Chapter 3

ALCOHOLIC BEVERAGES

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ARTICLE I. IN GENERAL

Section 3.1 Definitions.

For the purposes of this ordinance, the following definitions shall apply:

City as used herein shall mean the incorporated area of the City of Blakely, Georgia.

City Council or *Council* shall mean the City Council of the City of Blakely, Georgia.

Conviction shall mean an adjudication of guilt or a plea of guilty, or a plea of nolo contendere or the forfeiture of bond by a person charged with a crime.

Distance shall be measured by the most direct route traveled on the ground.

License shall mean the authorization by the City Council of the City of Blakely to engage in the sale of malt beverages and/or wine.

Malt Beverages and *Wine* shall mean those beverages defined by the Official Code of Georgia Annotated, § 3-1-2.

Minor shall mean any person to whom the sale of alcoholic beverages is prohibited by O.C.G.A. § 3-3-23.

Person shall mean any individual.

Premises shall mean the definite closed or partitioned-in locality, whether a room, shop, or building, wherein malt beverages and/or wine are sold and any and all surrounding and adjacent areas, whether enclosed or not, which are owned by or under the control of the person to whom the license is issued.

Retail Sale shall mean selling or offering for sale any malt beverage and/or wine to any member of the public.

School or *College* shall mean such state, county, city, church or other school that teaches the subjects commonly taught in the common schools of this state, to include licensed preschool and/or

kindergarten facilities 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.

Section 3.2 Public Possession or Consumption.

a. It shall be unlawful for any person to drink any alcoholic beverage upon property of the City or upon any open premises adjacent to any public business in the City, whether or not such person is located in a vehicle.

b. It shall be unlawful for any person to have in his or her hand any open container used, or which has been used, for alcoholic beverages, upon the property of the City or upon any open premises adjacent to any public business in the City.

c. This section shall not be applicable to the "parking lot" or other premises of a duly licensed business selling alcoholic beverages where "curb service" is regularly provided by employees of such business; however, this section is expressly applicable to such businesses where customers "service themselves," which is to say, where the customer makes his purchase and returns to a vehicle or the outside premises of such business.

Section 3.3 Possession, etc., by Minors.

a. It shall be unlawful for a minor to attempt to purchase or purchase, or for any other person to purchase for a minor, any alcoholic beverage.

b. It shall be unlawful for a minor to exhibit any fake, forged, or borrowed credentials in an effort to obtain alcoholic beverages to which he or she is not legally entitled.

c. It shall be unlawful for a minor to have alcoholic beverages in his or her possession.

d. It shall be unlawful to sell any alcoholic beverage to any individual without first checking the purchaser's credentials which shall include a date of birth.

e. It shall be unlawful to allow any minor on the premises of any business or establishment when thirty percent or more of the gross receipts of the business is from the sell of alcoholic beverages.

Section 3.4 General Operational Regulations.

a. No holder of a license authorizing the retail sale of alcoholic beverages in the City, or any agent or employee of the licensee, shall do any of the following upon the licensed premises:

1. Knowingly sell malt beverages and/or wine and distilled spirits to a minor.

2. Knowingly sell malt beverages and/or wine and distilled spirits to any person while such person is in an intoxicated condition.

3. Sell malt beverages and/or wine and distilled spirits upon the licensed premises, or permit the consumption of malt beverages and/or wine and distilled spirits upon the licensed premises, on any day or at any time when such sale or consumption is prohibited by law.

4. Permit on the licensed premises any disorderly conduct or breach of peace.

b. Establishments that do not have a license for on-premises consumption of malt beverages and/or wine issued pursuant to Section 3.27 or a brown bagging permit pursuant to Article III of this Chapter 3 shall not permit alcoholic beverages of any form to be consumed on their premises or in their establishments.

