

## Chapter 17: Malt Beverages and Wine Package Sales

In accordance with the laws of the State of Georgia, it is necessary and expedient for Town of Bogart, to establish and promulgate certain standards and regulations in regard to allowing the sale, tax and control of package sales of malt beverages and wine in said Town upon passage of this Ordinance.

This Ordinance is revocable in the discretion of the Town.

The business of selling or otherwise dealing in or possessing malt beverages and wine is declared to be a privilege, not a right, and such privilege shall not be exercised except as licensed under the terms of this ordinance.

The following rules, regulations, licenses, taxes and standards shall be effective once passed, and until amended and modified thereafter:

### 17-101. Definitions.

A. *Alcohol*. The product of distillation of any liquid, whether rectified or diluted, whatever may be the origin thereof, and shall include synthetic ethyl alcohol.

B. *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. The sale of distilled spirits is expressly prohibited. The consumption of distilled spirits outside of personal residences is expressly prohibited.

C. *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. The sale of fortified wine is expressly prohibited. The consumption of fortified wine outside of personal residences is expressly prohibited.

D. *Personal Residence* means a home used for residential, not business purposes, and yard surrounding the home.

E. *Place of business* means the premises described in a package sales license issued pursuant to this chapter.

F. *Premises* means the building (or unit if part of a larger complex) where a package sales licensee is authorized to sell alcoholic beverages. Such place shall be air conditioned and have employed a sufficient number and kind of employees to professionally operate the business. The sale of food and other non-beer and wine products shall be the principal business conducted, with the sale of beer and wine as only incidental to such business.

G. *School* means a building, publicly or privately owned, which is used for teaching or giving instruction in any subject to pupils of the school, and includes a school or division of a school below the first grade usually serving pupils of the 4-6 age group and fostering their natural growth and social development through constructive play, including pre-K and kindergarten programs.

H. *Wholesalers or Wholesale Distributor*. Any person, firm or corporation engaged in distribution or selling to retailers for the purpose of resale of malt beverages and/or wine.

I. *Governing Authority*. The Mayor and Council of Bogart, Georgia.

J. *Malt Beverage(s)*. Any beer, ale or like beverage, sometimes collectively referred to as Beer. The consumption of Malt Beverages outside of personal residences is expressly prohibited. Brown bagging at restaurants and elsewhere is expressly prohibited.

K. *Wine*. The fermented juice of any fruit or plant. The consumption of wine outside of personal residences is expressly prohibited. Brown bagging at restaurants and elsewhere is expressly prohibited.

### 17-102. Eligibility Requirements for Malt Beverages and Wine License.

A. No malt beverage and wine license shall be granted to any person unless such person is at least twenty-five (25) years of age and has been a resident of the State of Georgia, for a minimum of 2 years prior to filing an application for such license. In the event a corporation or LLC should be an applicant and said corporation or LLC has not been incorporated and/or allowed to do business by the Secretary of State in Georgia for said 2 year period, then the incorporator or Organizer of said corporation or LLC and the owners of at least eighty percent (80%) of the stock or membership percentage of said corporation or LLC shall all have been resident(s) of said state for 2 years prior to filing an application for such license. If a corporation or LLC shall be an applicant, the corporation or LLC must designate a person of the same qualifications who will be responsible for all matters regarding the operation of the business, and that person shall be at least 25 years of age.

B. No officials or employee of Bogart, Georgia or member of its Governing Authority shall be eligible to receive a package sales malt beverage and wine license.

C. Consistent with Georgia Code Section 3-3-21, and Opinion of Attorney General No. U02-5, March 27, 2002, no retail package malt beverage and wine sales license shall be granted unless the closest part of the building (or unit if part of a larger complex) of the proposed licensee is situated beyond one hundred (100) yards from the property line of any church, school building, school grounds, or college campus, any Housing Authority property or any building used as an alcohol rehabilitation center. The one hundred (100) yards shall be measured by the most direct route of travel on the ground, as provided by Georgia Code Section 3-3-21. The means of travel shall be on foot, not vehicular. The Governing Authority may require each application for a package malt beverage and wine sales license to include a scale drawing of the location of the proposed premises showing the distance to the nearest church or school, and a certificate of a registered survey or that such location complies with this Ordinance with reference to this Section. In accordance with O.C.G.A. § 3-3-21, the term "school building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state. The term shall not apply to homes or buildings where home schooling is conducted.

