



LEGISLATIVE SPONSORS

- | | |
|-----------------------------------------------------------------|--------------------------------------------------------------|
| <input checked="" type="checkbox"/> MAYOR LESTER M. MILLER | <input type="checkbox"/> MAYOR PRO TEMPORE SETH CLARK |
| <input checked="" type="checkbox"/> COMMISSIONER VALERIE WYNN | <input type="checkbox"/> COMMISSIONER PAUL BRONSON |
| <input type="checkbox"/> COMMISSIONER ELAINE LUCAS | <input type="checkbox"/> COMMISSIONER MALLORY C. JONES, III |
| <input checked="" type="checkbox"/> COMMISSIONER RAYMOND WILDER | <input checked="" type="checkbox"/> COMMISSIONER BILL HOWELL |
| <input type="checkbox"/> COMMISSIONER VIRGIL WATKINS, JR. | <input type="checkbox"/> COMMISSIONER AL TILLMAN |
-

AN ORDINANCE OF THE MACON-BIBB COUNTY COMMISSION TO AMEND CHAPTER 4 OF THE MACON-BIBB COUNTY CODE OF ORDINANCES TO AMEND THE DEFINITION OF FOOD MARTS, AMEND THE TEMPORARY ALCOHOL LICENSE, UPDATE THE ALCOHOL CODE; AND FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Macon-Bibb County Commission seeks to eliminate food deserts in Macon-Bibb County by requiring certain convenience stores without gas pumps, referred to as “Food Marts” in the Alcohol Code, to provide fresh food items for sale to their customers; and

WHEREAS, the Alcohol Code does not currently require a minimum quantity of food items which Food Marts must make available for purchase by their customers; and

WHEREAS, temporary alcohol licenses are intended to allow an applicant who complies with the Macon-Bibb County Alcohol Code and other applicable law to sell alcoholic beverages while awaiting the Commission’s review and decision of the applicant’s alcohol license application; and,

WHEREAS, the Alcohol Code shall be updated to reflect that multiple duties, functions, and responsibilities of the former Macon-Bibb County Department of Business Services are now under the purview of the Bibb County Tax Commissioner; and

WHEREAS, an annotated document reflecting and describing the changes made by this Ordinance has been attached hereto as Exhibit “A”, and is incorporated herein by reference; and

WHEREAS, the Macon-Bibb County Commission finds that these modifications to the Macon-Bibb County Code of Ordinances are necessary and proper to promote or protect the safety, health, peace, security, and general welfare of Macon-Bibb County and its inhabitants;

NOW, THEREFORE, BE IT ORDAINED by the Macon-Bibb County Commission and it is hereby so ordained by the authority of the same that:

SECTION 1.

Section 4-1 of Article I of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE I. - GENERAL PROVISIONS

Sec. 4-1. Definitions.

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

Alcohol 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, distilled spirits, beer, malt beverage, wine or fortified wine.

Armed security personnel means any security personnel who, in the course of performing any official job duty, is suffered, permitted, or required by his or her employer to carry a firearm. Notwithstanding the foregoing, and notwithstanding whether such person is carrying a firearm in the course of performing any official job duty, any person who is a certified peace officer in good standing with the Georgia Peace Officer Standards and Training Council shall not be considered an armed security personnel for purposes of this Chapter.

Bar shall mean any business that derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages for consumption on the premises, in accordance with O.C.G.A. § 3-1-2.

Brewpub means any bona fide food service establishment in which beer or malt beverages are manufactured or brewed subject to the barrel production limits and regulations under state law.

Brown bagging is the bringing of alcoholic beverages into business establishments for the purpose of drinking such alcoholic beverages at any such establishment.

Building code means and includes all building, plumbing and electrical codes and any other similar technical code of Macon-Bibb County.

Church means any permanent building where persons regularly assemble for religious worship.

Cocktail room means an establishment licensed to manufacture distilled spirits from agricultural products other than perishable fruits grown in Georgia, which also offers for sale such distilled spirits for consumption on-premises, or packaged to go, or both, subject to limits and regulations under state law.

College means only such state, local government, church or other colleges that teach the subjects commonly taught in the common colleges of this state and shall not include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Distilled spirits means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines. For purposes of licensing and regulation, distilled spirits include liquor, spirituous liquor, whiskey and fortified wine.

Drugstore shall mean a retail store that provides assorted items including medical or healthcare supplies, that may also provide other items or services such as over-the-counter drugs; processed food and drink items; beauty products; small toys; or photo processing services; and that is licensed by the Georgia State Board of Pharmacy to operate a pharmacy. This term does not include Food Marts, Gas Stations, Grocery Stores, Small Box Discount Stores, Specialty Stores, or Vice Marts.

Food Mart shall mean a retail store licensed by the Georgia Commissioner of Agriculture as a food sales establishment, which has a total retail floor space of less than 10,000 square feet, of which at least 85 percent is reserved for the sale of food and other nonalcoholic items, and which regularly sells, at a minimum and among other products the following items: at least four pounds each of five different types of fresh fruits or vegetables; four pounds of fresh, raw beef, chicken,

or pork; four dozen fresh chicken eggs; four pounds of bread; and four gallons of fresh cow's milk. Food Marts shall be required to maintain a food scale certified by the Georgia Department of Agriculture for the purpose of verifying compliance with this definition. Food Marts shall purchase food items for resale from lawful fresh food wholesalers, and shall be required to produce invoices reflecting the sources of food products sold upon demand by County officials. If an insufficient quantity of any item is present in the Food Mart, Macon-Bibb County may consider receipts or other evidence to determine whether a sufficient good faith effort was made to comply with the minimum item quantity requirements. The term "Food Mart" does not include Drugstores, Gas Stations, Grocery Stores, Small Box Discount Stores, Specialty Stores, or Vice Marts; provided that a Food Mart may or may not be licensed by the Georgia State Board of Pharmacy to operate a pharmacy.

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.

Gas Station shall mean a retail store that meets the definition of a Vice Mart, and that is also licensed by the Georgia Safety Fire Commissioner for the storage and sale of liquefied petroleum gas and that actually regularly sells liquefied petroleum gas. This term does not include Drugstores, Food Marts, Grocery Stores, Small Box Discount Stores, Specialty Stores, or Vice Marts that are not licensed by the Georgia Safety Fire Commissioner for the storage and sale of liquefied petroleum gas and that actually regularly sell liquefied petroleum gas. For purposes of this Chapter, any rule or ordinance that applies to a Vice Mart shall not apply to a Gas Station unless expressly stated otherwise.

Grocery Store shall mean a retail store licensed by the Georgia Commissioner of Agriculture as a food sales establishment, which has a total retail floor space of at least 10,000 square feet, of which at least 85 percent is reserved for the sale of food and other nonalcoholic items, and which sells, at a minimum and among other products at least ten different types of fresh fruits or vegetables; fresh, raw beef, chicken, or pork; fresh chicken eggs; bread; and fresh cow's milk. This term does not include Drugstores, Food Marts, Gas Stations, Small Box Discount Stores, Specialty Stores, or Vice Marts; provided that a Grocery Store may or may not be licensed by the Georgia State Board of Pharmacy to operate a pharmacy.

License means any license or permit issued under this Chapter, however denominated.

Licensee means any person holding any license or permit issued under this Chapter, however denominated.

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 fourteen 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.

Malt Beverage Taproom means an establishment licensed to manufacture malt beverages, which also offers for sale such malt beverages for consumption on premises, or packaged to go, or both, subject to limits and regulations under state law.

Manufacturer means any maker, producer or bottler of an alcoholic beverage. 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.

Minor means any person who has not attained the legal age as set by the state for the purchasing of alcoholic beverages.

Nightclub shall mean any business which:

- (1) directly or indirectly charges patrons for admission;
- (2) is licensed under this Chapter for the sale of alcoholic beverages for consumption on premises;
- (3) provides entertainment using amplified sound, including, without limitation, the playing of pre-recorded music through amplified sound by a DJ or emcee or similar person; the playing of live analog, electronic, or digital musical instruments; the presentation of live human speech or dialogue through amplified sound; or any combination of the above;

- (4) does not provide a number of seats suitable for the viewing of such entertainment greater than or equal to the number of patrons present; and
- (5) does not earn at least fifty percent of its annual gross revenues from the sale of prepared meals or the letting of rooms for overnight stay.

Other Small Box Retail Store shall mean a retail store that meets each of the following criteria:

- (1) the store has a total retail floor space of less than 15,000 square feet;
- (2) the store does not meet the definition of Drug Store, Food Mart, Gas Station, Grocery Store, Small Box Discount Store, Specialty Store, or Vice Mart, as provided in this Chapter; and
- (3) the store does not meet the criteria for a license under this Chapter for the retail package sales of distilled spirits or does meet such criteria, but is neither applying for nor in possession of a valid license issued under this Chapter for the retail package sales of distilled spirits.

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

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

Private club means a corporation organized and existing under the laws of the state actively in operation within the corporate limits of Macon-Bibb County, and having regularly paying monthly, quarterly or semiannual dues paying members.

Private residence means a house or dwelling wherein not less than one nor more than three families customarily reside and shall not include a mobile home, a boarding house where there are five or more boarders or roomers, or any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of an application. The term "private

residence" shall not include any house or dwelling otherwise falling within the foregoing definition were such house or dwelling is regularly or customarily used for the purpose of carrying on any trade, enterprise, or business concern, whether lawful or unlawful, and regardless of whether the same is formally chartered or registered with any government, or any division thereof, for the transaction of business. This Chapter shall have no application to the possession or consumption of alcoholic beverages at any private residence; provided that no alcoholic beverages are being sold or offered for sale therein, and that any and all guests of such private residence are personally known by at least one person customarily residing in such private residence, and provided further that all such guests are present on the premises of such private residence at the invitation of, or by the consent of, at least one person customarily residing therein.

Retail means retail sales packaged to go and not for consumption on the premises.

Sale means the provision of any quantity of alcoholic beverages in exchange for any consideration whatsoever. A "sale" need not require the direct exchange of money for alcoholic beverages. As used in this Chapter, the term "sale" and other forms of such word shall include, but not be limited to, the following:

- (1) The provision of any quantity of alcoholic beverages at any event or on any premises, whether for or without separate payment, if persons attending such event or entering such premises are generally charged any amount of money, or are otherwise solicited, asked, expected, or anticipated to provide any monetary or in-kind donation, to so attend or so enter;
- (2) The provision of any quantity of alcoholic beverages, along with any other items, meals, goods, or services, for a single or combined price, including the giving of alcoholic beverages free of charge to any person who purchases any other item, meal, good, or service;
- (3) The provision of any quantity of alcoholic beverages in such circumstances that the recipient of such alcoholic beverages is not charged a specific amount of money to purchase such alcoholic beverages, but are solicited, asked, expected, or anticipated to provide any kind of monetary or in-kind donation or gratuity to any organization or to any person mixing, serving, or pouring such alcoholic beverages; or

- (4) Any other artifice, scheme, method, or arrangement by which the provider of the alcoholic beverages gains any financial, in-kind, or material benefit, whether from some or all recipients of alcoholic beverages, while providing such alcoholic beverages to any person within the scope of a single transaction or series of related transactions.
- (5) As used in this Chapter, the term "sale" shall not include any gratuitous gift or offer of alcoholic beverages which is made generally available to any member of the public to whom alcoholic beverages are lawfully able to be sold or served, regardless of whether such member of the public has made or inquired about making or has been requested to make any purchase, donation, or other offer of consideration of any kind. By way of example, and without limiting the foregoing, a retailer or event venue which allows any person to whom alcoholic beverages may lawfully be sold or served to receive, upon request, a quantity of alcoholic beverages free of charge, regardless of whether said recipients have made any purchase or payment or declared any intent to make any purchase or payment and without the provisioner requesting any purchase or payment be made shall not be considered to have engaged in any "sale" within the scope of this Chapter.

School means only such state, local government, church or other schools that teach the subjects commonly taught in the common schools of this state and shall not include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Security personnel shall mean any person hired to work at a bar or nightclub as either an employee or an independent contractor, whose job duties include protecting any person therein from death or serious bodily harm, or preventing or breaking up fights between or involving patrons.

Small Box Discount Store shall mean a retail store that provides assorted, inexpensive items that are continuously offered at a discounted price that is usually under \$10 per item. These stores are commonly referred to by names such as "dollar stores," "99 cent stores," "five dollar stores," "discount stores," or "variety stores." Products sold typically include processed food and drink items, personal hygiene products, office supplies and decorations. Retail floor space is

typically less than 15,000 square feet. This term does not include Drug Stores, Food Marts, Gas Stations, Grocery Stores, Specialty Stores, or Vice Marts.

