

CITY OF EUHARLEE
ALCOHOLIC BEVERAGE ORDINANCE
October 5, 2010

ARTICLE I GENERAL PROVISIONS

DIVISION 1. PROHIBITIONS; DEFINITIONS

Section 20-1. Adoption of State Law

The state laws and regulations relating to the sale and distribution of alcohol in this state are incorporated into and made a part of this Ordinance as if fully set out herein. Any violation of such state law or regulations shall be grounds for suspension of any license issued under this Ordinance. **State Law Reference** - Alcoholic Beverages, O.C.G.A. Title 3.

Section 20-2. Terms and Conditions; Duties and Liabilities of Holders

(a) A license issued under this article shall be subject to all terms and conditions imposed by this Ordinance or any future ordinance. License holders shall be responsible for compliance with such terms and conditions by all their employees and those working under their supervision and control. It shall also be the duty of the license holder and those under his supervision and control to report to the police department any violation of this Ordinance occurring on the premises of the license holder.

(b) The licensee shall at all times be responsible for any acts of agents or employees which are in violation of this article or of the laws of the state or the rules and regulations of the state revenue commissioner.

(c) All licenses shall have printed on the front the following language: "This license is granted by the City Council and accepted by licensee subject to all of the terms and conditions of the ordinances governing the issuance and retention of the same."

(d) Each pouring licensee shall keep a copy of this Ordinance in the licensed restaurant and shall instruct any person working there in respect to the terms hereof and each licensee, the licensee's agents and employees selling, pouring or serving alcohol shall at all times be familiar with the terms thereof. |

Section 20-3. License Required

(a) It shall be unlawful to sell, store or offer to sell at wholesale or retail, or to pour or offer to pour any alcohol within the corporate limits of the city without having the

appropriate license or registration for such sale, or to carry on such activity in violation of the terms of such license.

(b) The following types of license are available from the City of Euharlee:

1. **Retail malt beverage package license**, authorizing the retail sale of malt beverages but consumption on the premises is not permitted.
2. **Retail wine package license**, authorizing the retail sale of wine but consumption on the premises is not permitted, except that a package wine outlet (a type of retail wine package licensee meeting the definition set forth in Sec. 20-4) may pour and serve samples for consumption on the premises.
3. **Retail wine and malt beverage package license**, authorizing the retail sale of malt beverages and wine but consumption on the premises is not permitted.
4. **Wine and malt beverage pouring license**, authorizing the sale of wine and malt beverages by the drink for consumption on the premises, which premises must be located at a restaurant.
5. **Distilled spirits pouring license**, authorizing the sale of distilled spirits by the drink for consumption on the premises, which premises must be located at a restaurant.
6. **Wholesale wine license**, authorizing the sale of wine in bulk to wholesalers or retail dealers but not to the public, and consumption on the premises is not permitted.
7. **Wholesale malt beverage license**, authorizing the sale of malt beverages in bulk to wholesalers or retail dealers but not to the public, and consumption on the premises is not permitted.
8. **Wholesale registration**, for businesses located outside of the City, licensed by another jurisdiction as a wholesaler, authorizing the delivery of alcohol to retail dealers and pouring outlets.

(c) Retail sales of distilled spirits, wine, or malt beverages for consumption on the premises other than at a restaurant licensed for consumption on the premises where sold are prohibited. It is the intent of this Ordinance to only permit sales of alcohol for consumption on the premises at restaurants.

(d) A retail package licensee may not also hold a pouring license.

(e) A distilled spirits pouring licensee may obtain a wine and malt beverage pouring license, provided the requirements of that license are satisfied and applicable fees paid.

(f) Package sales of distilled spirits are prohibited in the City.

(g) Wholesale distributors whose place of business is not located within the corporate city limits are exempt from the license requirement. However, such wholesalers shall be required to register with the City Manager on a form prescribed by the city prior to delivering any alcoholic beverages.

(h) No pouring license shall be issued until the applicant provides proof of attendance at responsible alcohol sales and service policy workshop which has been approved by the city.

(i) The businesses of manufacturing, distributing, selling, pouring, allowing consumption on the premises, handling and otherwise dealing in or possessing alcoholic beverages are declared to be privileges and not rights; and such privileges shall not be exercised in the city except as licensed under the terms of this Ordinance. A separate pouring or retail license shall be required for each place of business.

Section 20-4. Definitions

The definitions in O.C.G.A. Title 3 apply to this article and are incorporated herein by reference. In addition, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Alcoholic Beverage means and includes all alcohol, beer, malt beverage, wine or fortified wine, or distilled spirits.

Distilled spirits means all beverages containing alcohol, obtained by distillation or containing more than 21 percent alcohol by volume, including fortified wines. Fortified wine means any alcoholic beverage containing more than twenty-one (21) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy.

Package means wine or malt beverages sold, offered or stored for sale at retail in sealed containers, not for opening or consumption upon the premises of the package outlet.

Package outlet means a store for the retail sale of package wine or package malt beverages, consumption on the premises not being permitted.

Package wine outlet means a store exclusively for the retail sale of package wine and no other alcoholic beverages (i.e., a wine shop). Said store shall be allowed to sell specialty items, including food (for example breads and cheeses). For the purpose of fees, said store shall pay the same licensing requirements as retail wine package store and for all other requirements of the ordinance unless otherwise specified. However, food sales can be no more than thirty (30) percent of their total gross revenue sales. Additionally, a package wine outlet shall be allowed to repackage or bottle wine for sale and shall be allowed to serve samples in eight-ounce containers to patrons. Additionally, said establishment shall submit a report on its sales and samples served on the forms prescribed by the City Manager.

Pour means to sell alcoholic beverages for consumption on the premises, by the drink.

Pouring license means the authorization by the Mayor and City Council to engage in the sale for consumption of alcoholic beverages (of the specified type) on the premises.

Pour or sell by the drink means selling alcoholic beverages (of the specified type) for consumption on the premises.

Pouring outlet means any place where alcoholic beverages (unless specifically modified) are poured or proposed to be poured, and which must be a restaurant.