D. A separate package malt beverage and wine sales license shall be required for each such place of business.

E. No retail package malt beverage and wine sales license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of said building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with all resolutions and ordinances of Bogart, Georgia, and regulations of the State Revenue Commissioner and the laws of the State of Georgia. The proposed building shall also be subject to final inspection and approval, when completed, by the Bogart Building Inspector. Each applicant for a retail package malt beverage and wine sales license must furnish evidence of ownership of the building or proposed building or a copy of the lease, if the applicant is leasing the building.

F. No applicant for said license, including shareholders/members of corporations/LLC's, who has a conviction or has pled nolo contendere within the previous ten (10) years of the date of his application to a felony, or to a misdemeanor involving moral turpitude, shall be granted a license. Such shall be demonstrated by a law enforcement background check, to which applicant and its individual partners, and any individual shareholders holding 20 percent or more of the shares of stock of the entity, and any individual members holding 20 percent or more of the membership interests of a LLC, and operators and managers shall consent in writing. The applicant shall pay the cost of said law enforcement background checks.

G. Minimum Percentage of Non-beer and Non-wine Product Sales Required. No license shall be issued under this Section to any public or private business or person unless such business or

person derives at least 80% of its total quarterly and annual gross sales income from the sale of products other than beer or wine.

H. Minimum Amount of Non-beer and Non-wine Product Sales Required. No license shall be issued under this Section to any public or private business or person unless such business or person has total annual gross sales income from the sale of products other than beer or wine in an amount exceeding \$150,000.00 per calendar year (January 1 to December 31).

I. The Governing Authority, in its reasonable discretion, may consider any and all relevant circumstances which may reflect favorably or unfavorably on the applicant, application or the proposed location of the business if in its reasonable judgment, circumstances are such that the granting, suspension or revocation of the license would or would not be in the best interest of the general public, such circumstances may be grounds for the decision of the Governing Authority. The decision shall be made within sixty (60) days.

17-103. Applications. Application for a retail package sales malt beverage and wine license shall be made on forms furnished by the governing authority as follows:

A. A retail package malt beverage and wine sales license shall be valid only for the calendar year indicated thereon and no such license may be renewed. A licensee who desires to continue in business during a subsequent year must make a new application for such year prior to December 1 of the preceding year.

B. In addition to the completion and submission of application form as required by the Governing Authority, each applicant shall attach thereto a completed form with all attachments and requirements for a state license.

C. Before any retail package malt beverage and wine sales license is granted, the applicant must post with the Governing Authority, along with his application, a performance bond with an insurance company as surety. Said bond is to be conditioned requiring the faithful observance and performance by the licensee of the rules and regulations contained in this section. Upon the violation of this section, or any part thereof, the amount of the bond to be forfeited will be determined by the seriousness of the violations as determined by the Governing Authority. Said bond is to be approved by the Governing Authority and shall be properly executed. Said bond shall be in the amount of two thousand five hundred dollars (\$2,500.00) for a wholesale license and twenty five hundred dollars (\$2,500.00) for a package sales license. In lieu of the \$2,500 bond required hereinabove, the Town will accept a letter of credit or a certificate of deposit from a FDIC insured bank in the amount of \$2,500.

D. All applications for a retail package malt beverage and wine sales license shall be presented in person.

E. Every person working on a licensee's premises who may ever provide beer or wine to a customer shall be no less than 18 years of age and shall complete a Mayor and Council approved (after due diligence) alcohol training class within 3 months of license approval, and within 3 months of a new employee's hiring date and renew such every 2 years. Licensee shall supply proof of such at the time of permit application.

17-104. License Fee for Sales of Malt Beverages and Wine.

A. The annual fee for a retail package malt beverage and wine package sales license shall be five hundred dollars (\$500.00) per annum and shall be paid prior to the issuance of such license, said fee to accompany the application and shall be either in cash or bank certified check. All licenses shall expire on December 31 of the year they were granted. No license fee shall be prorated. No partial licenses either for malt beverage or for wine sales shall be issued, nor may they be assumed by any licensee because the potential licensee does not intend to sell one or the other. The issuance of license for either the sale of malt beverage or wine or both must be preceded by the payment of the full fee of five hundred dollars (\$500.00) upon application for said license.

