obtain licenses for the sale or distribution of alcoholic beverages; to provide that bona fide non-profit civic organizations may receive a special use temporary permit allowing the sale of alcoholic beverages for consumption on the premises or as otherwise provided by this chapter on a temporary basis and as a part of promotional events or fundraisers by said organizations.

SECTION 3. COMPLIANCE WITH ORDINANCE.

No person shall sell or offer for sale any alcoholic beverages at wholesale, or by the package, or for consumption on the premises, within the City without first having complied with the provisions of this ordinance. Bona fide non-profit civic organizations, as defined herein, shall not offer to sell alcoholic beverages for consumption on the premises or otherwise without first having complied with the provisions of this ordinance, and receiving a special use temporary permit from the City of Baldwin.

SECTION 4. VIOLATIONS; PENALTY.

Any person found guilty of or entering a plea of guilty or nolo contendere to the offense of failing to pay the tax due pursuant to this ordinance, either in whole or in part, shall, upon conviction thereof, be punished up to the maximum penalties allowed by the City charter or under general law, and as assessed by a court of appropriate jurisdiction, including but not limited to the Municipal Court of the City of Baldwin. Violations of this ordinance by the license holder or by agents of the license holder, or both, shall also be grounds for suspension, revocation, or denial of renewal of the license of the license holder, as provided herein.

SECTION 5. VIOLATIONS.

Any person violating any of the provisions of this Ordinance shall be punished up to the maximum penalties allowed by the City Charter or under general law, and as assessed by a court of appropriate jurisdiction, including but not limited to the Municipal Court of the City of Baldwin. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed, continued or permitted by such person, and shall be punished accordingly. Violations of this Ordinance by the license holder or by agents of the license holder, or both, shall also be grounds for suspension, revocation, or denial of renewal of the license of the license holder, as provided herein.

ARTICLE II. LICENSES

SECTION 6. REQUIRED.

(a) No person shall engage in the sale or distribution of alcoholic beverages in the City without first having obtained a license therefor, provided that wholesalers and distributors maintaining no fixed place of business, warehouse or other facility in the City and possessing a valid state license may make sales and deliveries to licensed package dealers, licensed consumption on the premises dealers/licenses and to bona fide non-profit civic organizations holding a special use temporary permit pursuant to the requirements of this chapter.

(b) Except as specifically authorized in this ordinance, no person licensed for the sale of a particular class of alcoholic beverages may sell other classes of alcoholic beverages without obtaining the required license therefore.

(c) Bona fide non-profit civic organizations shall not be required to hold a license for the sale or distribution of alcoholic beverages, but must receive from the City of Baldwin, Georgia, a special use temporary permit issued pursuant to this ordinance and in compliance with the rules and regulations of the Georgia Department of Revenue. For the limited purposes as allowed by this ordinance, a special use temporary permit shall be deemed to be a valid license for the sale or distribution of alcoholic beverages by a bona fide non-profit civic organization.

SECTION 7. TYPES OF LICENSES TO BE ISSUED.

(a) Only the following alcoholic beverage licenses shall be issued under this chapter:

- (1) Malt beverages for sale by the package;
- (2) Wine for sale by the package;
- (3) Malt beverages for consumption on the premises;
- (4) Wine for consumption on the premises;
- (5) Distilled spirits for consumption on the premises;
- (6) Combination licenses:
 - (a) Malt beverages and wine for sale by the package;
 - (b) Malt beverages and wine for consumption on the premises;
 - (c) Malt beverages and distilled spirits for consumption on the premises;
 - (d) Wine and distilled spirits for consumption on the premises;
 - (e) Malt beverages, wine and distilled spirits for consumption on the premises;
- (7) Farm winery licenses (which includes a tasting room of a farm winery);
- (8) Special use temporary permit issued only to bona fide non-profit civic organizations;
- (9) Wholesale dealer licenses;
- (10) Authorized caterer license.

SECTION 8. QUALIFICATIONS OF APPLICANTS.

(a) No license shall be granted under this ordinance to any applicant who is not at least twenty-one (21) years of age and each applicant must be a citizen or resident legal alien of the United States. The applicant must be a person of good moral character and a resident of the County of Habersham or Banks for one (1) year preceding the filing of the application (the residency requirement may be met by a managing agent for applicant). Honorably discharged members of the U.S. military

services may have their service count for residency requirements, but must be a Habersham or Banks County resident at the time of application.

(b) Corporations or limited liability companies shall apply for a license in the name of the corporation or the limited liability company and a managing agent for the corporation or limited liability company, and the license shall be issued to the corporation or the limited liability company and the managing agent. Corporate or limited liability company applicants shall attach to the application a certificate showing compliance with the annual registration requirements from the secretary of state, corporate division, and showing the name and address of a registered agent for service within the state. Partnerships shall apply for a license in the name of one of the partners (and a managing agent for the partnership), and the license shall be issued in the name of the applicant. Where the applicant is a corporation or a limited liability company, an agent (“managing agent”) involved in the active management of the business to be licensed, as designated by corporate or limited liability company resolution, shall meet the requirements of individual applicants under this subsection at the time application is made and at all times during which the license is in effect. If the applicant is a partner in a partnership, the requirements of this section shall apply to the managing agent for the partners at the time of application, and at all times during which the license is in effect. Owners, partners, members, and shareholders must meet all requirements under this ordinance to be issued a license, unless the entity has a managing agent who meets all requirements, and in which event, the residency requirement will not apply to owners, partners, members, and shareholders.

(c) In addition to meeting all qualifications for a license under state law, all applicants for licenses, whether original or renewal, must attach to their applications evidence of their good character. In addition to meeting state qualification standards, no license, whether original or renewal, shall be issued to any person, partnership, limited liability company or corporation organized for pecuniary gain if any individual having an interest either as owner, partner, member, or stockholder, directly or indirectly, beneficial or absolute, or such person’s spouse shall have been convicted of or shall have taken a plea of guilty or nolo contendere to, once, within ten (10) years immediately prior to filing, any felony or any violation of any law or administrative regulation regulating the sale, manufacture or distribution of alcoholic beverages, sex offense or narcotics. No license, whether original or renewal, shall be issued to any person, partnership, limited liability company, or corporation where an individual having an interest as owner, partner, member, or stockholder, directly or indirectly, beneficial or absolute, shall have been convicted of or shall have taken a plea of guilty or nolo contendere to, once within ten (10) years immediately prior to the filing of the application, the offense of driving a motor vehicle under the influence of intoxicating liquor or drugs. The restrictions of this subsection as to members or stockholders shall apply only to members or stockholders of privately owned limited liability companies or corporations and to stockholders of publicly owned corporations who hold in excess of ten percent of outstanding stock.

(d) Corporations, partnerships and other types of legal organizations shall have the license jointly issued in the entity's name and an individual who meets the requirements of Section 8(a) and who does in fact have managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed full time by the entity. Said individual shall be known as the "managing agent."

(1) In the event the "managing agent" changes, the licensee shall notify the City Clerk within five (5) days of the change. A fee of one hundred dollars (\$100.00) will be charged for the processing of an application for the change of the "managing agent", and such applicant must be approved by the City Council or its designated agent.

(e) Applicants for renewal licenses must meet all qualifications of applicants for original licenses. Loss of qualifications during the term of a license shall be grounds for revocation or for denial of renewal.

SECTION 9. APPLICATION SUBMISSION; BASIC INFORMATION.

(a) Every applicant for a license under this ordinance shall make written application to the City Council or its designated agent or on forms furnished by the City Clerk. The applicant shall answer all questions on the application, under oath, and shall supply all information and furnish all certificates, affidavits, bonds and other supporting data or documents as required by this ordinance.

(b) Each application shall state the name and address of each applicant (including managing agent); the place where the proposed business is to be located; and the type license applied for, whether for distilled spirits, malt beverages or wine, or any combination thereof, and whether for wholesale, for consumption on the premises (pouring) or package sale or other license or permit allowed by this ordinance. The application shall also contain a beginning balance sheet showing the proposed original capitalization of the business and its source. If an applicant is a corporation, the application shall state the names of all officers and stockholders of the corporation and the percentage ownership of each. If the applicant is a partnership, the application shall state the names of all partners therein, whether general or limited. If the applicant is a limited liability company, the application shall state the names of all members therein. All applications shall include the names of all persons that have or will have a direct or indirect beneficial interest in the business for which the license is sought. Each application shall also contain such additional information as the Council or designated agent prescribes, shall be verified as true by the applicant before filing and shall be accompanied by a nonrefundable deposit of \$250.00 to cover the cost of investigating the applicant and processing the application. The premises for the location of the license shall also be inspected by the agent for the City for building inspections and code compliance, and applicant will pay an additional inspection fee of \$35.00. Criminal background checks by

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fingerprinting shall also be performed of applicant and the managing agent with the fingerprinting included as a part of the application fee.

(c) Applications for a consumption on the premises (pouring) license shall only be made by eating establishments that meet the definition of a restaurant, as defined herein, except for special use temporary permits issued to bona fide non-profit civic organizations and except as to bed and breakfasts and hotels, motels or resorts as provided herein. Consumption on the premises licenses shall be required to maintain at least fifty (50%) percent of their business volume from the sale of food. Food sales shall include all consumable items sold on the premises except alcoholic beverages. Each application for a consumption on the premises (pouring) license shall demonstrate that the applicant at the requested premises has an adequate and sanitary kitchen and dining room, air conditioning, adequate space for the minimum number of seats for customers, and the anticipated days of the week that applicant shall be serving meals to the general public. The serving of meals to the general public shall be the principal business conducted by an applicant for a consumption on the premises (pouring) license, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. Eating establishments may operate a lounge upon the premises, so long as the eating establishments meet the food requirements under this ordinance, and the operation of the lounge is only incidental to the operation of the eating establishment. A licensed hotel or resort meeting the other requirements of this article may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as there is also a full service eating establishment in the hotel/resort which shall meet all of the requirements of this article. This provision specifically does not allow a "stand alone bar," but rather allows a snack bar or smaller café on the premises with alcohol service together with food service. A bed and breakfast meeting the other requirements of this article except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full service eating establishment located in the bed and breakfast. A bed and breakfast will be required to meet the 50 percent requirement for nonalcohol sales which may include revenue from the sale of rooms.

SECTION 10. DISTANCE PROHIBITIONS.

(a) Package sales:

(1) No malt beverage or wine, or both shall be offered for sale, sold or dispensed by the package within three hundred (300) feet of the premises of any school building, college building, school grounds or college grounds, alcoholic treatment center, or housing authority property.

(2) No malt beverage or wine, or both shall be offered for sale, sold or dispensed by the package within three hundred (300) feet of any church.

(3) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by the package within three hundred (300) feet of any alcohol treatment center or housing authority property.

(b) Sales by consumption on the premises (pouring):

(1) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within three hundred (300) feet of the premises of any school building, college building, school grounds or college grounds.

(2) No distilled spirits shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within six hundred (600) feet of any school building, educational building, school grounds or college campus.

(3) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within three hundred (300) feet of any church.

(4) No distilled spirits shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within three hundred (300) feet of any church.

(5) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within three hundred (300) feet of any alcohol treatment center or housing authority property.

(6) No distilled spirits shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within three hundred (300) feet of any alcoholic treatment center or housing authority property.

(c) In order to demonstrate the location meets all distance prohibitions imposed by ordinance, each application for a license to sell alcoholic beverages shall be accompanied by a scale drawing of the premises for the proposed business, showing its location with respect to all streets within 600 feet in every direction. Such drawing shall also depict the distance from the premises (being the front door) to each premise (being the front door) of each church, school building, or other pertinent facility. All such distances shall be measured by the most direct route of travel on the ground.

(d) The distances provided for herein shall not apply:

(1) To any premises or location where an alcoholic beverage license was issued or approved prior to January 1, 2012, so long as alcoholic beverages were being sold or dispensed in compliance with the other provisions of this ordinance.

- (2) To any premises or location where alcoholic beverages are being sold or dispensed in compliance with the other provisions of this ordinance and a school, church or other pertinent facility is built or erected within the minimum distances provided for in this section.

SECTION 11. REVIEW OF APPLICATION.

In reviewing an application under this ordinance, the City Council or its designated agent of the City of Baldwin may utilize the chief of police and other City officials with respect to matters within their areas of expertise. All applicants shall furnish such additional data, information and records as may be requested of them by the City Clerk, chief of police or other City officer such as would be useful in determining whether to approve or reject such application. Copies of all form ATT-17, Personnel Statements, filed with the state shall be submitted with the application. By filing an application, the applicant agrees to produce for oral interrogation any person who is to have a beneficial interest in the business for which the license is sought or who is to be employed by such business. The failure to provide requested data, information and records or to make those persons specified available for interrogation within a reasonable time shall be grounds for denial of an application.

SECTION 12. OWNERSHIP OF PREMISES.

Unless the applicant under this ordinance will own the premises from which the business will be conducted, the application shall also disclose the name of every person owning a beneficial interest in the premises and shall state the manner in which the rental is to be determined, and to whom and at what intervals the rent is to be paid. The applicant shall also attach a copy of the proposed lease with the verified statement of the applicant that such lease contains the entire agreement between the parties. No license shall be issued to an applicant who leases premises under a variable rent system whereby the landlord shares in the profits from the business.

SECTION 13. LIMITATIONS REGARDING LICENSES HELD.

(a) No person shall have an interest in more than five alcoholic beverage licenses, regardless of the degree of such interest. A combination license from the City, allowing the sale of more than one type of alcoholic beverage shall be considered as one alcoholic beverage license.

(b) (1) For the purpose of this section, a person shall be deemed to have a beneficial interest in a license when he:

- a. Holds a license to sell by the package.
- b. Has any ownership interest, whether legal, equitable or other, in or control over a package license.

c. Holds a license to sell by consumption on the premises (pouring).

d. Has any ownership interest, whether legal, equitable or other, in or control over a consumption on the premises (pouring) license.

(2) Under the de minimis concept, a person who owns less than five percent of the shares of a corporation which has more than 35 shareholders or whose stock is publicly traded shall not, on the fact of stock ownership alone, be deemed to have a beneficial interest in a license held by a corporation. Likewise a five percent interest in a limited liability company shall not be deemed to be a beneficial interest in a licensee held by the limited liability company.

(3) With regard to this section, a person will not be deemed to have an interest in more than one alcoholic beverage business when separate malt beverage and wine licenses are held by the same licensee at the same business premises conducted as a single operation.

(c) Nothing contained in this section is intended to prohibit the child of the holder of an alcoholic beverage license from also owning such a license if such child is emancipated and holds no business or financial interest or vested interest in the parent's operation.

(d) No person shall have, own or enjoy any ownership interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage license unless a full description of such interest shall have been furnished to the City at the time of making application for the license. It shall be the continuing duty of an alcoholic beverage licensee to report to the City Clerk, in writing, within ten days, any change in any interest in such licensee's business. Failure to report to such change in interest shall be grounds for suspension or revocation of the license.

(e) No alcoholic beverage license shall be issued by the City under this ordinance to any person holding a City taxicab license or taxi driver's permit.

(f) No alcoholic beverage license shall be issued at a premises where an adult entertainment establishment is operating, or is to be operated.

(g) The sale of distilled spirits by the package is not allowed within the City of Baldwin, Georgia.

SECTION 14.

**SALE, DISTRIBUTION AND OTHER DEALING IN
ALCOHOLIC BEVERAGES WITHIN THE CITY BY
OFFICIALS AND EMPLOYEES; EXEMPTIONS.**

(a) No member of the City Council shall hold any interest, directly or indirectly, in any establishment licensed by the City to sell, distribute, or otherwise deal in alcoholic beverages. Any member holding or having a beneficial interest in any alcohol license issued by the City at the time of that person's election or appointment to office shall divest himself thereof within 60 days. For purposes of this section, a member shall be deemed to have or hold a beneficial interest if the license is issued in the name of the person's spouse, child, parent or sibling, or in a partnership or corporation or limited liability company in which such person owns more than ten percent controlling interest.

(b) No officer or employee of the City, whose official duties involve issuance and regulation of alcoholic beverage licenses or the enforcement of alcoholic beverage laws, shall hold any interest, direct or indirect, in any alcoholic beverage license issued by the City or in any establishment licensed by the City to engage in the sale or distribution of alcoholic beverages. The Mayor, upon advice and consent of the City Council, may exempt officers and employees of the City from the provisions of this section, upon written finding that such officer or employee's involvement, direct or beneficial, in any business licensed by the City to engage in the sale or distribution of alcoholic beverages would pose no conflict of interest or interference with the performance by the officer or employee of his official duties for the City.

(c) No officer or employee of the City shall be permitted to engage in employment with any person, firm or corporation licensed by the City to sell or distribute alcoholic beverages. The City Council may, in writing, exempt those officers or employees from the prohibition of this section, upon finding that such employment would pose no conflict of interest or interference with the performance by the officer or employee of his official duties for the City; provided, however, no certified police officer shall be permitted employment by any establishment that deals in alcoholic beverages without first obtaining the written consent of the chief of police.

SECTION 15.

**STANDARD FOR NEW LICENSE AT EXISTING
LOCATION.**

An application for a new alcoholic beverage license for an existing licensed location shall be subject to all the requirements for the granting of an original application for a new license.

SECTION 16. SPECIAL PROVISIONS FOR WHOLESALERS.

- (a) No person or entity shall sell any alcoholic beverage at wholesale unless the person or entity holds a valid and current wholesale license from the State of Georgia and from the city or county where the principle place of business of the wholesaler is located.
- (b) A person or entity desiring to engage in the wholesale sale of alcoholic beverages in this City shall obtain a license in accordance with the provisions of this chapter and pay the license fees as set by this ordinance.
- (c) No person or entity that has any financial interest, either direct or indirect, in any license for the retail sale of any alcoholic beverages in Habersham County or Banks County or in the City shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the State of Georgia.
- (d) Farm wineries acting as wholesalers under the provisions of O. C. G. A. § 3-6-21.1 are exempt from this provision and may, upon proper application, approval, and permitting, hold licenses as on premises, bulk, or package sales and wholesale operations at a single location.
- (e) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any alcoholic beverage to any person 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.
- (f) No alcoholic beverage shall be delivered to any retail sales outlet in the City except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.
- (g) Every retailer shall maintain sufficient audit records to attribute all alcoholic beverage items for sale to a purchase from a licensed wholesaler.
- (h) Licensed wholesalers shall only engage in the sale of alcoholic beverages during regular business hours of the retailer, Monday through Saturday, excluding Christmas Day.
- (i) All provisions of this article including those regarding licenses, qualifications, audits, records, and penalties, shall also apply to wholesalers.
- (j) No wholesaler's license under this ordinance shall be issued except for premises located within an industrial zoning classification and meeting all requirements of the City zoning and developmental ordinances.

SECTION 17. LOCATION RESTRICTIONS.

(a) Package sales:

(1) Package sales of malt beverages and/or wine may be conducted only in conjunction with package stores or the business operation of a supermarket, convenience store, or drugstore meeting the requirements of this section. For the purpose of this subpart, “supermarket” shall mean a grocery retailer carrying a full selection of food and grocery items, including fresh produce and meats. A “convenience store shall mean a retail store carrying a limited selection of canned, packaged or prepared food and grocery items and at which fuel may be regularly available for sale, provided that no service or mechanical work is performed on motor vehicles. General merchandise department stores with floor space open to the public in excess of 25,000 square feet having the inventory of a supermarket may be licensed as a supermarket. For the purpose of this section a “drugstore” shall mean a retail store at which prescription drugs and medications are dispensed under the control of a licensed pharmacist, and which sells at retail various personal health-related items for which prescriptions are not required.

(2) Licenses for the package sale of malt beverages and/or wine will be issued only for premises located within a commercial zoning classification under the City zoning ordinance.

(3) All premises at which the package sale of malt beverages and/or wine is authorized shall meet all requirements of the city’s zoning and developmental ordinances, as well as minimum building, fire and life safety codes.