Premises means the definite, closed-in or partitioned-in locality (whether room or building), sidewalk and right of way cafe, wherein pouring takes place.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, without sleeping accommodations:

- (1) Which maintains an adequate and sanitary kitchen and dining room equipment to serve food as required in this article
- (2) Which provides a regular seating capacity for at least fifty (25) persons.
- (3) Which employs sufficient personnel to serve food as required herein;
- (4) Which serves at least one (1) meal per day at least five (5) days per week with the exception of holidays, vacations, and period of redecorating) and said meal must be served from 11:30 am to 1:30 pm or 7:00 pm to 9:00 pm every day the establishment is open and hours of operation must be posted on the front door of the premises.
- (5) Which derives at least forty-five (45) percent of its gross income from the sale of such meals prepared, served and consumed on the premises. Cover charges cannot be included in determination of gross income from food sales. The City Manager or his or her designee shall review the gross income figures from each establishment which shall provide such information, at the end of the third quarter of each calendar year, and at any other time requested to do so by the City Manager or his or her designee, and determine if the annual sales meet the required ratio and make appropriate recommendations to the Mayor and City Council.
- (6) All restaurants must include a kitchen built to Commercial Kitchen Standards which include at a minimum:
 - (a) A three compartment sink with drainboards is required for all restaurants. The size of the sink compartments is determined by the type of operation. You must be able to immerse your largest piece of equipment or utensils to be washed in each compartment. Sink compartments in most establishments may not be smaller than 15" x 18".
 - (b) A hand sink is required in all food preparation and toilet room.
 - (c) If the restaurant requires washing of vegetables and meats, or, thawing food under water, a food preparation sink will be required. This sink must have an indirect sewer connection.
 - (d) A mop sink or wash area is required for all restaurants.
 - (e) Adequate refrigeration must be provided.
 - (f) Adequate and approved work surface must be provided.
 - (g) All rooms shall have sufficient mechanical ventilation to remove excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Hoods and ventilation equipment must be approved by the building officials and the fire department in addition to the Bartow County Health Department.
 - (h) A commercial stove, oven, grill and/or range.

Retail dealer means any person who sells beer or wine in unbroken packages at retail only to consumers and not for resale.

Retail package store means a place of business licensed to sell and distribute wine or malt beverages for retail.

Sale of alcoholic beverages shall mean offering any alcoholic beverage for sale for legal tender or providing any beverage without additional charge in conjunction with the purchase of other goods, items or services (e.g, free beer with purchase of item).

State law reference - refers to Malt Beverages, OCGA 3-5-1 et seq; wine, OCGA 3-6-1 et seq; Local regulations of alcoholic beverages generally OCGA 3-3-2

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

Section 20-5 to 20-19. Reserved

DIVISION 2. LICENSES; APPLICATIONS; CONTACT PERSONS

Section 20-20. Licensee Qualifications

(a) A licensee under this Ordinance must be and continue to be a person of good moral character, a resident of the United States for a period of at least two (2) years, and must meet the following additional qualifications, which shall be required during the entire period that the licensee shall hold the license.

(b) The applicant shall not have been convicted, within ten (10) years of the date of his application, of a felony or any violations of the laws of this state or any other state relating to alcoholic beverages, taxes, theft or gambling.

(c) The applicant shall not have had revoked, for cause, such as a violation of regulations or improper operation, within three (3) years next preceding his application, any license issued to him by any state, county, or municipality to sell alcoholic beverages. This subsection shall not apply to any licenses heretofore revoked by this City.

(d) The application for a pouring license shall be made by and the pouring license shall be granted to the individual or partners primarily responsible for personally supervising and conducting the operation of the business at the address specified in the application. Such individual, or if a partnership, the partners collectively, must be regularly present on the premises during at least one-third of the hours during which such business is open during at least two (2) months each quarter. Any person applying on behalf of a corporation must disclose the extent of his representative capacity, and the names and addresses of the officers of the corporation. The applicant must also furnish the names, addresses, and percentage ownership of all persons that have a financial interest in the ownership of the business, or own any portion of the business.

(e) The applicant shall make a sworn statement of his qualifications under as set forth above and shall place it on file with the City of Euharlee before any license is issued. If the application covers a partnership, each member of the partnership must be qualified to obtain a license and must make a sworn statement of those qualifications. Any misstatement or concealment of fact in the application shall be grounds for revocation of

the license issued and shall make the applicant liable to prosecution for perjury under the laws of the state.

(f) The applicant may not employ any person who has been convicted of a crime relating to alcoholic beverages, theft, gambling or taxes within the past five (5) years or who has been convicted or has a case pending for a crime involving the possession or sale of alcoholic beverages.

(g) The applicant must not have any past due city taxes, bills, fees, assessments or any other charges.

(h) No pouring license may be granted to any person not twenty-one (21) years of age or older.

(i) No employee or official of the City shall be eligible to receive a pouring license.

(j) A violation of any of the above qualifications and restrictions shall be grounds for denial of any application, and shall be grounds for suspension or revocation of any license already issued.

Section 20-21. Application and Issuance

(a) Application for a license shall be made on forms furnished by the City of Euharlee and all requested information thereon shall be provided, including all applications, documents or information provided or to be provided to the Georgia Department of Revenue to obtain a state license. All applications shall be presented in person to the City Manager or his or her designee. The application shall not be accepted until complete. The City Council shall consider the application at a public meeting within sixty days of a complete application being submitted. At the hearing, the City Manager shall make a recommendation based on the standards, requirements and criteria of this Ordinance. If rejected, the applicant may not re-file for a period of 90 days after the rejection.

(b) The applicant shall furnish the City of Euharlee Police Department a complete set of fingerprints, along with a signed consent form authorizing the City to have a criminal background check performed. The fingerprints and other applicant information shall be submitted by the Euharlee Police Department to the GCIC/NCIC for review of the criminal record of the applicant. The Euharlee Police Department shall also be authorized to contact the GBI or other law enforcement agencies for additional background information, pertinent to the requirements of this Ordinance.

(c) Each new applicant (not renewal) shall pay an investigation fee of **two hundred thirty US dollars (\$230.00)** at the time of filing the application for a license which includes an inspection fee of one hundred fifty US dollars (**\$150.00**) assessed on applications to provide for the inspection by the City of Euharlee Police Department pursuant to Section 4-55 of the City of Euharlee Code of Ordinances. However, in years

in which the Applicant has paid the inspection fee required by 20-21(c), the fee under Section 4-55 shall be waived.

(d) An application filed and submitted before containing substantially all the information required may be rejected by the City Manager or his or her designee or the Mayor and City Council, and the applicant may not re-file for a period of ninety (90) days.

(e) It shall be unlawful for any person to file an application for a license, or permit his name to be used in such application, where the application contains a nominal applicant for the purpose of avoiding the provisions of this division restricting applicants to persons of good character and without criminal records, or restricting economic interests in retail package stores, or for elusive purposes. It shall be unlawful for any person to permit his name to be used in an application for a license where such person will not be the de facto owner of the license. It shall be unlawful for any person to file an application for license containing his name as applicant when such person is not the de facto applicant. It shall be unlawful for any person to file, or permit to be filed, an application for a license wherein a sham applicant is named.

(f) An application containing false information or false statements may result in disapproval, revocation, suspension or failure to renew the license application.

(g) If the City Council approves the application, the City Manager or his or her designee shall issue an annual license to the applicant upon the payment of the license fee.

(h) A copy of this Ordinance shall be given to all applicants for license upon a filing of application with the City Manager or his or her designee.

(i) The grant of a license shall not vest any rights in the renewal of the license.

Section 20-22. Standards for Grant of License

The Mayor and City Council and/or City Manager or his or her designee in making a determination on an application, shall be guided by the following factors as to whether or not to issue or deny a license under this division:

- (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominately residential, industrial or commercial.
- (2) Whether the proposed location meets the distance setback requirements of state law and this Ordinance for setback from churches, schools, etc.
- (3) The report of the building inspector, including whether the premises satisfies all requirements of the Ordinance and applicable state standard minimum codes.