Specialty Store shall mean a retail store that derives at least 50% of its annual gross sales from the sale of certain specialized classes or types of food or beverage products, or related accessories or non-food items. Such products are typically of a superior quality or more limited market availability than those general products commonly found in Grocery Stores. This definition shall include businesses licensed as brewpubs, malt beverage taprooms, or cocktail rooms under this Chapter. This definition shall not include Drugstores, Food Marts, Gas Stations, Grocery Stores, Small Box Discount Stores, or Vice Marts. Appropriate specialized classes of products may include, without limitation, any of the following:

- a. imported or luxury foods or beverages;
- b. foods, beverages, or accessories associated with a particular culture, global region, cuisine, or nationality;
- c. foods, beverages, or accessories conforming to or supporting the dietary requirements of any sincerely held religious practice or belief;
- d. prepared foods (i.e., restaurants);
- e. organic, vegan, or natural foods and beverages;
- f. meats (e.g., butcher shops, delicatessens, or fish or seafood markets);
- g. cheese or dairy products;
- h. oils, seasonings, or spices;
- i. growlers, craft beers, or wine;
- j. breads or baked goods;
- k. cigars;
- l. honey or beeswax products;
- m. food or beverage products grown or produced within the State of Georgia or any particular location therein; or
- n. any similarly specialized products or classes of products.

Tax commissioner means the Tax Commissioner of the Macon-Bibb County.

Vice Mart shall mean a retail store that provides assorted, inexpensive items for neighborhood residents or travelers, such as processed shelf-stable or refrigerated food and drink items; fountain and brewed drinks; handheld prepared food items; automotive items; tobacco products; family planning products; lottery products; gifts; over-the-counter medications; or similar items. Stores are typically designed for expediency—with customers typically buying few items per transaction and spending only a short time in the store. Retail floor space is typically less than 10,000 square feet. This term does not include Gas Stations, Grocery Stores, Food Marts, Small Box Discount Stores, Specialty Stores, or Drugstores.

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

Wine means any alcoholic beverage containing not more than 21 percent alcohol 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, combinations 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.

Section 4-24 of Article II of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE II. – LICENSING

Sec. 4-24. - Agents.

- (a) All applicants for licenses under this Chapter shall name one person as the agent of the licensee, including the name, telephone number, address, and electronic mail address

thereof, who shall be responsible for any matter relating to such license. Macon-Bibb County shall be authorized to rely on the contact information provided for such agent as valid and all written communications sent for any purpose under this Chapter to such address of record shall be presumed to have been received within three days of sending, and all written communications sent to such electronic address of record shall be presumed to have been received within one hour of sending. The application shall give the mailing address of the agent and the mailing to such agent at such address of any notice required to be given under this Chapter or any other law shall be sufficient notice to a licensee.

(b) Reserved.

(c) (1) Any person named as agent under this Section must be employed and regularly scheduled to work at the licensed location a minimum of 30 hours per week; and must be an employee with directorial authority over the operations of the enterprise, including (1) authority to hire and fire staff or oversee the process for making personnel decisions; (2) responsibility to train staff or oversee staff training, and to enforce staff policy compliance requirements; (3) authority to set and revise local business policies and practices, or to oversee the implementation or revision of local business policies and practices; and (4) authority to purchase and receive alcoholic beverage inventory for the enterprise, or to oversee alcoholic beverage inventory purchasing;

(2) Any person named as agent under this Section for any person or entity licensed under this Chapter or applying for any license under this Chapter shall be personally and independently responsible for ensuring that all statements submitted on any license application or renewal are true and correct, and for ensuring that all state and local laws governing the commercial manufacture, distribution, and sale of alcoholic beverages are followed.

(d) (1) If any person or entity licensed under this Chapter, or any employee or other person acting at the direction thereof, shall be cited or charged with any violation of this Code relating to the commercial manufacture, distribution, or sale of alcoholic beverages, then the agent of such person or entity may also be charged with the offense of serving as an agent of a licensee in violation of the same provision of this Code.

- (2) It shall be an element of the offense of serving as an agent of a licensee in violation of this Chapter that the principal plead guilty or nolo contendere, or be convicted of the offense in question before the agent may be convicted. It shall also be an element of the offense that the agent in question directed, aided, participated in, ratified, or had knowledge of the actions underlying said violation; or that the agent in question had knowledge of the commission of a prior, similar violation committed by the same person, licensed entity, or employee within the previous calendar year. The maximum penalty for such offense shall be same as the maximum penalty of that offense for which the principal is convicted, but shall not include any term of incarceration, and may exceed the penalty actually imposed upon the principal.
- (e) If at any time while an application for a license is pending, or after any license has been issued under this Chapter, a person named as agent under this Section becomes unwilling or unable to serve as agent for any reason (including, without limitation, resignation, separation, death, disability, or incapacity), the licensee shall have ten business days in which to appoint a new agent, and to provide in writing all information required of agents as part of an application for a new license, including, without limitation, the name, address, and telephone number of said agent. The appointment of a new agent shall be made by filing a written notice with the Tax Commissioner's Office, or its successor department, on an approved form. Until written notice is properly filed as provided in this subparagraph, identifying the new agent, the mailing of any notice required to be given under this Chapter to the most recent agent of record shall be sufficient notice to a licensee. The new agent shall also be fingerprinted and shall be responsible for paying any fees associated therewith. The failure to appoint a new agent within ten business days of the date on which the previous agent actually stopped serving in the capacity as agent shall be grounds for revocation of any licenses issued under this Chapter.

SECTION 3.

Section 4-37 of Article II of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE II. – LICENSING

Sec. 4-37. - Duty to report changes.

Whenever there shall be a change in any of the facts reported to the commission or its designee in the application for a license after such license has been granted, it shall be the duty of the licensee, within ten business days after such change, to report the same to the Tax Commissioner's Office, or its successor department, in writing. If the change concerns any change to the location at which alcoholic beverages are sold pursuant to any license issued under this Chapter; the identity of the agent; the identity of the licensee; or the addition of any categories of activities regulated under this Chapter which are to be conducted at the licensed premises, then a new license application shall instead be submitted reflecting the changes. If the change does not concern any change to the location at which alcoholic beverages are sold pursuant to any license issued under this Chapter; the identity of the agent; the identity of the licensee; or the addition of any categories of activities regulated under this Chapter which are to be conducted at the licensed premises, then any requirements relating to advertising the application in the legal organ of the county or to paying any application fee or annual license fee for any license type already held shall be waived.

SECTION 4.

Section 4-56 of Article II of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE II. – LICENSING

Sec. 4-56. - Duration and renewal of license; transfers.

- (a) All licenses issued under this Chapter shall expire at 11:59:59 P.M. on December 31st of each calendar year, unless otherwise expressly stated. There shall be no "grace period" to allow for the operation of any licensee under a license for a prior year while awaiting the issuance of a renewal license for the succeeding year, except as provided in this Section. No licensee shall have any vested right to the renewal of any local license.
- (b) No licenses under this Chapter may be renewed if the licensee would be denied a new license under this Chapter.

(c)

- (1) Current licensees may apply for renewal of their current license beginning September 1st of any calendar year, including licensees who applied for licensure under this Chapter between January 1st and August 31st of the same year.
- (2) In the event that a licensee submits a complete license renewal application for a given location, including all fees associated therewith, and such application is accepted as complete, by November 1st of any calendar year, then the expiration of that licensee's licenses issued under this Chapter for such location shall be tolled until the licensee's renewal application is finally adjudicated.
- (3) Notwithstanding the preceding provisions, any license for which the expiration date is tolled under this Section shall expire by operation of law upon the recommendation of any adverse action by the Commission or any committee thereof as to any license type for which adverse action is taken or recommended. If a renewal license applicant also holds and applied to renew an alcohol license of any license types which are recommended for unconditional approval, then the expiration date of such licenses shall continue to be tolled as to those license types as provided in this Section.
- (4) Upon the expiration of any alcoholic beverage license by its terms, licensees shall be required to apply as herein provided for new licenses; provided, however, that if sixty or fewer days have passed since the licensee's most recent license expired, then the requirement to advertise under the terms of Section 4-23(6), is waived.

(d) Alcoholic beverage licenses issued under this Article shall not be transferable or assignable to new owners, but where there is a change in the ownership of a business, the new owner or owners shall file an application as for a new license as provided by this Article. Changes of business interests from one party at interest named in the original application to another party at interest named in the original application and changes from one employee or manager of a private club to his successor shall not be deemed a transfer of a license. In each instance, however, the licensee shall notify the tax commissioner in writing of such change and make a complete disclosure of all of the facts in connection therewith, such notification to be made within three days from the date of such change.

- (e) Notwithstanding the other provisions in this Section, licenses issued under this Chapter on an annual basis for the 2018 calendar year shall expire on April 1, 2019, at 11:59:59 P.M. In the event that a licensee holding an annual license for the 2018 calendar year submits a complete license renewal application for a given location, including all fees associated therewith, and such application is accepted as complete, by April 1, 2019, then the expiration of that licensee's licenses issued under this Chapter for such location shall be tolled until the licensee's renewal application is finally adjudicated.
- (f) (1) Upon applying for any renewal license under this Chapter, any person seeking to renew any license for any Drug Store, Food Mart, Gas Station, Grocery Store, Other Small Box Retail Store, Small Box Discount Store, Specialty Store, or Vice Mart licensed under this Chapter shall identify which of the foregoing definitions applies to said store.
- (2) If a business was previously operating as a Drug Store, Food Mart, Gas Station, Grocery Store, Specialty Store, or any kind of business other than an Other Small Box Store, Small Box Discount Store, or Vice Mart; and at the time of renewal is presently operating as an Other Small Box Store, Small Box Discount Store, or Vice Mart, then the licenses issued shall not be renewable under this Chapter, and the licensee shall instead apply as for a completely new license, and be subject to all of the requirements for a new license for an Other Small Box Store, Small Box Discount Store, or Vice Mart.
- (3) The intentional failure to identify, or the knowing misrepresentation of, which definition under paragraph (1) of this subsection applies to a store shall be grounds for any Adverse Action, up to and including revocation of all outstanding licenses.
- (g) Beginning on September 1, 2020, any store currently licensed as a Vice Mart, Other Small Box Store, or Small Box Discount Store may continue to renew any current licenses issued under this Chapter on an annual basis, subject to the renewal requirements of this Chapter, for as long as there is no change in the ownership of the licensed business. Licenses issued for Vice Marts, Other Small Box Stores, or Small Box Discount Stores may not be transferred to new owners, and any new owners shall not be eligible for licensure under this Chapter, unless the location to be licensed complies with the distance requirements set forth in Sec. 4-36.

- (h) For each license issued under this Chapter for the retail sale of alcoholic beverages by the package to go, where such license was first issued after March 16, 2021, it shall be the duty of all license holders to ensure that the business operating pursuant to such license shall never operate as a vice mart. Without limiting the manner in which the County may demonstrate operation as a vice mart, in the event that such a business is inspected by any authorized inspector, and is found to be operating as a vice mart in two inspections which occur no fewer than ten nor greater than sixty days apart, notwithstanding any intervening inspections during such period in which the business is found to be operating as a different business type, then such business shall be rebuttably presumed to be operating as a vice mart. The results of any such inspections shall be discussed with the agent for the business or other manager on duty at the time of the inspection. Any business found to be operating as a vice mart in violation of this paragraph shall be subject to adverse action under Article XI of this Chapter against any or all licenses issued under this Chapter to such business or such licensee, up to and including revocation thereof.

SECTION 5.

Section 4-57 of Article II of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE II. – LICENSING

Sec. 4-57. - No new license to be issued after revocation.

- (a) When a license other than a temporary license has been revoked under the provisions of this Chapter, no application for a new alcoholic beverage license for the same location will be received for a period of 12 months and no application for a new license from the licensee involved shall be received for a period of 24 months.
- (b) It shall be unlawful for any person to have or permit the possession of an opened container containing alcoholic beverages of any sort on the premises of a licensee whose license to sell alcoholic beverages has been revoked. The phrase "opened container" shall include not only containers which have no caps, but those containers where the same has been uncapped whether or not the cap has been replaced.

SECTION 6.

Section 4-58 of Article II of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE II. – LICENSING

Sec. 4-58. - Issuance of temporary license while application pending.

At the time of application, or any time prior to the final adjudication of any application submitted under this Chapter, any applicant may obtain a temporary license for the manufacture or sale of alcoholic beverages pursuant to the terms of this Section.

