

ORDINANCE 2006-1

AN ORDINANCE FOR THE LICENSING, CONTROL, TAXATION, AND REGULATIONS OF THE SALE OF, MALT BEVERAGES AND WINE FOR BEVERAGE PURPOSES BY THE DRINK FOR CONSUMPTION ONLY ON THE PREMISES WHERE SOLD IN TEMPLE, GEORGIA

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WHEREAS, the City Council of Temple, Georgia desires to provide for the licensing, control, taxation and regulation of the sale of malt beverages and wine for beverage purposes by the drink for consumption only on the premises where sold in Temple, Georgia; and

WHEREAS, the City Council of Temple, Georgia desire to combat the undesirable secondary effects of businesses where malt beverages and wine may be sold for beverage purposes by the drink for consumption only on the premises where sold; and

WHEREAS, the City Council of Temple, Georgia desires to avoid negative experiences of other municipalities and counties regarding problems with certain businesses where malt beverages, and wine are sold for beverage purposes by the drink for consumption only on the premises where sold, which include criminal activity, undesirable community conditions, the depression of property value in the areas surrounding certain establishments, increase expenditure for law enforcement, an increased burden on the judicial system because of increased criminal behavior, and acceleration of community blight (collectively referred to hereinafter as the “pernicious secondary effects”); and

WHEREAS, the City Council of Temple, Georgia has a substantial government interest in attempting to preserve the quality of life for the citizens of Temple; and

WHEREAS, the City Council of Temple, Georgia desires to reduce and prevent criminal activity and the deterioration of property values in Temple; and

WHEREAS, the City Council of Temple, Georgia desires to establish a comprehensive and consolidated ordinance for the licensing, control, taxation, and regulation of the sale of malt beverages and wine for beverage purposes by the drink for consumption only on the premises where sold.

NOW, THEREFORE, it is hereby ordained by the City Council of Temple, Georgia that the provisions contained herein shall apply regarding the sale of malt beverages and wine for beverage purposes by the drink for consumption only on the premises where sold.

ARTICLE I
GENERAL PROVISIONS

SECTION 1: TITLE

This ordinance shall be known as the “City of Temple Malt Beverage and Wine by the Drink Ordinance.”

SECTION 2: LICENSE IS A PRIVILEGE

General prohibition: No person shall manufacture, distribute, sell or otherwise deal in malt beverages or wine without first obtaining all applicable licenses required by this ordinance, and further;

- A) Malt beverages and wine may be sold for the limited purposes described herein in the City of Temple under license granted by the City Council upon the terms and conditions provided in this ordinance.
- B) All licenses issued pursuant to this ordinance shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this ordinance and state law.
- C) All licenses pursuant to this ordinance shall have printed on the front these words “This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted.”
- D) Any holder of a license issued in accord with this ordinance is required to apply for and obtain a malt beverage and wine license from the State of Georgia before any sales commence. Additionally, City licensees are required to abide by all applicable state regulations and laws

SECTION 3: DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed in this section, except if 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.

Alcohol beverage means and includes all beer, malt beverages, and wine.

Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than six percent alcohol by volume and

including but not limited to ale, porter, brown, stout, lager beer, small beer, and strong beer. Also includes are beverages known as “non-alcoholic” beer, which is made by fermentation of any infusion or decoction of barley, malt, hops or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term “malt beverage” does not include sake, known as Japanese rice wine.

City Council means the City Council of Temple, Georgia

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments. An eating establishment shall be prepared to serve food every hour the establishment is open and shall serve at least sixty-five percent of the gross receipts annually from the sale of prepared meals or food.

Governing authority mean the City Council of Temple, Georgia

Hotel means any building or other structure providing sleeping accommodations for hire to the general public, transient, permanent or residential. Such businesses shall have one or more public dining rooms with an adequate kitchen. Motel meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment described in this ordinance, and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition

Licensee means the individual to whom a license for the sale or distribution of malt beverages, or wine is issued under this ordinance. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees. This definition is further amplified by the provisions of Section 10 hereof.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, subdivision, whether public, private, or quasi public.

Pouring permit means an authorization granted by the City to dispense malt beverages and wine in establishments licensed as a retail consumption dealer.

Premises means one room or more all contiguous in nature operating under the same trade name.

Retail consumption dealer means any person who sells malt beverages and/or wine for consumption on the premises, at retail, only to consumers and not for resale.

Wine means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes whether by natural fermentation or by natural

fermentation with brandy added. Wine 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 “wine” does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in the section.

SECTION 4: LICENSES, GENERALLY

All licenses issued under this ordinance shall:

- A) Permit the licensee to sell or distribute the beverage or beverages for which the license is issued solely with the City of Temple, Georgia pursuant to the terms of this ordinance and consistent with the laws of the State of Georgia and the United States;
- B) Expire on December 31st of each year and an application for renewal shall be made annually on or before the 31st day of October each year. Any licensee must annually meet the requirements set forth by the City Council in order to obtain a renewal of any license making proper application with supporting documents for a license to operate during the following calendar year, and having filed such application before October 31st, shall be permitted to continue to operate pending final approval of the licensee’s application for the following year if final approval is not granted before January 1st;
- C) Not be transferred from one person to another or from one location to another without prior approval from the City Council upon written application from the licensee; and
- D) Permit the licensee to sell malt beverages, wines, or any combination thereof, depending upon the license issued, for beverage purposes by the drink for consumption only on the premises where sold.