(4) The report of the Chief of Police from the criminal background check, including whether the applicant satisfies all the criteria set forth in Sec. 20-20 of this Ordinance regarding lack of criminal convictions.

(5) The report of the Zoning Administrator as to whether the premises satisfies the City Zoning Ordinance and applicable development regulations, and any report of the City Engineer as to issues within his review.

(6) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.

(7) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.

(8) The criminal record of the applicant and contact person and general good character and reputation and their financial responsibility; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.

(9) The information required in the application or statement and whether all requirements as to notice, advertisement, fire codes, building, zoning, parking, lighting and legal matters have been met.

(10) Other evidence presented to the commission for or against the application.

(11) Whether or not the granting of the application is in the interest of the city.

(12) Whether any license for sale of alcoholic beverages previously issued for the location has been revoked for cause by the Mayor and Council.

(13) Whether the applicant holds or possesses any other license for the sale of alcoholic beverages issued by the city.

(14) The history or reputation of the building or establishment (proposed for outlet) for prostitution or other sex offenses, fighting, shooting, stabbing or other violence, gambling, illegal dealing in alcoholic beverages or drugs, and other violations of the law.

(15) Compliance with the requirements of this Ordinance and the provisions of the City of Euharlee Code of Ordinances.

(16) A license application for a pouring license may be denied when it appears that the applicant will not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the applicant is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license.

State law references - Licenses generally, O.C.G.A. § 3-3-2; Local malt beverage licenses, O.C.G.A. § 3-5-40 et seq; Local wine licenses O.C.G.A. § 3-6-40.

Section 20-23. Premises Restrictions General; Plans Required

(a) No license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises for new construction or renovation only are attached to the application, or unless proposed plans and specifications and a building permit for a proposed building to be built or renovated are attached to the application. The complete building or the proposed building shall comply with all ordinances of the city, regulations of the state revenue commissioner and the laws of the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector.

(b) Each applicant applying for a license shall attach to his application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. No percentage leases of buildings or realty for pouring outlet stores shall be permitted.

Section 20-24. Temporary Permit for City Sponsored Events.

Temporary permits may be issued by city council for city-sponsored festivals for malt beverage and/or wine pouring, not to exceed 48 hours.

Section 20-24(A). Temporary Special Event License

A caterer is hereby authorized to apply for and submit completed forms furnished by the Commissioner of the Georgia Department of Revenue for a temporary special event license in order to obtain a permit from the Commissioner of the Georgia Department of Revenue authorizing the caterer to sell, distribute, or allow alcoholic beverages for consumption only on the premises for a period not to exceed two (2) days, which cannot include any Sunday of the year or Christmas day, and subject to the rules and regulations of the Georgia Department of Revenue. The event must comply with the times and days allowed for selling alcoholic beverages for consumption on the premises. The special event must receive approval from the City on crowd control, parking and security measures. The location at which the event is to take place must be approved in writing by the owner of the property. The temporary license may be immediately revoked if it is determined by law enforcement that underage persons are being provided alcohol or if there is a disturbance of the peace or any other danger to the health safety or welfare of the public. As a condition of the issuance of a temporary special event license, the licensee shall indemnify and hold the county harmless from any claims, demands or causes of action which may arise from activities associated with the special event. The requirements of an eating establishment, number of seats, and percentage of sales shall not apply to a temporary special events license.

Section 20-25. Limitations on Issuance

- (a) No person holding a package license for a particular location shall be granted a pouring license for the same location, or vice-versa.
- (b) No more than two (2) licenses shall be issued to any one (1) applicant, except an individual holding a pouring license at a specific location may hold both a distilled spirits pouring license and malt beverage and wine pouring license for said location and they shall count as one license for the purpose of this section.
- (c) The applicant must be present at a meeting of the City Council and Mayor. If the applicant is not present, the City Council and Mayor cannot consider the application, and may table it until the next meeting or deny it which requires the applicant to resubmit and pay any required fees again. (Fees are not refunded if the application is denied).

Section 20-26. Pouring licenses limited to certain establishments

No application for a pouring license shall be considered from, and no license shall be granted to, an applicant whose premises for a pouring outlet is anything other than a restaurant as defined in Section 20-4.

Section 20-27. Changes for Pouring Licensee

A pouring licensee shall make immediate report to and receive approval by, the Mayor and City Council of any change in the interests in or ownership of the pouring outlet and any change in the information as stated in the original application for license, including the list of employees.

Section 20-28. Licensee to Report Changes.

Licensee shall make immediate report to, and receive approval by, the City Manager of any change in the interests in or ownership of the licensed establishment, realty or lease and any change in the information as stated in the original application for license.

Section 20-29. Distance Requirements; Measurement of Distance

- (a) No license shall be granted to any person unless the location meets all state law distance setback requirements as to schools, churches, school grounds, alcoholic treatment centers, housing authority property, and other uses as regulated by state law.
- (b) Each applicant for a pouring license shall include a scale drawing of the location of the proposed premises showing the distance to the nearest type of building and/or property lines of types of property regulated by state law or a certificate of a registered surveyor that such location complies with all applicable state law distance setback requirements.

(c) Measurement of Distances. Unless otherwise provided by law, all measurements to determine distances, required by the city Code, for the issuance of city alcohol licenses, shall be measured as follows:

1. In a straight line from the front door of the structure from which alcoholic beverages are to be sold or offered for sale;
2. To the front door of the building of a church, government-owned alcoholic treatment center, or retail package store;
3. To the nearest property line of the real property being used for school or educational purposes, or residential purposes. See, Rules of the Department of Revenue, Chap. 560-2-2-.32.

DIVISION 3. CONTACT PERSON; EMPLOYEES

Section 20-30. Contact Person.

All license holders under this Ordinance must provide an individual to be designated the "contact person" who is a Bartow County resident for all licenses issued pursuant to this Ordinance as follows:

- (1) If the license holder is a Bartow County resident, then said license holder shall be the contact person.
- (2) The contact person shall be the individual upon whom all notices and violations are to be provided to if not the license holder.
- (3) If the license holder is not a Bartow County resident, the license holder must designate one (1) employee, agent, property owner, or lessor of the location who is a Bartow County resident, or an attorney who maintains an office in Bartow County, as the contact person.
- (4) If the contact person ceases to become employed by the licensed establishment, then the license holder must within three (3) business days notify the City Manager or the city and a new contact person must be employed, named and appointed by the license holder within ten (10) business days from the previous contact person's termination of employment.
- (5) A contact person is subject to all provisions of this Ordinance.
- (6) The license holder must in writing designate the contact person on the forms provided by the City Manager or his or her designee upon initial application, renewals and/or changes in the contact person.
- (7) By accepting a license under this Ordinance, the license holder consents to service of notices and/or violations under this Ordinance being made on the contact person in lieu of the license holder. The license holder shall be deemed to have received any

notice or citation served on the contact person by any service under the provisions of this Ordinance or state law.

