



**MAYOR AND COUNCIL MEETING  
MONDAY, MARCH 04, 2024  
6:00 PM  
DALTON CITY HALL - COUNCIL CHAMBERS**

**AGENDA**

**WORK SESSION - 5:00 P.M. - COUNCIL CHAMBERS**

- [1.](#) Conasauga Community Addiction Recovery Center Presentation - Melissa Beavers, Senior Clinical Counselor
- [2.](#) New Alcohol Ordinance Update - Jonathan Bledsoe
- [3.](#) City Administrator Report - Andrew Parker

**REGULAR MEETING - 6:00 P.M. - COUNCIL CHAMBERS**

**Call to Order**

**Pledge of Allegiance**

**Approval of Agenda**

**Public Commentary:** *(Please Complete Public Commentary Contact Card Prior to Speaking - Limit of 3 Minutes Per Person)*

**Proclamation:**

- [1.](#) American Red Cross Month - March 2024 - Carla Maton, Executive Director, American Red Cross of Northwest Georgia

**Presentations:**

- [2.](#) Dalton State College Update - Dr. John Fuchko
- [3.](#) Department Head Reports

**Minutes:**

- [4.](#) Mayor & Council Minutes of February 19, 2024

**New Business:**

- [5.](#) Renewal of Statewide Mutual Aid and Assistance Agreement
- [6.](#) Ordinance 24-05 The request of Shazman Ali to rezone from Heavy Commercial (M-2) to General Commercial (C-2) a tract of land totaling 4.05 acres located at 1028 Willowdale Road, NW, Dalton, Georgia. Parcels (12-159-01-059 and 12-159-01-065)
- [7.](#) Ordinance 24-06 The request of Danielle Putnam to rezone from Medium Density Single Family Residential (R-3) to Rural Residential (R-5) a tract of land totaling 0.32 acres located at 405 Mosedale Drive, Dalton, Georgia. Parcel (12-241-02-009)
- [8.](#) Resolution 24-09 To Approve the Acceptance of Funds from The Distribution of Certain Cemetery Trusts
- [9.](#) Amendment No. 2 to AIA Document B101-2017 for Project Renovations and Additions to the Existing John Davis Recreation Center

**Supplemental Business**

**Announcements**

**Adjournment**



# CONASAUGA COMMUNITY

ADDICTION RECOVERY CENTER

*Guiding Your Journey to Lasting Recovery*



## ABOUT US

Conasauga Community Addiction Recovery Center offers high-quality recovery services at **no cost** for anyone in Whitfield and Murray County whose lives have been impacted by addiction directly, or indirectly.

We aim to inspire hope by contributing to the health and well-being of the communities we serve through addiction treatment for anyone who wants to receive care.