- (a) Any person or entity completing the following may be issued a temporary alcohol license:
- (1) The person or entity must have submitted a complete application for one or more annual alcohol licenses, pursuant to this Chapter, and paid all fees therefor;
 - (2) The applicant or its agent must successfully complete a fingerprint background check, SAVE Verification, and meet all criminal history requirements imposed by this Chapter;
 - (3) The location to be licensed must be approved by the Macon-Bibb County Engineer for compliance with all distance requirements imposed in this Chapter; and the Macon-Bibb County Planning and Zoning Commission for zoning and usage approval;
 - (4) The applicant must submit a written request for a temporary alcohol license, and pay an additional, non-refundable fee therefor;
 - (5) The applicant must submit a form of the kind required by Section 4-23(d)(11) of this Chapter provided by the Tax Commissioner or its successor office or department which identifies whether the business is a Food Mart, Vice Mart, or other business type as defined in Section 4-1 of this Chapter, provided, that no business identified as a business type which is ineligible to receive any certain

kind of annual alcohol license shall be eligible receive such kind of temporary alcohol license; and

- (6) No temporary license will issue to any applicant if the applicant, the agent, or any business operating at the location to be licensed has been the subject of any Adverse Action against any license previously issued under this Chapter, within the past two years.
- (b) Upon completing all requirements set out in paragraph (a) of this Section, the applicant shall be entitled to immediately receive a temporary alcohol license, which license shall allow the applicant to conduct all business activities which the applicant would be authorized to conduct in the event that the pending application is granted in full, and without conditions. The department issuing the temporary license shall notify the Sheriffs Office of the fact of issuance at the time of issuance.
- (c) All temporary licenses issued pursuant to this Section shall be clearly and conspicuously marked as such.
- (d) All temporary licenses issued under this Section shall expire by operation of law on the day following the date on which the corresponding application for annual licensure is finally adjudicated. For purposes of this code Section, an application is "finally adjudicated" on the day that the annual license is actually issued, or, if the corresponding application for annual licensure is denied in part or in full, upon the expiration of any period allowed by law to obtain review by a superior judiciary. Each temporary licensee is under a duty to know at all times whether its license application has been finally adjudicated, and it shall be considered a violation of this Section for any temporary licensee to operate under an expired temporary license. In the event that a temporary license is not finally adjudicated until after the time that the license applied for, if issued, would have expired, then the license application shall instead be construed as an application for a license effective during the calendar year in which the application is finally adjudicated.
- (e) The issuance of a temporary license shall have no effect on the consideration of a corresponding annual license application, and shall not be construed to create any expectation that an annual license will be issued.

- (f) All licensees operating pursuant to a temporary license are subject to all rules and regulations set out in this Code in the same manner and to the same extent as licensees operating pursuant to an annual license. Any events occurring prior to the final issuance of an annual alcohol license may be considered as evidence in support of taking Adverse Action on the licensee's pending annual license application, including, but not limited to, any adverse change in conditions at or near the licensed premises; or any citation for violations of any ordinance or statute relating to the sales or consumption of alcohol on a premises, or the operations of a licensed premises.
- (g) Temporary licensees shall have no vested interest in their temporary licenses. For any licensee operating pursuant to a temporary license issued under this Section, if such licensee, or such licensee's agent or employee, is cited or charged with violating any statute or ordinance relating to the manufacture, sales, service, or consumption of alcoholic beverages, then all temporary licenses issued pursuant to this Section shall be immediately and summarily revoked at the time of citation or charging, and such licensee shall immediately thereafter suspend all business activities which were previously being conducted pursuant to such temporary license.
- (h) If, at any point in the process of evaluating the annual license application that corresponds with a temporary license issued pursuant to this subsection, it becomes apparent that the applicant likely does not meet one or more of the material requirements for annual licensure, then the temporary license shall be subject to immediate and summary revocation, without advanced notice or additional process.
- (i) Any temporary license issued in response to an application submitted under this Chapter shall be revoked by operation of law upon the recommendation of any adverse action by the Commission or any committee thereof as to any license type for which adverse action is taken or recommended. If a temporary license holder also holds a temporary license for any license types which are recommended for unconditional approval, then such temporary license shall continue in force as to those license types as provided in this Section.

SECTION 7.

Section 4-300 of Article IX of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE IX. - CRAFT MANUFACTURING

Sec. 4-300. - Brewpub license.

- (a) For purposes of this Chapter, the terms "brewpub" and "eating establishment" shall have the same definitions as provided in O.C.G.A. § 3-1-2. No person or entity shall be eligible to obtain a brewpub license unless that person certifies in writing that the premises to be licensed will operate as an eating establishment. Any brewpub license shall be subject to revocation if, at any time, the licensed premises ceases operating as an eating establishment.
- (b) The percentage of gross food and beverage sales shall be calculated and verified as follows:
 - (1) Brewpub licensees that have been in operation for more than six months as of the date in which the licensee applies to renew its licenses under this Chapter for the succeeding calendar year shall submit a return, as part of its renewal application, showing its gross sales for the twelve complete calendar months immediately preceding the date of application; or, for each complete calendar month of operations preceding the date of application in which the licensee has been in operation, and demonstrating that its sales of prepared meals or food equal or exceed fifty percent of all gross sales of food and beverage items over the period covered by such return, as set out in O.C.G.A. § 3-1-2.
 - (2) The Tax Commissioner's Office, or its successor office, shall be authorized to prepare a return form upon which calculations of percentages of gross food and beverage sales shall be presented; and such office shall further be authorized to require that all such returns be submitted on the prepared form.
 - (3) In the event that a brewpub applying for renewal under this Section cannot demonstrate that its sales of prepared meals or food equal or exceed fifty percent of all gross sales of food and beverage items over the period covered by such return, as set out in

O.C.G.A. § 3-1-2, then it shall not be permitted to renew its brewpub license.

However, such business may instead obtain either a license for the manufacture of malt beverages; or licenses for retail sale of alcoholic beverages, but not both, by paying the appropriate license fees for the desired licenses.

- (c) Any licensee holding a brewpub license shall be authorized to do the following:
- (1) Manufacture on the licensed premises not more than 10,000 barrels of malt beverages in a calendar year solely for retail sale;
 - (2) Operate an eating establishment that shall be the sole retail outlet for such malt beverages, and which eating establishment may sell such malt beverages by the drink for consumption on-premises, or by the package for consumption off-premises;
 - (3) Provided that the licensee offers for sale for consumption on-premises at least one variety of commercially available canned or bottled malt beverage that is manufactured off-premises and purchased from a licensed wholesaler, exercise all rights afforded to holders of licenses to sell malt beverages or wine by the drink for consumption on-premises, and exercise all rights afforded to holders of licenses to sell malt beverages or wine by the package for consumption off-premises;
 - (4) Sell alcoholic beverages pursuant to this Section on all days and at all times that sales of alcoholic beverages by retailers are lawful under this Chapter, including, but not limited to, Sundays;
 - (5) Notwithstanding any other provision of this paragraph, sell up to a maximum of 5,000 barrels annually of such malt beverages to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brewpub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale; and
 - (6) Notwithstanding any other provision of this Chapter, sell growlers of malt beverages manufactured on the licensed premises directly to consumers, and sell growlers of malt beverages produced by other manufacturers directly to consumers, provided that the products of other manufacturers are purchased from a licensed wholesaler.

- (d) No person or entity may hold a brewpub license and a license for the sale of distilled spirits by the package for consumption off-premises at the same time.
- (e) Brewpub licensees may separately obtain and hold licenses for alcoholic beverage caterer; brown bagging permit; catered or special event permit; wine-tasting permit; or retail sale of distilled spirits by the drink for consumption of [off-] premises, provided they meet all applicable qualifications for each such license applied for.

SECTION 8.

Section 4-401 of Article XI of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE XI. - LICENSING PROCEDURES

Sec. 4-401. - Applications submitted to Tax Commissioner's Office.

- (a) All applications under this Chapter shall be submitted to the Macon-Bibb County Tax Commissioner's Office. It shall be the responsibility of each applicant to ensure that they have fully complied with this Chapter, and are submitting a complete application.
- (b) The Tax Commissioner's Office shall not accept any incomplete applications, or any applications for which the appropriate fee is not paid in full at the time of submission. Any incomplete applications inadvertently accepted shall, upon discovery, be returned without adjudication, along with a refund of all fees submitted therewith, and the applicant informed of the deficiencies therein. The applicant shall be permitted to complete the application and submit it anew without any delay or adverse effect, except that no application will be considered submitted until it is complete.
- (c) The Tax Commissioner's Office should review all applications for catered event permits, special event permits, and home brew special event permits, and should issue such licenses if it determines that the applicant has met all requirements of this Chapter. The Tax Commissioner's Office should strive to inform applicants of any known policies of the Georgia Department of Revenue which may affect the ability of an applicant to obtain a corresponding State special event permit based on the timing of such application.

Notwithstanding the foregoing, no application shall be refused or denied based on the time between the date of filing and the scheduled event date; and, provided further that no refunds shall be issued for permit fees paid, regardless of whether the applicant is able to obtain a corresponding State permit.

- (d) If the Tax Commissioner's Office determines that an applicant for a catered event permit, special event permit, or home brew special event permit has not met all of the requirements for the license applied for, then the Tax Commissioner's Office shall notify the applicant by telephone, at the number included in the application, of any deficiencies in the application, and shall give the applicant an opportunity to correct such deficiencies, or shall return the application as denied and refund the permit fee if the applicant cannot correct any deficiencies in a timely manner. Upon request from the applicant, the Tax Commissioner's Office shall refer any denied request to the Sheriff for further review in accordance with this Article, without refunding said permit fee; provided that such review shall proceed along the same timeline as any other license reviewed by the Sheriff under this Article.
- (e) Upon receipt of any application for a license under this Chapter other than a catered event permit, a special event permit, or a home brew special event permit, the Tax Commissioner's Office should promptly cause a complete copy of the application materials to be transmitted to the Sheriff's Office for further review in accordance with this Article.
- (f) Each license granted under this Chapter shall be issued by the Tax Commissioner's Office, and shall state on its face the type of license it is, and shall be individually numbered.

SECTION 9.

Section 4-402 of Article XI of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE XI. - LICENSING PROCEDURES

Sec. 4-402. - Sheriff to make recommendations to commission.

- (a) Upon receipt of an application from the Tax Commissioner's Office, the Sheriff of Macon-Bibb County shall review all applications for the issuance, transfer, or renewal of any

license under this Chapter, and shall make a recommendation, in writing, to the Macon-Bibb County Commission. In making this review, the Sheriff shall be authorized to consider any information from any source regarding the applicant, any owner, the agent, or the location for which a license is sought. The Sheriff's review shall not be required to include independently verifying the information provided by an applicant on an application. The Sheriff's recommendation shall indicate whether the Sheriff recommends granting, denying, or granting with conditions the license application in question, and shall include the Sheriff's particular reasons for making such recommendation. Where the Sheriff recommends granting a license with conditions, the recommendation shall include the particular conditions the Sheriff would impose, as well as the particular reasons for imposing such conditions.