(8) If at any time, an establishment licensed under this Ordinance does not have a contact person except as provided for in paragraph (4) herein, then said establishment cannot sell alcoholic beverages, and must immediately cease the sale of all alcoholic beverages and post a notice on the premises on all doors open to the public, until a new contact person has been designated.

(9) If a licensee operates an establishment without a contact person, except as provided for in paragraph (4), then said licensee is subject to the suspension and revocation of his license as provided for in this Ordinance for all violations of this Ordinance.

Section 20-31. Requirements for Contact Person.

(a) All contact persons must meet the following requirements:

- (1) Be at least twenty-one (21) years of age.
- (2) Be a resident of the United States for a period of at least two (2) years.
- (3) Be a resident of Bartow County, Georgia.
- (4) Has not been convicted of a felony or any violation of the laws of this state or any other state relating to alcoholic beverages, theft, gambling or taxes within the past five (5) years.
- (5) Does not have a case pending for a crime involving the possession or sale of alcoholic beverages.
- (6) Has not had revoked, for cause (such as a violation of regulations or improper operation) within three (3) years next preceding his application, any license issued to him by any state, county, or municipality to sell alcoholic beverages. This subsection shall not apply to any licenses heretofore revoked by this city.
- (6) Shall not have any past due city taxes, bills, fees, assessments or any other charges.

(b) A violation of any of the above qualifications and restrictions shall be grounds for suspension or revocation of the license issued unless such contact person is timely replaced with a qualifying person.

(c) The foregoing requirements must be satisfied prior to a person being accepted as a contact person and shall be required to be maintained during the entire period that he/she is the designated contact person.

(d) An application for approval of a contact person must be submitted to the Euharlee Police Department. The applicant shall submit a sworn statement of qualifications under paragraph (a) as well as such other such information as may be required by the police department to verify compliance with this Ordinance. The applicant shall be required to submit a consent to a criminal background check.

(e) The Euharlee Police Department shall issue a certificate of compliance that all information is complete prior to the City Manager or his or her designee accepting an application for review. If the certificate of compliance is not issued, the City Manager or his or her designee is not authorized to accept an application.

(f) Any misstatement or concealment of fact in the application shall be grounds for revocation of the license issued and shall make the contact person liable to prosecution for perjury under the laws of the state.

Section 20-32. Employee Identification Cards

(a) Any person, including the licensee, who works in a **pouring outlet or package wine outlet which provides wine samples** shall apply to the police department for an employee identification card, which card shall expire on the person's birthday and be renewable on or before that time. The fee for the initial card shall be **forty dollars (\$40.00)**. The fee for a replacement card shall be **thirty dollars (\$30.00)**. The fee for renewal of such card shall be **thirty dollars (\$30.00)**. In the event that a renewal of such card is late, an additional fee of **twenty-five dollars (\$25.00)** will be assessed for all renewals after the renewal date for each individual. Fees shall be paid to the City of Euharlee Police Department.

(b) While on duty in a pouring outlet or package wine outlet, every person required to hold an employee identification card under subsection (a), shall visibly wear his employee identification card on their person at all times.

(c) Pouring outlet or package wine outlet employees shall make themselves available for photographing, fingerprinting and such other investigating as may be required by the City of Euharlee Police Department. The employee shall be required to submit a consent to a criminal background check to verify compliance with the requirements of this Ordinance.

(d) The police department shall investigate the employee applicants. A pouring employee or package wine outlet employee identification card shall not be issued to any person who has pled guilty to, or has been convicted of a felony or any violation of the laws of this state or any other state relating to alcoholic beverages, theft, or gambling within the past five (5) years. The Chief of Police shall report any other detrimental information about an application to the City Council, and may prohibit the issuance of an employee pouring identification card where the applicant's record indicates such employment would adversely affect the public health, safety or welfare, or violate the law.

(e) No licensee under the provisions of this article shall hire any person, nor shall any person work or assist in a pouring outlet or package wine outlet, until such person has procured an employee identification card.

(f) The police department may provisionally grant an identification card to an applicant, pending investigation and report. Where the report, when reviewed, is unfavorable as set out in subsection (d), the department may revoke the card and demand its return.

(g) The police department may, after reasonable notice and hearing (unless waived), revoke an identification card and demand its surrender where the employee violates the provisions of this article, or becomes one who adversely affects the public health, safety and welfare.

(h) It shall be unlawful for an employee whose identification card has been revoked, and upon whom demand for surrender of a card has been made, to refuse to so surrender, or to alter, conceal, deface or destroy the card.

Section 20-33 to 20-39. Reserved

DIVISION 4. FEES

Section 20-40 Classification and Fees

(a) Licenses under this division shall be classified as follows:

(1) *Retail malt beverages package.* A retail malt beverage package license shall permit only the sale of malt beverages in packages at retail, and not for consumption on the premises. The fee for such licenses shall be **five hundred dollars (\$500.00)**.

(2) *Retail wine package.* A retail wine package license shall permit only the sale of wine in packages at retail, and not for consumption on the premises, except that at a *package wine outlet*, (meaning a store meeting the definition contained in Sec. 20-4) pouring of samples shall be permitted. The fee for such license shall be **four hundred dollars (\$400.00)**.

(3) *Retail malt beverages and wine package.* A retail malt beverage and wine package license shall permit only the sale of wine in packages and malt beverages in packages at retail, and not for consumption on the premises. The fee for such license shall be **nine hundred dollars (\$900.00)**.

(4) *Malt beverage and wine pouring.* A malt beverage and wine pouring license shall permit the sale of wine or malt beverages, both by the drink for consumption on the premises of a pouring outlet. The fee for such licenses shall be **nine hundred dollars (\$900.00)**.

(5) *Distilled spirits pouring.* A distilled spirits pouring license that shall permit the sale of distilled spirits, both by the drink for consumption on the premises of a pouring outlet. The fee for such licenses shall be **five thousand dollars (\$5000.00)**.

(6) *Wholesale wine.* A wholesale wine license shall permit only the sale of wine at wholesale. The fee for such licenses shall be **four hundred dollars (\$400.00)**.

(7) *Wholesale malt beverage.* A wholesale malt beverage license shall permit only the sale of malt beverages at wholesale. The fee for such licenses shall be **five hundred dollars (\$500.00)**.

(8) *Wholesale registration.* A wholesaler who is licensed by another jurisdiction but who wants to deliver into the city must file a registration form. No fee is charged.

(b) Refund. There shall be no refund of license fees to licensees who close their licensed business during a calendar year. I

(c) Term. Any license issued pursuant to this Ordinance shall be valid only for the calendar year indicated thereon and no such licenses may be renewed without the licensee filing a renewal application with the City as provided for in this Ordinance.

(d) Fees. All fees shall accompany the application and shall be either in cash or check. There shall be no proration of fees for a license.

Section 20-41. Investigation fee for multiple licenses.

When an applicant and/or transferee is making applications for more than one on-premises consumption (pouring) or off-premises consumption (package) license at the same location and at the same time, said applicant is only required to pay one (1) investigation fee as required herein, whichever investigation fee is highest for the licenses requested. I

Section 20-42 to 20-49. Reserved.