Section 3.5 Hours of Operation.

a. Retail and wholesale dealers of malt beverages, wine, and distilled spirits shall not engage in the sale of such beverages except between the hours of 6:00 a.m. and 1:30 a.m. on Mondays, Tuesdays, and Wednesdays, between the hours of 6:00 a.m. and 2:30 a.m. on Thursdays and Fridays, and between the hours of 6:00 a.m. and 12:00 midnight on Saturdays, and shall not permit their places of business to be opened for the sale of such beverages on sundays, Christmas Day, or any other days prohibited by state law.

b. Establishments with an on-premise consumption license shall not allow patrons within the premises of such building, or the curtilage surrounding such premises over which the licensee has control, between the hours of 1:45 a.m. and 6:00 a.m. on Mondays, Tuesdays, and Wednesdays, between the hours of 2:45 a.m. and 6:00 a.m. on Thursdays and Fridays, and between the hours of 12:00 midnight on Saturdays. The license holder and all employees shall vacate the premises within fifteen minutes after closing time.

c. Establishments having an on-premises consumption license issued pursuant to Section 3.12d of this Chapter and realizing 50 percent or greater of their business, as measured by gross receipts, from the sale of food may be permitted to be opened for any reason on Sundays, Christmas Day, or any other days on which the sale of alcoholic beverages is prohibited by state law. Provided however, no alcoholic beverage may be sold.

Section 3.6 Use of Licensed Wholesalers.

Alcoholic beverages shall be received at or delivered to the premises of the retail licensee by no other means than by a conveyance owned and operated by a wholesale dealer with a permit from the State of Georgia and a license from the City to make deliveries in the City. Transportation of such beverages by any other means shall be grounds for revocation of the retail license or wholesale

license.

Section 3.7 Statutes Adopted.

All state laws and regulations pertaining to the sale of alcoholic beverages are incorporated herein and considered a part of this article.

Section 3.8 Penalties.

A violation of any provision of this Chapter shall constitute an offense punishable as provided in Section 1.7 of the City Code of the City of Blakely.

Sections 3.9 - 3.10 Reserved.

ARTICLE II. MALT BEVERAGES, WINE AND DISTILLED SPIRITS

Division 1. Generally.

Section 3.11 Title.

This article shall be known as the "Blakely Alcoholic Beverage Ordinance."

Section 3.12 General Provisions.

a. The sale of alcoholic beverages shall be legal in the City of Blakely, subject to the following terms, conditions, and restrictions, and upon full compliance by all persons engaged in business under the provisions of this ordinance.

b. The license granted hereunder shall be a mere grant or privilege to carry on a business during the terms of the license, subject to all the terms and conditions imposed herein and by related laws located in the applicable provisions of the Official Code of Georgia Annotated and other City ordinances relating to business licenses.

c. Licenses may be granted for the purpose of package sales of malt beverages and/or wine.

d. Licenses may be granted for the sale of malt beverages and/or wine to be consumed on the premises.

e. Licenses may be granted for the purpose of package sales of distilled spirits.

f. Licenses may be granted for "Brown Bagging" as defined in Article III of this Chapter.

Section 3.13 Excise Tax–Malt Beverages.

a. There is hereby levied and imposed upon all wholesale dealers selling malt beverages within the City a specific excise tax in the amount of $.05 per 12-ounce container or any portion thereof so as to graduate the tax on bottles, cans, and containers of various sizes of malt beverages sold by each wholesale dealer within the City, and an excise tax on tap or draft beer in the amount of $6 for each container sold, as hereinafter specified, containing not more than 15½ gallons and at a like rate for fractional parts, where the beverage is sold in or from a barrel or bulk container, such beverage being commonly known as tap or draft beer.

b. *Against whom levied:* The malt beverage excise tax is levied against and shall be paid by each licensed wholesale dealer in malt beverages in the City.

c. *Due date and required report:* The malt beverage excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of malt beverages sold for the preceding calendar month by size and type of container.

Section 3.14 Excise Tax--Wine.

a. *Rate of levy*: There is hereby set and levied on the sale of wine, excluding fortified wine, an excise tax in the sum of $.22 per wine gallon and in similar proportion for bottles and containers of various sizes.

b. *Against whom levied*: The wine excise tax shall be paid by each licensed wholesale dealer in wine in the City.

c. *Due date and required report:* The wine excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of wine sold for the preceding calendar month by size of container.