SECTION 5: TYPES OF LICENSES TO BE ISSUED

Only the following licenses shall be issued under this ordinance:

- 1) Malt beverages for consumption on the premises;
- 2) Wine by the drink for consumption on the premises;
- 3) Combination licenses:
 - a. Malt beverages and wine to be served for consumption only on the premises.

SECTION 6: SALE OR POSSESSION FOR SALE WITHOUT LICENSE OR BEYOND BOUNDARIES OF PREMISES COVERED BY LICENSE, PENALTIES.

It shall be unlawful for any person to sell or possess for the purpose of sale any malt beverage or wine if the person does not have a license granted by the City to sell or possess for sale the malt beverages or wine or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violations of this action shall be dealt with pursuant to Section 7 hereof.

SECTION 7: PENALTIES FOR VIOLATION OF ORDINANCE

Any violation of the provisions of this ordinance may upon determination of violation result in suspension and/or revocation; or the Council may in lieu of suspension thereof impose a civil penalty of not less than \$500.00, the license to be suspended pending payment of the civil penalty.

SECTION 8: LOCATION OF LICENSED OPERATION: DISTANCE REQUIREMENTS

- A) Licenses shall be issued only for locations in an area zoned in one of the City's commercial zones.
- B) No person may sell or offer to sell any malt beverage or wine in or within 100 yards of an alcohol treatment facility.
- C) The term "alcohol treatment facility" shall include any alcohol treatment facility operated by the state or the county government.
- D) For purposes of this section, distance shall be measured according to the most direct route of travel method as is described and defined in publications and rules of the Georgia Department of Revenue.
- E) As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of an alcohol treatment facility with the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

SECTION 9: SEPARATE APPLICATION AND SEPARATE LICENSE FOR EACH LOCATION OF SALE

Separate applications must be made for each location and separate licenses must be issued.

SECTION 10: QUALIFICATIONS OF LICENSEE

- A) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. The applicant must not be less than 21 years of age; and must be a resident of the City of Temple unless the applicant specifically designates a resident of Carroll County who has resided within the County for at least six months before filing the application, which resident shall be responsible for any matter relating to the license
- B) If the applicant is a partnership or closely held corporation, then the provisions of this section shall apply to all its partners, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. If the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this ordinance. If not a closely held corporation, then the license shall be issued to the corporation and the registered agent under the provisions of this ordinance. In the case of a partnership, the license will be issued to all the partners owning at least 20 percent of the partnership, if no partner owns 20 percent of the partnership, then the general partner, managing partner for the partner with greatest ownership shall be licensed.
- C) If the applicant is a non-profit corporation, then the license may be issued in the name of a local registered agent and an officer of the corporation rather than a full-time employee.
- D) No person shall be granted any malt beverage or wine license unless proper information establishes to the satisfaction of the City Council or its designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or pled guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substance or the illegal possession or sale of malt beverages, or wine, including the sale or transfer of malt beverages or wine to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexually related crime within a period of ten (10) years immediately prior to the filing of such application. At the time an application is submitted for any malt beverage or wine license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, has been so convicted in the ten (10) years preceding the filing of the application. An applicant's first time conviction for illegal possession of malt beverages or wine if a

misdemeanor or violation of a local ordinance shall not, by itself make an applicant ineligible for an alcohol license. If any applicant, partner, or officer used in the sale of dispensing of any malt beverage or wine, after a license has been granted, been convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substance or the illegal possession or sale of malt beverages or wine, including the sale or transfer of malt beverages or wine, including sale or transfer of malt beverages or wine to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, then the license shall be subject to revocation or suspension.

- E) No license for the sale of malt beverages or wine shall be granted to any person convicted under any federal, state or local law of any felony, within ten (10) years prior to the filing of application or such license.
- F) It shall be unlawful for any city employee directly involved in the issuance of malt beverage or wine licenses under this ordinance to have any whole, partial or beneficial interest in any license to sell malt beverages or wine in the city.
- G) No license for the sale of malt beverages or wine shall be granted to any person who has had any license issued under the police powers of the City previously revoked within *five (5)* years prior to the filing of the application.
- H) The City Council may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.
- I) All licensed establishments must have and continuously maintain a registered agent as indicated in subsection (A). The licensee shall file the name of such agent, along with the written consent of such agent, with the city council and shall be in such form as the Council may prescribe.
- J) All applicants for any malt beverage or wine license must be of good character, and all operators, managers, clerks or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.
- K) A license application may be denied to any applicant for any malt beverage or wine license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to be a mere surrogate for a person or persons

who would not otherwise qualify for a license for any reason whatsoever.

- L) The City Council may, in its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If circumstances are such that granting of the license would not be in the best interest of the general public, then such circumstances may be grounds for denying the application.
- M) For purposes of this ordinance, a conviction or pleas of guilty or nolo contendere shall be ignored as to any offense for which a defendant who was allowed to avail themselves of the Georgia First Offender Act (1968 Ga Laws, page 324), as amended. Except, however, that any such offense shall not be ignored if the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

SECTION 11: APPLICATION FORMS AND NOTICE OF APPLICATION ADVERTISEMENTS

- A) All persons desiring to sell malt beverages and/or wine shall make application on the form prescribed by the City Council and must resubmit an application no later than the date set for renewal in each third year of continuing licensure at which time the applicant may be required to submit to audit in addition to meeting the other requirements of these regulations.
- B) The application shall include, but shall both be limited to, the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and resident address of the partners; if a corporation, the names of the officers; the names and address of the registered agent for service of process; the name of the manager(s); and the name of all shareholders holding more than 20 percent of any class of corporate stock, or any other entity having a financial interest in each entity that owns or operates the establishment for which a license is sought. If the manager changes, the applicant must furnish the business license director and Temple Police Department the name and address of the new manager and other information as requested within ten days of such change.
- C) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the City Council to ensure compliance with the provisions of this ordinance. The failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.