B. In addition to said annual malt beverage and wine liquor license fee required, there is also hereby levied an excise tax computed as prescribed in O.C.G.A. §§ 3-6-50, 3-5-60, 3-5-60 and 3-5-80 with the following addition:

(1) Wine Sales. Wine shall be taxed at the rate of twenty-two cents (\$.22) per liter and proportionate taxes at like rates on all fractional parts of a liter.

(2) Beer Sales.

(a) Reserved.

(b) Where malt beverages are sold in bottles, cans or other containers, a tax of five cents (\$.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces.

17-105. Licensee Qualifications. The following additional requirements shall be considered in all decisions pertaining to the issuance or denial of licenses hereunder:

A. All applicants must show financial responsibility. All applicants shall, at the time of application and periodically thereafter, upon request of the Town, submit to the Town Clerk or designee, evidence of financial responsibility. The evidence shall include without limitation:

- a) Financial statements for the last 5 years and other proof of the finances of the business, which may be provided at the business for confidentiality reasons;
- b) Proof of liability insurance coverage in the amount of no less than \$2,000,000 per occurrence, \$3,000,000 aggregate with a company listed on the U.S. Treasury Circular 570;
- c) A Twenty Five Hundred (\$2,500.00) performance bond with an insurance company as surety, approved by the Governing Authority and properly executed, requiring the faithful observance and performance by the licensee of the rules and regulations in this ordinance.
- d) Proof the applicant is the owner or lessee of the business (a fully executed deed in recordable form or a copy of the lease);
- e) An affidavit from applicant that it has adequate financial participation in the business to direct and manage its affairs, and is not a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever;
- f) Payment of the applicable license fee;
- g) Proof of annual food and other non-beer and wine sales of 80 percent or more of its total gross sales and annual food and other non-beer and wine sales in excess of \$150,000.00 via presenting a confidential non-public sworn statement of the true and correct sales during the preceding calendar year on forms approved by the Town, which reflect the gross dollar sales amount for: total sales for the year, sales of beer and wine for the applicable calendar year, and sales of food and other non-beer and wine items for the year (presentation of the statement to the Town Clerk or designee at the business shall be deemed lawful compliance with any statement filing requirement in this ordinance);
- h) Proof of ongoing maintenance of two weeks supply (consistent with past sales) of the types of beer and wine typically sold, to prevent undercapitalized businesses and to demonstrate the financial viability of the business;
- i) Certified copies of the sales and use tax monthly reports filed with the state department of revenue for each month during the prior year (presentation of such to the Town Clerk or designee at the business shall be deemed lawful compliance with any report filing requirement in this article);
- j) An affidavit certifying that all state and local excise taxes were charged and paid the prior year;

- k) Written acknowledgment that the Town shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of the applicant for auditing the records of such applicant or licensee, securing compliance by such licensee with the provisions of this ordinance, proving or disproving violation of any part of this ordinance by any licensee, or to show payment or nonpayment of any taxes, fees, charges or the like due hereunder.

The form of the application shall be set by the Governing Authority, and must be fully completed by the applicant and filed by the applicant with the Clerk of the Governing Authority.

B. No officials or employees of the Town shall be eligible to receive a package sales license.

C. All applicants must be the owner or lessee of the premises to be used for the sale of malt beverages and wine, and must provide evidence of ownership of the premises in the form of a fully executed deed in recordable form, or, if applicant is leasing the premises, the applicant must provide a copy of the lease.

D. Proof of compliance with all Bogart zoning and subdivision regulations and other applicable local, state and federal requirements.

E. All applicants must be of good character, and all operators, managers, clerks, and other employees shall be of good character. For applicants, operators and managers, a law enforcement background check is required, to which applicant, and its individual partners, and its individual shareholders holding 20 percent or more of the shares of stock of the entity, and individual members holding 20 percent or more of the membership interests of a LLC, and operators and managers, shall consent in writing. The applicant shall pay the cost of said law enforcement background checks. Furthermore, corporate or firm applicants shall also be of good business reputation.

F. A license may be denied to any applicant where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the applicant is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.