- (b) Separate recommendations shall be made for each initial license application, and each license renewal or transfer application, except that the Sheriff may submit as a single bulk item his or her recommendation to approve any or all license renewals which meet the following conditions:
 - (1) Each such renewal application was timely submitted, and all renewal fees were timely paid;
 - (2) Each such renewal is limited only to licenses presently held by the applicant, and does not seek to add to the categories of licenses held by that applicant; provided, however, that an application seeking to renew some, but fewer than all, categories of licenses currently held under this Chapter may still be included in a bulk recommendation to approve renewal under this paragraph;
 - (3) The renewal application does not seek to change the licensee, licensed location, or agent of record under the license;
 - (4) In the Sheriff's opinion, there have been no material or unfavorable changes in the operations or community impact of each such business applying for renewal since such business's license under this Chapter was last issued or renewed;

- (5) The Sheriff did not perform a review of any such license pursuant to subsection (c) of this Section during the two calendar years preceding the date of the renewal application; and
 - (6) In the Sheriff's opinion, each such licensee remains qualified for licensure under this Chapter and is entitled to renewal of all licenses designated in that business's renewal application; provided that, if conditions have previously been imposed on the licensee in lieu of denial or revocation of any license under this Chapter, then it is also the Sheriff's opinion that the conditions imposed are being complied with, and that it is not necessary to impose any further conditions on said licensee.
- (c) The Sheriff shall be responsible for supervising the activities of all persons licensed under this Chapter so as to ensure compliance with the provisions of this Chapter and with all State laws relating to the manufacture, distribution, sale, service, or consumption of alcoholic beverages. The Sheriff shall be authorized to undertake a review of any license issued under this Chapter for the purpose of considering whether to take any Adverse Action against such business if, at any time during the effective period of any license issued under this Chapter, the Sheriff becomes aware of any of the following:
- (1) The performance of any act prohibited by this Chapter or the failure to perform any act required by this Chapter as well as the violation of any law, state or federal, relating to the business of the licensee. If such act, omission or violation is done by an agent, servant, employee, or officer of the licensee, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense;
 - (2) The entry of a plea of guilty or nolo contendere, or the conviction of any licensee, partner, or any officer, director or stockholder of a licensed corporation with respect to a charge of violation of any of the laws of the United States or of the state relating to alcohol control, or any crime, whether a felony or not, involving moral turpitude;
 - (3) Any other act or omission with respect to the operation of a business licensed hereunder which the commission or its designee shall find to be contrary to the public interest, or which shall render the licensee, or the business location thereof, unfit for the continued operation of the business;

- (4) A material change in conditions of the premises or the structures or facilities located thereon;
- (5) A material change in the nature or scope of the operations of the licensed business with respect to those activities for which such business is licensed under this Chapter; or
- (6) The occurrence of any event or events during the preceding calendar year, at or within 100 yards of the licensed business, whether related to each other or unrelated, or the commission of any act or acts in any place by the licensee or the business's owners or managers, which, in the aggregate, would cause the Sheriff to materially alter his or her recommendation as to the suitability of such business for the licenses it possesses or the need for conditions to be imposed on such licensee, upon consideration of the following:
 - a. Whether any such events constitute a crime under the laws of the United States, the State of Georgia, or the Macon-Bibb County Code of Ordinances;
 - b. The fact or severity of any personal injuries or loss of life suffered in any such event, as well as the number of people injured or killed therein;
 - c. Whether any such events included:
 1. The use or brandishing of any firearm or other weapon;
 2. The use, purchase, sale, or distribution of Controlled Substances, in violation of O.C.G.A. tit. 16, ch. 13;
 3. Gang activity;
 4. The commission of any Sexual Offenses, in violation of O.C.G.A. tit. 16, ch. 6; or
 5. Unlawful Gambling, in violation of O.C.G.A. § 16-12-2;
 6. The violation of any laws of the United States, the State of Georgia, or the Macon-Bibb County Code of Ordinances relating to the manufacture, distribution, sale, service, or consumption of alcohol.

- d. The degree of knowledge, complicity, or involvement, and the actions of the licensee; or of the business's owners, agents, employees, or customers, with respect to such events; and
 - e. Any other factors which the Sheriff is charged with reviewing or which the County is authorized to consider as part of an initial license application under this Chapter.
- (d) Upon completing any review under subsection (c) of this Section, the Sheriff should prepare a written report identifying the licensee and all current licenses issued under this Chapter to said licensee for any businesses or locations within Macon-Bibb County; the particular business(es) or location(s) for which the review was performed; the reasons for which a review was initiated; any findings or conclusions made as a result of that review; and stating whether the Sheriff recommends no changes for the licensee, or specifying any Adverse Actions the Sheriff recommends taking against such licensee. Copies of this report shall be sent to the licensee's registered address, as well as to the Tax Commissioner's Office, the Macon-Bibb County Commission, and the County Attorney. There shall be no limit to the frequency with which the Sheriff shall be authorized to review any particular licensee, provided that no Adverse Actions shall be recommended or taken based on information which was previously disclosed as part of an application by the licensee to obtain, renew, or transfer any license under this Chapter, or as part of any proceedings relating to the consideration thereof.
- (e) If, upon completing any license review under subsection (c) of this Section, the Sheriff makes a determination that the factors considered under subsection (c) create a particular and severe risk of injury or death to any person or to any member of the public at large, then the Sheriff shall have the authority to immediately revoke on a temporary basis all licenses issued under this Chapter to such licensee, for no more than ninety (90) days or until such time as the Macon-Bibb County government reaches a final administrative decision on the determination, whichever occurs first.
- (f) In the event that any licensee reviewed under subsection (c) of this Section applies for the issuance, renewal, or transfer of any license under this Chapter, whether for the same business or location or otherwise, within two years of the date of such review, then the

Sheriff shall include a copy of the written report prepared pursuant to subsection (d) of this Section as an attachment to the new recommendation made pursuant to subsection (a) of this Section.

(g) No recommendation or finding by the Sheriff shall be considered to be final.

SECTION 10.

Section 4-404 of Article XI of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE XI. - LICENSING PROCEDURES

Sec. 4-404. - Statement of recommendation and notice of rights by county attorney.

Upon receipt of any recommendation from the Committee of the Whole of the Macon-Bibb County Commission, pursuant to Subsection 4-403(e)(2) of this Chapter, the County Attorney shall prepare a written statement, informing the applicant or licensee of the recommendation from the Committee of the Whole, and identifying those facts or persons supporting the committee's recommendation. The statement shall also include a certified copy of this Chapter. If the Clerk of Commission has provided a form for the purpose of requesting a hearing under Subsection 4-405(c) of this Chapter, then the County Attorney should enclose a copy of that form along with the statement provided for in this Section. The statement shall be sent by Certified Mail, return receipt requested, or by private overnight courier service with a signature required upon receipt, to the business address, agent's address, and/or owner's address provided on the application for the license in question. The County Attorney may also send the statement to the electronic mail address for the agent and/or business provided in the application.

SECTION 11.

Section 4-405 of Article XI of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE XI. - LICENSING PROCEDURES

Sec. 4-405. Request for hearing.

- (a) Upon receipt of the statement described in Section 4-404 of this Chapter, an applicant or licensee shall have ten days from the date of receipt in which to file a request for hearing with the Clerk of the Macon-Bibb County Commission. All statements sent in accordance with Section 4-404 shall be deemed received on the earliest of the date of actual receipt, the day of sending via electronic mail, or three days from the date of sending via Certified Mail, return receipt requested, or by private overnight courier service with a signature required upon receipt. In the event that the deadline for filing such request for hearing falls on a Saturday, Sunday, State or County holiday, or other day on which the Office of the Clerk of Commission is closed for the transaction of ordinary business, then such deadline shall be extended to the next day in which the Office of the Clerk of Commission is open. Any request not physically received by the Clerk of Commission in the time provided herein shall be deemed untimely.
- (b) Wherever any applicant or licensee fails to request a hearing on the recommendation from the Committee of the Whole, or files an untimely request for hearing, that applicant or licensee shall be deemed as a matter of law to have consented to the disposition recommended by the Committee of the Whole without further hearing or due process.
- (c) The Clerk of Commission may provide a form for use in requesting a hearing under this Section, but any request shall be deemed sufficient provided that it is made in writing; identifies the business name and address for the application or license for which a hearing is requested; states that a hearing is being requested; and is signed and dated by the applicant or licensee.
- (d) Upon receipt of any request for hearing pursuant to this Section, whether timely or untimely, the Clerk of Commission shall forward a copy of the same to the County Attorney.

SECTION 12.

Section 4-412 of Article XI of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE XI. - LICENSING PROCEDURES

Sec. 4-412. - Requests to modify or remove conditions imposed.

- (a) Where any condition is imposed on any licensee under this Chapter in lieu of denying issuance, renewal, or transfer of a license, or in lieu of revoking any license, the licensee shall have no opportunity to challenge or seek removal or modification of the conditions imposed for a period of one year from the later of the date on which the conditions were first imposed or the date on which any appeal affirming the imposition of any or all conditions became final.
- (b) After the expiration of the time period set out in subsection (a), above, any licensee shall be authorized to request in writing that the Sheriff undertake a review as to the ongoing appropriateness of the conditions imposed upon said license. The request shall identify those particular conditions which the licensee would like to have modified or removed, and shall include any information or evidence supporting the licensee's request which the licensee would like the Sheriff to consider. The request shall be submitted to the Tax Commissioner's Office, which shall promptly forward copies of the same to the Sheriff, the Clerk of the Macon-Bibb County Commission, and the County Attorney.
- (c) Upon receipt of a request to modify or remove any conditions imposed, the Sheriff shall review the site and activities of the licensee in the manner described in Subsection 4-402(c). The Sheriff shall consider all materials submitted by the licensee as part of this review, and shall prepare a written report and recommendation as described in Subsection 4-402(d), including particular recommendations as to each request made by the licensee to modify or remove any conditions previously imposed. In the event that a condition is to be modified, it need not be modified in the manner or to the degree requested by the licensee.
- (d) The Sheriff's review under this Section shall be plenary, and nothing in this Section shall prevent the Sheriff from recommending the imposition of new conditions upon any licensee in lieu of revocation of any licenses, or from recommending the revocation of any license if the Sheriff learns of information during such review which would support any such recommendation; provided that no conditions previously imposed shall be made more restrictive, and no other Adverse Actions shall be taken, based on information which was

previously disclosed as part of an application by the licensee to obtain, renew, or transfer any license under this Chapter, or as part of any proceedings relating to the consideration thereof.

- (e) Copies of any review completed under this Section shall be forwarded to the Tax Commissioner's Office, the Macon-Bibb County Commission, and the County Attorney. Upon receipt by the Macon-Bibb County Commission, further proceedings shall continue as under Subsection 4-403(a), and all subsequent procedures shall be identical to those procedures which apply to recommendations made by the Sheriff pursuant to Section 4-402.
- (f) Nothing in this Section shall prohibit the Sheriff from including any licenses reviewed pursuant to this Section as part of a bulk recommendation for renewal under Subsection 4-402(b), if all requirements for doing so are met.
- (g) No licensee shall have the right to request any modification or removal of conditions imposed while any prior request made under this Section is pending, or for a period of one year after the later of the date upon which a final decision is made on any prior request under this Section or the date on which any appeal affirming an Adverse Action taken as a result of any prior request made under this Section becomes final.

SECTION 13.

Section 4-412 of Article XI of Chapter 4 of the Macon-Bibb County Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE XII. - LICENSING FOR ALCOHOL HANDLERS

Sec. 4-503. - Issuance of licenses.

Upon satisfaction of all requirements, as set forth in Section 4-502 of this Code, the Tax Commissioner's Office, or any successor department, shall issue the applicant a license. The license shall be issued in the name of the Alcohol Handler, and not in the name of his or her employer. A single license shall be valid for the performance of all Alcohol Handler duties performed for any number of employers, locations, or venues within Macon-Bibb County. The

license shall be of suitable size and construction to be carried around on the licensee's person at all times.

SECTION 14.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

SECTION 15.

(a) It is hereby declared to be the intention of the Macon-Bibb County Commission that all sections, paragraphs, sentences, clauses, and phrases of this Ordinance are and were, upon their enactment, believed by the Macon-Bibb County Commission to be fully valid, enforceable, and constitutional.

(b) It is hereby declared to be the intention of the Macon-Bibb County Commission that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Macon-Bibb County Commission that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Macon-Bibb County Commission that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs, and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 16.

All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed or set aside.

SECTION 17.

In accordance with Sec. 1-4(c) of the Code of Ordinances of Macon-Bibb County, Georgia, it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of Macon-Bibb County, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention. Upon adoption, the Clerk of Commission is hereby directed to send a certified copy of this Ordinance to the publisher of the Macon-Bibb County Code of Ordinances for inclusion in future publications.

SECTION 18.

In the event scrivener's errors shall be discovered in this Ordinance or in any Exhibits hereto after the adoption hereof, the Commission hereby authorizes and directs that each such scrivener's error shall be corrected in all multiple counterparts of this Ordinance.

SECTION 19.

The Macon-Bibb County Commission grants the Mayor the authority to take any and all further actions necessary to carry out the intents and purposes of this Ordinance.

SECTION 20.

In the event that this Ordinance or part thereof is found by any court of competent jurisdiction to be substantively more appropriately denominated an act of resolution by the Macon-Bibb County Commission, it is the intent of this Commission that this Ordinance or such portion thereof shall be considered to have been adopted as a resolution of the Macon-Bibb County Commission. Where any law bearing on the subject matter of this Ordinance calls for the taking of any legislative action by the governing authority of Macon-Bibb County, and such law specifies for such action to be taken by resolution or by ordinance, it is the intent of this Commission that this Ordinance satisfy such requirement, and that this Ordinance be construed accordingly.

SECTION 21.

This Ordinance shall become effective immediately after its approval by the Mayor or its adoption into law without such approval with the exception of Section 1 which shall become effective November 1, 2023 after its approval by the Mayor or its adoption into law without such approval.