- D) The fingerprints provided shall be forwarded to the Sheriff's Department and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the ten (10) years immediately preceding the date of the application.
- E) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.
- F) In all instances in which an application is denied under the provisions of this chapter, the applicant may not reapply for a license for at least one year from the final date of such denial.
- G) The City Council shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this ordinance.
- H) All persons applying for a license under this ordinance shall give notice of that application by placing a notice in the city legal organ for three consecutive weeks prior to the week when the application shall be heard by the City Manager. An affidavit from the publisher of said legal organ shall be filed with the City Clerk prior to the hearing.

Said notice shall contain the location of the proposed business, names of all persons as they appear on the application as required by Section 11 of this ordinance, and the date and time the City Manager will hear the application. The advertisement shall be the type used for legal ads in the legal organ of the city, and the notice referred to shall be in the following form , with the blanks filled in as applicable :

“NOTICE OF APPLICATION FOR LICENSE TO SELL BEER AND /OR WINE BY THE DRINK AND FOR CONSUMPTION ON THE PREMISES ONLY IN THE CITY OF TEMPLE, GEORGIA;

_____ has, have made application to the governing authority of the City of Temple for a license to sell _____, at the following location: _____.

The proposed licensee is _____. The proposed licensee representative is _____. The application will be heard by the City Manager at a public hearing to be held at ___ o'clock __.m. on the _____ day of _____, 200_.

Signed:

Proposed Licensee “

Note: Names of the individual, general partners, corporation, licensee and licensed representative must be shown.

- I). Those applying for a license shall also place signs upon the location of the proposed business. Said signs shall be printed in type of not less than two inches in height and shall read as follows:

“License to sell beer and/ or wine by the drink for consumption on the premises only applied for. Hearing before the City Manager of the City of Temple on the ___ day of _____, 200_ at ___ o'clock __.m. at the Temple City Hall.

The signs described above shall be posted on the location of the proposed business for three weeks prior to the week of the hearing on the issuance of the license. Each sign shall be not less than 18 inches high and 24 inches wide, and shall face toward all public or private property adjoining the proposed location. Such signs shall be placed where they can be easily seen from all public or private property adjoining the proposed location. An affidavit from the applicant certifying posting shall be filed with the City Clerk prior to the hearing.

SECTION 12: LICENSE FEE SCALE

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the City Council regulating the sale of malt beverages or wine and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the city council and kept on file in the office of the City Council. The full amount of fee, plus the full amount of the investigative and administrative fee, shall be submitted with the application. If the application is denied, the funds submitted, less the investigative and administrative fee will be refunded. Once a license has been issued, however, no portions of the application fee shall be refunded if the license is revoked, suspended, transferred or surrendered.

SECTION 13: FEE SCHEDULE

License fees applicable to this ordinance are set out as follows:

- a. Retail dealers of beer to be consumed on the premises \$500.00 per year;
- b. Retail dealers of wine to be consumed on the premises \$500.00 per year;
- c. Retail dealers of beer and wine to be consumed on the premises, \$1,000.00 per year.

SECTION 14: WITHDRAWAL OF APPLICATION

Any license application made pursuant to this ordinance may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as license fees will be refunded. After issuance of the license, no refunds will be made. No refunds shall be made under any circumstances for investigative and administrative expenses required in this chapter.

SECTION 15: COLLECTION OF FEES FOR TAXES; SUMS DUE

If any person shall fail to pay the sum due under this ordinance, then the City Council or the city council's designee shall issue an execution against delinquent person and such person's property for the amount of the fee or tax, and may, further administratively act to discontinue utilities to the premises of the applicant.

- 1) the effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of properties surrounding the site; and
- 2) the number of malt beverage and/or wine licenses already granted in the

neighborhood, and whether granting the application would be contrary to the public interest or welfare.

SECTION 16: REVIEW OF APPLICATION

In deciding whether or not an application will be granted or denied, the City Council or its designee may consider not only the qualifications of the applicant, but also the location of the business and its proximity to other enterprises. The Council or its designee shall be authorized to and shall also consider.

- 1) the effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of properties surrounding the site; and
- 2) the number of malt beverage and/or wine licenses already granted in the neighborhood, and whether granting the application would be contrary to the public interest or welfare.

The Mayor and City Council do hereby delegate to the City Manager the power and authority to accept and review applications and issue licenses, in accordance with this Ordinance, to applicants and premises meeting all the legal requirements of the laws of the State of Georgia, and the ordinances of the City of Temple. The Mayor and Council reserve full right and authority to substitute itself as the hearing officer on the initial application hearing, and to review and suspend or revoke any license once issued, after hearing in accordance with Section 21 herein. All decisions regarding the termination, revocation, or suspension of a license shall be retained by the Mayor and Council, provided however, the City Manager shall have the authority to temporarily suspend any license for perceived violations of State law or the City's ordinances, pending a hearing before the Mayor and Council at its next regularly scheduled Council meeting.

SECTION 17: TRANSFERABILITY OF LICENSE/CHANGE IN OWNERSHIP

There shall be no transfers of licenses. Any change in ownership of any licensed entity other than a publicly traded corporation shall necessitate a new application and payment of the entirety of the applicable license fee.