# TREATMENT SERVICES

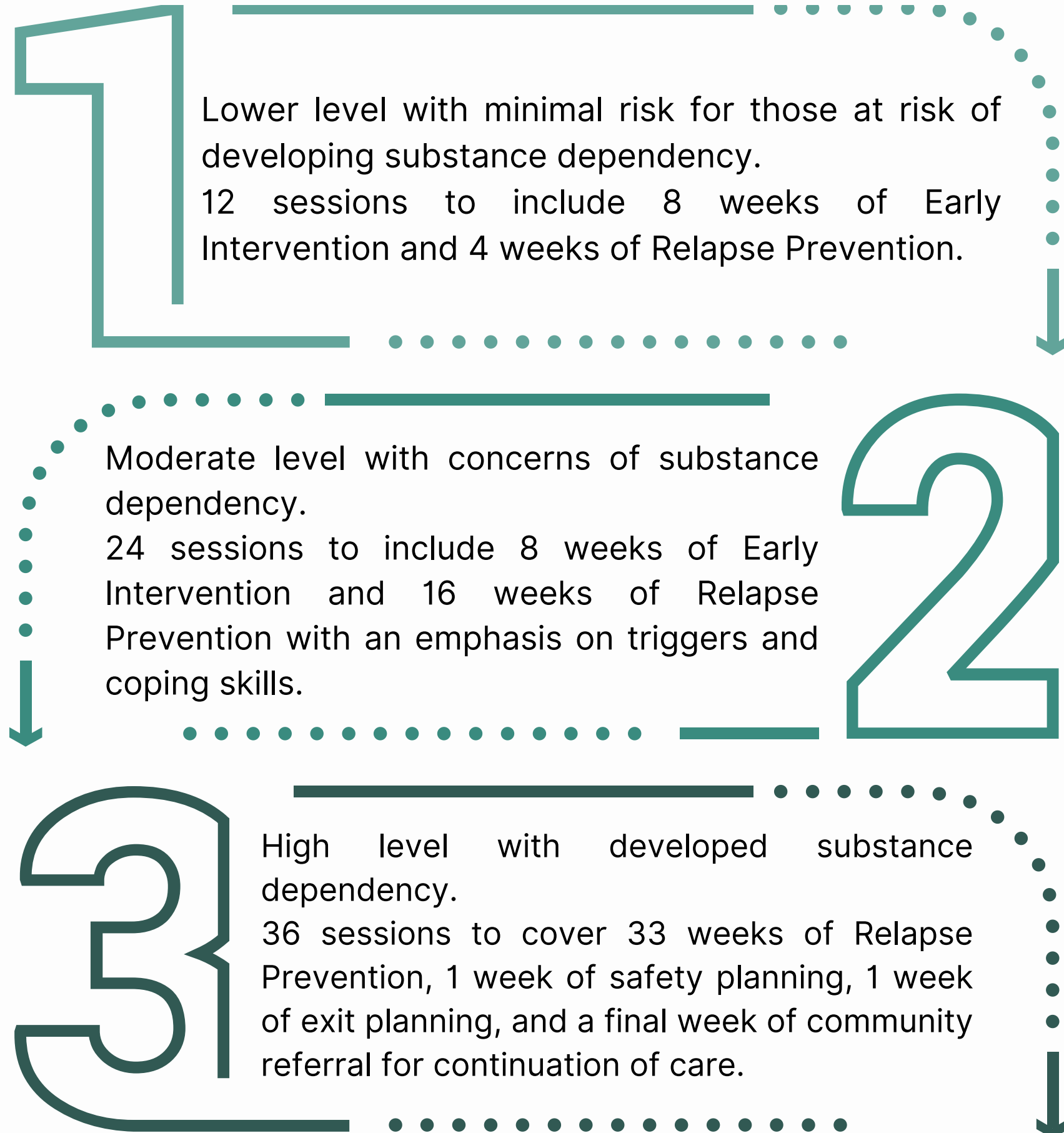
Services extend to anyone impacted by substance abuse - not just the person with the addiction.

Including:

- Individual Counseling
- Cognitive Behavioral Therapy (CBT)
- Cognitive Processing Therapy (CPT)
- Trauma Therapy
- Accelerated Resolution Therapy (ART)
- Post-Traumatic Stress Disorder Therapy (PTSD)

CCARC treatment services shall include ASAM levels 0.5 and 1.0 outpatient services using Matrix Early Intervention/Relapse Prevention as the treatment modality by offering 3 levels of care based upon the individual assessments.