(4) Premises licensed on January 1, 2012 for the package sale of malt beverages and/or wine and lying outside the locations authorized for package sales in subsection (a)(2) may continue such operation, provided they are in compliance with all other provisions of this ordinance. Cessation of any such business for 90 days creates a rebuttable presumption of abandonment and may result in loss of grandfather status and serve as grounds for revoking any current license. Except as provided herein, no new licenses shall be issued for a location not meeting the location requirements of subsection (a)(2).

(b) Consumption on the premises (pouring):

(1) Except as provided otherwise herein this chapter, consumption on the premises (pouring) sales of distilled spirits, malt beverage and/or wine may be conducted only in conjunction with an eating establishment which has as its principal business conducted being the serving of meals, and with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. The eating establishment, by whatever name called, must meet the definition of a “restaurant” as defined herein. Consumption on the premises licensees shall maintain at least fifty (50%) percent of their business volume from the sale of food,

which shall not include the sale of alcoholic beverages. Food sales shall include all consumable items sold on the premises except alcoholic beverages. The fifty (50%) percent ratio shall be determined on a calendar quarter basis pursuant to monthly reports that will be submitted under oath (and subject to all penalties for false swearing) by each licensee to the administrative office of the City. In the event food sales fall below fifty (50%) percent of the business volume of the license holder in any quarter, then the license holder shall be placed on probation for the next succeeding quarter. The City Clerk or other designated agent of the City shall notify the license holder in writing of the probation. At the end of the next succeeding quarter, if food sales have not attained fifty (50%) percent of business volume, then the City Council, Mayor, City Manager, or other designated agent of the City, shall suspend such license for a period of six (6) months in accordance with Section 27. After the period of suspension, should the license holder fail to meet the fifty (50%) percent food sales ratio for any quarter during the year following suspension, then the pouring license shall be revoked following the procedures of Section 27. Nothing herein provided shall prevent the City Council or other duly designated agent of the City from suspending or revoking such licenses for any other violations of this ordinance. Authorized agents of the City may examine the records of businesses licensed hereunder at any reasonable time to ascertain that the requirements of this and other provisions of this ordinance are met. Licensees for consumption on the premises (pouring) licenses shall provide a monthly report, under oath (and subject to all penalties for false swearing) by the 15th day of the following month, to the administrative office for the City of Baldwin, Georgia, that demonstrates that the food sale requirements of this ordinance have been met. Such licensees, upon request by the City of Baldwin or its designated agent, shall provide to the administrative office of the City, any and all backup documentation to demonstrate that the food sale requirements of this ordinance have been met. Failure to provide any of the reports or documentation required under this ordinance by the licensee to the City may result in the City Council or other designated agent of the City suspending the pouring license until the reporting requirements are met, and may result in revocation of the pouring license by following the revocation procedures provided within this ordinance.

(2) Licenses for consumption on the premises sale of alcoholic beverages will be issued only for premises located within a commercial zoning classification under the City zoning ordinance.

(3) All premises at which the consumption on the premises sale of alcoholic beverages is authorized shall meet all requirements of the city's zoning and developmental ordinances, as well as minimum building, fire and life safety codes.

(4) Notwithstanding the provisions of Section 17(b)(1), the following provisions shall apply to hotel, motels or reports and to bed and breakfasts, and said businesses shall be governed as follows for pouring licenses:

(a) A licensed hotel or resort meeting the other requirements of this article

may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as there is also a full service eating establishment in the hotel/resort which shall meet all of the requirements of this article. This provision specifically does not allow a “stand along bar,” but rather allows a snack bar or smaller café on the premises with alcohol service together with food service.

(b) A bed and breakfast meeting the other requirements of this ordinance except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full service eating establishment located in the bed and breakfast. A bed and breakfast will be required to meet the 50 percent requirement for nonalcoholic sales which may include revenue from the sale of rooms.

SECTION 18. COMPLIANCE WITH CITY ORDINANCES AND REGULATIONS.

No license under this ordinance shall be issued to any applicant if any person holding a beneficial interest in the business to be licensed owes any delinquent taxes, assessments, fees, water charges, sewer charges, or other fees to the City. No license under this ordinance shall be issued to any applicant if any person holding a beneficial interest in the business is currently in violation of any ordinance or regulation of the City, and the applicant has not cured the violation and come into compliance with the ordinances and regulations of the City. No license under this ordinance shall be issued as to any premises where an adult entertainment establishment operates or is to be operated.

SECTION 19. INVESTIGATION OF APPLICATION; ISSUANCE.

Every application filed pursuant to this ordinance shall be thoroughly investigated by the chief of police, who shall make a formal written report and recommendation to the City Council or its designated agent of the City. The City Council or its designated agent of the City shall review the chief’s report and make such further investigation as it or he deems appropriate. All applications shall be investigated and acted upon within 90 days of the date of submission of a completed application, unless consent of the applicant to extend the investigative period has been obtained in writing. Inability of the City Council or its designated agent of the City to obtain the good faith cooperation of the applicant in the investigation process, within the time period specified, shall constitute grounds for denial of the license.

SECTION 20.

CONSIDERATIONS FOR GRANTING OF LICENSES.

(a) It shall be the duty of the City Council or its designated agent of the City to issue or refuse to issue a license under this ordinance to any applicant. In determining whether or not any application shall be granted and a license issued, the City Council or its designated agent of the City shall consider all mandated standards of this ordinance and the following information in the public interest and welfare:

(1) If the applicant and/or any holder of an interest in the license has ever violated any federal, state, county or municipal law, ordinance or administrative regulation regarding alcoholic beverages, their possession, sale, manufacture, distribution, handling, or dealing therein;

(2) The manner in which the applicant and/or any holder of an interest in the license has conducted any business within the City as to the necessity for excessive police intervention;

(3) The reasonably anticipated effect on the immediately surrounding neighborhood for which the license is sought as to traffic congestion, noise and/or light pollution:

(4) Whether the applicant and/or any holder of an interest in the license has ever had any alcoholic beverage or business license suspended or revoked by any state or any political subdivision thereof, or whether any alcoholic beverage business with which the applicant and/or any holder of an interest in the license has been associated has been cited for a violation of the laws or regulations of any state or any local ordinance pertaining to alcoholic beverages, and the outcome of such proceedings.

(5) A person as determined by the Agent (or the City Council, as applicable) by reason of such person's business experience, financial standing, trade associations, personal associations, record of arrest, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

(6) A person who has been convicted under any federal, state or local law of any felony involving moral turpitude.

(7) A person who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten (10) years immediately preceding the filing of application for such license.

(8) A person convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate

that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

(9) A location within an area where, in the judgment of the Agent (or City Council, as applicable) the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.

(10) A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the Agent (or City Council, as applicable) the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.

(11) Which the granting of such license would constitute a violation of state law or regulations.

(12) Applicant is not in compliance with, or cannot comply with any of the terms of this ordinance.

(b) If, upon investigation of an application for renewal of an existing license, the City Council or its designated agent of the City determines the applicant or any of its employees have been convicted, or entered a plea of guilty or nolo contendere, to any felony, any law, regulation or ordinance involving alcoholic beverages, gambling, narcotics, or tax laws, sufficient to warrant denial, the City Council or its designated agent of the City shall have the option of issuing a probationary license conditioned upon levy and payment of a probation fee of \$5,000.00.

SECTION 21. GRANT OF APPLICATION; NOTICE OF DENIAL.

(a) All applications for alcoholic beverage licenses meeting this ordinance shall be granted by the City Council or its designated agent of the City for a period of up to one year, expiring on the last day of December in each year, unless some specific cause regarding location, traffic or environmental conditions or the specific causes set out in section 20 justifies a refusal. In the event of denial for location, traffic or environmental conditions, the applicant shall be entitled to file a new application of like kind for a different location without the loss of any part of the application fee. In the event the City requests additional documents during the application review, the 90-day review period shall be stayed until production of the additional documents is completed.

(b) If the Mayor or other designated agent of the City Council denies an application for a license, the applicant shall be provided notice in writing of the denial, and a listing of the reasons therefore. The applicant shall have the right to appeal to the City Council (including the Mayor) by filing a request for hearing with the City Clerk no more than ten days following receipt of the denial notice. A

hearing shall be held not more than 30 days from the date the City Clerk receives the written notice of appeal. Within ten days from the date of conclusion of the hearing, the City Council (including the Mayor) shall notify the applicant and the City Clerk, in writing of their decision.

SECTION 22. FALSE INFORMATION IN APPLICATION.

Any material omission from, or untrue or misleading information in, an original, renewal or transfer application for a license under this ordinance shall be cause for the denial or refusal of a license, or for the revocation of a license previously granted. Any failure to notify the City Clerk of the change in any relationship as specified in section 13(d) within ten days after such change is made shall likewise constitute due cause for cancellation, revocation or suspension of a license.

SECTION 23. FEES.

(a) There is hereby imposed a license fee, payable at the time of issuance of the license under this chapter and each annual renewal license, except as provided herein, as follows:

PACKAGE LICENSES	ANNUAL FEE
Fee for the sale of malt beverages by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages	\$ 750.00
Fee for the sale of malt beverages by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	1600.00
Fee for the sale of malt beverages by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	3200.00
Fee for the sale of wine by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages	750.00
Fee for the sale of wine by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	1600.00

Fee for the sale of wine by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	3200.00
Fee for the sale of malt beverages and wine by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages	1200.00
Fee for the sale of malt beverages and wine by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	2400.00
Fee for the sale of malt beverages and wine by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	4800.00
CONSUMPTION ON PREMISES LICENSES	ANNUAL FEE
Fee for the sale of malt beverages for consumption on the premises	\$ 1000.00
Fee for the sale of wine for consumption on the premises	1000.00
Fee for the sale of distilled spirits for consumption on the premises	1000.00
Fee for the sale of malt beverages and wine for consumption on the premises	2000.00
Fee for the sale of malt beverages and distilled spirits for consumption on the premises	2000.00
Fee for the sale of wine and distilled spirits for Consumption on the premises	2000.00
Fee for the sale of malt beverages, wine and distilled spirits for consumption on the premises	3000.00

OTHER LICENSES	ANNUAL FEE
Fee for wine tasting permit by wine package store	\$25.00 per permit
Farm winery license (and/or for tasting room)	2000.00
Fee for wholesale dealer – principle place of business in City of Baldwin	2000.00
Fee for wholesale dealer – principle place of business outside City of Baldwin	100.00
Temporary special event license permit	\$50.00 per permit
Fee for caterer license	
In City	License fee and 1 st permit \$50.00 Each permit thereafter \$50.00
Out of City	License fee and 1 st permit \$50.00 Each permit thereafter \$50.00

OTHER FEES

Administrative fee, each license	250.00
Building department fee, each inspection	35.00
Alcoholic beverage employee permit (includes fingerprinting)	30.00 30.00
Change of managing agent/transfer of location	100.00
Penalty for late payment of annual fees	10%

(b) The license fees imposed by this section are regulatory fees intended to offset the City's cost in administering and enforcing this chapter. In addition thereto, licensees are subject to payment of an occupational tax in accordance with the occupational tax ordinance of the City of Baldwin.

(c) When a new license is issued on or after July 1, the license fee shall be reduced by one-half (1/2).

SECTION 24.

PAYMENT OF FEE; RENEWAL.

All alcoholic beverage licenses are annual licenses that run from January 1 to December 31 of each year. Holders of existing licenses shall apply to the City Clerk for renewal for the next calendar year between September 1 and October 15 by filing a renewal application in proper form and tendering the required fee. Renewal applications will be accepted also from October 15 through December 31, but shall bear a ten percent penalty. Annual license fees are due upon renewal filing and shall be past due if not paid by that date. After October 15, there shall be imposed a penalty of ten percent of the amount of the license fee, which together with the license fee shall be paid before a new license is issued. The State of Georgia Department of Revenue shall be promptly notified of all licenses which were not renewed on or before January 1, and all privilege to carry on and conduct a business governed by this ordinance shall be immediately suspended due to license expiration.

SECTION 25.

PRIVILEGE NATURE OF LICENSE AND SIGNAGE.

(a) All licenses issued under this ordinance shall constitute a grant of privilege to carry on or conduct a business covered by such license during the term of the license, subject to the terms and conditions imposed by the City Charter, this ordinance and other applicable ordinances of the City and the constitution, laws and regulations of the state and of the United States of America applicable thereto.

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

THIS LICENSE IS A PRIVILEGE CONDITIONAL ON THE HOLDER MEETING ALL STANDARDS FOR SUCH LICENSE AND OPERATING REGULATIONS APPLICABLE THERETO SET OUT IN CITY ORDINANCES AND GEORGIA LAW. FAILURE TO MEET SUCH STANDARDS OR TO COMPLY WITH SUCH OPERATING REGULATIONS SHALL SUBJECT THE HOLDER TO CIVIL PENALTIES WHICH MAY INCLUDE THE LICENSE BEING REVOKED FOLLOWING NOTICE AND HEARING.

(c) All licenses shall be conspicuously posted in the place of business.

(d) At any establishment subject to this chapter there shall be posted conspicuously at or near each entrance of the establishment, a sign which shall state the following:
THE CITY OF BALDWIN AND THE STATE OF GEORGIA REQUIRE YOU TO BE 21 YEARS OF AGE IN ORDER TO PURCHASE AND CONSUME ALCOHOLIC BEVERAGES, AND TO PROVIDE PROPER PROOF OF AGE PRIOR TO PURCHASE. PLEASE HAVE YOUR IDENTIFICATION READY TO PRESENT TO THE SERVER, MANAGER OR CASHIER, PERSONS PROVIDING FALSE IDENTIFICATION WILL BE PROSECUTED.

(e) Further, retail consumption and retail dealers who sell at retail any alcoholic beverages for consumption on the premises shall post, in a conspicuous place, a sign which clearly reads: "WARNING, DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS."

SECTION 26. TRANSFERABILITY OF LICENSES.

(a) *Generally.* Licenses issued pursuant to this ordinance shall not be transferable except as otherwise provided in this section.

(b) *Death.* In case of the death of any person owning a license, or any interest therein, the same may, with the approval of the City Council or its designated agent of the City and subject to the terms of this ordinance, be transferred to the administrator, executor or personal representative of the deceased person, or to the devisees or heirs at law of the deceased person, if such devisees or heirs meet the qualifications contained in this ordinance. The license of a deceased person shall be held by his administrator, executor, or personal representative only for the time necessary to complete administration of his estate and to dispose of the license or interest therein. One transfer may be made by the administrator, executor, or personal representative of a deceased license holder to a person meeting the qualifications of this ordinance.

(c) *Partnerships.* Nothing in this section shall prohibit a partner in a partnership holding a license to withdraw from the partnership and to assign his interest to one or more of the partners who were partners at the time of the issuance of the license., Such withdrawal shall not serve to bring any new ownership into the partnership, unless such new owner shall apply for a license and comply with all provisions of this ordinance, and then only upon the approval of the City Council or its designated agent of the City.

(d) *Increased capitalization.* A partnership or corporation holding a license may take on additional partners or shareholders or members, as the case may be, where it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanded facilities of the business or for building new facilities and where it further appears that the other partners or shareholders or members will not receive any of the additional capital investment. Such additional partner or new stockholder or member must apply for a license and meet all requirements of a licensee, including approval by the City Council or its designated agent of the City before he shall be permitted to acquire such interest.

(e) *Transfer of locations.* No city license may be transferred from one (1) location to another without permission and approval of the City Council upon receipt of a written application made. Approvals as to any change shall be at the discretion of the City Council pursuant to the provisions of this chapter.

1. Any licensee desiring to discontinue business at one (1) location and commence business at some other new location must make a complete new application for such new location. Upon proper application and provided that there has been no change of ownership or interest in the business, the City Council may permit the license to be transferred upon payment of a fee required in Section 23 for a change of location, provided that the licensee and the new location meet all qualifications required by this chapter. The fee for a change of location shall be in addition to the original license fee paid by the licensee for the calendar year.

2. Upon the sale of an existing business, the City license issued for that business location shall remain in effect pending approval or denial of a new application by the City Council, provided that the buyer or transferee meets all the qualifications required by subsections (a) and (b), and provided that the buyer or transferee has immediately upon the date of sale or prior to the date of sale made proper written application and has paid the original license fee required by Section 23.

3. All licenses issued pursuant to this chapter shall be valid only so long as the licensee is actively engaged in such business, with the exception of holidays, vacations, and periods of redecoration, and in the event the licensee shall cease to be actively engaged in such business such license shall be invalid and the licensee of such business shall immediately notify the City Council and return his license thereto.

SECTION 27. SUSPENSION AND REVOCATION; GROUNDS AND PROCEDURE.

(a) Except as provided in sections 29 and 30, no license which has been issued or which may be issued pursuant to this ordinance shall be suspended or revoked except for due cause and after hearing and upon prior three-day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held.

(b) The term "due cause" for the purposes of this section shall include, but not be limited to:

(1) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws involving the premises, the license, or occurring upon the premises.

(2) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any sex offense.

(3) Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages.

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

(5) Failure to meet or maintain any standard prescribed by this ordinance as a condition or qualification for holding a license. Included within this subsection, but not limited thereto, is the failure of a on the premises (pouring) license holder to meet the food sale requirements and the other requirements of this ordinance, and which shall be a continuing condition for the validity of said license.

(6) Any other factor known to or discovered by the City whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling or narcotics for all alcohol licensed businesses and including any sex offense under state law or local ordinances. With respect to this section, it shall be rebuttably presumed that the violative act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.

(c) Notice of suspension or revocation proceedings shall be served on the person named as licensee in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the licensee at its address as it appears in the records of the City. The burden shall be on the licensee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this ordinance, the service is complete at the time of deposit in the United States Postal Service.

(d) The hearing shall be conducted by the City Council or a hearing officer appointed by the City Council.

(e) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The City Attorney or other designated agent shall present the City's case and bear the burden of proving by a

preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing the licensee shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the City, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the City Council or the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.

(f) The City Council or the hearing officer shall make his final determination within ten days of the completion of the hearing. The decision shall be placed in writing and contain the City Council or the hearing officer's findings of fact, conclusions of law, and decision as to penalty, if any. Such penalty may include one or more of the following: suspension of the license for no more than 12 months, revocation of the license, imposition of a probationary period not to exceed 12 months, and/or a civil penalty not to exceed the amount allowed by the City charter or general State law. In the assessment of any penalties, the City Council or the hearing officer can consider evidence presented by the licensee of any training program for employees instituted by the licensee, or to be instituted, to prevent further violations. Notwithstanding the foregoing, in the event that a license holder including but not limited to any employee of the license holder while acting in the employment of said license holder, furnishes or causes to be furnished, sells, or permits any person in such employer's employ to furnish any alcoholic beverage to any person under 21 years of age, then for a first offense, the minimum penalty shall be a civil fine of \$500.00 and a 30 day suspension of the right of the license holder to sell alcoholic beverages. In the event that a license holder has been found guilty of a second offense of an underage sale within one year of the first offense, then the minimum civil fine shall be \$1,000.00 and the right to sell alcoholic beverages by said license holder, shall be suspended for 90 days. In the event of a third offense, within one year of the first offense, then the license holder shall have a minimum fine of \$1,000.00, the alcoholic beverage license shall be revoked, and the license holder shall be unable to reapply for the alcoholic beverage license for one year from the date of the revocation of the original license.

(g) The City Council or the hearing officer's decision shall be mailed by first class mail or hand delivered to the licensee and the City Attorney or other designated agent of the City within ten days of the close of the hearing.

(h) A total of four separate and unrelated violations within 24 months, whether or not within the probationary period, shall constitute grounds for permanent revocation.

SECTION 28. NO REFUNDS FOLLOWING SUSPENSION OR REVOCATION.

If a license issued under this ordinance is suspended or revoked, the licensee shall not be entitled to a refund of any portion of the application or license fees previously remitted.

SECTION 29. SHORTTERM EMERGENCY SUSPENSION FOR VIOLATION INVOLVING LICENSED BUSINESS.

(a) The Mayor has authority to suspend a license for a short-term period not to exceed ten days. The Mayor's decision shall be in writing, with the term of the suspension and the reasons therefor stated, and shall be mailed or delivered to the licensee as provided in section 27.