Section 3.15 Excise Tax–Distilled Spirits.

a. *Rate of levy*: There is hereby levied an excise tax computed at the rate of $0.22 per liter on all distilled spirits sold, displayed, or stored in the City.

b. *Against whom levied:* The distilled spirits excise tax shall be paid by each licensed wholesale dealer in distilled spirits in the City.

c. *Due date and required report:* The distilled spirits excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of and payment shall be accompanied by a report itemizing the exact quantities of distilled spirits sold. The tax imposed by this section shall be prorated down on one-half pints, pints, fifths, quarts, half-gallons, wile gallons and other authorized sizes so that each bottle or each individual size container shall be taxed on the basis set forth in this section.

Sections 3.16 - 3.19 Reserved.

Division 2. Licenses.

Section 3.20 Application Fee.

There shall be non-refundable fee of $75.00 which must be submitted simultaneously with an application for any license covered under this Chapter, no such application shall be processed and considered by the city Council until such fee has been paid.

Section 3.21 Licensee Qualifications.

All applicants shall be investigated by the City of Blakely Police or by such other person or entity as may be designated by the City Council. The report of such investigation shall be presented to the City Council for consideration with the application.

No alcoholic beverage license required by this chapter shall be issued:

a. To any person who is not a resident of the City of Blakely unless such person designates a resident of the City who shall be responsible for any matter relating to the license.

b. To a person who, in the opinion and judgment of the governing body, is not of good moral character and reputation in the community in which such person resides.

c. To a person found by the governing body to have been guilty of the violation of any federal, state, or local law or regulation respecting the manufacture, possession, or sale of any alcoholic beverage within the last five years, or who has forfeited a bond to appear in court to answer charges for any such violation within the last five years.

d. To any person who is the previous holder of an alcoholic beverage license and is, in the judgment and discretion of the governing body, an unfit person to have a license because of the manner in which such person conducted business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any laws or regulations relating to such business.

e. For a location not suitable in the judgment and discretion of the governing body because of traffic congestion, general character of the neighborhood, or by reason of the effect which such establishment would have on the adjacent and surrounding properties.

f. For a location within an area where, in the judgment of the governing body, the number of alcoholic beverage licenses already granted makes it contrary to the public interest and welfare of the citizens of the City.

g. For a location at which a previous alcoholic beverage license has been denied, revoked, or suspended, and where, in the judgment of the governing body, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the best interest of public health, safety, welfare, or morals that the sale of alcoholic beverages be permitted at such location.

h. To any person who has made any false statement on an application for a license under this chapter or any previous application for a license under this chapter.

i. To any person who has been convicted of a felony, or a violation of the laws or regulations of any state or political subdivision relating to the use or sale of drugs or alcoholic

beverages, or who has been convicted of a misdemeanor involving the use of firearms, theft, violence, or a crime of moral turpitude. The forfeiture of bond or collateral or a plea of nolo contendere or a plea of guilty shall be considered a conviction for the purpose of this section.

j. To a person who is related within the first degree of consanguinity and affinity, as computed according to the Cannon law, to any person who has been previously denied a license or had a license revoked or suspended, if such previous applicant or holder of a license has any ownership interest in the applicant's business.

k. To a person who has had a license revoked within the last five years.

l. For a location for the sale of distilled spirits within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds or college campus.

m. For a location for the sell of malt beverages and wine within 100 yards of any school building, educational building, school grounds or college campus.

n. For a location which does not have adequate off-street facilities or other parking available for its patrons.

o. To any corporation unless all directors, officers and stock holders are residents of the City of Blakely unless such corporation designates a resident of the City who shall be responsible for any matter relating to the license.

p. To any employee or elected official of the City including the Mayor and City Council.

q. To anyone making a statement on an application for a license that is found to be false.

Section 3.22 Malt Beverages--License Required.