DIVISION 5. RENEWAL, TRANSFER, REVOCATION AND SUSPENSION

Section 20-50. Duration of licenses.

Any license issued hereunder shall automatically expire on December 31st of the year of its issuance. No license shall vest any rights in a renewal.

Section 20-51. Expiration and Renewal

(a) All licenses shall be issued on a calendar year basis and shall be renewable as a matter of course upon payment of the appropriate fee, on or before December 31 of each year, except as provided in subsection (d).

(b) The license fee shall be paid in full. A penalty of ten (10) percent of the amount of the annual license fee shall be assessed on any application for renewal filed **after October 1st** for the next year.

(c) The City Manager or his or her designee shall provide the Chief of Police with a list of current license holders prior to the annual renewal date. The Chief of Police shall report on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year.

(d) Non-renewal. Any activity which constitutes probable cause for not renewing a license shall be referred to the City Manager or his or her designee for consideration. The City Manager or his or her designee shall afford the licensee a public hearing in front of the City Council and Mayor after at least seven (7) days notice has been provided to the licensee. The same criteria and qualifications for issuance of the initial license shall serve as the guideline for renewing the license. In addition, grounds set forth under Sec. 20-55 for revocation or suspension of a license shall be grounds for nonrenewal of a license. The Mayor and City Council shall then grant, or deny for cause, the renewal of any license.

Section 20-52. Limitations on Transfer of License

(a) No license shall be transferable or assignable to any other person, except as stated in this division. If a licensed business is sold or closed, the licensee shall immediately surrender the license to the City Manager or his or her designee. Any transfer of the license to a different premises requires the prior written approval of the Mayor and City Council.

(b) In case of the death of any person owning a license, or any interest therein, the same may, with the approval of the governing authority and subject to the terms of this article, be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such heirs meet all of the other qualifications contained herein. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his estate and dispose of the license or his interest therein, but in no event to exceed six (6) months.

(c) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership, when the partner owning a majority interest holds a license, to withdraw from the partnership and to assign his interest in such partnership to one (1) or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this article are fully complied with, and then only upon the approval of the Mayor and City Council.

(d) Should a transfer of the location be approved, there shall be no pro rata return of any license fee and the new location shall meet all requirements of a new license to be issued, except payment of license fee and investigation fee.

(e) In the event of death, resignation, or termination of employment of any employee or other person holding a license, there shall be a thirty (30) day grace period for the owner

of the business engaging in the sale of malt beverages and/or wine to obtain a new license and/or approval of such a transfer from the City Council.

Section 20-53. Surrender Upon Sale or Closing of Outlet or Loss of Qualification

Immediately upon the sale or closing of an outlet licensed under this division, the licensee shall surrender his license to the City Manager or his or her designee. Any licensee who becomes unqualified to hold a license shall within ten (10) days of the event, make the fact known to the City Manager and surrender his license upon demand.

Section 20-54. Revocation and Suspension

- (a) A license shall be automatically revoked by operation of law if:
- (1) The licensee's state alcoholic beverage license is revoked.
 - (2) Operation of the licensed activity is not commenced within nine (9) months after the license is issued;
 - (3) Operation of the licensed activity is commenced and then voluntarily suspended for a period of thirty (30) days or more; or
 - (4) The licensed business fails to properly account for and pay any excise tax levied under this Ordinance.
 - (5) In case of revocation, the licensee shall not be entitled to refund of any license fee paid.
- (b) Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor, and subject to a fine of up to **one thousand dollars (\$1000.00)** per violation and/or six (6) months in jail. Additionally, any person violating this Ordinance may, after a hearing as provided under the licensees malt beverage and wine licenses may have their licenses suspended, revoked and/or other penalties and fines imposed as provided for in the Code, for said licenses.

Section 20-55. Grounds for Revocation, Suspension or Nonrenewal

The following shall be grounds for the suspension or revocation of an alcoholic beverage license. They shall also be grounds for nonrenewal of an expiring license (see Sec. 20-61). The existence of such grounds shall be determined by the City Council based upon the preponderance of evidence, following a hearing. Anyone or more of the following grounds shall justify suspension or revocation, or nonrenewal:

- (1) Violation by the licensee of any state or federal law or regulation relating to the use and sale of drugs or alcoholic beverages, or violation by the licensee or any employee of this Ordinance; or
- (2) The failure of the licensee or his employees to report promptly to the Police Department any violation of law, regulation, resolution, ordinance or breach of the peace, disturbance, or altercation occurring on the premises; or

- (3) Any conduct on the part of the licensee or his employees contrary to the public welfare, safety, health and morals; or
- (4) Operating or conducting the licensed business in a manner contrary to the public welfare, safety, health or morals or in such a manner as to constitute a nuisance; or
- (5) The violation by a license holder of any state or federal law or regulation, municipal or City resolution or ordinance pertaining to alcoholic beverages, specifically including any violation of any provision of this Ordinance, including failure to pay any fee or tax due under this Ordinance; or
- (6) The violation by the licensee of the Georgia Controlled Substances Act; or
- (7) The violation by the licensee of any federal, state or local law prohibiting the sale of pornographic materials; or
- (8) Allowing a person to work in the licensed business who is in violation of any provision or requirement of this Ordinance; or
- (9) Sales by the licensee or any employee of alcoholic beverages to a minor; or,
- (10) Submitting an application or any required report containing false information or false statements, or discovery of previously submitted false information; or
- (11) Failure to provide any report or form required under this Ordinance, including but not limited to tax reporting forms.

Section 20-56. Hearings on Proposed Revocation or Suspension

- (a) A license holder shall be entitled to a hearing before the City Council concerning any alleged violation that could lead to revocation or suspension of the license.
- (b) Upon the report of any violation of this Ordinance, the City Manager shall give notice to the contact person or license holder in writing to show cause before the City Council why the license should not be revoked or suspended. The hearing need not be at a regular meeting of the City Council, but may be at such time and place as shall be fixed in the notice.
- (c) A written notice from the City Manager shall specify the nature of the violation and the time and place for the hearing, which shall not be less than three (3) business days nor more than thirty-five (35) business days from the date of service of the notice. Service shall be deemed completed three (3) business days after mailing to the contact person or license holder. First class mail to the address on file for the license holder and contact person shall be sufficient notice.

(d) The City Manager shall have the power to immediately suspend any license under this Ordinance for a period of time not to exceed ten (10) business days pending the hearing on the question of whether or not the license shall be further suspended or revoked for cause. If the hearing is set for more than ten business days after the notice is served, the suspension shall be stayed for any period outside of ten days, until the hearing occurs, unless another violation occurs in the intervening time, in which case the suspension shall be reinstated until the hearing.

(e) At the hearing, the licensee shall have the opportunity to show cause why the license should not be suspended or revoked.