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

H. A corporate license applicant shall appoint and designate to the Council an agent authorized to receive service of process under the laws of Georgia. If no such designation is made, the Council may serve or notify the applicant or license holder at any address of the applicant or license holder known to the Council.

I. The Council shall give notice in writing to the applicant of any decision to grant or deny an application. The notice shall give the reason(s) for the decision.

J. Whenever the Council shall deny an application, the applicant shall have ten (10) days following the date of notice of the denial to request a hearing before the Council. The applicant shall be entitled at such a hearing to present evidence and cross-examine opposing witnesses.

17-106. Telephone. A package sales licensee shall maintain on the licensed premises at all times a telephone in good working order.

17-107. Sundays. On all Sundays, all package sales licensees shall fully cover with opaque material or put under lock and key all malt beverages and/or wine on the premises of the licensee.

17-108. Transportation.

A. All malt beverages transported or delivered to a package sales licensee in Bogart, Georgia, shall be package in the following manner, to-wit: 7, 8 or 12 oz. sealed containers package 4, 6 or

12 per package; 16 oz. sealed containers package 6 per package; 24 oz. sealed containers package only by the full case; 32 oz. sealed containers package only by the case.

B. All wine transported or delivered to a package sales licensee in Bogart, Georgia, shall be package in containers specified in the Standards of Fill for Wine prescribed by the Department of the Treasury of the United States for wines shipped in interstate commerce. The federal regulations relating to Standards of Fill for Wine are adopted and incorporated by reference in this paragraph. Wines manufactured and produced in the State of Georgia shall be exempt from the provisions of this paragraph to the extent that they are exempted from the provisions of O.C.G.A. § 3-6-28 as amended from time to time.

#### 17-109. Wholesalers.

A. Any wholesale distributor in malt beverages and wine licensed by the State of Georgia or the agent of such licensed wholesale distributor, may be granted a permit to distribute such malt beverages and wine in Bogart, Georgia, upon application of such permit to the Clerk of Bogart, Georgia, upon the presentation of evidence satisfactory to said Town that the applicant understands and will comply with all terms and conditions and provisions of the section governing the sale of malt beverages and wine in Bogart, Georgia, as said section may be amended, including, but not limited to, those under which package sales licenses are issued, and upon payment of an annual fee of two thousand five hundred dollars (\$2,500,00).

B. Permit Fees and Performance Bonds Required. All wholesale distributors doing business in the Town shall also be required to provide with the aforesaid application, a performance bond in the amount of two thousand five hundred dollars (\$2,500.00) in cash or with security satisfactory and payable to the Mayor and Council.

C. Licensed Package Malt Beverage and Wine Sellers Cannot Operate as Wholesalers. No package seller shall keep any malt beverages or wine stored in any bonded or other type warehouse in the Town, nor shall he enter into any type of arrangement whereby malt beverages or wine ordered by him are warehoused or stored by any licensed wholesaler. A package seller shall keep no inventory or stock of malt beverages and wine at any place except his licensed place of business, and within his licensed place of business.

#### 17-110. Delivery and Sales of Malt Beverages and/or Wines.

A. No package sales licensee shall sell or deliver any malt beverages and/or wine to any person except in said package sales licensee's place of business.

B. No package sales licensee shall furnish, sell or offer for sale any malt beverages or wine as follows:

(1) At any times except between 8 a.m. and 10 p.m. daily, Monday through and including Saturday.

(2) At any time in violation of state law, state rules or regulations, local ordinances or regulations of the Governing Authority.

C. No person knowingly and intentionally offer for sale, sell, barter, exchange, give, provide or furnish malt beverages or wine to any person who is confined in any jail, penal institution, correction facility, prison camp, penitentiary, or other lawful place of confinement, or to any person who is an inmate of the Central State Hospital, or is noticeably intoxicated, or who is of unsound mind, or is a habitual drunkard whose intemperate habits are known to said person.

D. The holder of a license to sell malt beverages and wine shall post in a conspicuous place in his establishment a sign printed in letters at least four inches (4") high reading as follows: "Sale of malt beverages and wine to persons under twenty-one (21) years strictly prohibited" and "Sale of malt beverages and wine on Sundays strictly prohibited."

E. The holder of a license to sell malt beverages and wine shall require proof of age with each and every sale under the license, without exception.