(b) A short-term suspension by the Mayor must be for an emergency cause. Emergency cause for the short-term suspension of a license shall consist of a third or subsequent violation by the same licensee or the licensee's agents on the same premises within a two-year period of any state or federal laws, administrative regulations of the state or city ordinances regulating such business holding a license, including those prohibiting gambling, regulating the sale, manufacture, distribution, handling, dealing in, and possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in an unlawful manner, and the manufacture, sale, or distribution of any controlled substance which puts the City and the health and safety of its citizens at such risk that an immediate suspension is necessary until a hearing as provided for in section 27 can be held.

SECTION 30. EMERGENCY SUSPENSION OF ALL ALCOHOLIC BEVERAGE LICENSES.

The City Council is authorized to suspend the sale of alcoholic beverages under all licenses issued pursuant to this ordinance during any state of emergency declared by the governor or any local emergency as defined by O.C.G.A. § 36-69-2, or for any other serious emergency situation when the City Council deems such immediate suspension necessary for the protection of the health and welfare of the citizens of the City. Such suspension may be made effective immediately and shall remain in force until the City Council determines the emergency is over or until the next meeting of the City Council, at which time the suspension shall cease unless the same is extended by affirmative action of the City Council.

SECTION 31. ACCEPTANCE OF APPLICATION AFTER REJECTION OR REVOCATION.

When any license or permit to operate a package store or a pouring license is rejected or revoked by the City Council or its designated agent, no new application shall be accepted from the same applicant for a license within 12 months from the time of such

rejection or revocation. Submission of a new application by another applicant, which application shows the applicant was previously rejected or revoked as a holder of an interest in the desired license, shall result in rejection of the new application.

ARTICLE III. EXCISE TAX*

DIVISION 1. GENERALLY

SECTION 3-1. IMPOSED.

In addition to the license fees required in this ordinance and in addition to the excise taxes levied by the state, all licensees under this ordinance shall pay to the City the taxes imposed in this article.

SECTION 3-2. EXCISE TAX ON MIXED DRINKS CONSUMED ON THE PREMISES.

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

(1) *Agent* means the person designated by the licensee in this application for permit to sell alcoholic beverages by the drink.

(2) *Drink or mixed drink* shall include any distilled spirits served for consumption on the premises, which may or may not be diluted by water or other substance in solution.

(3) *Licensee* means an individual, firm, partnership, limited liability company, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, plural as well as a singular number, who holds a license from the City to engage in the sale of distilled spirits by the drink for consumption on the premises.

(4) *Monthly period* means the calendar months of any year.

(5) *Purchase price* means the consideration received for the sale of distilled spirits by the drink valued in money, whether received in cash or otherwise, including receipts, credit, property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.

(6) *Purchaser* means any individual, firm, partnership, limited liability company, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular number, who orders and gives present or future consideration for any distilled spirits by the drink.

(7) *Return* means any return filed or required to be filed as herein provided.

(8) *Tax* means the tax imposed by this section.

(b) *Imposition and rate of tax.* There is hereby imposed and levied upon every purchaser of a distilled spirit for beverage purposes by the drink within this City at the rate of three (3%) percent of the purchase price or charge for such drink. No person shall sell at retail by the drink within the City any alcoholic beverage containing distilled spirits on which the taxes imposed by this ordinance have not been paid.

(c) *Authority and requirement of licensee to collect the tax.* Every licensee or his agent is hereby authorized and directed to collect the tax imposed herein from purchasers of distilled spirits by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the City to facilitate the collection of the tax.

(d) *Collection of tax; records; rules and regulations.* In all cases where the collection of food and drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The city shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

(e) *Determination, returns and payments.*

(1) *Due date of taxes.* The tax imposed by this section shall become due and payable from the purchaser at the time of purchase of any mixed drink in this City. All amounts of such taxes collected by the licensee shall be due and payable to the City monthly on or before the fifteenth (15th) day of every month next succeeding each respective monthly period for which this tax is imposed; provided, however, that upon a proper showing that the tax imposed will not be collected until after a regular billing period of the collecting agent, then the collection of the tax may be deferred by the City for an additional period not exceeding thirty (30) days.

(2) *Return; time of filing; persons required to file; contents.* On or before the fifteenth (15th) day of the month following each monthly period, a return for the preceding monthly period shall be filed with the City in such form as the City may prescribe by every licensee liable for the payment of tax hereunder. All returns shall show the gross receipt of the sale of distilled spirits by the drink and the amount of the tax collected on such drinks.

(3) Collection fee allowed licensees. Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the "Georgia Retailers' and Consumers' Sales and Use Tax Act," approved February 20, 1951, as now or hereafter amended. (O. C. G. A. § 48-8-1 et seq.).

(f) *Deficiency determinations.*

(1) If the City has cause to believe that the return or returns of the tax or the amount of the tax required to be paid to the City by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.

(2) Interest on deficiency. The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof from the due date of taxes.

(3) Notice of determination; service. The City or its designated representatives shall give to the licensee written notice of his determination. The notice may be served personally or by mail, such service shall be addressed to the licensee at his address as it appears in the records of the City. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(4) Time within which notice of deficiency determination to be mailed. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

(g) *Determination if not return made.*

(1) Estimates of gross receipts. If any person fails to make a return, the City shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total sales in this City which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is in possession of or may come into the possession of the City official. Written notice shall be given in the manner prescribed in subsection (f)(3).

(2) Interest on amount found due. The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof, from the tenth day of the month following the monthly period, for which the amount or any portion thereof would have been returned, until the date of payment.

(h) *Penalty for nonpayment.* Any person who fails to pay the tax herein imposed or fails to pay any amount of the tax required to be collected and paid to the City within the time required shall pay a penalty of twenty-five (25) percent of the tax or amount of the tax, in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in subsection (g)(2).

(i) *Action for tax; tax credit, penalty or interest paid more than once or erroneously or illegally collected, duty of successors or assignees of licensee to withhold tax from purchase money; liability for failure to withhold.*

(1) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time with three (3) years after the delinquency of any tax or any amount of tax required to be collected, the City may bring an action in the courts of this state any other state or the United States in the name of the City to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto. Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this article, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the City, he will have three (3) years from the date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the Council, the excess amount paid the City may be credited on any amounts then due and payable from the person by whom it was paid, or from his administrators or administrators.

(2) *Duty of successors or assignees of licensees to withhold tax from purchase money.* If any licensee liable for any amount under this article sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the City either a receipt reflecting full payment or a certificate stating that no amount is due.

(3) *Liability for failure to withhold.* If the purchase of a business fails to withhold purchase as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(j) *Administration.*

(1) *Records required from licensee, etc., form.* Every licensee for the sale of alcoholic beverages by the drink in the City shall keep such records, receipts, invoices and other pertinent papers in such form as the City may require. All such records shall be maintained by licensee for two years.

(2) *Examination of records; audits.* The City or any person authorized in writing by the City may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for sale of distilled spirits by the drink and any licensee liable for

the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.

(3) Authority to require reports; contents. In administration of the provisions of this subsection, the City may require the filing of reports by any person or class of persons having in such person's possession or custody information relating to purchases which are subject to the tax. Reports shall be filed with the City when required by the City and shall set forth the purchase price for each purchase, the date or dates of purchase, and such other information as the City may require.

(k) *Violations.*

(1) Criminal penalties. Any person violating any of the provisions of this subsection shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided herein for violations of this ordinance. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the subsection is committed, continued or permitted by such person, and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made, or falls to refuses to furnish a supplemental return or other data required by the City or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

(2) Civil penalties. Any person violating any of the provisions of this subsection shall, in addition to the other penalties and liabilities provided for herein, have his license or permit revoked as provided for herein and following the procedures of this ordinance.

SECTION 3-3. ADMINISTRATION AND ENFORCEMENT AUTHORITY; RECORDKEEPING; CONFIDENTIALITY OF REPORTS.

(a) *Authority of tax collector.* The Mayor, City Clerk or City Tax Collector shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.

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

(c) *Records required from licensee; form.* Every licensee for the sale of alcoholic beverages in the City shall keep all invoices relating to each purchase of alcoholic beverages and such other records, receipts, invoices and other pertinent papers in such form as the tax collector may require.

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

(e) *Wholesale record.* Every distributor, wholesale dealer and manufacturer required to make reports under this article shall keep accurate and complete records of all sales of malt beverages and wine to any package dealer and of all reports made to the City for a period of four years from the time the tax to which they relate becomes due or the date the tax is paid, whichever is later, which records shall be made available for inspection by the Mayor, City Clerk or the City Tax Collector at all reasonable times and places.

SECTION 3-4. EXAMINATION OF RECORDS; AUDITS.

The City Tax Collector or any person authorized in writing by the City may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. If a City audit discloses a deficiency of more than three percent over what has been returned and remitted, the licensee shall reimburse the City for all costs of the audit, including but not limited to accountant's fees and out of pocket expenses, the value of time expended by City employees in the investigation, including reasonable cost of overhead, and all attorneys' fees and costs of collection if action must be instituted by the City.

DIVISION 2. PACKAGE SALES

SECTION 3-5. IMPOSED; AMOUNT.

(a) There is hereby imposed an excise tax on alcoholic beverages in the following amounts:

(1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15 1/2 gallons and a proportionate tax at the same rate on all fractional parts of 15 1/2 gallons.

(2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax on all fractional parts of 12 ounces.

(3) On the first sale or use of wine, a tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(b) The excise taxes provided in subsection (a) of this section shall be imposed upon and shall be paid by the licensed wholesale dealer.

(c) No person shall sell at retail by the package within the City any alcoholic beverage on which taxes imposed by this ordinance have not been paid.

SECTION 3-6. REPORT; PAYMENT.

(a) Each wholesaler of wine responsible for payment of the excise tax shall file a report with the City itemizing for the preceding calendar month the exact quantities of alcoholic beverages, by location, by size and type of container, sold during the preceding month in the City. Each wholesaler of malt beverages responsible for payment of the excise tax shall file with the City, Ga. Rev. Dept. form ATT-122, showing the exact quantities of malt beverages, by size and type of the container, sold within the City during the preceding month.

(b) The wholesale dealer shall remit the tax imposed under this division to the City on the tenth day of the month following the calendar month in which the alcoholic beverages are sold or dispensed.

SECTION 3-7. PURCHASES TO BE MADE FROM LICENSED WHOLESALERS OR DISTRIBUTORS.

Licensees subject to the tax under this division shall purchase alcoholic beverages only from wholesalers or distributors licensed by the state. All sales must be to the establishment designated on the license. No transfers, borrowing or internal sales or transfers from one licensed retailer to another shall be permitted.

DIVISION 4. PAYMENT AND COLLECTION

SECTION 3-8. DETERMINATIONS OF DEFICIENCIES OR IN ABSENCE OF RETURN; OVERPAYMENTS; DELINQUENCY AND FRAUD.

(a) *Recomputation of tax; authority to make, basis of recomputation.* If the Mayor, City Clerk or City Tax Collector is not satisfied with the return of the tax or the amount of the tax or the amount of the tax required to be paid to the City by any person, the tax collector may compute and determine the amount required to be paid upon the basis of any information within his possession or that may be made of the amount due for one or more than one calendar month.

(b) *Estimate of gross receipts in absence of return.* If any licensee fails to make a return, the Mayor, City Clerk or City Tax Collector shall make an estimate of the amount of the gross receipts of the licensee or, as the case may be, of the amount of the total sales in the City which are subject to the tax. The estimate shall be made for

the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the tax collector. Upon the basis of this estimate, the Mayor, City Clerk or City Tax Collector shall compute and determine the amount required to be paid to the City. One or more determinations may be made for one or for more than one period.

(c) *Offsetting of overpayments.* In making a determination, the Mayor, City Clerk or City Tax Collector may offset overpayments, for a period or periods, against underpayments, for another period or periods, against penalties, and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in section 35.02-11.

(d) *Time within which notice of deficiency determination to be mailed.* Promptly after making his determination, the Mayor, City Clerk or City Tax Collector shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notices in section 110.45-27. Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

SECTION 3-9. DELINQUENT TAX COLLECTION; DUTY OF ASSIGNEES TO WITHHOLD TAXES; LIABILITY; OFFSETTING OF ERRONEOUS COLLECTIONS

(a) *Action for tax; time therefor.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the City may bring an action in the courts of the state, or of the United States, to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, costs of collection and other legal fees incident thereto.

(b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any licensee liable for any amount under this ordinance sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Mayor, City Clerk or City Tax Collector showing that he has been paid, or a certificate stating that no amount is due.

(c) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold the necessary amount from the purchase price as required in this section, the purchaser becomes personally liable for the payment of the amount required to be withheld by it to the extent of the purchase price valued in money. Within 30 days after receiving

a written request from the purchaser for a certificate, the Mayor, City Clerk or City Tax Collector shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the City of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall begin at the time the licensee sells out his business or at the time that the determination against the licensee becomes final, whichever event occurs later.

SECTION 3-10. TAX CREDIT OR INTEREST PAID MORE THAN ONCE OR ILLEGALLY COLLECTED.

Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this article, it maybe offset as provided in section 3-8(c). If the licensee determines that it has overpaid or paid more than once, which fact has not been determined by the Mayor, City Clerk or City Tax Collector, it will have three years from the date of payment to file a claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the City, the excess amount paid the City may be credited on amounts then due and payable from the licensee by whom it was paid or its administrators or executors.

SECTION 3-11. FAILURE TO PAY TAX; PENALTIES AND INTEREST.

- (a) *Delinquent penalty.* Any person who fails to pay the tax imposed in this article to the City, or fails to pay any amount of such tax required to be collected and paid to the City, within the time required, shall pay a civil penalty of 15 percent of the tax, or amount of the tax, in addition to the tax or the amount of the tax, plus interest on the unpaid tax or any portion thereof as set forth in subsection (b) of this section.
- (b) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the tenth day after the close of the monthly period for which the amount or any portion thereof should have been returned, until the date of payment.
- (c) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to gross negligence or disregard of rules and regulations, a penalty of 15 percent of the amount of such deficiency shall be added thereto in addition to the 15 percent prescribed by subsection (a) of this section.
- (d) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination has been made is due to fraud or an intent to evade any provision of this chapter or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto in addition to the 15 percent prescribed by subsection (a) of this section.

**ARTICLE IV. REGULATIONS FOR ALL ESTABLISHMENTS
AND OTHER PROPERTY OPEN TO PUBLIC**

**SECTION 32. NEW BUILDINGS; EXPIRATION OF LICENSE FOR
FAILURE TO COMMENCE OR OPERATE BUSINESS.**

(a) Where a building in which a licensee proposes to operate under the provisions of this ordinance is, at the time of application for such license, not in existence, or not yet completed, a license may be issued for such location, provided the plans and specifications for the proposed building are filed with the City Council or its designated agent and show a compliance with the other provisions of this ordinance and other applicable ordinances of the City. No sales shall be allowed in such establishment until it has been completed in accordance with plans and specifications and is in conformity with all other provisions of this ordinance and other applicable ordinances of the City. If the building is not completed during the year in which the licensee fee was paid, such fee shall apply to the year in which the building is completed and the business commences.

(b) All holders of licenses under this ordinance must open for business within six months after issuance of the license; failure to do so shall serve as an automatic forfeiture and cancellation of such license unless an extension of the time is granted by the City Council or its designated agent before the expiration of the six-month period for good cause shown. No refund of the license fee shall be made in the event of such forfeiture.

(c) Any holder of a license under this ordinance who shall begin the operation of the business authorized in the license, but who shall thereafter cease to operate the business as authorized in the license for six months, shall thereupon forfeit such license, which license shall be automatically canceled without the necessity of any further action of the City unless an extension of time is granted by the City Council or its designated agent before the expiration of the six-month period for good cause shown. No refund of license fee shall be made in the event of such forfeiture.

SECTION 33. INSPECTION AUTHORITY OF CITY.

The City Manager, the Chief of Police, any policeman of the City, the Building Inspector, or other duly designated agent of the City may enter upon the premises operated under the provisions of this ordinance during operating hours for the purpose of inspecting the premises and enforcing this ordinance, and shall have access during the inspection of all books, records, and supplies relating to the sale, storage or possession of alcoholic beverages, and also such records and documents regarding food sales by each licensee licensed for consumption on the premises (pouring).

**ARTICLE IV. REGULATIONS FOR ALL ESTABLISHMENTS
AND OTHER PROPERTY OPEN TO PUBLIC**

**SECTION 32. NEW BUILDINGS; EXPIRATION OF LICENSE FOR
FAILURE TO COMMENCE OR OPERATE BUSINESS.**

(a) Where a building in which a licensee proposes to operate under the provisions of this ordinance is, at the time of application for such license, not in existence, or not yet completed, a license may be issued for such location, provided the plans and specifications for the proposed building are filed with the City Council or its designated agent and show a compliance with the other provisions of this ordinance and other applicable ordinances of the City. No sales shall be allowed in such establishment until it has been completed in accordance with plans and specifications and is in conformity with all other provisions of this ordinance and other applicable ordinances of the City. If the building is not completed during the year in which the licensee fee was paid, such fee shall apply to the year in which the building is completed and the business commences.

(b) All holders of licenses under this ordinance must open for business within six months after issuance of the license; failure to do so shall serve as an automatic forfeiture and cancellation of such license unless an extension of the time is granted by the City Council or its designated agent before the expiration of the six-month period for good cause shown. No refund of the license fee shall be made in the event of such forfeiture.

(c) Any holder of a license under this ordinance who shall begin the operation of the business authorized in the license, but who shall thereafter cease to operate the business as authorized in the license for six months, shall thereupon forfeit such license, which license shall be automatically canceled without the necessity of any further action of the City unless an extension of time is granted by the City Council or its designated agent before the expiration of the six-month period for good cause shown. No refund of license fee shall be made in the event of such forfeiture.

SECTION 33. INSPECTION AUTHORITY OF CITY.

The City Manager, the Chief of Police, any policeman of the City, the Building Inspector, or other duly designated agent of the City may enter upon the premises operated under the provisions of this ordinance during operating hours for the purpose of inspecting the premises and enforcing this ordinance, and shall have access during the inspection of all books, records, and supplies relating to the sale, storage or possession of alcoholic beverages, and also such records and documents regarding food sales by each licensee licensed for consumption on the premises (pouring).

SECTION 34. EMPLOYEES.

(a) No licensee under this ordinance shall permit any person under the age of 18 within his employment to sell or dispense alcoholic beverages. Furthermore, this provision shall not prohibit employees under the age of 18 who are employed in supermarkets, convenience stores, or drugstores from handling or carrying sealed packages of alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities so long as such employees under age 18 do not sell any alcoholic beverage. This provision shall also not prohibit eating establishments from employing persons under the age of 18, so long as such employees under age 18 do not sell any alcoholic beverages.

(b) No licensee under this ordinance shall permit any person to sell, dispense, serve or take orders for alcoholic beverages while that person is currently serving a sentence, including probation or parole, based upon a conviction in any state or federal court or the United States or in any foreign country for any felony, or any misdemeanor ordinance violating relating to the manufacture, sale, use or distribution of alcoholic beverages or narcotics or controlled substances, sexual offenses, or crimes of moral turpitude. No licensee shall employ within its business for the purpose of selling or dispensing alcoholic beverages any person convicted within three years immediately prior to the application for employment of any felony or within two years immediately prior to the application for employment of any misdemeanor or ordinance violation relating to the manufacture, sale, use or distribution of alcoholic beverages or narcotics or controlled substances, sexual offenses, or a crime of moral turpitude. This provision shall not prohibit employees who have been convicted or have a criminal history, when employed in supermarkets, convenience stores or drugstores, from handling or carrying alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities.

(c) It shall be the duty of the licensee to ascertain that all employees are eligible for employment under this ordinance. The City reserves the right to obtain fingerprints from and conduct a criminal history check of any licensee's employees at any time and as part of receiving an employee permit for alcoholic beverages as provided herein. Upon employment, the licensee shall cause the employee to appear at the City police department and shall pay the requisite employee permit fee in the amount of \$30.00, as provided below.