Each brewer, wholesale dealer, and retail dealer of malt beverages, as such terms are defined in O.C.G.A. §§ 3-1-2 and 3-5-1, who does business within the City shall be required to obtain an annual license from the City Clerk. Each brewer, wholesale dealer, and retail dealer shall make application in the manner prescribed by the City Clerk prior to January 1 of each year. Each application shall be considered by the City Council no later than the first regularly scheduled meeting in January. No new applicant for an alcohol license may engage in the sale of alcohol without approval by the City Council. Applicants for renewal may continue the sale of alcohol beverages until the license application is denied by the Council.

Section 3.23 Same--Fees.

The annual license fee for malt beverage brewers, retail dealers, and wholesale dealers shall be $300.

Section 3.24 Wine--License Required.

Each retail or wholesale dealer of wine, as such term is defined in O.C.G.A. §§ 3-1-2 and 3-5-1, who does business within the City shall be required to obtain an annual license from the City Clerk. Each such dealer shall make application in the manner prescribed by the City Clerk prior to January 1 of each year. Each application shall be considered by the City Council no later than the first regularly scheduled meeting in January. No new applicant for an alcohol license may engage in the sale of alcohol without approval by the City Council. Applicants for renewal may continue the sale of alcohol beverages until the license application is denied by the Council.

Section 3.25 Same--Fees.

The annual license fee for each place of retail wine distribution in the City shall be $300. The annual license fee for each wholesale dealer of wine shall be $300.

Section 3.26 Distilled Spirits–License Required.

Each retail or wholesale dealer of distilled spirits, as such term is defined in O.C.G.A. § 3-1-2 who does business within the City shall be required to obtain an annual license from the City Clerk. Each such dealer shall make application in the manner prescribed by the City Clerk prior to January 1 of each year. Each application shall be considered by the City Council no later than the first regularly scheduled meeting in January. No new applicant for an alcohol license may engage in the sale of alcohol without approval by the City Council. Applicants for renewal may continue the sale of alcohol beverages until the license application is denied by the Council.

Section 3.27 Same–Fees.

The annual license fee for retail and wholesale distributors of distilled spirits shall be $2,500.

Section 3.28 On Premise Consumption.

In addition to the license fees required by Sections 3.23 and 3.25 of this chapter, there shall be an additional fee of $200 for on-premises consumption of malt beverages and a $200 fee for on-premise consumption of wine.

Section 3.29 Change of Location and/or Licensee.

A license issued under the provisions of this section shall permit the sale or manufacture of alcoholic beverages only on the premises described in the application under the supervision of the named licensee. Any license transfer to a location other than the premises described in the original application. There shall be an application fee of $50 for the transfer to a new location. No license under this article shall be transferable to any person. It shall be the duty of the licensee to immediately surrender this/her license to the City Council when he/she ceases to operate the business.

Section 3.30 Suspension and Revocation--Grounds for Suspension or Revocation.

a. The City Council may suspend or revoke any alcohol license. Should the Council revoke a license, such license may not be reinstated for five years. Provided further, a license shall not be granted to any person who is related in the first degree of consanguinity and affinity as is computed according to common law or to any person who has had an ownership interest or management with responsibility of the applicant's business. Should the Council suspend any license, the license shall be suspended for a specific period of time and shall be reinstated at the end of the suspension period upon payment of a $150 reinstatement fee without further action by the City Council. Provided, however, should an alcohol license be suspended beyond the end of the calendar year, the City Council shall approve or deny the license at the conclusion of the suspension period as provided in Sections 3.22, 3.24, and 3.26 hereof. Upon such approval, the applicant shall pay a $150 reinstatement fee and the annual license fees prescribed herein.

b. The following shall be grounds for the suspension or revocation of an alcoholic beverage license; whether or not such grounds exist shall be determined by the governing body in its sole discretion:

1. The violation by the license holder of any federal, state, or local law or ordinance relating to the use and sale of drugs or alcoholic beverages or involving the use of firearms, theft, violence, or a crime of moral turpitude.

2. The failure of the license holder to report promptly to the sheriff's department any violation of law or municipal ordinance, breach of the peace, disturbance, or altercation occurring inside the premises.