SO ORDERED AND ORDAINED this _____ day of _____, 2023.

LESTER M. MILLER, MAYOR

ATTEST: _____
JANICE ROSS, CLERK OF COMMISSION

(SEAL)

EXHIBIT A

Sec. 4-1. Definitions.

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

Alcohol 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, distilled spirits, beer, malt beverage, wine or fortified wine.

Armed security personnel means any security personnel who, in the course of performing any official job duty, is suffered, permitted, or required by his or her employer to carry a firearm. Notwithstanding the foregoing, and notwithstanding whether such person is carrying a firearm in the course of performing any official job duty, any person who is a certified peace officer in good standing with the Georgia Peace Officer Standards and Training Council shall not be considered an armed security personnel for purposes of this Chapter.

Bar shall mean any business that derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages for consumption on the premises, in accordance with O.C.G.A. § 3-1-2.

Brewpub means any bona fide food service establishment in which beer or malt beverages are manufactured or brewed subject to the barrel production limits and regulations under state law.

Brown bagging is the bringing of alcoholic beverages into business establishments for the purpose of drinking such alcoholic beverages at any such establishment.

Building code means and includes all building, plumbing and electrical codes and any other similar technical code of Macon-Bibb County.

Church means any permanent building where persons regularly assemble for religious worship.

Cocktail room means an establishment licensed to manufacture distilled spirits from agricultural products other than perishable fruits grown in Georgia, which also offers for sale such distilled spirits for consumption on-premises, or packaged to go, or both, subject to limits and regulations under state law.

College means only such state, local government, church or other colleges that teach the subjects commonly taught in the common colleges of this state and shall not include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Distilled spirits means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines. For purposes of licensing and regulation, distilled spirits include liquor, spirituous liquor, whiskey and fortified wine.

Drugstore shall mean a retail store that provides assorted items including medical or healthcare supplies, that may also provide other items or services such as over-the-counter drugs; processed food and drink items; beauty products; small toys; or photo processing services; and that is licensed by the Georgia State Board of Pharmacy to operate a pharmacy. This term does not include Food Marts, Gas Stations, Grocery Stores, Small Box Discount Stores, Specialty Stores, or Vice Marts.

Food Mart shall mean a retail store licensed by the Georgia Commissioner of Agriculture as a food sales establishment, which has a total retail floor space of less than 10,000 square feet, of which at least 85 percent is reserved for the sale of food and other nonalcoholic items, and which regularly sells, at a minimum and among other products the following items:: at least four pounds each of five different types of fresh fruits or vegetables; at least four pounds of fresh, raw beef, chicken, or pork; at least four dozen fresh chicken eggs; at least four pounds of bread; and at least four gallons of fresh cow's milk. Food Marts shall be required to maintain a food scale certified by the Georgia Department of Agriculture for the purpose of verifying compliance with this definition. Food Marts shall purchase food items for resale from lawful fresh food wholesalers, and shall be required to produce invoices reflecting the sources of food products sold upon demand by County officials. If an

insufficient quantity of any item is present in the Food Mart, Macon-Bibb County may consider receipts or other evidence to determine whether a sufficient good faith effort was made to comply with the minimum item quantity requirements. The term "Food Mart" This term does not include Drugstores, Gas Stations, Grocery Stores, Small Box Discount Stores, Specialty Stores, or Vice Marts; provided that a Food Mart may or may not be licensed by the Georgia State Board of Pharmacy to operate a pharmacy.

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.

Gas Station shall mean a retail store that meets the definition of a Vice Mart, and that is also licensed by the Georgia Safety Fire Commissioner for the storage and sale of liquefied petroleum gas and that actually regularly sells liquefied petroleum gas. This term does not include Drugstores, Food Marts, Grocery Stores, Small Box Discount Stores, Specialty Stores, or Vice Marts that are not licensed by the Georgia Safety Fire Commissioner for the storage and sale of liquefied petroleum gas and that actually regularly sell liquefied petroleum gas. For purposes of this Chapter, any rule or ordinance that applies to a Vice Mart shall not apply to a Gas Station unless expressly stated otherwise.

Grocery Store shall mean a retail store licensed by the Georgia Commissioner of Agriculture as a food sales establishment, which has a total retail floor space of at least 10,000 square feet, of which at least 85 percent is reserved for the sale of food and other nonalcoholic items, and which sells, at a minimum and among other products at least ten different types of fresh fruits or vegetables; fresh, raw beef, chicken, or pork; fresh chicken eggs; bread; and fresh cow's milk. This term does not include Drugstores, Food Marts, Gas Stations, Small Box Discount Stores, Specialty Stores, or Vice Marts; provided that a Grocery Store may or may not be licensed by the Georgia State Board of Pharmacy to operate a pharmacy.

License means any license or permit issued under this Chapter, however denominated.

Licensee means any person holding any license or permit issued under this Chapter, however denominated.

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 fourteen 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.

Malt Beverage Taproom means an establishment licensed to manufacture malt beverages, which also offers for sale such malt beverages for consumption on premises, or packaged to go, or both, subject to limits and regulations under state law.

Manufacturer means any maker, producer or bottler of an alcoholic beverage. 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.

Minor means any person who has not attained the legal age as set by the state for the purchasing of alcoholic beverages.

Nightclub shall mean any business which:

- (1) directly or indirectly charges patrons for admission;
- (2) is licensed under this Chapter for the sale of alcoholic beverages for consumption on premises;
- (3) provides entertainment using amplified sound, including, without limitation, the playing of pre-recorded music through amplified sound by a DJ or emcee or similar person; the playing of live analog, electronic, or digital musical instruments; the presentation of live human speech or dialogue through amplified sound; or any combination of the above;

-
- (4) does not provide a number of seats suitable for the viewing of such entertainment greater than or equal to the number of patrons present; and
 - (5) does not earn at least fifty percent of its annual gross revenues from the sale of prepared meals or the letting of rooms for overnight stay.

Other Small Box Retail Store shall mean a retail store that meets each of the following criteria:

1. the store has a total retail floor space of less than 15,000 square feet;
2. the store does not meet the definition of Drug Store, Food Mart, Gas Station, Grocery Store, Small Box Discount Store, Specialty Store, or Vice Mart, as provided in this Chapter; and
3. the store does not meet the criteria for a license under this Chapter for the retail package sales of distilled spirits or does meet such criteria, but is neither applying for nor in possession of a valid license issued under this Chapter for the retail package sales of distilled spirits.

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

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

Private club means a corporation organized and existing under the laws of the state actively in operation within the corporate limits of Macon-Bibb County, and having regularly paying monthly, quarterly or semiannual dues paying members.

Private residence means a house or dwelling wherein not less than one nor more than three families customarily reside and shall not include a mobile home, a boarding house where there are five or more boarders or roomers, or any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of an application. The term "private residence" shall not include any house or dwelling otherwise falling within the foregoing definition were such house or dwelling is regularly or customarily used for the purpose of carrying on any trade, enterprise, or business concern, whether lawful or unlawful, and regardless of whether the same is formally chartered or registered with any government, or any division thereof, for the transaction of business. This Chapter shall have no application to the possession or consumption of alcoholic beverages at any private residence; provided that no alcoholic beverages are being sold or offered for sale therein, and that any and all guests of such private residence are personally known by at least one person customarily residing in such private residence, and provided further that all such guests are present on the premises of such private residence at the invitation of, or by the consent of, at least one person customarily residing therein.

Retail means retail sales packaged to go and not for consumption on the premises.

Sale means the provision of any quantity of alcoholic beverages in exchange for any consideration whatsoever. A "sale" need not require the direct exchange of money for alcoholic beverages. As used in this Chapter, the term "sale" and other forms of such word shall include, but not be limited to, the following:

- (1) The provision of any quantity of alcoholic beverages at any event or on any premises, whether for or without separate payment, if persons attending such event or entering such premises are generally charged any amount of money, or are otherwise solicited, asked, expected, or anticipated to provide any monetary or in-kind donation, to so attend or so enter;
- (2) The provision of any quantity of alcoholic beverages, along with any other items, meals, goods, or services, for a single or combined price, including the giving of alcoholic beverages free of charge to any person who purchases any other item, meal, good, or service;

-
- (3) The provision of any quantity of alcoholic beverages in such circumstances that the recipient of such alcoholic beverages is not charged a specific amount of money to purchase such alcoholic beverages, but are solicited, asked, expected, or anticipated to provide any kind of monetary or in-kind donation or gratuity to any organization or to any person mixing, serving, or pouring such alcoholic beverages; or
 - (4) Any other artifice, scheme, method, or arrangement by which the provider of the alcoholic beverages gains any financial, in-kind, or material benefit, whether from some or all recipients of alcoholic beverages, while providing such alcoholic beverages to any person within the scope of a single transaction or series of related transactions.
 - (5) As used in this Chapter, the term "sale" shall not include any gratuitous gift or offer of alcoholic beverages which is made generally available to any member of the public to whom alcoholic beverages are lawfully able to be sold or served, regardless of whether such member of the public has made or inquired about making or has been requested to make any purchase, donation, or other offer of consideration of any kind. By way of example, and without limiting the foregoing, a retailer or event venue which allows any person to whom alcoholic beverages may lawfully be sold or served to receive, upon request, a quantity of alcoholic beverages free of charge, regardless of whether said recipients have made any purchase or payment or declared any intent to make any purchase or payment and without the provisioner requesting any purchase or payment be made shall not be considered to have engaged in any "sale" within the scope of this Chapter.

School means only such state, local government, church or other schools that teach the subjects commonly taught in the common schools of this state and shall not include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Security personnel shall mean any person hired to work at a bar or nightclub as either an employee or an independent contractor, whose job duties include protecting any person therein from death or serious bodily harm, or preventing or breaking up fights between or involving patrons.

Small Box Discount Store shall mean a retail store that provides assorted, inexpensive items that are continuously offered at a discounted price that is usually under \$10 per item. These stores are commonly referred to by names such as "dollar stores," "99 cent stores," "five dollar stores," "discount stores," or "variety stores." Products sold typically include processed food and drink items, personal hygiene products, office supplies and decorations. Retail floor space is typically less than 15,000 square feet. This term does not include Drug Stores, Food Marts, Gas Stations, Grocery Stores, Specialty Stores, or Vice Marts.

Specialty Store shall mean a retail store that derives at least 50% of its annual gross sales from the sale of certain specialized classes or types of food or beverage products, or related accessories or non-food items. Such products are typically of a superior quality or more limited market availability than those general products commonly found in Grocery Stores. This definition shall include businesses licensed as brewpubs, malt beverage taprooms, or cocktail rooms under this Chapter. This definition shall not include Drugstores, Food Marts, Gas Stations, Grocery Stores, Small Box Discount Stores, or Vice Marts. Appropriate specialized classes of products may include, without limitation, any of the following:

- a. imported or luxury foods or beverages;
- b. foods, beverages, or accessories associated with a particular culture, global region, cuisine, or nationality;
- c. foods, beverages, or accessories conforming to or supporting the dietary requirements of any sincerely held religious practice or belief;
- d. prepared foods (i.e., restaurants);
- e. organic, vegan, or natural foods and beverages;
- f. meats (e.g., butcher shops, delicatessens, or fish or seafood markets);

-
- g. cheese or dairy products;
 - h. oils, seasonings, or spices;
 - i. growlers, craft beers, or wine;
 - j. breads or baked goods;
 - k. cigars;
 - l. honey or beeswax products;
 - m. food or beverage products grown or produced within the State of Georgia or any particular location therein; or
 - n. any similarly specialized products or classes of products.

Tax commissioner means the Tax Commissioner of the Macon-Bibb County.

Vice Mart shall mean a retail store that provides assorted, inexpensive items for neighborhood residents or travelers, such as processed shelf-stable or refrigerated food and drink items; fountain and brewed drinks; handheld prepared food items; automotive items; tobacco products; family planning products; lottery products; gifts; over-the-counter medications; or similar items. Stores are typically designed for expediency—with customers typically buying few items per transaction and spending only a short time in the store. Retail floor space is typically less than 10,000 square feet. This term does not include Gas Stations, Grocery Stores, Food Marts, Small Box Discount Stores, Specialty Stores, or Drugstores.

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

Wine means any alcoholic beverage containing not more than 21 percent alcohol 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, combinations 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.

(Ord. No. O-18-0109 , § 1, 12-4-2018; Ord. No. O-20-0045 , §§ 1.A—E, 7-21-2020; Ord. No. O-21-0019 , §§ 1.A, 1.B, 3-2-2021)

Sec. 4-24. Agents.