SECTION 18: DISPLAY OF LICENSE AT PLACE OF BUSINESS

The city malt beverage and/or wine license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee.

SECTION 19: EXPIRATION; RENEWAL OF LICENSE

- A) All licenses granted under this ordinance shall expire on December 31st of each year. Licensees who desire to renew the license shall file

applications, with the requisite fee enumerated in Section 13, with the City council on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before October 31st of each year. Any renewal applications received after November 30 shall pay in addition to the annual fee a late charge of 20%. If license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs will be assessed.

- B) All licenses granted under this ordinance shall be for the calendar year, and the full license fee must be paid for a license application filed prior to July 1st of the license year. One-half of a license fee shall be paid for a license application filed after July 1 of the license year, except for applications for a temporary special event license which shall not be halved.
- C) Any person renewing any license issued under this ordinance who shall pay the required fee, or any portion thereof, after January 1st, shall, in addition to the annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

SECTION 20: AUTOMATIC LICENSE FORFEITURE FOR NON-USE

A license issued pursuant to this Ordinance shall be valid only so long as the licensee is actually engaged in the business of sale of malt beverages and/or wine for consumption only on the premises where sold. Any holder of any license under this ordinance who shall after the license has been issued cease to operate the business and the sale of the product or products authorized shall automatically forfeit the license without the necessity of any further action.

SECTION 21: REVOCATION OR NON-RENEWAL OF LICENSE

The City Council may revoke any license issued under this Ordinance, or refuse to issue the same, if the licensee or applicant for renewal:

- A) is convicted of a felony or any crime involving moral turpitude;
- B) makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the City Council;

- C) fails to timely give written notice of any change of ownership interest as required;
- D) violates any rules or regulations promulgated by the City Council under this Ordinance , of which the licensee has reasonable notice; or
- E) becomes disqualified under this Ordinance to hold a license.
- F) The City Council shall revoke the license of any licensee whose license has been suspended two or more times in any consecutive 12-month period.
- G) The City Council shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
- H) Whenever it can be shown that a licensee under this ordinance no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the city.

SECTION 22: SUSPENSION OF LICENSE

- A) The following shall be grounds for the suspension of a license issued under this Ordinance for such period of time as the City Council shall, in its sole discretion, determine appropriate:
 - 1) a violation by the licensee of any state or federal law or regulations, or any provision of this ordinance or the regulations promulgate under its authority;
 - 2) the failure of the licensee and employees or agents of the licensee to promptly report to the Chief of Police any violation of law/breach of peace, any violation concerning malt beverages or wine, disturbance, or altercation occurring on or near the licensee's premises or any citation or other notice given by any other agency to the licensee or employee;
 - 3) the violation of any law, regulation or ordinance pertaining to malt beverages and wines, by any employee or agent of the licensee in connection with operation of the business of the licensee;
 - 4) operation of the business of the licensee in such a manner as to create a public nuisance, or in a manner contrary to public welfare, safety, health or morals;

- 5) failure to furnish the City Council on request any information or records that would be necessary to needed for use in determining the licensee's compliance and qualifications under this ordinance; or
 - 6) to knowingly sell malt beverages or wines to any person while such person is in an intoxicated condition.
- B) Whenever this ordinance permits the City Council to suspend any license issued under this ordinance but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.
- 1) No suspension shall be for a period of time longer than the time remaining on such license unless the licensee is allowed to renew by the City Council during the suspension period.
 - 2) The following factors shall be considered on any suspension as set out above:
 - a) Consistency of penalties mandated by this ordinance and those set by the City Council.
 - b) Likelihood of deterring future wrongdoing.
 - c) Impact of the offense on the community.
 - d) Any mitigating circumstances or remedial or corrective steps taken by licensee.
 - e) Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

SECTION 23: HEARINGS

- A) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section.
- B) The City Council shall provide written notice to the applicant or licensee of its intent to deny, suspend or revoke the license. Such written notification shall be hand delivered or sent certified mail to the applicant at the address shown on the application, and the applicant shall be directed to show cause, of any there be, why the proposed action should not be taken by the City Council. The notice shall:
 - 1) advise of the time and place specified for the hearing, which hearing shall be held not less than twenty days (if the notice is mailed) or fifteen days (if the notice is hand delivered), but not more than ten days form the date of the service of the notice.
 - 2) Shall set forth in reasonable detail the grounds for such action and the

- factual basis supporting those grounds; and
- 3) advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing.

SECTION 24: NOTICE

For the purpose of this ordinance, notice shall be deemed delivered when personally served or when served by certified mail, within three days after the date of deposit in the United State mail.

SECTION 25: AUDITS OF LICENSEES

- A) If the City Council or its designee deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license(s) issued under this ordinance.
- B) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises:
 - 1) Monthly income or operating statements.
 - 2) Daily sales receipts showing beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
 - 3) Daily cash register receipts such as Z tapes or guest tickets.
 - 4) Monthly state sales and use tax reports.
 - 5) Federal income tax return with all Form 1099's.
 - 6) All invoices or other statement reflecting a record of malt beverage and wine purchases by the Licensee.
- C). All licensed establishments shall furnish a monthly report regarding on premises consumption to the City on forms proscribed by the City on or before the tenth of each month.

The City Council can waive all or some of the requirements of the foregoing sentence if it finds that no such records exist and it is not financially practical based on the net income of the licensed establishment to require them to keep such records.

SECTION 26: RETAIL CONSUMPTION DEALER TO STORE INVENTORY ONLY ON PREMISES

No retail consumption dealer licensed under this ordinance shall keep any beer or wine at any place except the licensed place of business.