(d) It shall be the duty of the licensee to train all employees whose duties shall include the sale, dispensing, serving or taking of orders for alcoholic beverages in the requirements of this ordinance and applicable state laws and regulations. Each licensee shall establish written policies, a copy of which shall be posted within the licensed premises, governing the sale and dispensing of alcoholic beverages in accordance with state law and this ordinance. Licenses are encouraged to adopt disciplinary sanctions for employees who fail to meet the standards of law as

violations by employees may constitute grounds for revocation, suspension or denial of a license under this ordinance. The degree of training, supervision and discipline of employees by the licensee may be considered by the City Council in determining action on any license.

(e) It shall be the duty of the licensee and licensee's employees and agents to exercise reasonable discretion as to requiring customers to produce proper identification (e.g., Georgia driver's license; U.S. passport; birth certificate) that indicates the customer(s) is age 21 or older, prior to furnishing or causing to furnish, sell, distribute, or permit any person in licensee's employ to furnish alcoholic beverages to said customer(s). For purposes of this section, the term "proper identification" means any document issued by a governmental agency containing a physical description of the person, such person's photograph, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized by O. C. G. A. § 40-5-100. Notwithstanding the foregoing, it is a violation of this ordinance in accordance with Section 110.45-36 hereinafter, to knowingly, directly or through another person, furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.

(f) Employee permits:

(1) No person shall be employed to dispense, sell serve, take orders, or mix alcoholic beverages, or in any managerial position, by an establishment holding a license for beer or wine, or both, for consumption on premises unless such person has been approved by the Chief of Police for his designee. The individual named on the alcoholic beverage license for such establishment shall be exempt from this requirement.

(2) Upon approval by the Chief of Police or his designee, such person shall be issued an employee permit which shall contain the name, expiration date, and identifying information of such employee. Such employee permit shall remain the property of the City and shall be in the possession of the employee at any time he or she is working at any licensed establishment, and shall be produced upon the request of any law enforcement officer or other agent of the City.

(3) No permit shall be issued until such time as a signed application has been filed with the Baldwin Police Department and upon the payment of the non-refundable fee of \$30.00. The applicant shall furnish, at the time of presenting the application, two (2) forms of valid, current identification. Such application shall contain the following information: Applicant's name, date of birth, height, weight, race, sex, address, telephone number, and disclosure of arrest record. Applicant must give permission to the police department to obtain and inspect any criminal history on such applicant which is in the possession of any law enforcement agency, and permit fingerprinting in order to allow the police department to obtain the criminal

history. The \$30.00 fee shall include the fingerprinting performed by the police department.

(4) No person shall be granted an employee permit who has been convicted, plead guilty, or entered a plea of nolo contendere to any crime involving the sale or possession of alcoholic beverages within three (3) years of the date of the application or any felony within five (5) years of the date of the application.

(5) No person shall be granted any employee permit if he or she has been the holder of an alcoholic beverage license or employee permit which has been revoked with five (5) years of the date of the application.

(6) An employee permit shall be valid for three (3) years from the date of issue. At the expiration of three (3) years, the employee permit may be renewed upon the submission of a renewal application, the payment of the appropriate renewal fee, and upon determination that such individual remains qualified under this chapter. The fee for renewal of an employee permit shall be \$30.00.

(7) An employee permit may be suspended or revoked by the Chief of Police or other agent of the City if it is determined that the individual has violated any provision of this chapter or committed any offense which would make him or her ineligible to hold such a permit.

(8) Notification of any denial, suspension, or revocation of any employee permit shall be in writing and served either in person or by certified mail and shall contain the reasons for such action and the notice of the right to appeal the decision.

(a) Decisions of the Chief of Police or other agent of the City that adversely affect or aggrieve any applicant, certificate holder, or permit holder under this ordinance may be appealed to the City Council or its designated agent. All appeals shall be submitted in writing to the City Clerk, within ten (10) calendar days after notification of the adverse decision.

(b) A hearing shall be conducted on each appeal with thirty (30) days of the date of the filing of the written appeal, unless a continuance of such hearing is agreed to by the appellant and the City, or unless the hearing is rescheduled by the hearing officer. 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.

(c) The appellant shall be notified in writing of the date and time of the hearing at least seven (7) calendar days prior to the date of the hearing.

(9) Falsifying or failing to disclose any information required by this chapter shall be grounds for denial or revocation of the employee permit.

(10) The employee permit is non-transferable and is valid only for the individual named on the permit. Such permit is valid for the individual named while employed in any establishment licensed in the City.

(11) No licensee shall allow any employee or manager required to hold an employee permit to work on the premises unless the employee or manager has in their possession a current valid employee permit. Provided, however, that an individual may be employed for a period of time not to exceed fourteen (14) days pending the submission of the application to and the approval of the permit by the police department.

(12) It shall be the duty of the alcoholic license holder to file with the police department on a monthly basis a report which lists all employees employed in a capacity which would require an employee permit. Such report shall include the name and date of birth of all such individuals, as well as the same information on all such individuals who have terminated employment during the reporting period. Failure to submit said report to the police department by the fifteenth day of each month shall be a violation of this code.

SECTION 35. DAYS AND HOURS OF OPERATION.

(a) No package dealer of malt beverages or wine, or both, including licensees of divided stores meeting the requirements of applicable state laws and regulations, shall furnish, sell or offer for sale any packaged malt beverages or wine at any time on Sundays or Christmas Day. Sales are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established during the hours the polls are open. No package dealer of malt beverages or wine, or both, shall furnish, sell or offer for sale any malt beverages or wine after 11:30 p.m. on Saturday night (and any time on Sunday). This provision shall also apply to licenses for wine only by the package, conducting a wine tasting (but which must end at 9:00 p.m.) and to tasting rooms of farm wineries except as provided differently herein.

(b) No consumption on the premises dealer of alcoholic beverages, shall furnish, sell or offer for sale alcoholic beverages for consumption on the premises at any time on Sundays or Christmas Day. Sales are permitted on Election Day; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or the outer edge of any building within which such polling place is established during the hours the polls are open. No consumption on the premises dealer of alcoholic beverages shall furnish, sell or offer for sale any alcoholic beverages prior to 9:00 a.m. or after 11:30 p.m.

SECTION 36. FURNISHING TO, PURCHASE OF, OR POSSESSION BY PERSONS UNDER 21 YEARS OF AGE OF ALCOHOLIC BEVERAGES; USE OF FALSE IDENTIFICATION.

- (a) Except as otherwise authorized by law:
- (1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.
 - (2) No person under 21 years of age shall purchase, drink, or possess alcoholic beverages.
 - (3) No person under 21 years of age shall misrepresent such person's age in any manner whatsoever for the purpose of obtaining any alcoholic beverage.
 - (4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.
 - (5) No person under 21 years of age shall misrepresent his identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
- (b) The prohibitions contained in subsection (a) of this section shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state, at a religious ceremony, or when the parent or guardian of the person under age 21 gives the alcoholic beverage to such person when possession is in the home of the parent or guardian while such parent or guardian is present.
- (c) It shall be the duty of every person seeking to purchase or possess alcoholic beverages from a licensee within the City to furnish, upon request, proper identification showing that the person is 21 years of age or older. For purposes of this section, the term "proper identification" means any document issued by a governmental agency containing a physical description of the person, such person's photograph, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized by O.C.G.A.. § 40-5-100.
- (d) It shall be a violation of this chapter for any licensee, or any agent, officer or employee of a licensee, to fail to check the proper identification of any patron when selling or otherwise providing any alcoholic beverage, which failure results in an underage person being sold or served, or to have in such underage person's possession while on the licensee's premises, any alcoholic beverage.

SECTION 37.

**OPEN CONTAINERS AND PARTIALLY
CONSUMED BOTTLES OF WINE PURCHASED
WITH A MEAL.**

- (a) As used in this section, the term “open container” means any container, containing alcoholic beverages which is immediately capable of being consumed from or the seal of which has been broken.
- (b) No person shall possess an open container of any alcoholic beverage within the passenger compartment of a motor vehicle. Closed containers of alcoholic beverages or distilled spirits may be transported in any part of a vehicle. Open containers shall be placed in a locked glove box, locked trunk or locked storage container.
- (c) No person shall possess an open container of any alcoholic beverage while walking, standing or otherwise occupying any public street, road, or highway, sidewalk adjacent thereto, public parking lot, or other property owned or leased by the City.
- (d) No person shall possess an open container of any alcoholic beverage on the premises of any package dealer, including parking lots adjacent thereto.
- (e) Sale, distribution, or service of any distilled spirits by the package is hereby expressly banned and prohibited, and accordingly no package licenses for distilled spirits shall be issued by the City.
- (f) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one (1) unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant’s premises.
1. A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises.
 2. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.
 3. If transporting in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

Licensee or its employees shall inform the customer or patron of this requirement of securing the resealed wine in this manner, when the customer or patron is exiting the restaurant with the resealed bottle of wine.

SECTION 38. BROWNBAGGING.

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

Brownbagging means the bringing, taking or carrying of any alcoholic beverage into a business lawfully operating within the City, provided that bringing an alcoholic beverage into a house, apartment, room or other unit designed for private residential occupancy for consumption by the residents and invited guests thereof shall not fall within this definition. The term brownbagging shall include the following prohibited acts:

- (1) Any person who brownbags;
- (2) Any person participating in consumption of any alcoholic beverage being brownbagged;
- (3) Any person who consumes an alcoholic beverage on any premises lawfully operating in the City, except for those exempted from the definition of brownbagging by virtue of the private residential character of the occupancy.
- (4) Any employee of the business establishment in whose presence brownbagging knowingly or with reckless indifference occurs.
- (5) Notwithstanding any other provision of this ordinance, nothing contained in this ordinance shall be interpreted as banning or prohibiting the serving of wine as part of a religious sacrament or ceremony (including weddings and wedding receptions) at the premises of any church or house of worship.

(b) Brownbagging is prohibited within the City. The term “brownbagging” does not include the sale or distribution of alcoholic beverages by a bona fide non-profit civic organization pursuant to a special use temporary permit issued in accordance with Section 52. A “wine and cheese” party and/or “wine tasting” held by a bona fide non-profit civic organization pursuant to a special use temporary permit is allowed in accordance with the terms and conditions of said permit, and shall not be deemed to be “brownbagging”. A “wine tasting” and/or a “wine and cheese” party by a package dealer, farm winery or a licensed caterer pursuant to a City license or an event permit, or both, is allowed in accordance with the terms and conditions of said license or permit, and shall not be deemed to be “brownbagging”.

SECTION 39. PURCHASES TO BE MADE ONLY FROM LICENSED WHOLESALERS.

Dealers in alcoholic beverages shall not buy nor accept deliveries from any person other than a wholesaler, dealer or distributor licensed by the State Department of Revenue.

SECTION 40. STORAGE OF ALCOHOLIC BEVERAGES AT RETAIL.

All licensees shall store all alcoholic beverages on the premises for which the license was issued and at no other place. All stock shall be available at all times for inspection by any duly authorized representative of the City. Any alcoholic beverages found in any licensee's stock which was not sold or distributed by a wholesaler licensed in accordance with laws of the state to make sales and deliveries in the City shall be subject to immediate confiscation.

SECTION 41. PROHIBITION OF ADULT ENTERTAINMENT ESTABLISHMENTS HAVING ALCOHOLIC BEVERAGE LICENSES.

Adult entertainment establishments shall not be entitled to have any type of alcoholic beverage license. Further, no alcoholic beverage license shall be issued to a premises where an adult entertainment establishment is operating, or is to be operated. Brownbagging is expressly prohibited within any adult entertainment establishment. If an employee of an adult entertainment establishment who knowingly allows, or with reckless indifference permits any brownbagging within the adult entertainment establishment, than such action or omission shall be cause for the revocation of any occupational tax license issued to the adult entertainment establishment, as well as a revocation of the occupancy permit of any adult entertainment establishment for the premises.

ARTICLE V. ADDITIONAL REGULATIONS FOR PACKAGE DEALERS

SECTION 42. MERCHANDISE RESTRICTIONS.

(a) Except as provided in Sections 17(a) and 49, no package dealer shall operate such business in connection with any other mercantile establishment, except that a package dealer may sell or display or keep in stock for retail sale the following inventory:

- (1) Wines and malt beverages, provided the dealer is licensed for each.
- (2) Tobacco products, limited to tobacco, cigarettes, cigars, chewing tobacco, snuff, cigarette papers, lighters and matches which do not carry or refer to the name of any licensed dealer or the location of his place of business.

- (3) Beverages containing no alcohol.
 - (4) Ice and ice chests.
 - (5) Paper, Styrofoam or plastic cups.
 - (6) State-approved lottery tickets and related lottery materials but only if the dealer is a state-approved retail lottery dealer location.
 - (7) Bar supplies, limited to corkscrews, openers, straws, swizzle sticks, and bar-related glassware and ceramic ware, cocktail olives, onion, cherries, lemons and limes.
 - (8) Cooking demonstrations and/or “wine and cheese” parties in conjunction with a wine tasting permit pursuant to Section 110.45-49.
- (b) Beverages containing no alcohol may be dispensed through the use of vending machines or in association with a wine tasting permit, but no beverage alcohol shall be dispensed through such vending machines.
 - (c) No retail package alcoholic beverage license shall be issued to any place of adult entertainment within the City limits.
 - (d) It is prohibited for customers of a retail package alcoholic beverage license holder to gather outside the establishment and consume alcoholic beverages. It is prohibited for the manager or any employee of a retail package alcoholic beverage license holder to allow persons to gather outside the establishment and consume alcoholic beverages.

SECTION 43. MERCHANDISE AND SALES RESTRICTIONS IN SUPERMARKETS AND CONVENIENCE STORES.

- (a) Where malt beverage or wine sales are licensed in conjunction with a supermarket or convenience store, no licensee shall sell or offer to sell any firearms, ammunition, or weapons of any character. Large commercial retail centers that retail sell many types of consumer items such as clothing, electronics, groceries, toys, sporting equipment, household items and other such products and have a retail area of 50,000 square feet or more, and operate a supermarket as a part of the center, and have a package sale license, may market firearms and other weapons within the center.
- (b) During those hours and on those days when alcoholic beverages are not permitted to be sold, it shall be the duty of the licensee to remove all alcoholic beverages from its shelves or otherwise secure the inventory in such manner as to notify customers that these products are not available for sale at that time.

SECTION 44. SALE OR DELIVERY TO UNLICENSED PREMISES.

No package dealer shall make or allow to be made any deliveries of alcoholic beverages beyond the boundaries of the premises covered by the license.

SECTION 45. LIQUOR PRICES TO BE CONSPICUOUSLY DISPLAYED.

Each package dealer of alcoholic beverages shall conspicuously display within the interior of the licensed premises not less than one copy of a printed price list of the alcoholic beverages offered for sale or, in lieu thereof shall place the price of each item on the container or on the shelf where the container is exhibited for sale.

SECTION 46. PORTABLE SIGNS PROHIBITED.

No licensee for the package sale of alcoholic beverages shall be permitted to utilize a lighted portable sign outside the building.

SECTION 47. PREMISES TO HAVE GLASS FRONT.

Each establishment licensed for the package sale of alcoholic beverages shall have an open glass front and shall be well lighted for clear vision from the outside. No signs or advertising shall be posted on the glass which will obstruct the view.

SECTION 48. PURCHASE DELIVERED IN PAPER BAG OR WRAPPED.

All alcoholic beverages, except prepackaged beer, purchased in a package store must be put in a paper or plastic bag or otherwise wrapped in any opaque cover before delivery to the purchaser.

SECTION 49 WINE TASTING.

(a) A wine-tasting permit for purposes of this section shall be limited to a person possessing a duly issued license for the sale of wine by the package. A wine tasting event may be held in conjunction with a wine and cheese party by a package dealer that receives an event permit. Entities possessing a license for consumption on the premises shall not be eligible for a wine-tasting permit. The package dealer shall make an event permit application to hold a wine-tasting or wine and cheese party at least one week prior to the event.

(b) Any wine-tasting occurring on the premises of a business possessing a license to sell wine by the package shall be limited to times when the premises has received an event permit; provided, however, a wine-tasting permittee shall be allowed to provide a prospective customer, free of charge, a sample of wine which may not exceed two ounces per sample and no more than five ounces may be provided to any prospective customer in any one two-hour period. All such events shall not last more than four hours and must end by 9:00 p.m.

(c) An eligible licensee may petition the City for a wine-tasting permit provided it meets all requirements of the City's alcoholic beverage ordinance and presently maintains a valid license for the sale of wine by the package issued by the City. A wine-tasting permit shall allow the permittee to offer or sell wine samples in connection with an instructional or educational promotion, including but not limited to cooking demonstrations. A wine-tasting permit is intended to allow such activity on a limited basis and shall not be a part of the core operations of such establishment or occur on a daily basis.

(d) A wine-tasting permittee shall be subject to all laws, rules and regulations of the City and State, including rule 560-2-5-.05 of the Department of Revenue-alcohol and tobacco division, and shall be subject to permit revocation for violation thereof. The permittee shall provide a copy of form ATT-4SP filed with the State of Georgia Department of Revenue.

(e) Said wine-tasting permit shall be applied for each event and shall cost \$25.00. The City may revoke or suspend any wine-tasting permit and/or impose such conditions on its operation at the City's discretion for violation of this Code or in furtherance of the health, safety and welfare of the City's inhabitants.

ARTICLE VI. ADDITIONAL REGULATIONS FOR POURING DEALERS

SECTION 50. POURING DEALERS REGULATIONS.

(a) Except as provided otherwise herein this chapter, consumption on the premises (pouring) sales of distilled spirits, malt beverage and/or wine may be conducted only in conjunction with an eating establishment which has as its principal business conducted being the serving of meals, and with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. The eating establishment, by whatever name called, must meet the definition of a "restaurant" as defined herein. Consumption on the premises licensees shall maintain at least fifty (50%) percent of their business volume from the sale of food, which shall not include the sale of alcoholic beverages. Food sales shall include all consumable items sold on the premises except alcoholic beverages. The fifty (50%) percent ratio shall be determined on a calendar quarter basis pursuant to a monthly report that will be submitted under oath (and subject to all penalties for false swearing) by each licensee to the administrative office of the City. In the event food sales fall below fifty (50%) percent of the business volume of the license holder in any quarter, then the license holder shall be placed on probation for the next succeeding quarter. The City Clerk or other designated agent for the City shall notify the license holder in writing of the probation. At the end of the next succeeding quarter, if food sales have not attained fifty (50%) percent of business volume, then the City Council, Mayor, City Manager, or other designated agent of the City, shall suspend such license for a period of six (6) months in accordance with Section 110.45-27. After the period of suspension, should the license holder fail to meet the fifty (50%) percent food sales ratio for any quarter during the year

following suspension, then the pouring license shall be revoked following the procedures of Section 110.45-27. Nothing herein provided shall prevent the City Council or other duly designated agent of the City from suspending or revoking such licenses for any other violations of this ordinance. Authorized agents of the City may examine the records of businesses licensed hereunder at any reasonable time to ascertain that the requirements of this and other provisions of this ordinance are met. Licensees for consumption on the premises (pouring) licenses shall provide a monthly report under oath (and subject to all penalties for false swearing), by the 15th day of the following month, to the administrative office for the City of Baldwin, Georgia, that demonstrates that the food sale requirements of this ordinance have been met. Such licensees, upon request by the City of Baldwin or its designated agent, shall provide to the administrative office of the City, any and all backup documentation to demonstrate that the food sale requirements of this ordinance have been met. Failure to provide any of the reports or documentation required under this ordinance by the licensee to the City may result in the City Council or other designated agent of the City suspending the pouring license until the reporting requirements are met, and may result in revocation of the pouring license by following the revocation procedures provided within this ordinance.

(b) 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 in this section. The requirements for approval are:

(1) (A) The patio/open area must be enclosed by some structure (which may be a rope guard) providing for public ingress/egress only through the main licensed premises. The only exception to this would be a fire exit as required by building and fire codes. Such fire exit would not be for general public use unless an emergency exists and would be of the type which sounds an alarm so that the establishment would be alerted of unauthorized use if no emergency exists. The height of such structure may be a minimum of three and one-half (3.5) feet above the patio floor. The structure does not have to be solid nor does it have to restrict visibility into or out of the patio/open area. The method or means of enclosure shall be flexible depending on the location of the premises, so long as there is substantial compliance with the requirement that ingress/egress be only through the main licensed premises. The Building Inspector or other City agent will make a case-by-case determination of compliance with the primary requirement being controlled access to the patio/open area.