- (a) All applicants for licenses under this Chapter shall name one person as the agent of the licensee, including the name, telephone number, address, and electronic mail address thereof, who shall be responsible for any matter relating to such license. Macon-Bibb County shall be authorized to rely on the contact information provided for such agent as valid and all written communications sent for any purpose under this Chapter to such address of record shall be presumed to have been received within three days of sending, and all written communications sent to such electronic address of record shall be presumed to have been received within one hour of sending. The application shall give the mailing address of the agent and the mailing to such agent at such address of any notice required to be given under this Chapter or any other law shall be sufficient notice to a licensee.
- (b) Reserved.
- (c) (1) Any person named as agent under this Section (1) must be employed and regularly scheduled to work at the licensed location a minimum of 30 hours per week; and must be an employee with directorial authority over the operations of the enterprise, including (1) authority to hire and fire staff or oversee the process for making personnel decisions; (2) responsibility to train staff or oversee staff training, and to enforce staff

policy compliance requirements; (3) authority to set and revise local business policies and practices, or to oversee the implementation or revision of local business policies and practices; and (4) authority to purchase and receive alcoholic beverage inventory for the enterprise, or to oversee alcoholic beverage inventory purchasing;

(2) Any person named as agent under this Section for any person or entity licensed under this Chapter or applying for any license under this Chapter shall be personally and independently responsible for ensuring that all statements submitted on any license application or renewal are true and correct, and for ensuring that all state and local laws governing the commercial manufacture, distribution, and sale of alcoholic beverages are followed.

(d) (1) If any person or entity licensed under this Chapter, or any employee or other person acting at the direction thereof, shall be cited or charged with any violation of this Code relating to the commercial manufacture, distribution, or sale of alcoholic beverages, then the agent of such person or entity may also be charged with the offense of serving as an agent of a licensee in violation of the same provision of this Code.

(2) It shall be an element of the offense of serving as an agent of a licensee in violation of this Chapter that the principal plead guilty or nolo contendere, or be convicted of the offense in question before the agent may be convicted. It shall also be an element of the offense that the agent in question directed, aided, participated in, ratified, or had knowledge of the actions underlying said violation; or that the agent in question had knowledge of the commission of a prior, similar violation committed by the same person, licensed entity, or employee within the previous calendar year. The maximum penalty for such offense shall be same as the maximum penalty of that offense for which the principal is convicted, but shall not include any term of incarceration, and may exceed the penalty actually imposed upon the principal.

(e) If at any time while an application for a license is pending, or after any license has been issued under this Chapter, a person named as agent under this Section becomes unwilling or unable to serve as agent for any reason (including, without limitation, resignation, separation, death, disability, or incapacity), the licensee shall have ten business days in which to appoint a new agent, and to provide in writing all information required of agents as part of an application for a new license, including, without limitation, the name, address, and telephone number of said agent. The appointment of a new agent shall be made by filing a written notice with the ~~Tax Commissioner's Office~~ [Department of Business Development Services](#), or its successor department, on an approved form. Until written notice is properly filed as provided in this subparagraph, identifying the new agent, the mailing of any notice required to be given under this Chapter to the most recent agent of record shall be sufficient notice to a licensee. The new agent shall also be fingerprinted and shall be responsible for paying any fees associated therewith. The failure to appoint a new agent within ten business days of the date on which the previous agent actually stopped serving in the capacity as agent shall be grounds for revocation of any licenses issued under this Chapter.

(Ord. No. O-18-0109 , § 1, 12-4-2018; Ord. No. O-20-0070 , § 2, 9-15-2020)

Sec. 4-37. Duty to report changes.

Whenever there shall be a change in any of the facts reported to the commission or its designee in the application for a license after such license has been granted, it shall be the duty of the licensee, within ten business days after such change, to report the same to the ~~Tax Commissioner's Office~~ [Department of Business Development Services](#), or its successor department, in writing. If the change concerns any change to the location at which alcoholic beverages are sold pursuant to any license issued under this Chapter; the identity of the agent; the identity of the licensee; or the addition of any categories of activities regulated under this Chapter which are to be conducted at the licensed premises, then a new license application shall instead be submitted reflecting the changes. If the change does not concern any change to the location at which alcoholic beverages are sold pursuant to any license issued under this Chapter; the identity of the agent; the identity of the licensee; or the addition of any categories of activities regulated under this Chapter which are to be conducted at the licensed premises, then

any requirements relating to advertising the application in the legal organ of the county or to paying any application fee or annual license fee for any license type already held shall be waived.

(Ord. No. O-18-0109 , § 1, 12-4-2018)

Sec. 4-56. Duration and renewal of license; transfers.

- (a) All licenses issued under this Chapter shall expire at 11:59:59 P.M. on December 31st of each calendar year, unless otherwise expressly stated. There shall be no "grace period" to allow for the operation of any licensee under a license for a prior year while awaiting the issuance of a renewal license for the succeeding year, except as provided in this Section. No licensee shall have any vested right to the renewal of any local license.
- (b) No licenses under this Chapter may be renewed if the licensee would be denied a new license under this Chapter.
- (c)
 - (1) Current licensees may apply for renewal of their current license beginning September 1st of any calendar year, including licensees who applied for licensure under this Chapter between January 1st and August 31st of the same year.
 - (2) In the event that a licensee submits a complete license renewal application for a given location, including all fees associated therewith, and such application is accepted as complete, by November 1st of any calendar year, then the expiration of that licensee's licenses issued under this Chapter for such location shall be tolled until the licensee's renewal application is finally adjudicated.
 - (3) Notwithstanding the preceding provisions, any license for which the expiration date is tolled under this Section shall expire by operation of law upon the recommendation of any adverse action by the Commission or any committee thereof as to any license type for which adverse action is taken or recommended. If a renewal license applicant also holds and applied to renew an alcohol license of any license types which are recommended for unconditional approval, then the expiration date of such licenses shall continue to be tolled as to those license types as provided in this Section.
 - (4) Upon the expiration of any alcoholic beverage license by its terms, licensees shall be required to apply as herein provided for new licenses; provided, however, that if sixty or fewer days have passed since the licensee's most recent license expired, then the requirement to advertise under the terms of Section 4-23(6), is waived.
- (d) Alcoholic beverage licenses issued under this Article shall not be transferable or assignable to new owners, but where there is a change in the ownership of a business, the new owner or owners shall file an application as for a new license as provided by this Article. Changes of business interests from one party at interest named in the original application to another party at interest named in the original application and changes from one employee or manager of a private club to his successor shall not be deemed a transfer of a license. In each instance, however, the licensee shall notify the tax commissioner in writing of such change and make a complete disclosure of all of the facts in connection therewith, such notification to be made within three days from the date of such change.
- (e) Notwithstanding the other provisions in this Section, licenses issued under this Chapter on an annual basis for the 2018 calendar year shall expire on April 1, 2019, at 11:59:59 P.M. In the event that a licensee holding an annual license for the 2018 calendar year submits a complete license renewal application for a given location, including all fees associated therewith, and such application is accepted as complete, by April 1, 2019, then the expiration of that licensee's licenses issued under this Chapter for such location shall be tolled until the licensee's renewal application is finally adjudicated.

-
- (f) (1) Upon applying for any renewal license under this Chapter, any person seeking to renew any license for any Drug Store, Food Mart, Gas Station, Grocery Store, Other Small Box Retail Store, Small Box Discount Store, Specialty Store, or Vice Mart licensed under this Chapter shall identify which of the foregoing definitions applies to said store.
- (2) If a business was previously operating as a Drug Store, Food Mart, Gas Station, Grocery Store, Specialty Store, or any kind of business other than an Other Small Box Store, Small Box Discount Store, or Vice Mart; and at the time of renewal is presently operating as an Other Small Box Store, Small Box Discount Store, or Vice Mart, then the licenses issued shall not be renewable under this Chapter, and the licensee shall instead apply as for a completely new license, and be subject to all of the requirements for a new license for an Other Small Box Store, Small Box Discount Store, or Vice Mart.
- (3) The intentional failure to identify, or the knowing misrepresentation of, which definition under paragraph (1) of this subsection applies to a store shall be grounds for any Adverse Action, up to and including revocation of all outstanding licenses.
- (g) Beginning on September 1, 2020, any store currently licensed as a Vice Mart, Other Small Box Store, or Small Box Discount Store may continue to renew any current licenses issued under this Chapter on an annual basis, subject to the renewal requirements of this Chapter, for as long as there is no change in the ownership of the licensed business. Licenses issued for Vice Marts, Other Small Box Stores, or Small Box Discount Stores may not be transferred to new owners, and any new owners shall not be eligible for licensure under this Chapter, unless the location to be licensed complies with the distance requirements set forth in Sec. 4-36.
- (h) For each license issued under this Chapter for the retail sale of alcoholic beverages by the package to go, where such license was first issued after March 16, 2021, it shall be the duty of all license holders to ensure that the business operating pursuant to such license shall never operate as a vice mart. Without limiting the manner in which the County may demonstrate operation as a vice mart, in the event that such a business is inspected by any authorized inspector, and is found to be operating as a vice mart in two inspections which occur no fewer than ten nor greater than sixty days apart, notwithstanding any intervening inspections during such period in which the business is found to be operating as a different business type, then such business shall be rebuttably presumed to be operating as a vice mart. The results of any such inspections shall be discussed with the agent for the business or other manager on duty at the time of the inspection. Any business found to be operating as a vice mart in violation of this paragraph shall be subject to adverse action under Article XI of this Chapter against any or all licenses issued under this Chapter to such business or such licensee, up to and including revocation thereof.

(Ord. No. O-18-0109 , § 1, 12-4-2018; Ord. No. O-20-0045 , § 4, 7-21-2020; Ord. of 9-14-2021 , § 2; Ord. No. O-21-0071 , § 2, 9-14-2021; Ord. No. O-22-0045 , § 1, 8-16-2022)

Sec. 4-57. No new license to be issued after revocation.

- (a) When a license other than a temporary license has been revoked under the provisions of this Chapter, no application for a new alcoholic beverage license for the same location will be received for a period of 12 months and no application for a new license from the licensee involved shall be received for a period of 24 months.
- (b) It shall be unlawful for any person to have or permit the possession of an opened container containing alcoholic beverages of any sort on the premises of a licensee whose license to sell alcoholic beverages has been revoked. The phrase "opened container" shall include not only containers which have no caps, but those containers where the same has been uncapped whether or not the cap has been replaced.

(Ord. No. O-18-0109 , § 1, 12-4-2018)

Sec. 4-58. Issuance of temporary license while application pending.

At the time of application, or any time prior to the final adjudication of any application submitted under this Chapter, any applicant may obtain a temporary license for the manufacture or sale of alcoholic beverages pursuant to the terms of this Section.

- (a) Any person or entity completing the following may be issued a temporary alcohol license:
 - (1) The person or entity must have submitted a complete application for one or more annual alcohol licenses, pursuant to this Chapter, and paid all fees therefor;
 - (2) The applicant or its agent must successfully complete a fingerprint background check, SAVE Verification, and meet all criminal history requirements imposed by this Chapter;
 - (3) The location to be licensed must be approved by the Macon-Bibb County Engineer for compliance with all distance requirements imposed in this Chapter; and the Macon-Bibb County Planning and Zoning Commission for zoning and usage approval;
 - (4) The applicant must submit a written request for a temporary alcohol license, and pay an additional, non-refundable fee therefor;
 - (5) The applicant must submit a form of the kind required by Section 4-23(d)(11) of this Chapter provided by the Tax Commissioner or its successor office or department which identifies whether the business is a Food Mart, Vice Mart, or other business type as defined in Section 4-1 of this Chapter, provided, that no business identified as a business type which is ineligible to receive any certain kind of annual alcohol license shall be eligible receive such kind of temporary alcohol license; and
 - ~~(6)~~ No temporary license will issue to any applicant if the applicant, the agent, or any business operating at the location to be licensed has been the subject of any Adverse Action against any license previously issued under this Chapter, within the past two years.
- (b) Upon completing all requirements set out in paragraph (a) of this Section, the applicant shall be entitled to immediately receive a temporary alcohol license, which license shall allow the applicant to conduct all business activities which the applicant would be authorized to conduct in the event that the pending application is granted in full, and without conditions. The department issuing the temporary license shall notify the Sheriffs Office of the fact of issuance at the time of issuance.
- (c) All temporary licenses issued pursuant to this Section shall be clearly and conspicuously marked as such.
- (d) All temporary licenses issued under this Section shall expire by operation of law on the day following the date on which the corresponding application for annual licensure is finally adjudicated. For purposes of this code Section, an application is "finally adjudicated" on the day that the annual license is actually issued, or, if the corresponding application for annual licensure is denied in part or in full, upon the expiration of any period allowed by law to obtain review by a superior judiciary. Each temporary licensee is under a duty to know at all times whether its license application has been finally adjudicated, and it shall be considered a violation of this Section for any temporary licensee to operate under an expired temporary license. In the event that a temporary license is not finally adjudicated until after the time that the license applied for, if issued, would have expired, then the license application shall instead be construed as an application for a license effective during the calendar year in which the application is finally adjudicated.
- (e) The issuance of a temporary license shall have no effect on the consideration of a corresponding annual license application, and shall not be construed to create any expectation that an annual license will be issued.