3. Any conduct on the part of the license holder or license holder's employee on or off premises contrary to the public health, safety, or morals of the citizens of the City.

4. Operating or conducting the business on the licensed premises in a manner contrary to the public welfare, safety, health, or morals of the citizens of the City or in such manner as to constitute a nuisance.

5. Upon the business or the operation or location thereof, or the owner or any person connected therewith, ceasing to meet any of the qualifications for the issuance of a license as stated under Section 3.21 hereof.

6. The failure of the license holder or license holder's employees to keep the licensed premises free and clear of any disturbances of the peace; loud or boisterous conduct; lewd, obscene, or immoral entertainment; violation of any federal, state, or local law or ordinance relating to the use and sale of drugs or alcoholic beverages or involving the use of firearms, theft, violence, or a crime of moral turpitude.

c. The determination of whether the license holder or license holder's employee has violated this section shall be made by the governing body. An actual conviction in a court for any offense shall not be necessary in order to suspend or revoke the license.

d. The Police Chief shall report any violation of this ordinance or any state or federal law by any license holder or any disturbance or violation law of any kind at any location alcoholic beverages are sold to the City Clerk. The report shall be placed on the agenda at the next regularly scheduled meeting of the City Council.

Section 3.31 Same--Procedure; Appeal.

a. After the governing body shall deny any application for a license or the transfer of any license or shall suspend or revoke any existing license, the applicant or license holder, as the case may be, shall be given notice in writing with the reasons therefor stated.

b. Any applicant or license holder aggrieved by the decision of the governing body shall have the right to request, within 10 days after receipt of notice, a hearing on such decision. Upon receipt by the governing body of a request for such hearing, a hearing shall be scheduled within 20 working days; and the applicant or license holder, as the case may be, shall be notified of the date, time, and place of such hearing. At such hearing, the licensee or applicant shall have the right to appear in person and by attorney and to have witnesses appear on his/her behalf and to cross examine opposing witnesses. The witnesses shall testify under oath, and the technical rules of evidence shall not apply.

Sections 3.32 - 3.35 Reserved.

ARTICLE III. BROWN BAGGING

Section 3.36 Defined.

"Brown bagging" is the allowing of customers to bring into a retail establishment alcoholic beverages for consumption on the premises.

Section 3.37 Brown Bagging Without License.

It shall be unlawful to allow brown bagging in an establishment without first obtaining a license from the City Clerk and paying such fees as may be required by the ordinances, rules, and regulations of the City.

Section 3.38 Licensee Qualifications.

All applicants shall be investigated by the Police Department or by such other person or entity as may be designated by the City Council. The report of such investigation shall be presented to the City Council for consideration with the application.

No brown bagging license required by this chapter shall be issued:

a. To any person who is not a resident of the City of Blakely unless such person designates a resident of the City who shall be responsible for any matter relating to the license.

b. To a person who, in the opinion and judgment of the governing body, is not of good moral character and reputation in the community in which such person resides.

c. To a person found by the governing body to have been guilty of the violation of any federal, state, or local law or regulation respecting the manufacture, possession, or sale of any alcoholic beverage within the last five years, or who has forfeited a bond to appear in court to answer charges for any such violation within the last five years.

d. To any person who is the previous holder of an alcoholic beverage or brown bagging license and is, in the judgment and discretion of the governing body, an unfit person to have a license because of the manner in which such person conducted business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any laws or regulations relating to such business.

e. To any person who has made any false statement on an application for a license under this chapter or any previous application for a license under this chapter.

f. To any person who has been convicted of a felony, or a violation of the laws or regulations of any state or political subdivision relating to the use or sale of drugs or alcoholic beverages, or who has been convicted of a misdemeanor involving the use of firearms, theft,

violence, or a crime of moral turpitude. The forfeiture of bond or collateral or a plea of nolo contendere or a plea of guilty shall be considered a conviction for the purpose of this section.

g. To a person who is related within the first degree of consanguinity and affinity, as computed according to the Cannon law, to any person who has been previously denied a license or had a license revoked or suspended, if such previous applicant or holder of a license has any ownership interest in the applicant's business.

h. To a person who has had an alcohol or brown bagging license revoked within the last five years.

i. To any corporation unless all directors, officers and stock holders are residents of the City of Blakely unless such person designates a resident of the City who shall be responsible for any mater relating to the license.

j. To any employee or elected official of the City including the Mayor and City Council.

k. To anyone making a statement on an application for a license that is found to be false.