SECTION 27: POURED MALT BEVERAGES AND WINE TO BE TRANSPORTED BY EMPLOYEES

Poured malt beverages and wine shall be transported from point of dispensing to the customer by permitted employees only. Permitted employees are those who have applied for and received a pouring license authorizing such employees to take orders and transport malt beverages or wine to customers. This requirement shall not be applicable to volunteer employee of licensees who are charitable or civic organizations qualified under Section 501© of the Internal Revenue Code.

**SECTION 28: LICENSEES TO MAINTAIN A COPY OF THIS ORDINANCE:
EMPLOYEES TO BE FAMILIAR WITH TERMS; LICENSEE
RESPONSIBLE FOR VIOLATIONS**

Each malt beverage and/or wine dealer licensed under this ordinance shall keep a copy of this ordinance upon the licensed premises and shall instruct any person working there with respect to the terms of this ordinance; and each licensee, the licensee's agents and employees selling malt beverages and/or wine shall at all times be familiar with the terms of the ordinance.

**SECTION 29: EMPLOYMENT OF UNDERAGE PERSON PROHIBITED:
EXCEPTIONS**

- A) No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any malt beverage or wine.
- B) It is unlawful for any person under the age of 18 years of age to work as an entertainer in any establishment licensed under this ordinance without written consent form parents or guardian.

**SECTION 30: FAILURE TO REQUIRE AND PROPERLY CHECK
IDENTIFICATION**

It shall be a violation not to require and properly check identification for such persons as reasonably necessary to ensure that an underage person is not sold, served, or does not have in his possession malt beverage or wine while in a licensed establishment. Identification in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card. Nothing herein shall require mandatory checking of all customers' identifications.

SECTION 31: SALES TO UNDERAGE PERSON PROHIBITED

No holder or employee of the holder of a license authorizing the sale of alcoholic beverages shall do any of the following upon the licensed premises:

- 1) sell or offer to sell any wine, malt beverage, to any person under the age of 21 years.
- 2) sell or offer to sell wine, or malt beverage to any person unless such person has furnished proper identification showing that the person to whom the malt beverage or wine are being sold is 21 years of age or older. For the purposes of this subsection proper identification means any document issued by a government agency containing a description of the person, such persons' photograph, or both, and giving such person date of birth, including but not
- 3) limited to, a passport, military identification card, driver's license, or identification card authorized under an act tot require the department of publics safety to issue identification cards to persons who do not have a motor vehicle drive's license. Proper identification shall not include a birth certificate.
- 4) sell or offer to sell any malt beverages or wine to any person who is noticeably intoxicated, who is of unsound mind, or who is habitual drunkard whose intemperate habits are known to the licensee or his employees.
- 5) sell malt beverages or wine upon the licensed premises or permit malt beverage or wine to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.
- 6) The penalty for violation of this section shall be set forth in Section 7 hereof.

As to penalties if there is change in a majority of the licensed establishments' owners, partners or shareholder, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of it predecessor(s) if a majority of the owners, partners or shareholders are the same or if prior owners continue in the employee of the new owners.

SECTION 32: REGULATIONS AS TO EMPLOYEES AND MANAGER

The following regulations shall apply to all establishments holding a license for consumption of malt beverages or wine on the premises:

- 1) No person shall be employed to dispense malt beverages or wine, or serve in any managerial position by an establishment holding a license under this ordinance until such person has been fingerprinted and cleared by the Chief of Police and/or City Code Enforcement Officers or other designee of the City

Council indicating that the person is eligible for such employment as per the minimum requirements for an applicant under this ordinance.

- 2) This section shall not be construed to include employees whose duties are limited solely to those of busboy(s), cook(s), or dishwasher(s).
- 3) No permit shall be issued until such time as a signed application has been filed with the City Clerk or such department's designee and upon payment of a fee that shall be established by the City Council and a search of the criminal record of the applicant and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.
- 4) The City Clerk or a designee shall have a complete and exhaustive search made relative to any criminal record of the person fingerprinted or cleared. If there is no record of a violation of this ordinance, the City Clerk or a designee shall issue a permit to the person, by mail, stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the Chief of Police or City Code Enforcement Officer or other designee of the City Council shall notify the person, in writing, that they are not eligible for employment, the cause of such denial and their right appeal.
- 5) No person shall be granted a pouring permit unless it appears to the satisfaction of the City Clerk or a designee that such person has not been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of malt beverages or wine, including the sale or transfer of malt beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy, or any sexually related crime within a period of five years of the date of conviction and has been released from parole or probation. A person's first time conviction for illegal possession of malt beverage or wine as a misdemeanor or violation of a county ordinance shall not, by itself, make a person ineligible for a malt beverage or wine pouring permit. No person shall be granted a pouring permit who has been convicted, pled guilty or entered a plea of nolo contendere to any federal, state, or local law for any felony within five years of the date of conviction and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this ordinance, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which a person whose sentence was entered under the Georgia First Offender Act, as amended. Except, however, that any such offense shall not be ignored if the person violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the

person had previously been sentenced as first offender.