# ASAM LEVELS



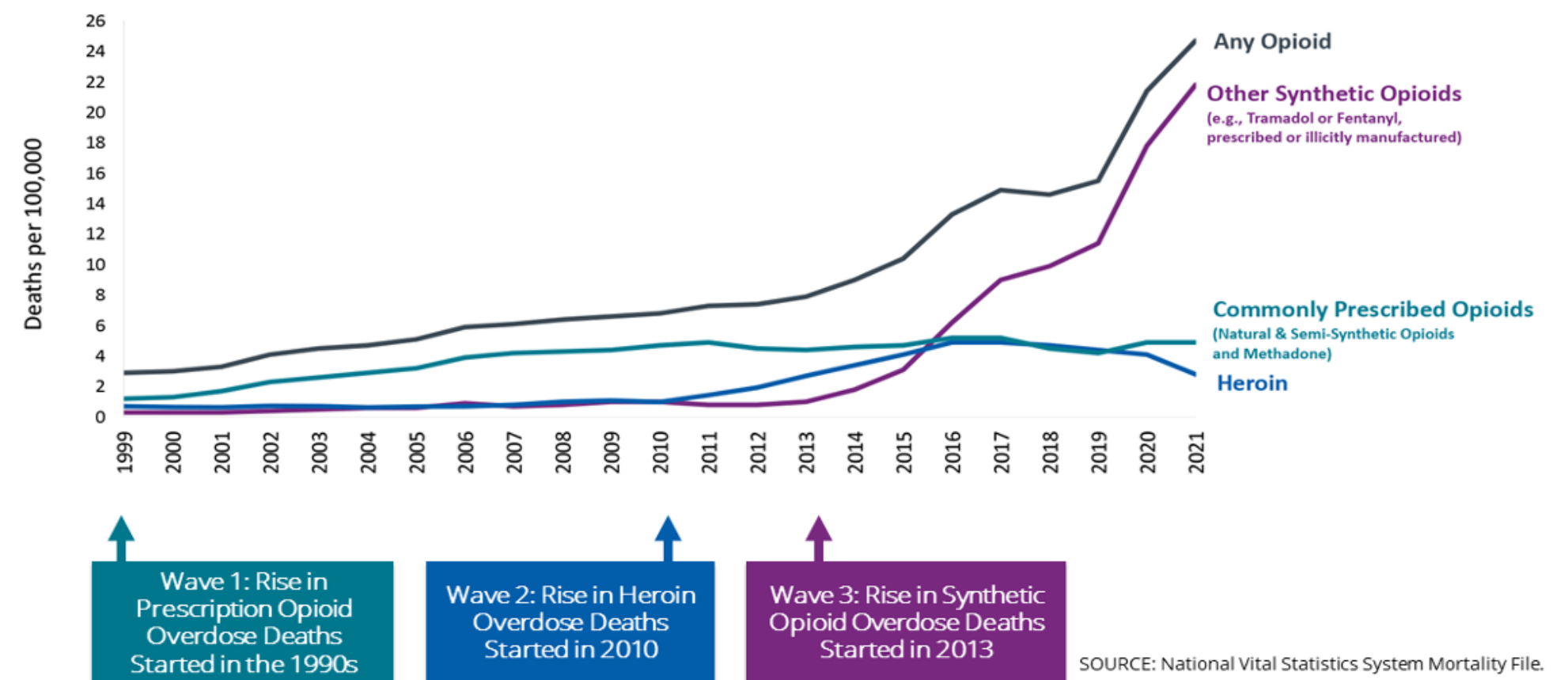
# UNDERSTANDING THE OPIOID OVERDOSE EPIDEMIC

The number of people who died from a drug overdose in 2021 was over six times the number in 1999. The drug overdoses deaths increased more than 16% from 2020 to 2021.

Over 75% of the nearly 107,000 drug overdose deaths in 2021 involved an opioid.

- Opioid involved death rates increased by over 15%
- Prescription opioid-involved death rates remained the same.
- Heroin-involved death rates decreased nearly 32%
- Synthetic opioid-involved death rates (excluding methadone) increased by over 22%




## Three Waves of Opioid Overdose Deaths



# RISE IN OPIOID DEATHS

According to the CDC, from 1991-2021, nearly 645k people died from an overdose involving any opioid, including prescription and illicit opioids.

This increase in opioid deaths can be outlined in 3 distinct waves:

-  The first wave began with increased prescribing of opioids in the 1900s, with overdose deaths involving prescription opioids (natural and semi-synthetic opioids and methadone) increasing since at least 1993.
-  The second wave began in 2010, with rapid increases in overdose deaths involving heroin.
-  The third wave began in 2013, with significant increases in overdose deaths involving synthetic opioids, particularly those involving illicitly manufactured fentanyl. The market for illicitly manufactured fentanyl continues to change, and it can be found in combination with heroin, counterfeit pills, and cocaine.



# WHERE WE ARE TODAY

As of February 29, 2024, we have conducted 350 individual sessions at an estimated cost of \$120.00 per session - saving consumers \$42,000.

We have conducted 18 substance use disorder assessments an an estimated cost of \$130/assessment - saving consumers \$2,340.

## Current collaborators:

- Providence Women's Recovery
- Whitfield and Murray DFACS
- Mental Health Court
- Domestic Violence Court
- Northwest GA Women's Crisis Center
- Community Supervision



**PROVIDENCE WOMEN'S RECOVERY**  
AN OUTREACH OF PROVIDENCE MINISTRIES  
711 SOUTH HAMILTON STREET DALTON, GA 30720

January 4, 2024

To Whom It May Concern:

I wanted to take the time express my appreciation and gratitude for the counseling services currently provided to Providence Women's Recovery through Conasauga Community Addiction Counseling. Counseling, particularly trauma counseling, is by far a significant part of the healing process from addiction. Our clients have benefitted not only therapeutically, but also economically, since most clients who enter our treatment center do not have insurance coverage. The quality of services delivered from Melissa Beavers, LCWS, CADCI and her staff have been instrumental in impacting our clients' lives and helping aid in building a strong foundation for long-term recovery.

I appreciate all the time and support their agency offers to Providence Women's Recovery. I look forward to a long partnership for the health and well-being of members of our community.

Respectfully,

Cynthia Barton, MS  
Director, Providence Women's Recovery

PHONE 706.519.0404 FAX 706.673.3845

# WHERE WE ARE GOING

## 1 YEAR PLAN

Part-time case manager to handle appointments, intake paperwork, arrange schedules for appointments and ensure appointments are confirmed and all paperwork is uploaded into the case management system.