Section 3.39 Display of License.

Licenses under this article shall be displayed prominently at all times on the premises for which same are issued.

Section 3.40 Procedure for Denial or Revocation.

The City Council may deny, revoke, or suspend a brown bagging license pursuant to Section 3.30 of this chapter of the City Code of the City of Blakely.

Section 3.41 License Fee.

The fee for a brown bagging license shall be $250 for each calendar year. Such fee must accompany the application and shall be either in cash, bank certified check, or cashier's check. A brown bagging license fee shall be in addition to the Business and Occupation Tax levied as provided in Article II of Chapter 18 of the City Code of the City Blakely.

Section 3.42 Change of Location And/or Licensee.

A license issued under the provisions of this section shall permit the brown bagging only on the premises described in the application under the supervision of the named licensee. Any license transfer to a location other than the premises described in the original application must be approved by the City Council. There shall be an application fee of $50 for the transfer of a brown bagging license. No license under this article shall be transferable to any person. It shall be the duty of the licensee to immediately surrender this/her license to the City Council when he/she ceases to operate

the business.

Section 3.43 Renewal of License.

Each licensee shall make application in a manner prescribed by the City Clerk prior to January 1 of each year. Each application shall be approved by the City Council no later than the first regularly scheduled meeting in January. No new applicant for a brown bagging license may allow brown bagging on the premises to be licensed without approval by the Council. Applicants for renewal may continue the sale of alcohol beverages until the license application is denied by the Mayor and Council.

Section 3.44 Prohibitions.

a. No bottle or other container of alcoholic beverages shall be in the possession or under the control of any owner, licensee, employee, or agent of such establishment at any time, provided the licensee is not the holder of any other license for the sale of alcoholic beverages. Possession of such bottle or container of alcoholic beverages shall be prima facie evidence of the violation of this provision. Bottles or other containers of alcoholic beverages must remain in the possession of or under the control of the person bringing such bottle or container into an establishment permitting brown bagging.

b. The above regulation shall not apply during legal hours for sale to those establishments holding brown bagging permits which also hold the appropriate consumption-on-the-premises license.

c. Establishments holding brown bagging permits shall not deny or restrict the privilege of brown bagging by patrons or impose any admission charge, cover charge, or minimum charge on brown bagging patrons that is not also imposed upon all other patrons during the legal hours for sale and consumption of alcoholic beverages.

d. Brown bagging is prohibited at any time after 12:00 midnight on Saturday and on any other day of the week between the hours of 1:30 a.m. and 6:00 a.m. Brown bagging shall be prohibited on Sundays, Christmas Day, and any other day upon which the sale of alcoholic beverages is prohibited by state law.

e. No retailer with a brown bagging license shall operate or allow the congregation of patrons within the premises of said building or the curtilage surrounding such premises, of which the retailer has control, between the hours of 2:00 a.m. and 6:00 a.m. of each day.

Section 3.45 Closing for Emergencies.

a. The sheriff shall have the authority to close any location holding a brown bagging license for a period not in excess of 24 hours if there shall occur on the premises any violation of law or municipal ordinance, breach of the peace, disturbances, or altercation resulting in violation or

other occurrence which is contrary to the public health, welfare, safety, or morals, when in the judgment of the chief of police such action is necessary to protect the public health, welfare, safety, or morals.

b. The sheriff with the concurrence of the City Council, including the Mayor, may close any location holding a brown bagging license upon the occurrence of disorders which threaten the public health, welfare, or safety for the duration of the emergency.

Sections 3.46 -3.50 **Reserved.**