- 6) Malt beverage or wine pouring permit shall be issued for a period of one calendar year from the date of the original application. As noted in subsection (11) below, the malt beverage or wine pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by members of the City Police department or the City Council's staff. After application for the pouring permit is completed with the City, the employee may immediately commence work on a temporary basis provided the employee retains the receipt for the permit on his person at all times at the Premises for which the malt beverage or wine license has been issued, and thereafter if a permit is issued, must maintain on his persons at the Premises the actual pouring permit.
- 7) No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the sheriffs department or Temple Police Department for an alcoholic beverage pouring permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for the reason, then 30 calendar days must elapse from the date-of notification per certified mailing before a new application and fee may be resubmitted.
- 8) All permits issued through administrative error can be terminated and seized by the City Clerk or a designee or the designee of the City Council.
- 9) Replacement permits will be issued within 30 days of original date, upon paying one-half of the fee charges for malt beverage or wine pouring permits. After 30 days of original application date, a new application and fee must be submitted.
- 10) All permits issued under this ordinance remain the property of the City of Temple and shall be produced for inspection upon the demand of any policeman or designee of the City Clerk; City Police or the Sheriff's department or employee of the City business license department.
- 11) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless the employee or manager has in their possession a current valid City pouring permit. For new employees, a receipt issued by the City Clerk may be used for a maximum of 90 days from the date of its issue. Licensees are required by this ordinance to inspect and verify that each employee required to do so have in their possession a valid current malt beverage or wine pouring permit.

- 12) It shall be the duty of all persons holding any license to sell malt beverages or wine to file with the City Clerk or a designee the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers, twice annually, during the month of June and again during the month of December.
- 13) A license fee of \$50.00 shall be charged.
- 14) The permit issued under this section shall be issued to individuals only and will be the property of the individual to whom the permit is issued regardless of who pays the compensation to the City for its issuance and may be used on any employer licensed by the City until said license is revoked, suspended, terminated, or expires.
- 15) Any permitted employee under Section 27 of this Ordinance or this section of the Ordinance, shall at all times during employment at the licensed premises wear and display a numbered identification badge with picture issued by the City. The cost of said badge may be paid by the employee or the licensee. Each permitted employee shall furnish a current photograph, 1 ½ inches by 1 1/2 inches to the City for use on said identification badge.

SECTION 33: OPEN AREA AND PATIO SALES

- A) Malt beverage or wine sales can be made by a licensed consumption on premises establishment in a patio/open area type environment if the establishment has been approved to do so by the City Council and in compliance with any and all other regulations of the City regarding outdoor sales. Also, all sales of malt beverages or wine under this provision must be in glass containers.
- B) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.
- C) The height of such structure shall be a minimum of three-and-one-half feet about the patio floor, both the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the city's building inspection department and the County's fire department as required by governing regulations or codes.
- D) The only exit from this area is to be through the licensed establishments' main premises and through an approved fire exit, not for general public use unless an emergency exists. The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of

unauthorized use when no emergency exists.

- E) If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the City Council, Interior type patio/open sales area must also meet the requirements of the City's development and fire codes.
- F) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio area of such hotel or motel, provided such functions are catered in connection with a meeting, conference convention or similar type gathering at such hotel or motel. "Patio areas", as the term is used in this subsection, do not have to conform to the standards in this section.

SECTION 34: NO CONSUMPTION OUTSIDE PREMISES

- A) It is prohibited for customers to leave the premises with open malt beverages or wine and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers.
- B) It is prohibited for customers to gather outside a malt beverage and/or wine establishment and consume malt beverages or wine.
- C) It is prohibited for the manager or any employee to allow persons to gather outside a malt beverage or wine establishment and consume alcoholic beverages.
- D) This section is subject to other provisions of the ordinance and other regulations of the City of Temple regarding outside sales.

SECTION 35: SPECIFICATION OF PREMISES

No malt beverage or wine license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application or unless proposed plans and specifications and a building permits of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinance of the City of Temple, regulations of the state revenue commissioner, and the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located

shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for malt beverage or wine license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which a malt beverage or wine license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passage ways and open areas may be clearly seen by the customers therein.

SECTION 36: SOLICITATION PROHIBITED

No retail consumption dealers licensed under this ordinance shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink whether malt beverage or wine or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting the establishment or to an agent or manager to solicit for herself/himself or for the others, the purchase by the patron of any drink, whether malt beverage or wine or nonalcoholic beverage, or money with which to purchase the beverage.

SECTION 37: PROHIBITED NOISE FROM ESTABLISHMENTS

It shall be unlawful for any establishment licensed under this ordinance to make or cause to be made any loud, unnecessary or unusual sound or noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the county and that is audible to a person of normal hearing ability from the nearest property line of the business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this ordinance after the hours of 11:00 p.m.

SECTION 38: INSPECTION OF LICENSED ESTABLISHMENTS BY THE CITY OF TEMPLE

City Police, Carroll County Sheriff's Department officers, and/or code enforcement officers of the City of Temple shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the City at any time. These inspections shall be made for the purpose of verifying compliance with the requirements of this ordinance and state law. This section is not intended to limit the authority of any other officer to conduct inspections authorized by other provisions of this ordinance.

SECTION 39: ESTABLISHMENT CAN BE CLOSED IN CASES OF EMERGENCY

The Chief of Police, the Sheriff or his designee may immediately close an establishment licensed under this ordinance in case of emergency for the safety of the public or to investigate a crime for a period of time not to exceed 24 hours.

SECTION 40: SALE ON ELECTION DAYS

- A) Pursuant to the delegation of authority granted to this governing authority by Act No. 750 (House Bill No. 247) approved April 10, 1985, amending O.C.G.A. § 3-3-20(b)(2)(B), the sale of retail of malt beverages or wine, to wit: wine and malt beverages, shall be lawful during the polling hours of any election; provided, polling place during such time as the polls are open.