(B) The patio/open area shall not be required to be covered by a roof. However, patio/open areas that are covered shall be covered by a roof. As used in this section, the term "roof" shall mean a structural covering of the patio/open floor area which shall be of similar design and material as the primary structure to which it is attached, whether physically attached or by use.

(C) The patio/open area shall be used merely as an extension of the interior seating area. Service in the patio/open area shall be only by waiter or

waitress or by customer self-service at an interior selling location; i.e. no outside bar or service window.

(D) The patio/open area cannot be located within twenty-five (25) feet of any public street or thoroughfare with the exception of licensees located within the downtown business district. Such measurement shall describe the shortest straight line distance between the street curb (and if the street lacks a curb, then from the closest edge of pavement of the street) and the patio.

(E) The patio/open area cannot be located within one hundred fifty (150) feet of any residence, with the exception of licensees located within the downtown business district. Such measurement shall describe the shortest straight line distance from the patio to the nearest residential structure.

(2) It is prohibited for an establishment:

(A) To allow any noise to be created in a patio/open area which may be heard from a distance of one hundred (100) yards from the patio/open area. Any measurement made pursuant to this section shall describe the shortest straight line distance from the patio to the point in question.

(B) Allow the operation of any sound amplification devices in the patio/open area.

(3) Patio/open area plans must be reviewed and approved on an individual basis by the Building Inspector. Patio/open areas must be permitted and approved by the City's building inspection and fire departments as required by their governing regulations or codes.

(C) Notwithstanding the provisions of Section 110.45-50(a), the following provisions shall apply to hotels, motels or resorts, and to bed and breakfasts and said businesses shall be governed as follows for pouring licenses:

1. A licensed hotel or resort meeting the other requirements of this article may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as there is also a full service eating establishment in the hotel/resort which shall meet all of the requirements of this article. This provision specifically does not allow a "stand alone bar," but rather allows a snack bar or smaller café on the premises with alcohol service together with food service.

2. A bed and breakfast meeting the other requirements of this article except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full service eating establishment

located in the bed and breakfast. A bed and breakfast will be required to meet the 50 percent requirement for nonalcoholic sales which may include revenue from the sale of rooms.

(D) It shall be unlawful for any person to open or to consume all or any part of any type of alcoholic beverage outside in the parking lot or entrance areas or outside of the premises of the licensed eating establishment, except in previously approved patio/open areas. It is prohibited for customers to leave the premises of a consumption on the premises licensee with alcoholic beverages and it is the licensee's responsibility to insure that no beverages or sold and carried out. However, nothing herein shall be construed to prohibit the carrying out of a partially consumed bottle of wine as provided by Section 110.45-37. The owner of the business and the license holder and their agents and employees shall strictly enforce this provision, and the failure to do so will be a violation of this ordinance and cause for revocation of the license.

(E) It shall be unlawful to knowingly sell alcoholic beverages to a person who is intoxicated or to allow intoxicated persons to congregate on the premises, either inside, on any patio, or in outside area or parking lot, and it shall be the responsibility of the owner of the business and the license holder and its agents and employees to strictly enforce this provision, and the failure to do so shall be cause for revocation of the license.

(F) There shall be no gambling, betting, games of chance, slot machines, or the operation of any scheme for hazarding money or any other thing of value in any place of business licensed under this chapter, or in any room adjoining same, owned, leased or controlled by a licensee, except that this restriction shall not apply to official sales locations of Georgia lottery games and tickets.

(G) No retail consumption dealer licensed under this chapter shall keep any malt beverages, wine, or distilled spirits, or any combination thereof, at any place except the licensed place of business.

(H) As to any retail consumption dealer, happy hours or similar promotions shall not be permitted, and no licensee or employee or agent of a licensee, in connect with the sale or service 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;
3. Offer or deliver an alcoholic beverage without also serving food, except that while a customer is waiting for a table, the customer in a lounge or

at the bar may order up to a maximum of three alcoholic beverage drinks without purchase of a food item. This subsection shall not relieve the license holder of compliance with the overall food sale requirements mandated by this ordinance;

4. Sale, 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 as to licensed catered functions pursuant to an issued City permit and with said functions not open to the public;

5. Sale, 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;

6. Sale, 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 by licensed alcoholic beverage caterers pursuant to an issued catering permit, and with said function not open to the public;

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;

8. Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverage or the awarding of alcoholic beverages as a prize; and

9. Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day, and the schedule shall be effective for not less, than one calendar week.

Failure to comply with any of the above regulations by the retail consumption dealer shall be deemed a violation of this ordinance, and cause for suspension or revocation of the dealer's license.

(I) The following additional regulations shall apply to a retail consumption dealer (holding a pouring license), and any licensee of a license for the sale or service of alcoholic beverages for consumption on the premises shall:

1. Prohibit the licensee's employees from consuming alcoholic beverages on the premises during the work hours of the licensee's employees. Failure to do so by the licensee shall be cause for suspension or revocation of the licensee's license following the procedures provided herein;

2. All licensees for the sale of alcoholic beverages for consumption on the premises shall remove, or cause to be removed, from the area of the premises utilized by customers or patrons all alcoholic beverages within forty-five (45) minutes after the closing time for the sale of alcoholic beverages;

3. All licensees for the sale of alcoholic beverages for consumption on the premises shall remove, or cause to be removed, from the premises, all customers or patrons within forty-five (45) minutes after the closing time for the sale of alcoholic beverages. After the time period for removal of the customers or patrons has lapsed, only employees of the licensees engaged in their employment duties shall remain on the premises. Failure to comply with this subsection shall be due cause for the suspension or revocation of the license following the procedures as provided herein.

4. The occurrence on three or more occasions within any thirty day period upon the premises of a licensee for the sale of alcoholic beverages for consumption on the premises of fights, disorderly conduct, drunkenness, breach of the peace, physical violence against persons or property, or other activities prohibited by this ordinance upon the licensed premises, whether such conduct is committed by agents of the licensee or by customers or others, shall be due cause for the suspension or revocation of the license following the procedures as provided herein.

SECTION 51 BREW PUBS.

(a) For all purposes of this section, a “brew pub” is defined as an eating establishment (restaurant) in which beer or malt beverages are manufactured or brewed for retail consumption on the premises and solely in draft form.

(b) Notwithstanding any other provision of this ordinance to the contrary, a limited exception to the prohibition of the manufacturing of alcoholic beverages and distilled spirits within the City of Baldwin shall exist for owners and operators of brew pubs provided that:

(1) No applicant shall be permitted to own or operate a brew pub without first obtaining a proper pouring license from the City Council. The applicant desiring to operate a brew pub must note this intent on the pouring license application, and the City in the issuance of a pouring license must note on the license that a brew pub is allowed. Each brew pub pouring license holder shall comply with all other applicable state and local license requirements. A brew pub pouring license authorizes the holder of such license to (i) manufacture on the licensed premises not more than five thousand (5000) barrels of beer in a calendar year solely for retail consumption on the premises and solely in draft form; and (ii) operate a restaurant that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this ordinance, provided that such alcoholic beverages are purchased from a licensed wholesale dealer for consumption on the

premises only and, provided further, in addition to draft beer manufactured on the premises, each brew pub pouring license shall offer for sale commercially available canned or bottled malt beverages purchased from a licensed wholesale dealer.

(2) Possession of a brew pub pouring license shall not prevent the holder of such license from obtaining any other license available under this ordinance for the same premises.

(3) A brew pub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.

(4) A brew pub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this ordinance as manufacturers, retailers and, where applicable, wholesale dealers.

(5) Except as set forth in this section, a brew pub license holder shall be subject to all sections of this ordinance regarding a pouring license.

ARTICLE VII: SALES BY BONA FIDE NON-PROFIT CIVIC ORGANIZATION

SECTION 52. CHARITABLE EVENTS; SALES BY BONA FIDE NON-PROFIT CIVIC ORGANIZATIONS.

(a) Bona fide nonprofit civic organizations desiring to sell alcoholic beverages may apply and submit completed forms furnished by the Commissioner of the Georgia Department of Revenue and a permit from the Commissioner authorizing the organization to sell or distribute alcoholic beverages for consumption only on the premises, or to sell wine at retail for off-premise consumption, or to auction wine in sealed containers, or any combination thereof, for a period not to exceed three days, and subject to the rules and regulations of the Georgia Department of Revenue.

(b) The special use temporary permits to be issued to the bona fide non-profit civic organization shall be subject to the rules and regulations in other applicable Sections of this ordinance relating to the sale and distribution of alcoholic beverages, as follows:

- (1) The licensing requirements under Sections 6 and 7;
- (2) The distance prohibitions of Section 10;
- (3) The compliance requirements of Section 18;
- (4) The penalty for false information within an application as set by Section 22;
- (5) That the special use temporary permit is a privilege and conditional upon the

holder meeting the requirements of this ordinance as provided by Section 51;

(6) The inspection authority as provided by Section 33;

(7) The employee requirements as to age and criminal history as provided within Section 34 (but no employee permits shall be required);

(8) The days and hours of operation requirements as provided by Section 35;

(9) The prohibitions against furnishing or providing alcoholic beverages to any person under 21 years of age as provided by Section 36;

(10) The prohibitions against open containers provided by Section 37;

(c) A duly authorized agent for the bona fide non-profit civic organization shall file an application with the City for a special use temporary permit upon the application form of the City and file said application at least twenty (20) days prior to the event. At the time of the filing of the application form, the bona fide non-profit civic organization shall pay a fee of Fifty (\$50.00) Dollars for each permit received thereafter during the calendar year. The application shall identify the bona fide non-profit civic organization, the dates for which the permit is to be applicable (which cannot include any Sunday of the year), the premises where alcoholic beverages will be served; the event or type of function for the bona fide non-profit civic organization, and such other information as may be required by the City of Baldwin, Georgia. The City Clerk may issue a permit authorizing the bona fide non-profit civic organization to sell alcoholic beverages for consumption on the premises, or to sell wine at retail for off-premises consumption, or to auction wine in sealed containers, or any combination thereof, for a period not to exceed three days, and subject to any law regulating the time and date for selling such beverages. The special use temporary permit shall also be conditioned upon the Commissioner for the Georgia Department of Revenue issuing said Department's permit for a special use temporary permit for a bona fide non-profit civic organization.

(d) No more than six permits may be issued to an organization in any one calendar year pursuant to this ordinance.

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

(f) The issuance of a special use temporary permit to a bona fide non-profit civic organization shall exempt said organization from the brownbagging prohibition established by Section 38 of this ordinance.

ARTICLE VIII: FARM WINERIES

SECTION 53. FARM WINERIES.

(a) There is hereby created a license for the business of operating a Georgia farm winery, to be in conformance with the farm winery laws of the State of Georgia under O. C. G. A. § 3-6-21.1 as amended and this article. The applicant for a farm winery license shall indicate within the application as to whether the applicant is seeking a license for the premises of the farm winery that manufactures wine in Georgia, or whether the application is for one of the five additional locations in the State of Georgia that the farm winery can operate a tasting room for consumption on the premises of the tasting room and retail sale closed packages of wine for consumption off the premises.

(b) Under this article, the licensee shall be authorized to carry on the business of operating a farm winery tasting room on the premises of the farm winery, if the premises is located within the City of Baldwin, Georgia, or operating a tasting room off of the premises of the farm winery and located within the incorporated limits of the City of Baldwin and subject to the provisions of O. C. G. A. § 3-6-21.1, et seq., as amended.

(c) The farm winery tasting room created by this article is limited to farm wineries licensed by the State of Georgia and allows the licensee to offer wine samples and to make retail sales of its wine and the wine of any other Georgia farm winery in the tasting room, and as allowed by state law. No license is created by this article authorizing any other person to deal in any other alcoholic beverage in a farm winery tasting room. The tasting room of a farm winery can conduct the same activities allowed by a wine only package store holding an ancillary wine tasting license such as a wine and cheese party or a cooking or other wine educational event.

(d) The requirements of this chapter with respect to the sale of food with alcoholic beverages and the display, signs, seating requirements, and percentage of sales requirements shall not apply to farm winery tasting room, but all other provisions and requirements shall apply. Notwithstanding the foregoing, should the tasting room be upon the actual premises of the farm winery, then Sunday sales as permitted by O. C. G. A. § 3-6-21.2, as amended, shall be allowed. Further, notwithstanding any other provisions of this chapter to the contrary, in the event that the Georgia Revenue Commissioner has authorized the farm winery licensee to make sales of distilled spirits, malt beverages, and wines not produced by a farm winery for consumption in its tasting rooms, then the farm winery shall be allowed to sell such alcoholic beverages provided that the tasting room is upon the premises of the farm winery or on property located contiguous to the premises of the farm winery and owned by the farm winery or by an affiliate of the winery.

(e) A licensed farm winery must specifically apply for a farm winery license from the City of Baldwin, Georgia to operate a tasting room within the City, and pay the license fee for a farm winery or a tasting room, or both. The farm winery licensee must operate its tasting room in accordance with the requirements of state law and the provisions of this ordinance.

ARTICLE IX: LICENSED ALCOHOLIC BEVERAGE CATERER

SECTION 54. LICENSED ALCOHOLIC BEVERAGE CATERER.

(a) Licenses may be obtained for the purpose of selling or dispensing alcoholic beverages by the drink on premises at which authorized catered functions are to be held.

1. Such licenses shall be annual licenses and may be obtained only by those persons, firms or corporations already licensed by the City for the sale of alcoholic beverages by the drink or by these persons, firms or corporations licensed by another local governmental entity for the sale of alcoholic beverages by the drink and also being an authorized licensed caterer of said entity.

2. The procedures for securing such licenses and the terms thereof shall be made in person by the applicant to the City Administrator or his designee in writing on forms, furnished by said agent or his designee and signed by the applicant in compliance with subsection 8.

(b) Before a licensed alcoholic beverage caterer may sell or dispense alcoholic beverages at any authorized catered function, such caterer shall obtain a permit from the City Administrator or his designee at least ten (10) working days prior to the event.

1. The application for a permit shall include the name of the alcoholic beverage caterer's license number, and the date, address and time of the event.

2. The license fee for a caterer's license and the first permit shall be \$50.00 and a permit fee of \$50.00 shall be charged for each catered event permit thereafter for the alcoholic beverage caterers located within and licensed by the City.

3. For caterers licensed by jurisdictions other than the City for the sale of alcoholic beverages by the drink, an annual license fee of \$50.00 and a permit fee of fifty dollars (\$50.00) per event shall be charged.

4. If such off-premises permit is granted, it shall be good only for the specific event at the specified address and times set forth in the application, not in excess of four (4) hours, except permits approved by City Council by resolution.

(c) 1. Caterers licensed by the City shall maintain a record of all alcoholic beverages transported for each event, and shall make report and remittance of such taxes with their monthly reports to the City.

2. Caterers licensed by a jurisdiction other than the City shall maintain a record of all alcoholic beverages transported into the City for the event, and shall pay an excise tax to the City covering all such beverages at the rate provided by this ordinance.

3. As a condition of permit issuance, alcoholic beverage caterers licensed to sell alcoholic beverages by the drink by jurisdictions other than the City shall be provided a copy of the City's alcoholic beverages ordinances, and shall indicate, by signature, that they have received such ordinances and acknowledge the applicability of such ordinances to their operations.

4. Failure to report and remit the tax within seven (7) days of the conclusion of the event shall be grounds for denial of subsequent permits to the caterer for similar events.

5. The permit shall be kept in the vehicle used to transport alcoholic beverages to the event at all times during which the permit is in effect.

(d) No alcoholic beverages shall be transported, distributed, or sold to other than licensed locations in the City, except to authorized catered functions, unless otherwise authorized by this ordinance or by state law.

(e) The hours and days of sale or distribution of alcoholic beverages under this section shall be the same by Section 35(b).

(f) No licensed alcoholic beverage caterer shall employ any person under twenty-one (21) years of age to dispense, serve, sell or handle alcoholic beverages of authorized catered functions.

(g) No event permit will be issued to an event at any location with respect to which any alcoholic license has been denied or revoked within the past twelve (12) months; nor for any location with respect to which the conduct set forth in this ordinance has previously occurred.

(h) Except as set forth above in this section, an off-premises permit hold must comply with all other provisions set forth in this ordinance.

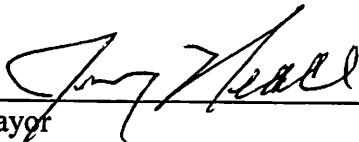
(i) Violations of this ordinance shall be subject to the penalties, fines, and provisions of this ordinance.

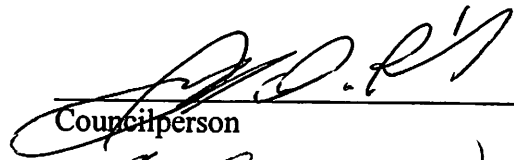
SECTION 2. EFFECTIVE DATE.

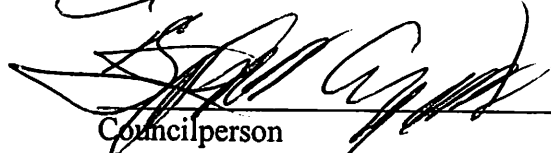
This ordinance is effective upon passage.

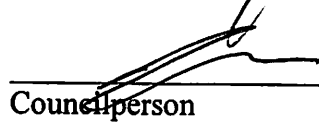
SO ORDAINED this 14 day of January, 2013.


BALDWIN CITY COUNCIL

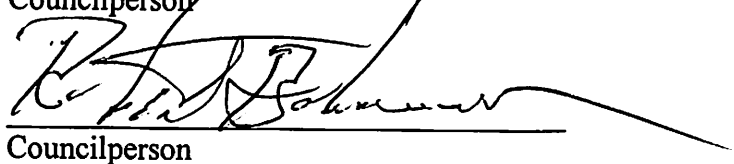
By: 
Mayor


Councilperson

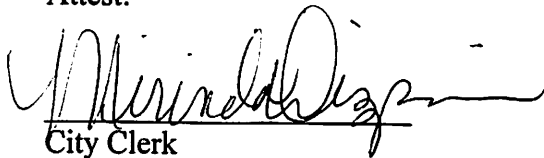

Councilperson


Councilperson


Councilperson


Councilperson

Attest:


City Clerk

FIRST READING: 10/14/2013

PASSED: 10/28/2013

AN ORDINANCE NO. 0029-232

AN ORDINANCE TO AMEND THE ALCOHOLIC BEVERAGE ORDINANCE FOR THE CITY OF BALDWIN, GEORGIA, AS AMENDED; TO CLARIFY THE PENALTIES THAT CAN BE ASSESSED AS TO THE SALES OF ALCOHOLIC BEVERAGES TO ANY PERSON UNDER 21 YEARS OF AGE; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to O.C.G.A. § 3-3-2, the City of Baldwin, Georgia, has enacted an alcoholic beverage ordinance, and by which the City of Baldwin regulates the sale of alcoholic beverages within the City of Baldwin, Georgia;

WHEREAS, the City Council finds that it appropriate to clarify the penalties that can be assessed for the sale of alcoholic beverages to any person under 21 years of age, and for a first offense, and for a second offense;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Baldwin, Georgia, and it is hereby ordained by authority of the City Charter and the above-referenced authority, as follows:

SECTION 1. AMENDMENT TO SECTION 27(f) OF THE ALCOHOLIC BEVERAGE ORDINANCE.