F. As prescribed by O.C.G.A. § 3-3-26, no package sales dealer shall allow or permit the breaking of any package or packages containing alcoholic beverages on the premises where sold or allow or permit the drinking of the contents of such package or packages on the premises where sold.

17-111. Copy of Section. All holders of a license for the sale of malt beverages and wine shall keep a copy of this Section in his premises and shall instruct any person working there with respect to the terms hereof and each licensee, or his agents selling malt beverages and/or wine shall at all times be familiar with the terms hereof. The licensees shall be responsible for any acts of agents and employees which are in violation of this section or of the laws of the State of Georgia or the rules and regulations of the State Revenue commissioners.

17-112. Inspections. The business premises of the holder of a package sales malt beverages and wine license for the sale of malt beverages and wine shall be open to inspection at any and all times by officers or officials authorized to conduct such inspections.

17-113. False Statement. The making of any statement on an application for license to sell malt beverages and wine which shall be later found to be false shall constitute grounds for revocation of said license.

17-114. Gambling. There shall be no gambling, betting, games of chance, punch boards, vending machine, slot machines, pin-ball machines, lotteries, or tickets of chance therein or the operation of any schemes for hazarding money or any other thing of value in any licensed package seller's place of business or any room adjoining the same, owned, leased, or controlled by license, with the exception of the package seller's participation in Chapter 27 of Title 50, the "Georgia Lottery for Education Act" as regulated by the board of directors of the Georgia Lottery Corporation.

17-115. Display of License. Licenses under this section shall be displayed prominently at all times on the premises for which same was issued.

17-116. Reports.

A. Each licensee under this Section shall as a condition of maintaining such license, provide for the Clerk's inspection within thirty (30) days after the end of each calendar quarter:

(1) A sworn statement of the licensee's sales during the preceding calendar quarter on forms approved by the Town. The forms for such quarterly verified statements shall reflect the licensee's gross dollar sales amount for total sales for the applicable calendar quarter, the gross dollar sales amount for malt beverages and wine for the applicable calendar quarter, and gross dollar sales amount for non- beer and wine items for the applicable calendar quarter.

(2) Certified copies of the licensee's State of Georgia Department of Revenue Sales and Use Tax Monthly Reports as filed with the Georgia Department of Revenue for each month during the respective calendar quarter.

B. Any sale of a food or beverage containing any malt beverage and wine shall be deemed to be a sale solely of a malt beverage and wine; such sale shall not be included as "non- beer and wine sale" in the quarterly reports. The fact that the sale of non-beer and wine items during any calendar quarter exceeds by 4 times the sales of malt beverages and wine shall not be conclusive that the licensee is meeting the requirements. However, the failure of the non-beer and wine sales to so exceed by 4 times the sale of malt beverages and wine shall be prima facie evidence that the establishment is not meeting the requirements.

C. The quarterly statements shall be confidential in nature and shall not be open for public inspection except as otherwise required by law. Said forms shall be reviewed solely for determination of whether or not the licensee remains qualified to hold its license. Failure to timely file such statements shall be a violation of a Town Ordinance punishable by a fine as per the Town Charter and this Code and cause for revocation of the license granted under this Section.

17-117. License Suspension and Revocation. No person shall engage in the package sale of malt beverages and wine in Bogart, Georgia, without first complying with the rules and regulations set out in this section, any person violating the rules and regulations set out in this section shall be subject to revocation of his license and punishment as prescribed by the Governing Authority. In addition to the rules and regulations hereinabove set out each licensee doing business in Bogart, Georgia, under this section shall comply with all laws of the State of Georgia, federal laws, and rules and regulations of the State Revenue Commissioner relating to the sale of distribution of malt beverages and wine in Georgia, and any violation of same shall subject the licensee to immediate suspension or revocation of his package malt beverage and wine sales license and also shall subject said licensee to criminal prosecution by the proper authority as provided by law and the ordinances and resolutions of the Governing Authority. Any action taken by the Mayor and Council to suspend or revoke a license issued under this chapter shall not preclude and may be in addition to any criminal prosecution by a proper authority as provided by the laws and/or ordinances of the Town, the state and/or the United States.