(f) Hearings shall be conducted consistent with rules applied in administrative proceedings which shall ensure that each party may present evidence, cross-examine witnesses, and be represented by legal counsel. All testimony shall be sworn. The hearing shall be recorded and transcription may be provided at cost to the applicant.

(g) The City Council shall hear all relevant evidence as to the alleged violation of the Ordinance and take such action as is authorized by this Ordinance.

Section 20-57. Actions of the City Council

(a) The City Council, after a hearing and finding of any license holder to be in violation of any provision of this Ordinance, may take one or more of the following actions depending on the severity of the violation: revocation of license; suspension of license for a period of time; fine the license holder; place the license holder on suspension; warn the license holder; take no action. A decision of the City Council shall be effective immediately.

(b) If a fine is imposed, the fine may be up to \$1,000 for a first offence, and up to \$3,000 for subsequent offenses. Suspensions may be up to 180 days. Probation may be for up to three years. Probation means that any further violation of this Ordinance during the probation period shall result in revocation of the license.

(c) Whenever a fine is imposed by the City Council, and such fine is not paid within 30 days from the date the fine is imposed, the license shall automatically lapse and be invalid pending payment of the fine and reapplication, along with all reapplication fees.

Section 20-58 to 20-59. Reserved

DIVISION 6. REGULATION OF ESTABLISHMENTS

Section 20-60. Sale Unlawful at Certain Times

(a) It shall be unlawful for any person to sell any malt beverage and wine by the package on any Sunday, Christmas Day, or any day prior to 6:00 am or after midnight. I

(b) It shall be unlawful to pour or serve alcoholic beverages or allow any person to consume alcoholic beverages on licensed premises at any of the following times:

(1) At any time of Christmas Day, or Sundays.

(2) At any time in violation of a local ordinance or regulation or a special order of the governing authority.

(**See Resolution on Sunday Sales) |

(3) No pouring shall be permitted the hours of 12:00 am Sunday and 11:00 am on Monday, and between the hours of 12:00 midnight and 11:00 am on other days.

(4) No alcoholic beverages may be consumed on the premises of the pouring outlet between the hours of 1:00 am on Sunday and 11:00 am Monday and between the hours of 1:00 am and 11:00 am on other days.

(5) In no event shall alcoholic beverages be sold during the prohibited hours based upon the timely sale of tickets, chips, decanters, or other devices.

(c) On New Year's Eve only, the pouring hours shall be extended to 1:00 a.m., and the hours of consumption shall be extended until 2:00 a.m.

Section 20-61. Deliveries to Retail Licensee

Malt beverages and wine shall be received at or delivered to the premises of a retail licensee by no other means than by conveyance owned and operated by a state licensed wholesale dealer to make deliveries in the city. Transportation of malt beverages by any other means shall be grounds for revocation of the retail or pouring license, or the wholesale license or both.

Section 20-62. Signs

Signage restrictions as contained in the Euharlee Zoning Ordinance shall apply.

Section 20-63. Pouring Outlet Restrictions

The following provisions shall apply to pouring outlets:

(a) The building or proposed building where pouring will take place shall meet all requirements of the city building inspector.

(b) No percentage leases of buildings for pouring shall be permitted.

(c) In no event shall wine or malt beverages be sold or delivered during the prohibited hours, set forth in previous subsections, based upon any device or scheme, including the timely sale of tickets, chits and decanters.

(d) It shall be unlawful to employ knowingly in any pouring outlet in any capacity whatsoever, any person who has pleaded guilty to or been convicted of any felony or any violation of the laws of this state or any other state relating to alcoholic beverages, theft or gambling within the past five (5) years.

(e) It shall be the duty of the management of a pouring outlet to maintain a copy of this Ordinance at the outlet and to instruct each employee on the terms thereof.

(f) As permitted by the City of Euharlee Code of Ordinances, outdoor pouring shall be allowed at sidewalk, or right-of-way cafes.

(g) The parking area of any building used as a pouring outlet shall be paved with concrete or asphalt and contain sufficient square footage and parking spaces as required by ordinance for the type of building and business in which the pouring outlet is to be operated. Such parking area shall be illuminated with outdoor lighting which lighting shall remain illuminated during all hours of night time operation plus two (2) hours beyond any closing time. Such illumination must be in the form of commercial outdoor lighting which plan shall be approved by the Euharlee Police Department.

Section 20-64. Entertainment

(a) A band with no more than 3 instruments, a single musical instrument, or a record playing machines operating within the City Euharlee Noise Level Ordinance for patron listening and patron dancing shall be permitted at pouring outlets:

- (1) Where adequate space exists;
- (2) Where an application has been filed and all terms of which this ordinance has complied.
- (3) Where all fire and safety regulations are met;
- (4) Where the appropriate license fee has been fully paid; l
- (5) Where prior approval of the City Manager or his or her designee.

(b) Adequate measures must be taken for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security both inside and outside the premises.

(c) Any person, firm or corporation violating any provision of this article shall be fined up to **one thousand dollars (\$1,000.00)** for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues, and their license to sell alcoholic beverages may be suspended and/or revoked, pursuant to Section 20-54.

(d) Prohibited entertainment - It shall be unlawful for any pouring licenses to permit professional belly dancers, strip dancing, wrestling, exotic dancing, pole dancing, lap dancing or any like kind by whatever name called in connection with the operation of a restaurant, lounge or private club, as indicated in the city's adult entertainment

ordinance, and all other entertainment activities unless specifically permitted by the City of Euharlee Code of Ordinances.

Section 20-65. Cameras for Malt Beverage Package Outlet

Each outlet for the retail sale of malt beverages by the package shall install and maintain security cameras in the outlet of a type and number approved by the Chief of Police.

(a) Cameras shall be placed as follows:

- (1) On the premises so as to record activities in the check out or cash register area(s), to include both customer and employee.
- (2) On the premises so as to record all entrance and exit doors.

(b) All cameras shall be capable of producing a retrievable color image on digital film or tape that can be made a permanent record and enlarged through projection or other means.

(c) Such cameras shall be maintained in proper working order at all times and shall be subject to periodic inspection by the Chief of Police or his designee. If a sale of alcohol to a minor, robbery or other felony occurs in such outlet, the film or tape recording such event shall immediately be made available to the Chief of Police or his designee. All films, tapes or images required by this code section shall be retained by the outlet, in its original, viewable format, for a period of no less than thirty (30) days after recording.

(d) All cameras must be in working order and checked by the licensee on a weekly basis. A log of said checks and repairs, if any, are to be kept and provided to the Euharlee Police Department on a quarterly basis. The effective date for this section of the ordinance shall be June 15, 2010 and as of said date, all newly licensed and existing licensed malt beverage package establishments must be in compliance with said provisions.

Section 20-66. Storage of Alcohol Beverages.

No pouring licensee shall keep any alcoholic beverages stored in any bonded or other type of warehouse in the city, nor shall he enter into any type of arrangement whereby ordered by him is stored for him by any licensed wholesaler. A pouring licensee shall keep no inventory or stock of alcoholic beverages at any place except his licensed place of business, and within his licensed place of business in his storage space for alcoholic beverages which shall be immediately adjacent to the room in which he is licensed to do business.