-
- (f) All licensees operating pursuant to a temporary license are subject to all rules and regulations set out in this Code in the same manner and to the same extent as licensees operating pursuant to an annual license. Any events occurring prior to the final issuance of an annual alcohol license may be considered as evidence in support of taking Adverse Action on the licensee's pending annual license application, including, but not limited to, any adverse change in conditions at or near the licensed premises; or any citation for violations of any ordinance or statute relating to the sales or consumption of alcohol on a premises, or the operations of a licensed premises.
 - (g) Temporary licensees shall have no vested interest in their temporary licenses. For any licensee operating pursuant to a temporary license issued under this Section, if such licensee, or such licensee's agent or employee, is cited or charged with violating any statute or ordinance relating to the manufacture, sales, service, or consumption of alcoholic beverages, then all temporary licenses issued pursuant to this Section shall be immediately and summarily revoked at the time of citation or charging, and such licensee shall immediately thereafter suspend all business activities which were previously being conducted pursuant to such temporary license.
 - (h) If, at any point in the process of evaluating the annual license application that corresponds with a temporary license issued pursuant to this subsection, it becomes apparent that the applicant likely does not meet one or more of the material requirements for annual licensure, then the temporary license shall be subject to immediate and summary revocation, without advanced notice or additional process.
 - (i) Any temporary license issued in response to an application submitted under this Chapter shall be revoked by operation of law upon the recommendation of any adverse action by the Commission or any committee thereof as to any license type for which adverse action is taken or recommended. If a temporary license holder also holds a temporary license for any license types which are recommended for unconditional approval, then such temporary license shall continue in force as to those license types as provided in this Section.

(Ord. No. O-18-0109 , § 1, 12-4-2018; Ord. No. O-20-0026 , § 1, 3-17-2020)

Sec. 4-300. Brewpub license.

- (a) For purposes of this Chapter, the terms "brewpub" and "eating establishment" shall have the same definitions as provided in O.C.G.A. § 3-1-2. No person or entity shall be eligible to obtain a brewpub license unless that person certifies in writing that the premises to be licensed will operate as an eating establishment. Any brewpub license shall be subject to revocation if, at any time, the licensed premises ceases operating as an eating establishment.
- (b) The percentage of gross food and beverage sales shall be calculated and verified as follows:
 - (1) Brewpub licensees that have been in operation for more than six months as of the date in which the licensee applies to renew its licenses under this Chapter for the succeeding calendar year shall submit a return, as part of its renewal application, showing its gross sales for the twelve complete calendar months immediately preceding the date of application; or, for each complete calendar month of operations preceding the date of application in which the licensee has been in operation, and demonstrating that its sales of prepared meals or food equal or exceed fifty percent of all gross sales of food and beverage items over the period covered by such return, as set out in O.C.G.A. § 3-1-2.
 - (2) The ~~Tax Commissioner's Office~~Office of Business Development, or its successor office, shall be authorized to prepare a return form upon which calculations of percentages of gross food and beverage sales shall be presented; and such office shall further be authorized to require that all such returns be submitted on the prepared form.
 - (3) In the event that a brewpub applying for renewal under this Section cannot demonstrate that its sales of prepared meals or food equal or exceed fifty percent of all gross sales of food and beverage items

over the period covered by such return, as set out in O.C.G.A. § 3-1-2, then it shall not be permitted to renew its brewpub license. However, such business may instead obtain either a license for the manufacture of malt beverages; or licenses for retail sale of alcoholic beverages, but not both, by paying the appropriate license fees for the desired licenses.

- (c) Any licensee holding a brewpub license shall be authorized to do the following:
- (1) Manufacture on the licensed premises not more than 10,000 barrels of malt beverages in a calendar year solely for retail sale;
 - (2) Operate an eating establishment that shall be the sole retail outlet for such malt beverages, and which eating establishment may sell such malt beverages by the drink for consumption on-premises, or by the package for consumption off-premises;
 - (3) Provided that the licensee offers for sale for consumption on-premises at least one variety of commercially available canned or bottled malt beverage that is manufactured off-premises and purchased from a licensed wholesaler, exercise all rights afforded to holders of licenses to sell malt beverages or wine by the drink for consumption on-premises, and exercise all rights afforded to holders of licenses to sell malt beverages or wine by the package for consumption off-premises;
 - (4) Sell alcoholic beverages pursuant to this Section on all days and at all times that sales of alcoholic beverages by retailers are lawful under this Chapter, including, but not limited to, Sundays;
 - (5) Notwithstanding any other provision of this paragraph, sell up to a maximum of 5,000 barrels annually of such malt beverages to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brewpub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale; and
 - (6) Notwithstanding any other provision of this Chapter, sell growlers of malt beverages manufactured on the licensed premises directly to consumers, and sell growlers of malt beverages produced by other manufacturers directly to consumers, provided that the products of other manufacturers are purchased from a licensed wholesaler.
- (d) No person or entity may hold a brewpub license and a license for the sale of distilled spirits by the package for consumption off-premises at the same time.
- (e) Brewpub licensees may separately obtain and hold licenses for alcoholic beverage caterer; brown bagging permit; catered or special event permit; wine-tasting permit; or retail sale of distilled spirits by the drink for consumption of [off-] premises, provided they meet all applicable qualifications for each such license applied for.

(Ord. No. O-18-0109 , § 1, 12-4-2018)

Sec. 4-401. Applications submitted to Tax Commissioner's Office~~business development services~~.

- (a) All applications under this Chapter shall be submitted to the Macon-Bibb County Tax Commissioner's Office~~Department of Business Development Services~~. It shall be the responsibility of each applicant to ensure that they have fully complied with this Chapter, and are submitting a complete application.
- (b) The Tax Commissioner's Office~~Department of Business Development Services~~ shall not accept any incomplete applications, or any applications for which the appropriate fee is not paid in full at the time of submission. Any incomplete applications inadvertently accepted shall, upon discovery, be returned without adjudication, along with a refund of all fees submitted therewith, and the applicant informed of the deficiencies therein. The applicant shall be permitted to complete the application and submit it anew without any delay or adverse effect, except that no application will be considered submitted until it is complete.

-
- (c) The ~~Tax Commissioner's Office~~~~Department of Business Development Services~~ should review all applications for catered event permits, special event permits, and home brew special event permits, and should issue such licenses if it determines that the applicant has met all requirements of this Chapter. The ~~Tax Commissioner's Office~~~~Department of Business Development Services~~ should strive to inform applicants of any known policies of the Georgia Department of Revenue which may affect the ability of an applicant to obtain a corresponding State special event permit based on the timing of such application. Notwithstanding the foregoing, no application shall be refused or denied based on the time between the date of filing and the scheduled event date; and, provided further that no refunds shall be issued for permit fees paid, regardless of whether the applicant is able to obtain a corresponding State permit.
- (d) If the ~~Tax Commissioner's Office~~~~Department of Business Development Services~~ determines that an applicant for a catered event permit, special event permit, or home brew special event permit has not met all of the requirements for the license applied for, then the ~~Tax Commissioner's Office~~~~Department of Business Development Services~~ shall notify the applicant by telephone, at the number included in the application, of any deficiencies in the application, and shall give the applicant an opportunity to correct such deficiencies, or shall return the application as denied and refund the permit fee if the applicant cannot correct any deficiencies in a timely manner. Upon request from the applicant, the ~~Tax Commissioner's Office~~~~Department of Business Development Services~~ shall refer any denied request to the Sheriff for further review in accordance with this Article, without refunding said permit fee; provided that such review shall proceed along the same timeline as any other license reviewed by the Sheriff under this Article.
- (e) Upon receipt of any application for a license under this Chapter other than a catered event permit, a special event permit, or a home brew special event permit, the ~~Tax Commissioner's Office~~~~Department of Business Development Services~~ should promptly cause a complete copy of the application materials to be transmitted to the Sheriff's Office for further review in accordance with this Article.
- (f) Each license granted under this Chapter shall be issued by the ~~Tax Commissioner's Office~~~~Department of Business Development Services~~, and shall state on its face the type of license it is, and shall be individually numbered.

(Ord. No. O-18-0109 , § 1, 12-4-2018; Ord. No. O-19-0036 , § 1, 6-18-2019)

Sec. 4-402. Sheriff to make recommendations to commission.

- (a) Upon receipt of an application from the ~~Tax Commissioner's Office~~~~Department of Business Development~~, the Sheriff of Macon-Bibb County shall review all applications for the issuance, transfer, or renewal of any license under this Chapter, and shall make a recommendation, in writing, to the Macon-Bibb County Commission. In making this review, the Sheriff shall be authorized to consider any information from any source regarding the applicant, any owner, the agent, or the location for which a license is sought. The Sheriff's review shall not be required to include independently verifying the information provided by an applicant on an application. The Sheriff's recommendation shall indicate whether the Sheriff recommends granting, denying, or granting with conditions the license application in question, and shall include the Sheriff's particular reasons for making such recommendation. Where the Sheriff recommends granting a license with conditions, the recommendation shall include the particular conditions the Sheriff would impose, as well as the particular reasons for imposing such conditions.
- (b) Separate recommendations shall be made for each initial license application, and each license renewal or transfer application, except that the Sheriff may submit as a single bulk item his or her recommendation to approve any or all license renewals which meet the following conditions:
- (1) Each such renewal application was timely submitted, and all renewal fees were timely paid;
 - (2) Each such renewal is limited only to licenses presently held by the applicant, and does not seek to add to the categories of licenses held by that applicant; provided, however, that an application seeking to renew some, but fewer than all, categories of licenses currently held under this Chapter may still be included in a bulk recommendation to approve renewal under this paragraph;

-
- (3) The renewal application does not seek to change the licensee, licensed location, or agent of record under the license;
 - (4) In the Sheriff's opinion, there have been no material or unfavorable changes in the operations or community impact of each such business applying for renewal since such business's license under this Chapter was last issued or renewed;
 - (5) The Sheriff did not perform a review of any such license pursuant to subsection (c) of this Section during the two calendar years preceding the date of the renewal application; and
 - (6) In the Sheriff's opinion, each such licensee remains qualified for licensure under this Chapter and is entitled to renewal of all licenses designated in that business's renewal application; provided that, if conditions have previously been imposed on the licensee in lieu of denial or revocation of any license under this Chapter, then it is also the Sheriff's opinion that the conditions imposed are being complied with, and that it is not necessary to impose any further conditions on said licensee.
- (c) The Sheriff shall be responsible for supervising the activities of all persons licensed under this Chapter so as to ensure compliance with the provisions of this Chapter and with all State laws relating to the manufacture, distribution, sale, service, or consumption of alcoholic beverages. The Sheriff shall be authorized to undertake a review of any license issued under this Chapter for the purpose of considering whether to take any Adverse Action against such business if, at any time during the effective period of any license issued under this Chapter, the Sheriff becomes aware of any of the following:
- (1) The performance of any act prohibited by this Chapter or the failure to perform any act required by this Chapter as well as the violation of any law, state or federal, relating to the business of the licensee. If such act, omission or violation is done by an agent, servant, employee, or officer of the licensee, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense;
 - (2) The entry of a plea of guilty or nolo contendere, or the conviction of any licensee, partner, or any officer, director or stockholder of a licensed corporation with respect to a charge of violation of any of the laws of the United States or of the state relating to alcohol control, or any crime, whether a felony or not, involving moral turpitude;
 - (3) Any other act or omission with respect to the operation of a business licensed hereunder which the commission or its designee shall find to be contrary to the public interest, or which shall render the licensee, or the business location thereof, unfit for the continued operation of the business;
 - (4) A material change in conditions of the premises or the structures or facilities located thereon;
 - (5) A material change in the nature or scope of the operations of the licensed business with respect to those activities for which such business is licensed under this Chapter; or
 - (6) The occurrence of any event or events during the preceding calendar year, at or within 100 yards of the licensed business, whether related to each other or unrelated, or the commission of any act or acts in any place by the licensee or the business's owners or managers, which, in the aggregate, would cause the Sheriff to materially alter his or her recommendation as to the suitability of such business for the licenses it possesses or the need for conditions to be imposed on such licensee, upon consideration of the following:
 - a. Whether any such events constitute a crime under the laws of the United States, the State of Georgia, or the Macon-Bibb County Code of Ordinances;
 - b. The fact or severity of any personal injuries or loss of life suffered in any such event, as well as the number of people injured or killed therein;
 - c. Whether any such events included:
 1. The use or brandishing of any firearm or other weapon;