This ordinance shall amend the alcoholic beverage ordinance, as amended, and by striking in its entirety, subsection (f) of Section 27 of said ordinance, and substituting in lieu thereof a new Section (f) of Section 27, and which shall read as follows:

(f) The City Council or the Hearing Officer shall make his final determination within ten days of the completion of the hearing. The decision shall be placed in writing and contain the

City Council or the Hearing Officer's findings of fact, conclusions of law, and decision as to penalty, if any. Such penalty may include one or more of the following: suspension of the license for no more than 12 months, revocation of the license, imposition of a probationary period not to exceed 12 months, and/or a civil penalty not to exceed the amount allowed by the City Charter or general state law. In the assessment of any penalties, the City Council or the Hearing Officer can consider evidence presented by the licensee of any training program for employees instituted by the licensee, or to be instituted, to prevent further violations. In the assessment of any penalties, the City Council or the Hearing Officer shall also consider the circumstances of the violation, the history of operations of the license holder and any prior violations, any proactive actions taken by the license holder besides training in order to prevent further violations, and such other factors as the City Council or the Hearing Officer may deem relevant. In the event that a license holder including but not limited to any employee of the license holder while acting in the employment of said license holder, furnishes or causes to be furnished, sells or permits any person in such employer's employ to furnish any alcoholic beverage to any person under 21 years of age, then for a first offense, the minimum penalty shall be a civil fine of \$500.00 and a possible suspension of up to 30 days of the right of the license holder to sell alcoholic beverages considering the factors listed hereinabove. In the event that a license holder has been found guilty of a second offense of an underage sale within one year of the first offense, then the minimum civil fine shall be \$1,000.00 and the right to sell alcoholic beverages by said license holder shall be suspended for a minimum of 30 days, and for a maximum of up to 90 days considering the factors stated hereinabove. In the event of a third offense, within one year of the first offense, then the license holder shall have a minimum fine of \$1,000.00, the alcoholic beverage license shall be revoked, and the license holder shall be unable

to reapply for the alcoholic beverage license for one year from the date of the revocation of the original license.

SECTION 2. RESTATEMENT OF ALL OTHER PROVISIONS OF THE ALCOHOLIC BEVERAGE ORDINANCE.

Except as amended herein, all other provisions of the alcoholic beverage ordinance, as previously amended, as hereby restated in their entirety, and with the intent of the City Council that said provisions of the Alcoholic Beverage Ordinance remain in full force and effect.

SECTION 3. REPEAL OF CONFLICTING ORDINANCE TO THE EXTENT OF THE CONFLICT.

All parts of previously ordained ordinances in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict; but it is hereby provided that any ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Baldwin, Georgia.

SECTION 4. SEVERABILITY.

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this ordinance should be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances should be declared invalid or unconstitutional, such invalidity shall not be construed to effect the provisions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Baldwin to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION 5. EFFECTIVE DATE.

The effective date of this amendment to the alcoholic beverage ordinance shall be upon passage by the City Council of the City of Baldwin, Georgia, and shall apply to alcoholic beverage licenses that are effective for the 2013 calendar year.

This 28 day of October, 2013.

BALDWIN CITY COUNCIL

By: Jerry Heald
Mayor

David
Councilperson

[Signature]
Councilperson

[Signature]
Councilperson

[Signature]
Councilperson

[Signature]
Councilperson

Attest:

Amanda Sexton
Amanda Sexton, City Clerk

First Reading
Passed

December 8 2014
December 22 2014

AN ORDINANCE NO. 029-247

AN ORDINANCE TO AMEND THE ALCOHOLIC BEVERAGE ORDINANCE FOR THE CITY OF BALDWIN, GEORGIA; TO AUTHORIZE THE PACKAGE SALES OF MALT BEVERAGES AND WINE ON SUNDAYS BETWEEN THE HOURS OF 12:30 P.M. IN ANY LICENSED ESTABLISHMENT WHICH DERIVES AT LEAST 50% 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; TO PROVIDE THAT THE ORDINANCE IS DULY AMENDED UPON THE EFFECTIVE DATE OF THE ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Baldwin, Georgia, has adopted an alcoholic beverage ordinance to allow the sale of distilled spirits, malt beverages, and beer and wine, but with said sales regulated by the provisions of the City of Baldwin Alcoholic Beverage Ordinance;

WHEREAS, the City Council finds that it is in the interest of the City and its citizens to all certain establishments to sell alcoholic beverages on Sundays and pursuant to the provisions and regulations of the City of Baldwin Alcoholic Beverage Ordinance; and

WHEREAS, in order for Sunday sales to be authorized, the qualified electors of the City of Baldwin, Georgia, must approve such sales in a duly conducted referendum, and the electors approved such sales at a City referendum held by the City on November 4, 2014; and

NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED by the authority of the City Charter and general law, as follows:

SECTION 1. AMENDMENT TO THE ALCOHOLIC BEVERAGE ORDINANCE OF THE CITY OF BALDWIN REGARDING THE SALE OF ALCOHOLIC BEVERAGES.

The Alcoholic Beverage Ordinance of the City of Baldwin, Georgia, regarding the sale of alcoholic beverages is hereby amended by modifying and adopting new provisions, and deleting in its entirety Sections 23 and 35 of said ordinance, and adopting new sections 23 and 35, and which shall read as follows:

SECTION 35. DAYS AND HOURS OF OPERATION.

(a) No package dealer of malt beverages or wine, or both, including licensees of divided stores meeting the requirements of applicable state laws and regulations, shall furnish, sell, or offer for sale any packaged malt beverages or wine at any time on Christmas Day. Sales are permitted on Election Day; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or the outer edge of any building within which such polling place is established during the hours the polls are open. No package dealer of malt beverages or wine, or both, shall furnish, sell or offer for sale any malt beverages or wine during Monday through Saturday prior to 9:00 a.m. or after 11:30 p.m., and on Sundays only between the hours of 12:30 p.m. and 11:30 p.m. This provision shall also apply to licenses for wine only by the package, conducting a wine tasting (but which must end at 9:00 p.m.) and to tasting rooms of farm wineries except as provided differently herein.

(b) No consumption on the premises dealer of alcoholic beverages, shall furnish, sell or offer for sale alcoholic beverages for consumption on the premises at any time on Christmas Day. Sales are permitted on Election Day; provided, however, it shall be unlawful for

any person to sell alcoholic beverages within 250 feet of any polling place or the outer edge of any building within which such polling place is established during the hours the polls are open. No consumption on the premises dealer of alcoholic beverages shall furnish, sell or offer for sale any alcoholic beverages during Monday through Saturday prior to 9:00 a.m. or after 11:30 p.m., except on New Year's Eve (December 31), and sales shall be allowed until 11:59 p.m.

Consumption on the premises dealers of alcoholic beverages, shall also be allowed to furnish, sell or offer for sale any alcoholic beverages on Sunday from 12:30 p.m. until 11:30 p.m. in any licensed establishment which derives at least 50% 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.

(c) In order for the sale of alcoholic beverages to occur on Sundays, such sales must be approved by the duly qualified electors in a City referendum. The City of Baldwin held a referendum on Sunday sales on November 4, 2014, and the electors of the City approved package sales of beer and wine on Sundays and approved sales by drink of all alcoholic beverages on Sunday. Upon payment of the license fees as required by Section 23, as amended, Sunday sales shall be allowed beginning Sunday, January 4, 2015.

SECTION 23. FEES.

(a) There is hereby imposed a license fee, payable at the time of issuance of the license under this chapter and each annual renewal license, except as provided herein, as follows:

PACKAGE LICENSES

Fee for the sale of malt beverages by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages

**ANNUAL
FEE**

\$ 900.00

Fee for the sale of malt beverages by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	1750.00
Fee for the sale of malt beverages by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	3350.00
Fee for the sale of wine by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages	900.00
Fee for the sale of wine by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	1750.00
Fee for the sale of wine by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	3350.00
Fee for the sale of malt beverages and wine by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages	1350.00
Fee for the sale of malt beverages and wine by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	2550.00
Fee for the sale of malt beverages and wine by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	4950.00
CONSUMPTION ON PREMISES LICENSES	ANNUAL FEE
Fee for the sale of malt beverages for consumption on the premises	\$ 1150.00
Fee for the sale of wine for consumption on the premises	1150.00

Fee for the sale of distilled spirits for consumption on the premises	1150.00
Fee for the sale of malt beverages and wine for consumption on the premises	2150.00
Fee for the sale of malt beverages and distilled spirits for consumption on the premises	2150.00
Fee for the sale of wine and distilled spirits for Consumption on the premises	2150.00
Fee for the sale of malt beverages, wine and distilled spirits for consumption on the premises	2150.00

OTHER LICENSES

	ANNUAL FEE
Fee for wine tasting permit by wine package store	\$25.00 per permit
Farm winery license (and/or for tasting room)	2150.00
Fee for wholesale dealer – principle place of business in City of Baldwin	2000.00
Fee for wholesale dealer – principle place of business outside City of Baldwin	100.00
Temporary special event license permit	\$50.00 per permit
Fee for caterer license	
In City	License fee and 1 st permit \$50.00 Each permit thereafter \$50.00
Out of City	License fee and 1 st permit \$50.00 Each permit thereafter \$50.00

OTHER FEES

Administrative fee, each license	250.00
Building department fee, each inspection	35.00
Alcoholic beverage employee permit (includes fingerprinting)	30.00 30.00

Change of managing agent/transfer of location	100.00
Penalty for late payment of annual fees	10%

(b) The license fees imposed by this section are regulatory fees intended to offset the City's cost in administering and enforcing this chapter. In addition thereto, licensees are subject to payment of an occupational tax in accordance with the occupational tax ordinance of the City of Baldwin.

(c) When a new license is issued on or after July 1, the license fee shall be reduced by one-half (1/2).

(d) As to renewal licenses for licensed establishments or licenses issued for the first time for calendar year 2015 and which licenses have already been issued and the license fees paid prior to the passage of this ordinance amendment said license holders shall be allowed to conduct Sunday sales beginning Sunday, January 4, 2015 upon payment of an additional license fee to the City of Baldwin of One Hundred Fifty and 00/100 (\$150.00) Dollars as to each alcoholic beverage license held by the business establishment.

SECTION 2. CONTINUATION OF ALL OTHER PROVISIONS OF THE ALCOHOLIC BEVERAGE ORDINANCE, AS AMENDED.

All other terms and provisions of the alcoholic beverage ordinance, as amended, are continued in full force and effect, as if they were restated herein.

SECTION 3. SEVERABILITY.

If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to effect the portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Baldwin to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

**SECTION 4. REPEAL OF CONFLICTING ORDINANCES TO
THE EXTENT OF THE CONFLICT.**

All parts of prior ordinances, in conflict with the terms of the ordinance are hereby repealed to the extent of the conflict; but it is hereby provided, that any ordinance, or any provision of any ordinance, or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof, and shall be legally construed to be in favor of upholding this ordinance on behalf of the City Of Baldwin, Georgia.

Section 5. EFFECTIVE DATE

The effective date of this ordinance shall be upon passage and with Sunday sales effective as provided herein.

SO ORDAINED this _____ day of _____, 2014.

Baldwin City Council

By: _____
Mayor

Council Member

Council Member

Council Member

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Council Member

City Clerk

Bona fide non-profit civic organization means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. §§ 501(c), 501(d), or 501(e).

Business means any person, corporation, partnership, limited liability company, or other legal entity which exerts substantial efforts within the City, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

Church means a permanent freestanding building located in an area designated for such use by the zoning ordinances where persons regularly assemble for religious worship, which shall be publicly designated as a church, but does not include a residence or place of business also used for religious purposes, and also does not include an administrative building or office for a church or religious organization. The term "church" shall also not include store front sites within retail shopping centers that are also used as a place of regular assembly for religious worship.

Convenience store means a small store or shop that sells, but is not limited to, such items as candy, ice-cream, soft drinks, water, lottery tickets, tobacco produce, newspapers, magazines, a selection of processed foods, sandwiches, a few items of groceries, ATM and money order services, as well as fuel, motor oils, etc., such as are typical in the City of Baldwin.

Distilled spirits means any beverage containing alcohol obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines. Distilled spirits cannot be sold by the package within the City.

Farm winery means a domestic winery as defined and regulated by O. C. G. A. § 3-6-21.1, which is licensed as a farm winery by the State of Georgia.

Farm winery tasting room means an outlet for the promotion of a farm winery's wine by providing complementary samples of such wine to the public and for retail sale of such wine as provided and regulated by O. C. G. A. § 3-6-21.1.

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. The term includes, but is not limited to, brandy.

Fuel means any petroleum product including but not limited to gasoline, diesel, kerosene, ethanol, and propane.

Grocery store means a store established primarily for the retailing of food. This term includes large grocery stores, such as supermarkets, that also stock products other than food, such as paper goods, cleaning supplies and household items in addition to food items. Grocery store shall also include those grocery stores operated as a part of a large retail commercial center such as those operated by Wal-Mart.

Hotel, motel or resort means every building or structure, or combination of buildings and structures, that is kept, used, maintained, advertised and held out to the public as a place where sleeping accommodations are offered for pay to travelers and guests, whether transient, permanent or residential, which contains ten or more rooms used for the sleeping accommodations of such guests, has one or more public dining rooms with kitchen and a seating capacity of at least 25, contains one or more conference/meeting/banquet rooms in either the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel, motel or resort operations.

Licensed Alcoholic Beverage Caterer means any person licensed for the sale of alcoholic beverages by the state and who possesses a license by a local government in the state authorizing such person to sell or dispense alcoholic beverages by the drink off licensed premises and in connection with an authorized catered function.

Lounge means a separate room connected with, a part of or adjacent to a restaurant or eating establishment, as defined in this section, provided that the seating capacity of the lounge shall not exceed that of its connected restaurant or eating establishment.

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

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

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

The manufacture of alcoholic beverages and distilled spirits is not allowed in the City, except for a brew pub which must meet the requirements of Section 51, or a farm winery which must meet the requirements of Section 53.

On-premises consumption dealer means any person who sells, at retail only to consumers and not for resale, distilled spirits, wine or malt beverages, or any combination thereof, for consumption on the premises. A bona fide non-profit organization may sell alcoholic beverages for consumption on the premises, or auction wine, pursuant to a special use temporary permit issued pursuant to this ordinance and conditioned upon compliance with the requirements of this ordinance.

Package dealer means any person engaged in selling, at retail only to consumers and not for resale, any wine or malt beverages in unbroken packages. The sale of distilled spirits by the package is not allowed in the City.

Person means any individual, limited liability company, any legal entity, firm, partnership, cooperative, non-profit 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.

Pour and Pouring mean the sale of alcoholic beverages by the drink for consumption on the premises.

Pouring outlet means any place where alcoholic beverages are poured or proposed to be poured.

Premises, when used in conjunction with package sales, means the floor space on and from which the package sale of alcoholic beverages is conducted, and when used in conjunction with consumption on the premises sales, means the premises licensed for such sales. Premises also means the space or area owned, leased and/or controlled by the licensee and used by him for the purposes of operating under the license. Premises is further defined as one (1) physically identifiable place of business consisting of one (1) room, or two (2) or more contiguous rooms operating under the same trade names where alcoholic beverages are sold. Any premises outlets which cannot be determined as one (1) identifiable place of business shall require additional licenses regardless of such establishments having the same trade name, ownership, or management; provided nothing herein shall require additional licenses for service bars, or portable bars, or portable bars used exclusively for the purpose of preparing drinks when such bars are accessible only to employees of the licensed establishment and from which drinks are prepared to be served in the licensed premises. As used within the context of the provisions of this ordinance, premises can also mean the entire building and lot, including parking area.

Residence means the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

Resident means a person whose primary residence is within the territorial limits of Habersham County or Banks County.

Restaurant means an eating establishment that is any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests, and which derives at least 50% of its total annual gross food and beverage sale from

the sale of prepared meals or food (not including the sale of alcoholic beverages). At least one (1) meal and food service for four (4) hours per day shall be served at least five (5) days a week during the months of April through October, and shall be served at least three (3) days a week during the months of November through March, except that restaurants that open for business more than five (5) days a week, shall be required to serve at least one (1) meal per day each day that the restaurant is open, with the exception of holidays, vacation and periods of redecoration, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall provide at least twenty-five (25) seats for customers. All types of eating establishments, in order to sell alcoholic beverages for consumption on the premises, by whatever name, including but not limited to pubs, taverns, bakeries, or otherwise, must meet the requirements of a "restaurant" except as provided herein in order to receive an alcoholic beverage license for consumption on the premises.

School means an organized source of education or training as an institution for the teaching of children with the presence of full-time faculty and full-time curriculum in which the traditional subjects and learning processes associated with the grades of the common public schools are taught.

Wholesaler means any person who sells alcoholic beverages to other wholesale dealers, or to package dealers.

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

SECTION 2. PURPOSE OF ORDINANCE.

This ordinance is enacted in furtherance of the police powers of the City to promote the health and general welfare of its citizens; to regulate and control the licensing and sale by consumption on the premises of alcoholic beverages and by the package of malt beverages and wine; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, and residential areas from the negative secondary effects attributable to establishments that sell alcoholic beverages; and to ensure that only qualified persons obtain licenses for the sale or distribution of alcoholic beverages; to provide that bona fide non-profit civic organizations may receive a special use temporary permit allowing the sale of alcoholic beverages for consumption on the premises or as otherwise provided by this chapter on a temporary basis and as a part of promotional events or fundraisers by said organizations.

(b) Except as specifically authorized in this ordinance, no person licensed for the sale of a particular class of alcoholic beverages may sell other classes of alcoholic beverages without obtaining the required license therefore.

(c) Bona fide non-profit civic organizations shall not be required to hold a license for the sale or distribution of alcoholic beverages, but must receive from the City of Baldwin, Georgia, a special use temporary permit issued pursuant to this ordinance and in compliance with the rules and regulations of the Georgia Department of Revenue. For the limited purposes as allowed by this ordinance, a special use temporary permit shall be deemed to be a valid license for the sale or distribution of alcoholic beverages by a bona fide non-profit civic organization.

SECTION 7. TYPES OF LICENSES TO BE ISSUED.

(a) Only the following alcoholic beverage licenses shall be issued under this chapter:

- (1) Malt beverages for sale by the package;
- (2) Wine for sale by the package;
- (3) Malt beverages for consumption on the premises;
- (4) Wine for consumption on the premises;
- (5) Distilled spirits for consumption on the premises;
- (6) Combination licenses:
 - (a) Malt beverages and wine for sale by the package;
 - (b) Malt beverages and wine for consumption on the premises;
 - (c) Malt beverages and distilled spirits for consumption on the premises;
 - (d) Wine and distilled spirits for consumption on the premises;
 - (e) Malt beverages, wine and distilled spirits for consumption on the premises;
- (7) Farm winery licenses (which includes a tasting room of a farm winery);
- (8) Special use temporary permit issued only to bona fide non-profit civic organizations;
- (9) **Wholesale dealer licenses;**
- (10) Authorized caterer license.

SECTION 8. QUALIFICATIONS OF APPLICANTS.

(a) No license shall be granted under this ordinance to any applicant who is not at least twenty-one (21) years of age and each applicant must be a citizen or resident legal alien of the United States. The applicant must be a person of good moral character and a resident of the County of Habersham or Banks for one (1) year preceding the filing of the application (the residency requirement may be met by a managing agent for applicant). Honorably discharged members of the U.S. military

(d) Corporations, partnerships and other types of legal organizations shall have the license jointly issued in the entity's name and an individual who meets the requirements of Section 8(a) and who does in fact have managerial authority over business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed full time by the entity. Said individual shall be known as the "managing agent."

(1) In the event the "managing agent" changes, the licensee shall notify the City Clerk within five (5) days of the change. A fee of one hundred dollars (\$100.00) will be charged for the processing of an application for the change of the "managing agent", and such applicant must be approved by the City Council or its designated agent.

(e) Applicants for renewal licenses must meet all qualifications of applicants for original licenses. Loss of qualifications during the term of a license shall be grounds for revocation or for denial of renewal.

SECTION 9. APPLICATION SUBMISSION; BASIC INFORMATION.

(a) Every applicant for a license under this ordinance shall make written application to the City Council or its designated agent or on forms furnished by the City Clerk. The applicant shall answer all questions on the application, under oath and shall supply all information and furnish all certificates, affidavits, bonds and other supporting data or documents as required by this ordinance.