SECTION 41: BRING YOUR OWN BOTTLE (BROWN BAGGING) PROHIBITED

It is prohibited for any person to bring in his own malt beverage or wine (brown bag) in any establishment either licensed or unlicensed to serve malt beverages or wine.

SECTION 42: TYPES OF ENTERTAINMENT, ATTIRE AND CONDUCT PROHIBITED

A) Preamble and purpose:

- 1) Based upon the experiences of other counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York, Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida, which experiences the City Council believes are relevant to the problems faced by the City and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, as well as the testimony of an expert received by this Council, the City Council takes notes of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities with our country.
- 2) Moreover, it is the finding of the City Council that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called “nude bars” or establishments offering so-called “nude entertainment” or “erotic entertainment”, begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly

conduct, position, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increase expenditure for and allocation of law enforcement personnel to preserve law and order, increase burden on the judicial system as a consequence of the criminal behavior herein described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore the prohibition of nude or semi-nude conduct in establishments licensed to sell malt beverage or wine for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcohol and also allow and/or encourage nudity or semi-nudity.

B) Prohibited activities.

Any establishment licensed under the provisions of this ordinance is prohibited from permitting or engaging in the following activities.

- 1) the employment or use of any person in any capacity in the sale or service of malt beverages or wine while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
- 2) live entertainment that provides or features nude or semi-nude or erotic dancing or the performance of obscene acts that simulate:
 - a) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;
 - b) the touching, caressing or fondling of the breast, buttock, anus or genitals; or
 - c) the displaying of the pubic hair, anus, vulva or genitals.
- 3) the showing of any film still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in subsection (2), above, which are obscene under state law; or
- 4) the holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.

ARTICLE II

BEER AND WINE BY THE DRINK

SECTION 43: TYPE OF RETAIL ESTABLISHMENT WHERE PERMITTED

No beer or wine shall be sold for consumption on the premises where sold except:

A) In sites in areas zoned commercial and which are being used as one of the following:

- 1) are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire establishment is open and shall derive at least 65% of sales from food. When eating establishments are located in hotels, motels, every entrance to the establishments shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure;
- 2) Are an indoor nonprofit civic and cultural center qualified under Section 501©(3) of the Internal Revenue Code capable of serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments); prepared to serve food every hour they are open and deriving at least 65% percent of its total annual gross sales form the sale of prepared meals or foods and recreation activities;
- 3) at a golf course that derives at least 65% of its annual gross revenue from the sale of prepared meals or food and recreation activities, i.e. golf, said sales specifically permitted at such establishments outside on the golf course via such items as “beer carts.”

These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

SECTION 44: LICENSE FEE AND AMOUNT TO DEFRAY INVESTIGATIVE AND ADMINISTRATIVE COSTS TO ACCOMPANY APPLICATION

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$250.00 to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded, but the \$250.00 cost paid for investigative and administrative fees shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees

authorized under this ordinance. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs. A notice of each application to sell beer and/or wine by consumption shall be advertised in the official legal organ of the City, once a week for two weeks immediately preceding consideration of the application.

SECTION 45: HOURS AND DAYS OF SALE

- A) Beer and/or wine shall not be sold distributed for consumption on the premises except between the hours on Monday through Friday of 10:00 a.m. through 1:00 a.m.; and Saturday 10:00 a.m. through 12 midnight. See also Section C “Sunday Sales.”
- B) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- C) **SUNDAY SALES-** The sale or distribution of beer and/or wine for consumption on the premises on Sundays is prohibited.

ARTICLE III.

SECTION 46: ELIGIBILITY FOR ISSUANCE OF A TEMPORARY SPECIAL EVENT LICENSE

- A) A temporary license may be issued to any person, firm or corporation, for a period not to exceed the maximum number of days available pursuant to State of Georgia regulations in any one year for an approved special event,

but not to exceed three consecutive days at any one time regardless of State regulations. The person, firm or corporation must make application and pay the fee that may be required by the ordinance and shall be required to comply with all the general ordinances and the licensing and regulations for consumption on the premises establishment with the exception of the full service kitchen requirement.
- B) The special event must meet the following criterion before the issuance of a license to sell beverages or wine:
 - 1) the special event must be associated with and benefit the cause of a charitable, local trade or civic organization.
 - 2) The special event must receive approval form the City of temple Police Department on crowd control and security measures.
 - 3) the special event must receive approval form the City Council, on traffic control measures and such other regulations of the City of Temple as applicable;

- 4) the location at which the special event is to take place must be properly zoned and approved by the City of Temple Zoning Department.
 - 5) the premises at which the special event is to take place must be approved by the City Council.
- C) Any employee or volunteer of the special event licensee working the special event in any position dispensing, selling serving, taking orders of malt beverages shall not be required to obtain a pouring permit for the special event.
 - D) The City Council or its designee may immediately revoke any temporary license for a special event if continued malt beverage or wine sales may endanger the health, welfare or safety of the public.
 - E) As a condition on the issuance of a temporary special event license, the licensee may be required to provide insurance satisfactory to the city and/or to indemnify and hold the City of Temple harmless from claims, demand or cause of action that may arise from activities associated with the special event.
 - F) The fee for the permit shall be as established by the City Council.

ARTICLE IV.