17-118. Due Process. The granting or refusal and the suspension or revocation of the package sales and wholesale and pouring permits and licenses under the provisions of this section shall be in accordance with the following guidelines of due process:

- A. The provisions of this section as same may be amended shall constitute ascertainable standards upon which all decisions pertaining to these licenses shall be based;
- B. All decisions approving, denying, suspending or revoking such licenses shall be in writing with the reasons therefor stated, and mailed or delivered to the applicant; and
- C. Upon application in writing to the Clerk within thirty (30) days of the adverse action, any applicant aggrieved by the decision of the Mayor and Council of Bogart, Georgia regarding a license shall be afforded, within sixty (60) days thereafter, a hearing with an opportunity to present evidence and cross examine opposing witnesses. The Mayor and Council shall render a decision within thirty-five (35) days thereafter.

17-119. License Non-Transferable. No package malt beverage and wine sales license shall be transferable or assignable to any person or other location. In the event that licensed business is sold or closed, it shall be the duty of the new owner or occupant to apply for a license which may or may not be granted.

17-120. Sales to Minors.

- A. The term "Minor" as used in this Section shall mean any person under the age of twenty-one (21) years, or as defined in O.C.G.A. § 3-3-23 or by other state laws.
- B. It shall be unlawful for a minor to attempt to purchase or for any other person to purchase malt beverages and/or wine for a minor.
- C. It shall be unlawful for a minor to exhibit fake, forged, or borrowed credentials in an effort to obtain malt beverages to and/or wine to which he is not legally entitled.
- D. No person engaged in the business regulated under this article shall make or permit to be made any sale of beer or wine to minors. Upon violation, the licensee shall generally be treated as follows: upon a first offense by the licensee, a suspension for seven consecutive days of sales of alcoholic beverages; attendance by all sales clerks and servers at an approved alcohol awareness class; a \$500 civil penalty; and on the first day of the suspension, and for the duration of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension. Upon a second offense by the licensee, within three years of a prior offense, a suspension of sixty consecutive days of sales of alcoholic beverages; attendance by all sales clerks and servers at an approved alcohol awareness class; a \$1000 civil penalty, removal of all alcoholic beverages from the premises; on the first day of the suspension, and for the duration of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension; and probationary status for one year. Upon a third



offense within three years by the licensee, the license shall be revoked for a period of one full year; and on the first day of the revocation, and for the duration of the revocation, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the revocation.

E. Notwithstanding paragraph 18 above, in a sale to minor violation, upon receipt of letter of notification of penalty, licensee has ten (10) days to file a written request for a hearing to appeal the fine, suspension, attendance at an approved alcohol awareness class, and/or the starting date of suspension of sales. If no written request for a hearing is filed within ten (10) days of receipt of notification of penalty letter, the fine and suspension will begin on the eleventh day after the receipt of the notification of penalty letter unless the eleventh (11<sup>th</sup>) day is a Saturday, in which case the suspension will begin on the next day of the establishment's operation during which alcoholic beverages would normally be available. Additionally, proof of attendance at an approved alcohol awareness class must be provided within 75 days of receipt of letter of notification of penalty. Schedule if Appeal Hearing Conducted: the fine and/or suspension will commence within five (5) days thereafter, on a date set at the appeal hearing by the Mayor and City Council. Proof of attendance at an alcohol awareness class or other City Council approved training must be provided within 75 days after the hearing.

17-121. State Law Exceptions on Sales to Minors. The prohibition contained in this Section to individuals under the age of twenty-one (21) shall not apply with respect to the possession of malt beverages, wine and/or any other alcoholic beverage for consumption in the following instances:

- A. For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in the State of Georgia;
- B. At a religious ceremony; or
- C. In the individual's home with parental consent.

17-122. Display of Signs. Advertising of malt beverages or wine visible from outside the licensed premises is prohibited. No licensee shall use signs, or any other visible means of advertising the sale of malt beverages or wines, on the outside of the building in which the business of licensee is located, or any other building, or in the window of any licensed premises. No licensee shall use blinking signs to advertise the sale of malt beverages or wines within the premises.

17-123. Posting of Warnings. The licensee shall also post in a conspicuous place in the licensed premises a sign printed in letters at least four inches (4") high reading as follows:

"Warning: Drinking Alcoholic Beverages During Pregnancy Can Cause Birth Defects."