-
2. The use, purchase, sale, or distribution of Controlled Substances, in violation of O.C.G.A. tit. 16, ch. 13;
 3. Gang activity;
 4. The commission of any Sexual Offenses, in violation of O.C.G.A. tit. 16, ch. 6; or
 5. Unlawful Gambling, in violation of O.C.G.A. § 16-12-2;
 6. The violation of any laws of the United States, the State of Georgia, or the Macon-Bibb County Code of Ordinances relating to the manufacture, distribution, sale, service, or consumption of alcohol.
- d. The degree of knowledge, complicity, or involvement, and the actions of the licensee; or of the business's owners, agents, employees, or customers, with respect to such events; and
 - e. Any other factors which the Sheriff is charged with reviewing or which the County is authorized to consider as part of an initial license application under this Chapter.
- (d) Upon completing any review under subsection (c) of this Section, the Sheriff should prepare a written report identifying the licensee and all current licenses issued under this Chapter to said licensee for any businesses or locations within Macon-Bibb County; the particular business(es) or location(s) for which the review was performed; the reasons for which a review was initiated; any findings or conclusions made as a result of that review; and stating whether the Sheriff recommends no changes for the licensee, or specifying any Adverse Actions the Sheriff recommends taking against such licensee. Copies of this report shall be sent to the licensee's registered address, as well as to the ~~Tax Commissioner's Office~~~~Department of Business Development Services~~, the Macon-Bibb County Commission, and the County Attorney. There shall be no limit to the frequency with which the Sheriff shall be authorized to review any particular licensee, provided that no Adverse Actions shall be recommended or taken based on information which was previously disclosed as part of an application by the licensee to obtain, renew, or transfer any license under this Chapter, or as part of any proceedings relating to the consideration thereof.
- (e) If, upon completing any license review under subsection (c) of this Section, the Sheriff makes a determination that the factors considered under subsection (c) create a particular and severe risk of injury or death to any person or to any member of the public at large, then the Sheriff shall have the authority to immediately revoke on a temporary basis all licenses issued under this Chapter to such licensee, for no more than ninety (90) days or until such time as the Macon-Bibb County government reaches a final administrative decision on the determination, whichever occurs first.
- (f) In the event that any licensee reviewed under subsection (c) of this Section applies for the issuance, renewal, or transfer of any license under this Chapter, whether for the same business or location or otherwise, within two years of the date of such review, then the Sheriff shall include a copy of the written report prepared pursuant to subsection (d) of this Section as an attachment to the new recommendation made pursuant to subsection (a) of this Section.
- (g) No recommendation or finding by the Sheriff shall be considered to be final.
- (Ord. No. O-18-0109 , § 1, 12-4-2018)

Sec. 4-404. Statement of recommendation and notice of rights by county attorney.

Upon receipt of any recommendation from the Committee of the Whole of the Macon-Bibb County Commission, pursuant to Subsection 4-403(e)(2) of this Chapter, the County Attorney shall prepare a written statement, informing the applicant or licensee of the recommendation from the Committee of the Whole, and identifying those facts or persons supporting the committee's recommendation. The statement shall also include a certified copy of this Chapter. If the Clerk of Commission has provided a form for the purpose of requesting a hearing under Subsection 4-405(c) of this Chapter, then the County Attorney should enclose a copy of that form along with the statement provided for in this Section. The statement shall be sent by Certified Mail, return receipt

requested, or by private overnight courier service with a signature required upon receipt, to the business address, agent's address, and/or owner's address provided on the application for the license in question. The County Attorney may also send the statement to the electronic mail address for the agent and/or business provided in the application.

(Ord. No. O-18-0109 , § 1, 12-4-2018)

Sec. 4-405. Request for hearing.

- (a) Upon receipt of the statement described in Section 4-404 of this Chapter, an applicant or licensee shall have ten days from the date of receipt in which to file a request for hearing with the Clerk of the Macon-Bibb County Commission. All statements sent in accordance with Section 4-404 shall be deemed received on the earliest~~st~~ of the date of actual receipt, ~~or the day of sending via electronic mail, or~~ three days from the date of sending via Certified Mail, return receipt requested, or by private overnight courier service with a signature required upon receipt. In the event that the deadline for filing such request for hearing falls on a Saturday, Sunday, State or County holiday, or other day on which the Office of the Clerk of Commission is closed for the transaction of ordinary business, then such deadline shall be extended to the next day in which the Office of the Clerk of Commission is open. Any request not physically received by the Clerk of Commission in the time provided herein shall be deemed untimely.
- (b) Wherever any applicant or licensee fails to request a hearing on the recommendation from the Committee of the Whole, or files an untimely request for hearing, that applicant or licensee shall be deemed as a matter of law to have consented to the disposition recommended by the Committee of the Whole without further hearing or due process.
- (c) The Clerk of Commission may provide a form for use in requesting a hearing under this Section, but any request shall be deemed sufficient provided that it is made in writing; identifies the business name and address for the application or license for which a hearing is requested; states that a hearing is being requested; and is signed and dated by the applicant or licensee.
- (d) Upon receipt of any request for hearing pursuant to this Section, whether timely or untimely, the Clerk of Commission shall forward a copy of the same to the County Attorney.

(Ord. No. O-18-0109 , § 1, 12-4-2018)

Sec. 4-409. Consideration by Macon-Bibb County Commission.

- (a) Upon consideration of any agenda item referred to the Commission by the Committee of the Whole, pursuant to Subsection 4-403(d)(1), the Commission shall be authorized to take any action on the agenda item, other than an Adverse Action, without further process. If the Commission indicates by vote that any Adverse Action should be taken on said agenda item, then the Commission shall indicate its reasons for taking such Adverse Action, and the agenda item shall automatically stand tabled and subject to reconsideration, and the matter shall be referred to the County Attorney as though it had been referred to the County Attorney pursuant to Subsection 4-403(d)(2). It is the intention of this Section to modify the rules of order set out in this Code with respect to the effect of such a vote.
- (b) Upon receipt of notification, pursuant to Subsection 4-406(a), that no request for a hearing was timely submitted following the applicant's or licensee's receipt of a statement under Section 4-404, the Clerk of Commission shall be authorized to place the final consideration of the recommendation of the Committee of the Whole on the agenda of the next regular meetings of the Committee of the Whole and the Macon-Bibb County Commission scheduled for not fewer than five days from the date the Clerk of Commission is so notified.

Created: 2023-02-13 17:22:18 [EST]

(Supp. No. 12)

-
- (c) Upon receipt of a final recommendation from the County Attorney, pursuant to Subsection 4-407(k), the Clerk of Commission shall be authorized to place the final consideration of the recommendation from the County Attorney on the agenda of the of the next regular meetings of the Committee of the Whole and the Macon-Bibb County Commission scheduled for not fewer than five days from the date the Clerk of Commission is so notified.
 - (d) The publication of any item on the agenda of any meeting of the Committee of the Whole or the Macon-Bibb County Commission, including the date, time, and location of such meeting, pursuant to subsection (a) of this Section, shall constitute notice to the applicant or licensee that is the subject of the agenda item of the fact that the Sheriff's recommendation on said application or license is being considered by the Committee of the Whole. It shall be the duty of any applicant or licensee to check meeting agendas as they are published in order to see when his or her application or license is under consideration. The applicant or licensee shall be permitted to appear at either the Committee of the Whole meeting or at the Commission meeting, or both, to address the limited subject of any errors which the applicant or licensee perceives in either the findings of fact by the special master, or the opinion at law of the County Attorney. The applicant or licensee may appear through counsel, if desired, but shall not be entitled to present additional evidence or witnesses at this time, and shall be limited to no more than ten minutes before the Committee of the Whole and five minutes before the Commission.
 - (e) Copies of all proceedings, hearing records, and final decisions of the Macon-Bibb County Commission shall be included in the file of any applicant or licensee on record with the Sheriff's Office and the ~~Department of Business Development Services~~ Tax Commissioner's Office, or any successor department, and shall be made available for a reasonable copying charge to the applicant or licensee in question. The County Attorney shall, following the final decision of the Macon-Bibb County Commission on any licensing matter, mail a written copy of that decision, along with the reasons therefor, to the applicant or licensee, pursuant to O.C.G.A. § 3-3-2(b)(2). A copy of this written decision shall also be kept in the applicant's or licensee's file with the ~~Department of Business Development Services~~ Tax Commission's Office.

(Ord. No. O-18-0109 , § 1, 12-4-2018)

Sec. 4-412. Requests to modify or remove conditions imposed.

- (a) Where any condition is imposed on any licensee under this Chapter in lieu of denying issuance, renewal, or transfer of a license, or in lieu of revoking any license, the licensee shall have no opportunity to challenge or seek removal or modification of the conditions imposed for a period of one year from the later of the date on which the conditions were first imposed or the date on which any appeal affirming the imposition of any or all conditions became final.
- (b) After the expiration of the time period set out in subsection (a), above, any licensee shall be authorized to request in writing that the Sheriff undertake a review as to the ongoing appropriateness of the conditions imposed upon said license. The request shall identify those particular conditions which the licensee would like to have modified or removed, and shall include any information or evidence supporting the licensee's request which the licensee would like the Sheriff to consider. The request shall be submitted to the ~~Department of Business Development Services~~ Tax Commissioner's Office, which shall promptly forward copies of the same to the Sheriff, the Clerk of the Macon-Bibb County Commission, and the County Attorney.
- (c) Upon receipt of a request to modify or remove any conditions imposed, the Sheriff shall review the site and activities of the licensee in the manner described in Subsection 4-402(c). The Sheriff shall consider all materials submitted by the licensee as part of this review, and shall prepare a written report and recommendation as described in Subsection 4-402(d), including particular recommendations as to each request made by the licensee to modify or remove any conditions previously imposed. In the event that a condition is to be modified, it need not be modified in the manner or to the degree requested by the licensee.

-
- (d) The Sheriff's review under this Section shall be plenary, and nothing in this Section shall prevent the Sheriff from recommending the imposition of new conditions upon any licensee in lieu of revocation of any licenses, or from recommending the revocation of any license if the Sheriff learns of information during such review which would support any such recommendation; provided that no conditions previously imposed shall be made more restrictive, and no other Adverse Actions shall be taken, based on information which was previously disclosed as part of an application by the licensee to obtain, renew, or transfer any license under this Chapter, or as part of any proceedings relating to the consideration thereof.
 - (e) Copies of any review completed under this Section shall be forwarded to the ~~Department of Business Development Services~~Tax Commissioner's Office, the Macon-Bibb County Commission, and the County Attorney. Upon receipt by the Macon-Bibb County Commission, further proceedings shall continue as under Subsection 4-403(a), and all subsequent procedures shall be identical to those procedures which apply to recommendations made by the Sheriff pursuant to Section 4-402.
 - (f) Nothing in this Section shall prohibit the Sheriff from including any licenses reviewed pursuant to this Section as part of a bulk recommendation for renewal under Subsection 4-402(b), if all requirements for doing so are met.
 - (g) No licensee shall have the right to request any modification or removal of conditions imposed while any prior request made under this Section is pending, or for a period of one year after the later of the date upon which a final decision is made on any prior request under this Section or the date on which any appeal affirming an Adverse Action taken as a result of any prior request made under this Section becomes final.

(Ord. No. O-18-0109 , § 1, 12-4-2018)

Sec. 4-503. Issuance of licenses.

Upon satisfaction of all requirements, as set forth in Section 4-502 of this Code, the ~~Macon-Bibb County Department of Business Development Services~~Tax Commissioner's Office, or any successor department, shall issue the applicant a license. The license shall be issued in the name of the Alcohol Handler, and not in the name of his or her employer. A single license shall be valid for the performance of all Alcohol Handler duties performed for any number of employers, locations, or venues within Macon-Bibb County. The license shall be of suitable size and construction to be carried around on the licensee's person at all times.

(Ord. No. O-18-0109 , § 1, 12-4-2018)