(b) Each application shall state the name and address of each applicant (including managing agent); the place where the proposed business is to be located; and the type license applied for, whether for distilled spirits, malt beverages or wine, or a combination thereof, and whether for wholesale, for consumption on the premises (pouring) or package sale or other license or permit allowed by this ordinance. The application shall also contain a beginning balance sheet showing the proposed original capitalization of the business and its source. If an applicant is a corporation the application shall state the names of all officers and stockholders of the corporation and the percentage ownership of each. If the applicant is a partnership the application shall state the names of all partners therein, whether general or limited. If the applicant is a limited liability company, the application shall state names of all members therein. All applications shall include the names of all persons that have or will have a direct or indirect beneficial interest in the business for which the license is sought. Each application shall also contain such additional information as the Council or designated agent prescribes, shall be verified as true by the applicant before filing and shall be accompanied by a nonrefundable deposit of \$250.00 to cover the cost of investigating the applicant and processing the application. The premises for the location of the license shall also be inspected by the agent for the City for building inspections and code compliance, and applicant will pay an additional inspection fee of \$35.00. Criminal background checks by

fingerprinting shall also be performed of applicant and the managing agent with the fingerprinting included as a part of the application fee.

(c) Applications for a consumption on the premises (pouring) license shall only be made by eating establishments that meet the definition of a restaurant, as defined herein, except for special use temporary permits issued to bona fide non-profit civic organizations and except as to bed and breakfasts and hotels, motels or resorts as provided herein. Consumption on the premises licenses shall be required to maintain at least fifty (50%) percent of their business volume from the sale of food. Food sales shall include all consumable items sold on the premises except alcoholic beverages. Each application for a consumption on the premises (pouring) license shall demonstrate that the applicant at the requested premises has an adequate and sanitary kitchen and dining room, air conditioning, adequate space for the minimum number of seats for customers, and the anticipated days of the week that applicant shall be serving meals to the general public. The serving of meals to the general public shall be the principal business conducted by an applicant for a consumption on the premises (pouring) license, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. Eating establishments may operate a lounge upon the premises, so long as the eating establishments meet the food requirements under this ordinance, and the operation of the lounge is only incidental to the operation of the eating establishment. A licensed hotel or resort meeting the other requirements of this article may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as there is also a full service eating establishment in the hotel/resort which shall meet all of the requirements of this article. This provision specifically does not allow a "stand alone bar," but rather allows a snack bar or smaller café on the premises with alcohol service together with food service. A bed and breakfast meeting the other requirements of this article except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full service eating establishment located in the bed and breakfast. A bed and breakfast will be required to meet the 50 percent requirement for nonalcohol sales which may include revenue from the sale of rooms.

SECTION 10. DISTANCE PROHIBITIONS.

(a) Package sales:

(1) No malt beverage or wine, or both shall be offered for sale, sold or dispensed by the package within three hundred (300) feet of the premises of any school building, college building, school grounds or college grounds, alcoholic treatment center, or housing authority property.

(2) No malt beverage or wine, or both shall be offered for sale, sold or dispensed by the package within three hundred (300) feet of any church.

SECTION 16.

SPECIAL PROVISIONS FOR WHOLESALERS.

(a) No person or entity shall sell any alcoholic beverage at wholesale unless the person or entity holds a valid and current wholesale license from the State of Georgia and from the city or county where the principle place of business of the wholesaler is located.

(b) A person or entity desiring to engage in the wholesale sale of alcoholic beverages in this City shall obtain a license in accordance with the provisions of this chapter and pay the license fees as set by this ordinance.

(c) No person or entity that has any financial interest, either direct or indirect, in any license for the retail sale of any alcoholic beverages in Habersham County or Banks County or in the City shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the State of Georgia.

(d) Farm wineries acting as wholesalers under the provisions of O. C. G. A. § 3-6-21.1 are exempt from this provision and may, upon proper application, approval, and permitting, hold licenses as on premises, bulk, or package sales and wholesale operations at a single location.

(e) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any alcoholic beverage to any person 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.

(f) No alcoholic beverage shall be delivered to any retail sales outlet in the City except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

(g) Every retailer shall maintain sufficient audit records to attribute all alcoholic beverage items for sale to a purchase from a licensed wholesaler.

(h) Licensed wholesalers shall only engage in the sale of alcoholic beverages during regular business hours of the retailer, Monday through Saturday, excluding Christmas Day.

(i) All provisions of this article including those regarding licenses, qualifications, audits, records, and penalties, shall also apply to wholesalers.

(j) No wholesaler's license under this ordinance shall be issued except for premises located within an industrial zoning classification and meeting all requirements of the City zoning and developmental ordinances.

SECTION 17.

LOCATION RESTRICTIONS.

(a) Package sales:

(1) Package sales of malt beverages and/or wine may be conducted only in conjunction with package stores or the business operation of a supermarket, convenience store, or drugstore meeting the requirements of this section. For the purpose of this subpart, "supermarket" shall mean a grocery retailer carrying a full selection of food and grocery items, including fresh produce and meats. A "convenience store shall mean a retail store carrying a limited selection of canned, packaged or prepared food and grocery items and at which fuel may be regularly available for sale, provided that no service or mechanical work is performed on motor vehicles. General merchandise department stores with floor space open to the public in excess of 25,000 square feet having the inventory of a supermarket may be licensed as a supermarket. For the purpose of this section a "drugstore" shall mean a retail store at which prescription drugs and medications are dispensed under the control of a licensed pharmacist, and which sells at retail various personal health-related items for which prescriptions are not required.

(2) Licenses for the package sale of malt beverages and/or wine will be issued only for premises located within a commercial zoning classification under the City zoning ordinance.

(3) All premises at which the package sale of malt beverages and/or wine is authorized shall meet all requirements of the city's zoning and developmental ordinances, as well as minimum building, fire and life safety codes.

(4) Premises licensed on January 1, 2012 for the package sale of malt beverages and/or wine and lying outside the locations authorized for package sales in subsection (a)(2) may continue such operation, provided they are in compliance with all other provisions of this ordinance. Cessation of any such business for 90 days creates a rebuttable presumption of abandonment and may result in loss of grandfather status and serve as grounds for revoking any current license. Except as provided herein, no new licenses shall be issued for a location not meeting the location requirements of subsection (a)(2).

(b) Consumption on the premises (pouring):

(1) Except as provided otherwise herein this chapter, consumption on the premises (pouring) sales of distilled spirits, malt beverage and/or wine may be conducted only in conjunction with an eating establishment which has as its principal business conducted being the serving of meals, and with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. The eating establishment, by whatever name called, must meet the definition of a "restaurant" as defined herein. Consumption on the premises licensees shall maintain at least fifty (50%) percent of their business volume from the sale of food,

which shall not include the sale of alcoholic beverages. Food sales shall include all consumable items sold on the premises except alcoholic beverages. The fifty (50%) percent ratio shall be determined on a calendar quarter basis pursuant to monthly reports that will be submitted under oath (and subject to all penalties for false swearing) by each licensee to the administrative office of the City. In the event food sales fall below fifty (50%) percent of the business volume of the license holder in any quarter, then the license holder shall be placed on probation for the next succeeding quarter. The City Clerk or other designated agent of the City shall notify the license holder in writing of the probation. At the end of the next succeeding quarter, if food sales have not attained fifty (50%) percent of business volume, then the City Council, Mayor, City Manager, or other designated agent of the City, shall suspend such license for a period of six (6) months in accordance with Section 27. After the period of suspension, should the license holder fail to meet the fifty (50%) percent food sales ratio for any quarter during the year following suspension, then the pouring license shall be revoked following the procedures of Section 27. Nothing herein provided shall prevent the City Council or other duly designated agent of the City from suspending or revoking such licenses for any other violations of this ordinance. Authorized agents of the City may examine the records of businesses licensed hereunder at any reasonable time to ascertain that the requirements of this and other provisions of this ordinance are met. Licensees for consumption on the premises (pouring) licenses shall provide a monthly report, under oath (and subject to all penalties for false swearing) by the 15th day of the following month, to the administrative office for the City of Baldwin, Georgia, that demonstrates that the food sale requirements of this ordinance have been met. Such licensees, upon request by the City of Baldwin or its designated agent, shall provide to the administrative office of the City, any and all backup documentation to demonstrate that the food sale requirements of this ordinance have been met. Failure to provide any of the reports or documentation required under this ordinance by the licensee to the City may result in the City Council or other designated agent of the City suspending the pouring license until the reporting requirements are met, and may result in revocation of the pouring license by following the revocation procedures provided within this ordinance.

(2) Licenses for consumption on the premises sale of alcoholic beverages will be issued only for premises located within a commercial zoning classification under the City zoning ordinance.

(3) All premises at which the consumption on the premises sale of alcoholic beverages is authorized shall meet all requirements of the city's zoning and developmental ordinances, as well as minimum building, fire and life safety codes.

(4) Notwithstanding the provisions of Section 17(b)(1), the following provisions shall apply to hotel, motels or reports and to bed and breakfasts, and said businesses shall be governed as follows for pouring licenses:

(a) A licensed hotel or resort meeting the other requirements of this article

may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as there is also a full service eating establishment in the hotel/resort which shall meet all of the requirements of this article. This provision specifically does not allow a "stand along bar," but rather allows a snack bar or smaller café on the premises with alcohol service together with food service.

(b) A bed and breakfast meeting the other requirements of this ordinance except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full service eating establishment located in the bed and breakfast. A bed and breakfast will be required to meet the 50 percent requirement for nonalcoholic sales which may include revenue from the sale of rooms.

SECTION 18.

**COMPLIANCE WITH CITY ORDINANCES
AND REGULATIONS.**

No license under this ordinance shall be issued to any applicant if any person holding a beneficial interest in the business to be licensed owes any delinquent taxes, assessments, fees, water charges, sewer charges, or other fees to the City. No license under this ordinance shall be issued to any applicant if any person holding a beneficial interest in the business is currently in violation of any ordinance or regulation of the City, and the applicant has not cured the violation and come into compliance with the ordinances and regulations of the City. No license under this ordinance shall be issued as to any premises where an adult entertainment establishment operates or is to be operated.

SECTION 19.

INVESTIGATION OF APPLICATION; ISSUANCE.

Every application filed pursuant to this ordinance shall be thoroughly investigated by the chief of police, who shall make a formal written report and recommendation to the City Council or its designated agent of the City. The City Council or its designated agent of the City shall review the chief's report and make such further investigation as it or he deems appropriate. All applications shall be investigated and acted upon within 90 days of the date of submission of a completed application, unless consent of the applicant to extend the investigative period has been obtained in writing. Inability of the City Council or its designated agent of the City to obtain the good faith cooperation of the applicant in the investigation process, within the time period specified, shall constitute grounds for denial of the license.

hearing shall be held not more than 30 days from the date the City Clerk receives the written notice of appeal. Within ten days from the date of conclusion of the hearing, the City Council (including the Mayor) shall notify the applicant and the City Clerk, in writing of their decision.

SECTION 22. FALSE INFORMATION IN APPLICATION.

Any material omission from, or untrue or misleading information in, an original, renewal or transfer application for a license under this ordinance shall be cause for the denial or refusal of a license, or for the revocation of a license previously granted. Any failure to notify the City Clerk of the change in any relationship as specified in section 13(d) within ten days after such change is made shall likewise constitute due cause for cancellation, revocation or suspension of a license.

SECTION 23. FEES.

(a) There is hereby imposed a license fee, payable at the time of issuance of the license under this chapter and each annual renewal license, except as provided herein, as follows:

PACKAGE LICENSES	ANNUAL FEE
Fee for the sale of malt beverages by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages	\$ 750.00
Fee for the sale of malt beverages by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	1600.00
Fee for the sale of malt beverages by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	3200.00
Fee for the sale of wine by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages	750.00
Fee for the sale of wine by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	1600.00

Fee for the sale of wine by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	3200.00
Fee for the sale of malt beverages and wine by the package in an establishment with 10,000 sq. ft. or less of total floor space for alcoholic beverages	1200.00
Fee for the sale of malt beverages and wine by the package in an establishment having between 10,001 and 20,000 sq. ft. of total floor space for alcoholic beverages	2400.00
Fee for the sale of malt beverages and wine by the package in an establishment having 20,001 sq. ft. or more of total floor space for alcoholic beverages	4800.00

CONSUMPTION ON PREMISES LICENSES

**ANNUAL
FEE**

Fee for the sale of malt beverages for consumption on the premises	\$ 1000.00
Fee for the sale of wine for consumption on the premises	1000.00
Fee for the sale of distilled spirits for consumption on the premises	1000.00
Fee for the sale of malt beverages and wine for consumption on the premises	2000.00
Fee for the sale of malt beverages and distilled spirits for consumption on the premises	2000.00
Fee for the sale of wine and distilled spirits for Consumption on the premises	2000.00
Fee for the sale of malt beverages, wine and distilled spirits for consumption on the premises	3000.00

OTHER LICENSES

	ANNUAL FEE		
Fee for wine tasting permit by wine package store	\$25.00 per permit		
Farm winery license (and/or for tasting room)	2000.00		
Fee for wholesale dealer – principle place of business in City of Baldwin	2000.00		
Fee for wholesale dealer – principle place of business outside City of Baldwin	100.00		
Temporary special event license permit	\$50.00 per permit		
Fee for caterer license			
In City		License fee and 1 st permit	\$50.00
		Each permit thereafter	\$50.00
Out of City		License fee and 1 st permit	\$50.00
		Each permit thereafter	\$50.00

OTHER FEES

Administrative fee, each license	250.00		
Building department fee, each inspection	35.00		
Alcoholic beverage employee permit (includes fingerprinting)	30.00	30.00	
Change of managing agent/transfer of location	100.00		
Penalty for late payment of annual fees	10%		

(b) The license fees imposed by this section are regulatory fees intended to offset the City's cost in administering and enforcing this chapter. In addition thereto, licensees are subject to payment of an occupational tax in accordance with the occupational tax ordinance of the City of Baldwin.

(c) When a new license is issued on or after July 1, the license fee shall be reduced by one-half (1/2).

rejection or revocation. Submission of a new application by another applicant, which application shows the applicant was previously rejected or revoked as a holder of an interest in the desired license, shall result in rejection of the new application.

ARTICLE III. EXCISE TAX*

DIVISION 1. GENERALLY

SECTION 3-1. IMPOSED.

In addition to the license fees required in this ordinance and in addition to the excise taxes levied by the state, all licensees under this ordinance shall pay to the City the taxes imposed in this article.

SECTION 3-2. EXCISE TAX ON MIXED DRINKS CONSUMED ON THE PREMISES.

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

(1) *Agent* means the person designated by the licensee in this application for permit to sell alcoholic beverages by the drink.

(2) *Drink or mixed drink* shall include any distilled spirits served for consumption on the premises, which may or may not be diluted by water or other substance in solution.

(3) *Licensee* means an individual, firm, partnership, limited liability company, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, plural as well as a singular number, who holds a license from the City to engage in the sale of distilled spirits by the drink for consumption on the premises.

(4) *Monthly period* means the calendar months of any year.

(5) *Purchase price* means the consideration received for the sale of distilled spirits by the drink valued in money, whether received in cash or otherwise, including receipts, credit, property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.

(6) *Purchaser* means any individual, firm, partnership, limited liability company, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular number, who orders and gives present or future consideration for any distilled spirits by the drink.

(7) *Return* means any return filed or required to be filed as herein provided.

(8) *Tax* means the tax imposed by this section.

(b) *Imposition and rate of tax.* There is hereby imposed and levied upon every purchaser of a distilled spirit for beverage purposes by the drink within this City at the rate of three (3%) percent of the purchase price or charge for such drink. No person shall sell at retail by the drink within the City any alcoholic beverage containing distilled spirits on which the taxes imposed by this ordinance have not been paid.

(c) *Authority and requirement of licensee to collect the tax.* Every licensee or his agent is hereby authorized and directed to collect the tax imposed herein from purchasers of distilled spirits by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the City to facilitate the collection of the tax.

(d) *Collection of tax; records; rules and regulations.* In all cases where the collection of food and drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The city shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

(e) *Determination, returns and payments.*

(1) *Due date of taxes.* The tax imposed by this section shall become due and payable from the purchaser at the time of purchase of any mixed drink in this City. All amounts of such taxes collected by the licensee shall be due and payable to the City monthly on or before the fifteenth (15th) day of every month next succeeding each respective monthly period for which this tax is imposed; provided, however, that upon a proper showing that the tax imposed will not be collected until after a regular billing period of the collecting agent, then the collection of the tax may be deferred by the City for an additional period not exceeding thirty (30) days.

(2) *Return; time of filing; persons required to file; contents.* On or before the fifteenth (15th) day of the month following each monthly period, a return for the preceding monthly period shall be filed with the City in such form as the City may prescribe by every licensee liable for the payment of tax hereunder. All returns shall show the gross receipt of the sale of distilled spirits by the drink and the amount of the tax collected on such drinks.

(3) **Collection fee allowed licensees.** Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the "Georgia Retailers' and Consumers' Sales and Use Tax Act," approved February 20, 1951, as now or hereafter amended. (O. C. G. A. § 48-8-1 et seq.).

(f) **Deficiency determinations.**

(1) **If the City has cause to believe that the return or returns of the tax or the amount of the tax required to be paid to the City by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.**

(2) **Interest on deficiency.** The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof from the due date of taxes.

(3) **Notice of determination; service.** The City or its designated representatives shall give to the licensee written notice of his determination. The notice may be served personally or by mail, such service shall be addressed to the licensee at his address as it appears in the records of the City. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(4) **Time within which notice of deficiency determination to be mailed.** Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

(g) **Determination if not return made.**

(1) **Estimates of gross receipts.** If any person fails to make a return, the City shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total sales in this City which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is in possession of or may come into the possession of the City official. Written notice shall be given in the manner prescribed in subsection (f)(3).

(2) **Interest on amount found due.** The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof, from the tenth day of the month following the monthly period, for which the amount or any portion thereof would have been returned, until the date of payment.

(h) *Penalty for nonpayment.* Any person who fails to pay the tax herein imposed or fails to pay any amount of the tax required to be collected and paid to the City within the time required shall pay a penalty of twenty-five (25) percent of the tax or amount of the tax, in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in subsection (g)(2).

(i) *Action for tax; tax credit, penalty or interest paid more than once or erroneously or illegally collected, duty of successors or assignees of licensee to withhold tax from purchase money; liability for failure to withhold.*

(1) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time with three (3) years after the delinquency of any tax or any amount of tax required to be collected, the City may bring an action in the courts of this state any other state or the United States in the name of the City to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto. Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this article, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the City, he will have three (3) years from the date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the Council, the excess amount paid the City may be credited on any amounts then due and payable from the person by whom it was paid, or from his administrators or administrators.

(2) *Duty of successors or assignees of licensees to withhold tax from purchase money.* If any licensee liable for any amount under this article sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the City either a receipt reflecting full payment or a certificate stating that no amount is due.

(3) *Liability for failure to withhold.* If the purchase of a business fails to withhold purchase as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(j) *Administration.*

(1) *Records required from licensee, etc., form.* Every licensee for the sale of alcoholic beverages by the drink in the City shall keep such records, receipts, invoices and other pertinent papers in such form as the City may require. All such records shall be maintained by licensee for two years.

(2) *Examination of records; audits.* The City or any person authorized in writing by the City may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for sale of distilled spirits by the drink and any licensee liable for

the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.

(3) **Authority to require reports; contents.** In administration of the provisions of this subsection, the City may require the filing of reports by any person or class of persons having in such person's possession or custody information relating to purchases which are subject to the tax. Reports shall be filed with the City when required by the City and shall set forth the purchase price for each purchase, the date or dates of purchase, and such other information as the City may require.

(k) **Violations.**

(1) **Criminal penalties.** Any person violating any of the provisions of this subsection shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided herein for violations of this ordinance. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the subsection is committed, continued or permitted by such person, and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made, or falls to refuses to furnish a supplemental return or other data required by the City or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

(2) **Civil penalties.** Any person violating any of the provisions of this subsection shall, in addition to the other penalties and liabilities provided for herein, have his license or permit revoked as provided for herein and following the procedures of this ordinance.