Section 20-67. Purchases to be from licensed wholesalers

No pouring licensee shall buy or arrange to buy nor in any way affect the transfer of any alcoholic beverage except from a licensed wholesaler.

Section 20-68 to 20-69. Reserved

DIVISION 7. ENFORCEMENT AND INSEPCCTIONS

Section 20-70. Enforcement.

(a) Police may conduct periodic enforcement checks of all licensed establishments. Such check may include but not be limited *to*:

- (1) Surveillance by plainclothes and/or uniformed officers to confirm compliance with state law and city ordinance.
- (2) Purchase of alcoholic beverages by a young adult (21 years of age or older) to determine if identification is being checked to confirm legal age.
- (3) Attempted purchase of alcoholic beverages by a minor (20 years of age or younger) to ensure compliance with state laws and city ordinances.

(b) Based on the results of the checks, the police chief may conclude that employees of the licensee are not following proper alcoholic beverage sales procedures to ensure compliance with the law and/or do not possess adequate knowledge of the law. When this is the case, the police chief shall ensure that a follow-up check is conducted within 30 days.

(c) The police chief shall forward to the City Manager or his or her designee a report of each enforcement check containing the details of the check, to include sales procedures, identification card checks, etc. Based on the report, the City Manager or his or her designee shall meet with the licensee and/or license representative to discuss the report and necessary corrective actions. A copy of the report shall be provided to the licensee and also a copy retained in the licensee's official city file.

Section 20-71. Inspections

The City Manager or his or her designee shall appoint one or more persons to conduct periodic inspections of the businesses regulated by this Ordinance and to report to the city manager any violation of any laws or ordinances regulating such businesses or other regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law or city ordinance, other than infrequent minor traffic violations.

Section 20-72. Violations

Violations of this Ordinance may subject the license holder to suspension or revocation, or may subject the license holder or employee to a citation to municipal court for violation of this Ordinance. Maximum fines shall be \$1,000 per violation, per day. The municipal court shall be authorized to impose other punishments within its authority for violations of this Ordinance, including jail, probation, community service and other remedies.

Section 20-73. Sales to Persons Underage

The municipal court, in accordance with O.C.G.A. section 36-32-10, is granted jurisdiction to try and dispose of a first offense violation of O.C.G.A. section 3-3-23, relating to furnishing alcoholic beverages to, and purchase and possession of alcoholic beverages by, a person under twenty-one (21) years of age, if the offense occurred within the corporate limits of the city. O.C.G.A. section 36-32-10 is incorporated herein by reference.

Section 20-74. Other Relief

The City Attorney or other authorized attorney shall be empowered to bring an action in superior court to enforce this Ordinance, to seek injunctive relief or other relief, to seek fines and attorney's fees, to abate a nuisance, and to otherwise secure compliance with the terms of this Ordinance. In the event the City is successful in seeking relief, the court shall award the City its reasonable attorney's fees and expenses for bringing the action.

Section 20-75 to 20-79. Reserved.

DIVISION 8. RESTRICTIONS ON SALES; OTHER RESTRICTIONS

Section 20-80. Consumption on Premises.

It shall be unlawful for anyone to open, drink or otherwise consume any wine or malt beverage or upon any premises, other than a pouring outlet or package wine outlet, wherein such beverages are sold under a license issued by the City.

Section 20-81. Container limitations.

- (a) No pouring licensee may purchase in containers smaller than seven hundred fifty (750) milliliters. The sale by any pouring licensee in unbroken packages or in any quantity for other than consumption on the premises is expressly prohibited.
- (b) All licensed retail dealers shall sell or offer to sell in the original unbroken package only.
- (c) Any package wine retail dealer may repackage wine for sale, if said wine is labeled as repackaged wine.

Section 20-82. Place of Sale or Delivery.

- (a) No retail dealer shall sell or deliver any to any person except in such retail dealer's place of business. A retail dealer shall be permitted to load purchased goods in a customer's vehicle when the sale physically takes place and monies have been exchanged inside the place of business.

(b) No drive-in windows or curbside service shall be permitted for selling alcoholic beverages.

Section 20-83. Purchases by or Sales to Under-Aged Persons

(a) No license holder and/or employee of a package outlet, pouring outlet, or other licensed establishment shall knowingly furnish, sell or offer for sale any alcoholic beverage to a person less than twenty-one (21) years of age. This prohibition shall not apply with respect to the sale of any alcohol to a person when such person has furnished proper identification showing that the person to whom the malt beverages, wine are being sold is twenty-one (21) years of age or older.

(b) In this subsection, "proper identification" means any document issued by a governmental agency with photo identification and the corresponding date of birth including, but not limited to:

- (1) A passport;
- (2) A military identification card;
- (3) A driver's license; or
- (4) A state approved identification card for people without a driver's license.

(c) "Proper identification" does not include a birth certificate.

(d) Subsection (a) shall not apply to the following:

- (1) Whenever a malt beverage or wine is purchased for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in the state;
- (2) Whenever malt beverages or wine are purchased for consumption at a religious ceremony.

(e) The licensee shall post in the most conspicuous place in his establishment a sign printed in letters at least four (4) inches high containing the following language: "**SALE OF ALCOHOLIC BEVERAGES TO MINORS STRICTLY PROHIBITED.**" Any required notice provided by the Department of Revenue must also be posted. See Dept. of Revenue Rules, Chap. 560-2-2-.42.

(f) It shall be unlawful for any minor to drink, or possess any alcoholic beverages, except as stated in subsection (a) of this section, or except as provided in O.C.G.A. § 3-3-23. It shall be unlawful for a minor to falsely represent his age in any manner whatsoever.

(g) The Municipal Court, in accordance with O.C.G.A. § 36-32-10, is granted jurisdiction to try and dispose of first offense violations of O.C.G.A. § 3-3-23.

Section 20-84. Employment of Minors

No retail dealer or pouring outlet shall employ, require or permit persons under eighteen (18) years of age to sell or take orders for any alcoholic beverages.

Section 20-85. Minors on Premises.

No licensee under this article shall allow any person under twenty-one (21) to be in, frequent, or loiter about any package premises, unless the person under twenty-one (21) is accompanied by their parent or legal guardian or unless the person is eighteen (18) years or older and employed therein.

Section 20-86. Gambling

There shall be no gambling as defined by Title 16, Chapter 12, Article 2 of O.C.G.A. in any place of business licensed under this article, or in any room adjoining same, owned, leased, or controlled by a licensee. Any violation of this section shall be cause for suspension or revocation of a license. The prohibition outlined in this section does not apply to (1) the sale of Georgia Lottery tickets by a licensed dealer, (2) the playing of bona fide coin-operated amusement machines and the concomitant non-cash redemption associated with these machines as defined, set forth and permitted in O.C.G.A. §§ 48-17-1 (2) (A) and (B) and 16-12-35 (a.1) through (i); (3) raffle operated in accordance with O.C.G.A. § 16-12-22.1; or (4) a licensed bingo hall governed by O.C.G.A. § 16-12-51 through 16-12-62 and the applicable regulations relating to same.