17-124. Production of Records. In conjunction with any license application or any license issued under the terms hereof, or in conjunction with the revocation, suspension or cancellation of any license or in conjunction with any of the hearings contemplated by this Section, or in conjunction with the payment or nonpayment of any excise tax levied or to be collected hereunder, the Council shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of any applicant or licensee. Said subpoena right shall be had for the purposes of auditing the records of such applicant or licensee, securing compliance by such licensee with the provisions of this Section, proving or disproving violation of any part of this Section by any licensee, or to show payment or nonpayment of any taxes, fees, charges or me like due hereunder.

17-125. Delivery. It shall be unlawful for any licensee to make delivery of any malt beverage and wine except inside of the premises or area licensed for the sale thereof.

17-126. Criminal Record. It shall be unlawful for any licensee to knowingly allow any person with a criminal record for violence or disorder to frequent the premises or loiter on the premises.

17-127. Prostitution. It shall be unlawful for any licensee to knowingly allow any person to frequent the licensee's premises for the purpose of soliciting prostitution.

17-128. Police Reports. It shall be unlawful for any licensee to fail to report to the police at the earliest possible time known incidents of a criminal nature that happen on the licensee's premises. It

shall be unlawful for any licensee to willfully withhold from the police (any information pertaining to any crime that may have happened on the premises.

17-129. Police Records. It shall be unlawful for any licensee to employ on the premises any person who in the preceding ten (10) years has been convicted of a felony or misdemeanor involving moral turpitude in the State of Georgia or who has been convicted of a crime outside the State of Georgia which would be a felony or misdemeanor involving moral turpitude in the State of Georgia. It shall also be unlawful for any licensee to knowingly allow any criminal act to be committed on the premises. No applicant or licensee shall have been convicted of or plead nolo contendere to, within ten (10) years of the date of application, a felony or a misdemeanor involving moral turpitude, or any crime relating to the sale of alcoholic beverages. If the applicant or licensee is a partnership, all members of such partnership must meet this requirement. If the applicant or licensee is a corporation, all stockholders and officers of the corporation must meet this requirement.

17-130. Containers. It shall be unlawful for licensees or their agents or employees to add to the contents of a container or to refill empty containers or in any manner to misrepresent the quantity, quality or brand name of any malt beverage and wine.

17-131. Conditions of Premises.

A. All premises used for the sale of malt beverages and wine and/or for the storage of malt beverages and wine shall be kept in a sanitary condition and shall be kept in full compliance with the regulations of the County Health Department.

B. All premises shall be subject to inspection by the County Health Department, the Fire Department, the Building Inspector, and any authorized law enforcement officers to determine if the premises are in compliance with all Town, county and state rules, regulations, laws, and codes.

17-132. Promotions. No licensee or employee or agent of a licensee shall engage in any of the following practices in connection with the sale or other disposition of malt beverages and wine:

A. The giving away of any ticket, token or any other item that can be exchanged for any malt beverage or wine upon the purchase of any other malt beverage or wine;

B. The sale of two (2) or more malt beverages or wine for a single price, or the sale of one (1) serving of malt beverage or wine with a ticket, token or any other items redeemable for a subsequent serving of malt beverage or wine.

17-133. Prohibited Acts. No licensee shall authorize or permit any patron or customer to consume on the premises any alcoholic beverages.

17-134. Pouring Licenses. Pouring of Malt beverages and/or wine on the premises is prohibited. Malt beverages and/or wine may only be sold pursuant to a license granted under this article, for consumption only OFF the premises of the licensee.

17-135. Violations. Any violation of the provisions of this section shall subject the offender to a fine of not more than five-hundred dollars (\$500.00) for each violation in addition to such violation being a cause for revocation or suspension of the offender's license by the Governing Authority.

17-136. Enforcement. By acceptance of any license under this section the licensee agrees that law enforcement officers of Bogart, or any other enforcement agency which enforces the laws within the Bogart municipality shall have the right to enter the premises of the licensee for purposes of determining compliance with this Section.

17-137. Incorporation of State Laws. The state laws and regulations relating to the sale and distribution of malt beverages and wines in Georgia, as revised, promulgated by the state revenue department, and especially as relates to package sales, are hereby incorporated into and made a part of this Section as if fully set out herein.