**SECTION 3-3. ADMINISTRATION AND ENFORCEMENT AUTHORITY;
RECORDKEEPING; CONFIDENTIALITY OF REPORTS.**

(a) **Authority of tax collector.** The Mayor, City Clerk or City Tax Collector shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.

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

(c) **Records required from licensee; form.** Every licensee for the sale of alcoholic beverages in the City shall keep all invoices relating to each purchase of alcoholic beverages and such other records, receipts, invoices and other pertinent papers in such form as the tax collector may require.

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

(e) *Wholesale record.* Every distributor, wholesale dealer and manufacturer required to make reports under this article shall keep accurate and complete records of all sales of malt beverages and wine to any package dealer and of all reports made to the City for a period of four years from the time the tax to which they relate becomes due or the date the tax is paid, whichever is later, which records shall be made available for inspection by the Mayor, City Clerk or the City Tax Collector at all reasonable times and places.

SECTION 3-4. EXAMINATION OF RECORDS; AUDITS.

The City Tax Collector or any person authorized in writing by the City may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. If a City audit discloses a deficiency of more than three percent over what has been returned and remitted, the licensee shall reimburse the City for all costs of the audit, including but not limited to accountant's fees and out of pocket expenses, the value of time expended by City employees in the investigation, including reasonable cost of overhead, and all attorneys' fees and costs of collection if action must be instituted by the City.

DIVISION 2. PACKAGE SALES

*Classic City, Northeast Sales
Leon Farmer & General Wholesale*

SECTION 3-5. IMPOSED; AMOUNT.

(a) There is hereby imposed an excise tax on alcoholic beverages in the following amounts:

(1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15 1/2 gallons and a proportionate tax at the same rate on all fractional parts of 15 1/2 gallons.

(2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax on all fractional parts of 12 ounces.

(3) On the first sale or use of wine, a tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(b) The excise taxes provided in subsection (a) of this section shall be imposed upon and shall be paid by the licensed wholesale dealer.

(c) No person shall sell at retail by the package within the City any alcoholic beverage on which taxes imposed by this ordinance have not been paid.

SECTION 3-6. REPORT; PAYMENT.

(a) Each wholesaler of wine responsible for payment of the excise tax shall file a report with the City itemizing for the preceding calendar month the exact quantities of alcoholic beverages, by location, by size and type of container, sold during the preceding month in the City. Each wholesaler of malt beverages responsible for payment of the excise tax shall file with the City, Ga. Rev. Dept. form ATT-122, showing the exact quantities of malt beverages, by size and type of the container, sold within the City during the preceding month.

(b) The wholesale dealer shall remit the tax imposed under this division to the City on the tenth day of the month following the calendar month in which the alcoholic beverages are sold or dispensed.

SECTION 3-7. PURCHASES TO BE MADE FROM LICENSED WHOLESALERS OR DISTRIBUTORS.

Licensees subject to the tax under this division shall purchase alcoholic beverages only from wholesalers or distributors licensed by the state. All sales must be to the establishment designated on the license. No transfers, borrowing or internal sales or transfers from one licensed retailer to another shall be permitted.

DIVISION 4. PAYMENT AND COLLECTION

SECTION 3-8. DETERMINATIONS OF DEFICIENCIES OR IN ABSENCE OF RETURN; OVERPAYMENTS; DELINQUENCY AND FRAUD.

(a) *Recomputation of tax; authority to make, basis of recomputation.* If the Mayor, City Clerk or City Tax Collector is not satisfied with the return of the tax or the amount of the tax or the amount of the tax required to be paid to the City by any person, the tax collector may compute and determine the amount required to be paid upon the basis of any information within his possession or that may be made of the amount due for one or more than one calendar month.

(b) *Estimate of gross receipts in absence of return.* If any licensee fails to make a return, the Mayor, City Clerk or City Tax Collector shall make an estimate of the amount of the gross receipts of the licensee or, as the case may be, of the amount of the total sales in the City which are subject to the tax. The estimate shall be made for

the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the tax collector. Upon the basis of this estimate, the Mayor, City Clerk or City Tax Collector shall compute and determine the amount required to be paid to the City. One or more determinations may be made for one or for more than one period.

(c) *Offsetting of overpayments.* In making a determination, the Mayor, City Clerk or City Tax Collector may offset overpayments, for a period or periods, against underpayments, for another period or periods, against penalties, and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in section 35.02-11.

(d) *Time within which notice of deficiency determination to be mailed.* Promptly after making his determination, the Mayor, City Clerk or City Tax Collector shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notices in section 110.45-27. Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

SECTION 3-9.

DELINQUENT TAX COLLECTION; DUTY OF ASSIGNEES TO WITHHOLD TAXES; LIABILITY; OFFSETTING OF ERRONEOUS COLLECTIONS

(a) *Action for tax; time therefor.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the City may bring an action in the courts of the state, or of the United States, to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, costs of collection and other legal fees incident thereto.

(b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any licensee liable for any amount under this ordinance sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Mayor, City Clerk or City Tax Collector showing that he has been paid, or a certificate stating that no amount is due.

(c) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold the necessary amount from the purchase price as required in this section, the purchaser becomes personally liable for the payment of the amount required to be withheld by it to the extent of the purchase price valued in money. Within 30 days after receiving

a written request from the purchaser for a certificate, the Mayor, City Clerk or City Tax Collector shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the City of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall begin at the time the licensee sells out his business or at the time that the determination against the licensee becomes final, whichever event occurs later.

SECTION 3-10. TAX CREDIT OR INTEREST PAID MORE THAN ONCE OR ILLEGALLY COLLECTED.

Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this article, it maybe offset as provided in section 3-8(c). If the licensee determines that it has overpaid or paid more than once, which fact has not been determined by the Mayor, City Clerk or City Tax Collector, it will have three years from the date of payment to file a claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the City, the excess amount paid the City may be credited on amounts then due and payable from the licensee by whom it was paid or its administrators or executors.

SECTION 3-11. FAILURE TO PAY TAX; PENALTIES AND INTEREST.

- (a) *Delinquent penalty.* Any person who fails to pay the tax imposed in this article to the City, or fails to pay any amount of such tax required to be collected and paid to the City, within the time required, shall pay a civil penalty of 15 percent of the tax, or amount of the tax, in addition to the tax or the amount of the tax, plus interest on the unpaid tax or any portion thereof as set forth in subsection (b) of this section.
- (b) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the tenth day after the close of the monthly period for which the amount or any portion thereof should have been returned, until the date of payment.
- (c) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to gross negligence or disregard of rules and regulations, a penalty of 15 percent of the amount of such deficiency shall be added thereto in addition to the 15 percent prescribed by subsection (a) of this section.
- (d) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination has been made is due to fraud or an intent to evade any provision of this chapter or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto in addition to the 15 percent prescribed by subsection (a) of this section.

Alcohol Beverage License

NOTE:

This application will not be accepted until it is completed with all required attachments:

- For new establishments, the application must be accompanied by a scale drawing of the premises for the proposed business, showing its location with respect to all streets within 600 feet in every direction. Such drawing shall also depict the distance from the premises (being the front door) to each premise (being the front door) or each church, school building, or other pertinent facility. All such distances shall be measured by the most direct route on the ground.
- If the applicant is denied a city or a state license, the deposit representing the initial license fee shall be refunded, but the administrative fee and the inspection fee shall be retained.
- There shall be an annual license renewal fee for each license payable in advance for the entire year, beginning January 1 and ending December 31, of each year.
- In the event a license is revoked, surrendered or suspended, there shall be no refund whatsoever.
- Allow two (2) weeks for processing of this application.

FEES FOR PACKAGE LICENSE

Fee for the sale of malt beverages or wine by the package in an establishment with 10,000 sq. feet or less of total floor space for alcoholic beverages - \$750.00

Fee for the sale of malt beverages or wine by the package in an establishment having between 10,001 and 20,000 sq. feet of total floor space for alcoholic beverages - \$1600.00

Fee for the sale of malt beverages or wine by the package in an establishment having 20,001 sq. feet or more of total floor space for alcoholic beverages - \$3200.00

Fee for the sale of malt beverages and wine by the package in an establishment with 10,000 sq. feet or less of total floor space for alcoholic beverages - \$1200.00

Fee for the sale of malt beverages and wine by the package in an establishment having between 10,001 and 20,000 sq. feet of total floor space for alcoholic beverages - \$2400.00

Fee for the sale of malt beverages and wine by the package in an establishment having 20,001 sq. feet or more of total floor space for alcoholic beverages - \$4800.00

First Reading: 12/14/2020
Second Reading: 12/17/2020

ORDINANCE NO. #2020-1270

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF BALDWIN, GEORGIA TO ALLOW FOR LICENSED WHOLESALERS TO ENGAGE IN THE SALE OF ALCOHOLIC BEVERAGES ON CHRISTMAS DAY; TO ALLOW FOR PACKAGE SALES OF MALT BEVERAGES OR WINE ON CHRISTMAS DAY; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

- WHEREAS,** the City of Baldwin, Georgia is charged with providing for the health, safety and welfare of the citizens of the City; and
- WHEREAS,** the City is authorized to regulate wholesale sales and package sales of alcoholic beverages in the City and, pursuant to Baldwin City Ordinance Number 0029-228, approved on January 14, 2013, sale of same were not authorized on Christmas Day; and
- WHEREAS,** pursuant to O.C.G.A. § 3-3-20(c), the City is authorized to determine whether such sales shall be allowed on Christmas Day; and
- WHEREAS,** the City Council desires to amend City Code to allow for licensed wholesalers to engage in the sale of alcoholic beverages on Christmas Day and to allow for package sales of malt beverages or wine on Christmas Day and.

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF BALDWIN, GEORGIA, HEREBY ORDAIN as follows:

SECTION ONE

That Section 16(h) of Baldwin City Ordinance Number 0029-228, approved January 14, 2013 is hereby amended to read as follows:

Sec. 16(h) Licensed wholesalers shall only engage in the sale of alcoholic beverages during regular business hours of the retailer, Monday through Saturday.

SECTION TWO

That Section 35 of Baldwin City Ordinance Number 0029-228, approved January 14, 2013 is hereby amended to read as follows:

Sec. 35. DAYS AND HOURS OF OPERATION

- (a) Sales of malt beverages or wine, or both are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established during the hours the polls are open. This provision shall also apply to licenses for wine only by the package, conducting a wine tasting (but which must end at 9:00 p.m.), and to tasting rooms of farm wineries except as provided differently herein.**
- (b) Sales of alcoholic beverages for consumption on the premises are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or the outer edge of any building within which such polling place is established during the hours the polls are open. No consumption on the premises dealer of alcoholic beverages shall furnish, sell, or offer for sale any alcoholic beverages prior to 9:00 a.m. or after 11:30 p.m., except on New Year's Eve (December 31), when sales shall be allowed until 11:59 p.m. Consumption on the premises dealers of alcoholic beverages shall also be allowed to furnish, sell, or offer for sale any alcoholic beverages on Sunday from 12:30 p.m. until 11:30 p.m. in any licensed establishment which derives at least 50% 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.**

SECTION THREE

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

SECTION FOUR

This Ordinance shall become effective immediately upon adoption hereof.

SO ORDAINED this 17th day of December 2020.

BALDWIN CITY COUNCIL

By: _____
Mayor Joe Elam

Council Member Theron Ayers

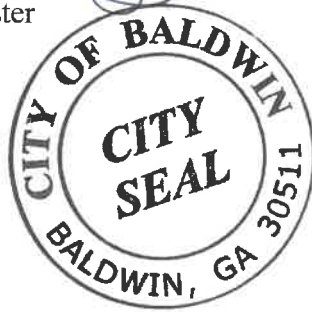
Council Member Larry Lewallen

Council Member Alice Venter

Council Member Stephanie Almagno

Attest:

Emily Woodmaster
City Clerk



FIRST READING 11/15/2021
SECOND READING 12/13/2021

ORDINANCE #2021-1192

AN ORDINANCE TO AMEND ORDINANCE NO. 0029-228 OF THE CODE OF ORDINANCES OF THE CITY OF BALDWIN, GEORGIA BY ADDING PROVISIONS PROVIDING FOR THE PACKAGE SALE OF DISTILLED SPIRITS; AND FOR OTHER PURPOSES;

WHEREAS, the Mayor and City Council on June 28th, 2021 adopted a Resolution calling for a special election referendum for consideration by the City's electors authorizing the City of Baldwin, Georgia to issue licenses for the package sale of distilled spirits within the City limits; and

WHEREAS, pursuant to the vote of the electors of the City authorizing the sale of distilled spirits by the package and in accordance with a plan designed for the purposes, among others, of promoting the health, safety and general welfare of the citizens of the City, the Mayor and City Council have considered an ordinance which is intended:

To establish reasonable standards for the regulation and control of the licensing and sale of distilled spirits by the package; and

To protect and preserve schools, churches, and similar places of public assembly; and

To preserve residential areas regarding, among other things, the character of the areas, their particular suitability for particular uses and the congestion in the surrounding roads and streets, with a general view of promoting desirable living conditions, and sustaining the stability of neighborhood and property values.

NOW, THEREFORE, BE IT ORDAINED AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BALDWIN AS FOLLOWS:

Section 1: Ordinance No. 0029-228 of the City's Code of Ordinances is hereby amended by deleting and reserving Section 13(g).

Section 2: Articles I and II of Ordinance No. 0029-228 of the City's Code of Ordinances are hereby amended to provide for consistency with the foregoing provisions of this amendment as follows:

The definition of "Distilled spirits" contained in Section 1 of the Ordinance is hereby amended by deleting only the final sentence of the definition as follows: "Distilled spirits cannot be sold by the package within the City."

The definition of "Package dealer" contained in Section 1 of the Ordinance is hereby amended by deleting the reference to "wine or malt beverages," and replacing it with "Alcoholic beverages."

The definition of "Package dealer" contained in Section 1 of the Ordinance is hereby further amended by deleting final sentence of the definition as follows: "Distilled spirits cannot be sold by the package within the City."

Section 7 of the Ordinance is hereby amended by adding a new Section 7(a)(11) to read as follows: "(11) Distilled spirits by the package as set forth in Section 32 below."

Section 10 of the Ordinance is hereby amended by adding a new Section 10(a)(4) to read as follows: "(4) Distance prohibitions for the sale of Distilled spirits by the package shall be as set forth in Section 32 below."

Section 17 of the Ordinance is hereby amended by adding a new Section 17(a)(5) to read as follows: "(5) Location restrictions for the sale of Distilled spirits by the package shall be as set forth in Section 32 below."

Section 23 of the Ordinance is hereby amended by adding a new Section 23(d) to read as follows: "(d) License fees for the sale of Distilled spirits by the package shall be as set forth in Section 32 below."

Section 3: Article II, Licenses, of Ordinance No. 0029-228 of the City's Code of Ordinances is hereby further amended by adding a new Sec. 32 Package Sales of Distilled Spirits, a new Sec. 32(a) License issuance for distilled spirits package sales-Retail dealer building and inventory requirements, a new Sec. 32(b) Maximum number of distilled spirits retail licenses permitted, and a new Sec. 32(c) Time for sales distilled spirits package sales to read as follows:

Sec. 32(a). License issuance for distilled spirits package sales - Retail dealer building and inventory requirements

General regulatory and licensing procedures of distilled spirits package sales shall conform to all provisions set forth in Ordinance No. 0029-228 of the City's Code of Ordinances.

No retail dealer license for the sale of distilled spirits shall be issued to any applicant whose building where the business will be conducted does not include a showroom with a minimum of 1,500 square feet.

No retail license for the sale of distilled spirits by the package shall be granted under this chapter unless the premises to be licensed are, at the time the application is approved by the city council, located under the planning and zoning ordinance of the city in a Highway Business (HB) zoning district subject to the specific limitations of the respective districts.

No premises shall be licensed for the sale of distilled spirits by the package without complying with the distance requirements as set forth below:

which is located within 1,500 feet of any other business licensed to sell distilled spirits by the package;

which is located within 300 feet of any church building, alcoholic treatment center as defined by OCGA 3-3-21(a)(1)(c), or a housing authority property as defined in OCGA 3-3-2(e)(1) and (2);

which is located within 600 feet of any school building, educational building, school grounds, or college campus;

which is located within 300 feet of a detached single family dwelling unit located within one of the City's residential zoning districts.

All measurements shall be measured by the most direct route of travel on the ground, from front door to front door.

No person, group, or entity with similar members, including family members, shall have an interest in more than one license for the package sale of distilled spirits issued by the city.

It shall be unlawful for any person to open or consume any alcoholic beverages on premises licensed for the sale of distilled spirits by the package.

Each application for a package distilled spirits license shall be accompanied by a non-refundable application fee in the amount of \$500.00.

The license fee for a retail sales of distilled spirits package license shall be \$4,000.00 annually. To add a retail sales of package malt beverage license the fee shall be an additional \$500.00 annually; and to add a retail sales of package wine license the fee shall be an additional \$500.00 annually.

There is imposed by the city an excise tax on the first sale or use of distilled

spirits in the city at the rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

Sec. 32(b) Maximum number of distilled spirits retail licenses permitted.

Subject to subsection (2)-(5) below, the city will not accept any applications for the retail sale of distilled spirits by the package, and no licenses for the retail sale of distilled spirits by the package shall be issued over the number of three (3).

If at any time and for whatever reason, the number of active licenses for the retail sale of distilled spirits by the package falls below three, then the city shall accept applications for and issue such additional licenses for the retail sale of distilled spirits by the package so as to bring the total number of active licenses for the retail sale of distilled spirits by the package to three.

The provisions of subsection (2) notwithstanding, one (1) additional license may be issued once the population of the city exceeds 5000. In this regard, additional licenses may be issued in the future for each 5000 - person increase in population over 5000. In determining population, the city shall utilize the U.S. Census of 2020 or any future decennial census.

If the total number of permitted licenses has increased pursuant to subsection (3) above, and if at any time and for whatever reason thereafter, the number of active licenses for the retail sale of distilled spirits by the package falls below the number then permitted, then the city shall accept applications for and issue such additional licenses for the retail sale of distilled spirits by the package so as to bring the total number of active licenses for the retail sale of distilled spirits by the package to the total number then permitted.

If the city receives more applications than allotted licenses to be issued under this section which applications comply with the standards for the issuance of licenses for the sale of package distilled spirits set forth in this Chapter, the selection of the successful application(s) shall be conducted by a lottery system overseen by an independent third party firm. The applications drawn from the lottery system shall then be presented to the city council for action on the approval of the initial licenses to be issued under this Chapter.

Applications for the initial issuance of licensees will not be accepted

until the effective date of this ordinance. Acceptance of applications for the initial licenses or any future allocation of licenses will remain open for a period of sixty (60) days before review and consideration of such applications in accordance with subsection (5) above.

Sec. 32(c) Time for sales distilled spirits package sales.

It shall be unlawful for any distilled spirits package dealer in the city to sell distilled spirits except between the hours of 8:00 a.m. and 11:45 p.m. Monday morning through Saturday night. And 12:30 p.m. to 11:45 p.m. on Sunday.

Section 4. Repealer. All ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. Constitutionality. Should any phrase, clause, sentence of this Ordinance be deemed unconstitutional by a Court of competent jurisdiction, such determination shall not affect the remaining provisions of this Ordinance which provisions shall remain in full force and effect.

Section 6. Adoption of this Ordinance does not create any additional right or benefit, substantive or procedural, enforceable in law or in equity by any party against the City of Baldwin, its departments, agencies, officials, employees, agents or other person or entity.


Section 7. Effective Date. This Ordinance shall be effective, Midnight January 1, 2022.

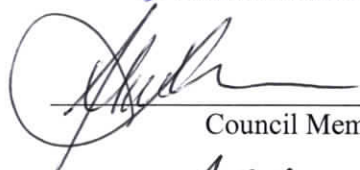
BALDWIN CITY COUNCIL


By:  _____
Mayor Joe Elam

Council Member Maarten Venter

 _____
Council Member Theron Ayers

 _____
Council Member Larry Lewallen

 _____
Council Member Alice Venter

 _____
Council Member Stephanie Almagno

Attest:

 _____
City Clerk, CAO Emily Woodmaster