Section 20-87. Sales to Certain Persons Prohibited

No pouring licensee thereof shall give, sell or offer to sell, pour or serve any person who is noticeably intoxicated, who is of unsound mind, or who otherwise appears under the influence of controlled substances.

Section 20-88. Retail Authorized Products for Sale

(a) No wine or malt beverage retail dealer shall keep in stock, display, sell or offer to sell, at any place of business licensed hereunder, any other product or commodity except the following:

- (1) Wines, when properly licensed;
- (2) Malt beverages, when properly licensed;
- (3) Beverages containing no alcohol;
- (4) Ice to be sold in sealed containers only and not to be opened on the premises;
- (5) Paper, Styrofoam or plastic cups;
- (6) Prepackaged snacks and food items; and
- (7) Tobacco Products

(b) Beverages containing no alcohol and tobacco products may be dispensed through the use of vending machines, but no alcoholic beverages shall be dispensed through such vending machines.

Section 20-89. Prohibited Products.

No license holder under this Ordinance shall sell, offer for sale, display, lend, rent, lease, give, exchange, keep in stock, possess with intent to sell, or otherwise distribute to any person, at any place of business licensed hereunder any of the following products:

(a) Any "drug paraphernalia" or "drug related object" as defined by O.C.G.A. § 16-13-32 (a) (1). "Drug related object" further means any instrument, device, or object which is designed, marketed as useful primarily for one or more of the following purposes: processing, preparing injection, ingestion, concealment, or inhalation of marijuana such as:

- (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, heads or punctured metal bowls;
- (ii) Water, Chamber, Carburetor, Electric, Ice or Air Driven pipes;
- (iii) Carburetion tubes and devices;
- (iv) Smoking and carburetion masks;
- (v) Clips or Objects used to hold illegal burning materials,
- (vi) Miniature cocaine spoons and cocaine vials;
- (vii) Chillums or Chillers;
- (viii) Any type of bong.

DIVISION 9. EXCISE TAXES

Section 20-90. Malt Beverage Excise Taxes

(a) Except as provided in subsection (b), there is hereby levied and imposed upon each wholesale dealer selling malt beverages within the city, where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of 5¢ per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(b) Malt beverages sold in or from a barrel or bulk container, and commonly known as tap or draft beer, shall not be subject to the excise tax provided in subsection (a); but in lieu thereof there is hereby imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the city an excise tax of \$6.00 dollars, (six US dollars) for each barrel or bulk container having a capacity of fifteen and one-half (15 1/2) gallons sold by such wholesale dealer within the city, and at a like proportional rate for fractional parts thereof.

(c) The excise taxes provided for in this section shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages at retail or wholesale, within the corporate limits of the city.

(d) The tax shall be paid to the city by each wholesale distributor on all malt beverages sold to retailers in the city as follows: Each wholesale distributor selling, shipping, or in any way delivering malt beverages to any such retailer, shall collect the tax at the time of delivery and shall remit the same together with a summary of all deliveries to each retailer on or before the tenth day of the month following.

(e) Each wholesale distributor shall furnish to the city a summary of all purchase invoices for wine and sold to each retailer in the city on or before the tenth of each month following such purchases. The invoices shall show the amount of excise tax paid.

(f) Failure to make a timely remittance of the taxes imposed in this section shall render a wholesale dealer liable for a penalty equal to twenty-five (25) percent of the total amount due during the first thirty-day period following the date such remittance was due and a further penalty of one (1) percent of the total amount due for each successive thirty-day period or any portion thereof, during which such remittance is not filed. The filing of a false or fraudulent report required by state law shall render the wholesale dealer making such report liable for a penalty equal to fifty (50) percent of the amount of the remittance which would be required under an accurate and truthful report.

(g) Failure to make a timely report or remittance, or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license or registration issued by the city to the wholesale dealer.

State law references - Local tax on malt beverages required O.C.G.A. § 3-5-80; payment, etc. O.C.G.A. § 3-5-81 et seq.

Section 20-91. Wine Excise Taxes

(a) In addition to the annual retail wine license fee required, there is hereby levied an excise tax computed at the rate of twenty-two cents (**\$0.22**) per liter on the sale of wine by the package in the city, and a proportionate tax at the same rate on all fractional parts of a liter, unless exempt by law.

(b) The tax shall be paid to the city by each wholesale distributor on all wine sold to retailers in the city as follows: Each wholesale distributor selling, shipping or in any way delivering wine to any such retailer shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each retailer on or before the tenth day of the month following.

(c) Each wholesale distributor shall furnish to the city a summary of all purchase invoices for wine sold to each retailer in the city on or before the tenth of each month following such purchases. The invoices shall show the amount of excise tax paid.

(d) The city shall have the right to audit, and to require production of records from, each wholesaler supplying retailers in the city and each retailer so supplied.

State law references - Local tax on wine O.C.G.A. § 3-6-60; exemptions O.C.G.A. § 3-6-70 et seq.

Section 20-92. Distilled spirit excise taxes

(a) There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter which shall be paid to the City of Euharlee on all distilled spirits sold within the city. Such tax shall be paid to the City of Euharlee by the wholesaler on all distilled spirits sold to pouring outlets as follows:

- (1) Each wholesaler, selling, shipping or in any way delivering distilled spirits to any pouring outlet, shall collect the excise tax at the time of delivery to each pouring outlet and pay same to the City of Euharlee on or before the tenth day of the month following.
- (2) The per liter rate shall be prorated so that all containers of distilled spirits shall be taxed on the basis of twenty-two (\$0.22) cents per liter. It shall be unlawful for any wholesaler to sell, ship or deliver in any manner any distilled spirits to a pouring outlet without collecting tax, it shall be unlawful for any pouring licensee under this article to possess, own, hold, store, display, or sell any distilled spirits on which tax has not been paid.

(b) In addition, there is hereby an excise tax computed at the rate of three (3) percent of the charge to the public on sales of distilled spirits by the drink made by pouring outlets. The tax shall not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage. Such tax shall be paid to the City of Euharlee by the pouring licensee on all distilled spirits sold to customers by the drink in the city on or before the tenth day of the month following such sales. It shall be unlawful for any pouring licensee to fail to pay such excise tax. Pouring licensees collecting the tax authorized in this subsection 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 the amount is not delinquent at the time of payment. The rate of deduction shall be the same rate authorized for deductions tom state tax under O.C.G.A. § 48-8-1 et seq., O.C.G.A. § 3-7-60.

Section 20-93. Wholesaler's report; tax collection; payment; records.

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

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

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

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

Section 20-94. Penalty; Revocation of license

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

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

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

Section 20-95. Unlawful retail sales.

It is unlawful for any retailer within the city to sell any alcoholic beverages on which the taxes under this article have not been paid as herein provided by the retailer.

Adopted and ordained this 5th day of October, 2010.

Liz H. Dempsey, City Clerk

Kathy S. Foulk, Mayor