SECTION 47: SIGNS TO BE POSTED

Each licensed premises for the sale of malt beverages and/or wine by the drink for consumption on the premises shall post in a conspicuous place within the outlet and at each entrance a sign with letters at least two inches high as follows : “The sale of malt beverages or wine to persons under 21 years of age is prohibited . “

ARTICLE V.
HAPPY HOUR

SECTION: 48: PROMOTIONS AND SALES

- A) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of malt beverages or wine for consumption on the premises, shall:
 - 1) offer or deliver any free alcoholic beverage to any person or group of person;
 - 2) deliver more than one malt beverage or wine to one person at a time, however, nothing herein shall prohibit a brew pub from offering a sampler of malt beverages in containers not exceeding four ounces.

Each sampler shall not exceed four different types of malt beverages;

- 3) sell, offer to sell, or deliver to any person or group of persons any malt beverage or wine at a price less than the price regularly charges for such malt beverage or wine during the same calendar week, except at private functions not opened to the public;
 - 4) sell offer sell or deliver to any person or group of persons an unlimited number of malt beverages or wine during any set period of time for a fixed price, except at private functions not open to the public;
 - 5) sell, offer to sell, or deliver malt beverages or wine to any person or group of person on any one day at prices less than those charged the general public on the day, except at private functions not opened to the public;
 - 6) sell, offer to sell, or deliver malt beverages or wine, including malt beverages, in any container which holds more than 32 fluid ounces (.947 liters), except two or more persons at any one time;
 - 7) encourage or permit on the licensed premises any game or contest which involves the drinking of malt beverages or wine or the awarding of alcoholic beverages as a prize.
- B) Each licensee shall maintain a schedule of the price charged for all malt beverages or wine to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less, than one calendar week.
- C) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (A) of this section.
- D) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time. To prohibit licensees from including a malt beverages or wine as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
- E) It is the intent of this section to prohibit activities typically associate with promotions referred to as happy hours or similarly designated promotions.

- F) The City of Temple Police and Code Enforcement personnel department shall have responsibility for the enforcement of this article.
- G) No licensee may require the purchase of any malt beverage or wine as apart of or prerequisite to the purchase of any other product or service. If malt beverages or wine are included as part of a package of other goods and/or services, the malt beverages or wine must be priced separately and all customers must be allowed to purchase the remaining goods and services without the malt beverages or wine at a price from which the full price of the malt beverages has been deducted.

ARTICLE VI.
EXCISE TAXES

SECTION 49: PER DRINK EXCISE TAX

A) Where malt beverages or wine are sold in bottles, cans, glasses, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

SECTION 50: EXCISE TAX AND BOND REQUIREMENT ON WHOLESALERS

- A) There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter that shall be paid to the governing authority on all wine sold by wholesalers to retailers in the City of Temple. Such tax shall be paid to the designee of the City Council by the wholesale distributors on all wine sold to the licensees for the sale of wine in the City of Temple as follows: each wholesaler selling, shipping, or in any way delivering wine to any licensees, hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the business license department after the twentieth day of the month shall be charges a ten (10) percent penalty. The twenty-two cents (\$0.22) per liter shall be prorated so that all containers of wine shall be taxes on the basis to twenty-two cents (\$0.22) cents per liter. It shall be unlawful and a violation of this ordinance for any wholesaler to sell, ship or deliver in any manner any wine to a retail dealer without collecting said tax, It shall be unlawful and a violation of this ordinance for any retail dealer to possess, own, hold, store, display or sell any wine on which such tax has not been paid. Each wholesaler shall be paid three (3) percent to the amount of taxes collected as reimbursement for collection of the said tax.
- B) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in the City of Temple at the rate of twenty-two cents (\$0.22) per liter and six dollars (\$6.00) for each container of tap or draft beer

or malt beverage of fifteen and hone-half (15 ½) gallons and in similar proportion for bottles, cans and container of various sizes as follows:

SIZE OF CONTAINER CONTAINER	TAX PER
7 ounces	\$ 0.0291
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583

SIZE OF CONTAINER CONTAINER	TAX PER
16 ounces	\$ 0.0666
32 ounces	0.1333
½ barrel (15 ½ gallon)	6.0000
1 barrel (31 gallons)	12.000

All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages except the tax rate which is sent out in this subsection and the reimbursement of three (3) percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

- C) A wholesaler may be excused from posting the performance bond as provided herein after demonstrating full and satisfactory compliance with the provisions herein for a period of twelve (12) months subsequent to the commencement of business operations within the City. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with the terms of this article and the payment of all sums as required by the provisions herein.

ARTICLE VII
INCORPORATION OF STATE STATUES

The City Council of Temple hereby adopts and incorporate within this ordinance the following provisions of the Official Code of Georgia, which provisions are hereby made a part of this ordinance by reference thereto:

- 1) O.C.G.A.§3-3-40. Definitions.
- 2) O.C.G.A.§3-3-41. Performance of actual or simulated sexual acts
- 3) O.C.G.A.§3-3-42. Employee solicitation of patrons of drinks on

premises.

- 4) O.C.G.A.§3-3-43. Permitting persons to view sexually related acts or conduct performed on other premises.
- 5) O.C.G.A.§3-3-44. Permitting persons to remove alcoholic beverages to other premises to view sexually related conduct or activities.
- 6) O.C.G.A.§3-3-45. Employment of or assistance to persons engaged in sexually related conduct or activity or nudity.
- 7) O.C.G.A.§3-3-46. Grounds for suspension and revocation of alcoholic beverage license.

ARTICLE VIII
SEVERABILITY

If any section, provision or clause of any part of this article shall be declared invalid or unconstitutional, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.

ARTICLE IX.
REPEALER

The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed. Prior ordinances shall remain in full force and effect as to all package licensees.

Adopted and ordained this _____ day of _____, 2006

Mayor

Attest: City Clerk