Office space for case manager including laptops, printers, and office furniture.

Electronic Health Records - added cost but HIPPA compliant.

Larger office space to accommodate growth, office equipment, electronic check-in.

Training for continuing education units to maintain certifications - state requirement.



## 5 YEAR PLAN

Part-time case manager moves to full time with the same stipulations.

3rd counselor to serve the community in evening hours.

Office space for 3rd counselor including office essentials.

Group implementation to serve low income clients that are needing 2.1 level of care. (Highly requested)

Group training and certifications as well as necessary materials.

QUESTIONS?

**CONTACT:  
MELISSA BEAVERS**

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**[www.whitfieldcountyga.com](http://www.whitfieldcountyga.com)**

**706-281-4820**

**301 W. Crawford St.  
Dalton, Ga 30720**

## Chapter 6 ALCOHOLIC BEVERAGES

### ARTICLE I. IN GENERAL

#### Sec. 6-1. Definitions.

All definitions set forth in the Georgia Alcoholic Beverage Code (O.C.G.A. tit. 3) and state regulations, as amended, are adopted by this chapter. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means any person who files forms designated by the city clerk as an applicant for a license to sell alcoholic beverages either at retail or wholesale, deal in alcoholic beverages either at retail or wholesale or manufacture alcoholic beverages.

*Church* means a permanent freestanding building located in an area designated for such use by the zoning ordinances where persons regularly assemble for religious worship, which shall be publicly designated as a church, but does not include a residence or place of business also used for religious purposes.

*Code enforcement inspector* means an Authorized City Official appointed by the mayor and council or city administrator to enforce this chapter.

*College* means only such state, county, city, church or other colleges which teach the subjects commonly taught in the common colleges of this state.

*Designated Agent* means the person designated by the licensee in his application for a permit to sell alcoholic beverages

*Distance* means the distance as established in section 6-103 of this chapter.

*Drink and mixed drink* mean any alcoholic beverage served for consumption on the premises, which may or may not be diluted by water or other substance in solution.

*Eating establishment* means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sale from the sale of prepared meals or food.

*Family* means any person related to the holder of a license within the first degree of consanguinity or affinity as determined according to civil law.

*Freight depot* shall mean the Dalton Freight Depot located at 305 South Depot Street together with that portion of South Depot Street between Cuyler Street and East Morris Street.

*Hotel* means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 40 or more rooms are used for the sleeping accommodations of such guests, such sleeping accommodations being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels.

*Hotel Lounge* means a separate room located in a hotel, as defined in this section.

*License* means the authorization by the mayor and council to engage in the sale of alcoholic beverages on the premises.

*Licensee* means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, plural as well as singular number, who holds any class of permit issued under this chapter.

*Local caterer or concessionaire* means a person, other than the preferred caterer and concessionaire, whose principal business is to cater meals or other food items for functions located off the caterer's premises, who maintains a permanent office within the county and who meets the citizenship and residency requirements of section 6-105 of this chapter.

*Mall* means an enclosed indoor area containing common areas and discrete businesses and stores primarily devoted to the retail sale of goods and services; and a mall must have all of the following: (i) public restrooms; and (ii) a minimum of one (1) restaurant, as defined in this section.

*Mall Lounge* means a separate room located in a mall, as defined in this section.

*Micro-brewery* means a facility using traditional brewing practices to produce less than 5,000 barrels of malt beverage annually.

*Micro-distillery* means a facility using traditional distilling practices to produce less than 50,000 gallons of distilled spirits annually.

*Monthly period* means the calendar months of any year.

*Nonprofit civic organization* means an organization which is an exempt organization under section 501(c) or (d) of the Internal Revenue Code of 1986, as amended.

*Package goods retailer* means a person licensed pursuant to O.C.G.A. §3-3-10(a)(7) to sell alcoholic beverages in unbroken packages for consumption off premises.

*Package store* means a geographic location within the city wherein a license may be issued for the sale of packaged alcoholic beverages in unbroken packages and where the sale of alcoholic beverages in unbroken packages comprises more than 50 percent of the licensee's annual gross sales and where the sale of nonalcoholic items is incidental to the business of the licensee at that location; package stores selling distilled spirits must be operated as a distinct business and cannot be operated in conjunction with or as a part of any other business.

*Person under age* means any individual under the age of 21 years.

*Pour* and *pouring* mean the sale of alcoholic beverages by the drink for consumption on the premises.

*Pouring outlet* means any place where distilled spirits or other alcoholic beverages are poured or proposed to be poured.

*Preferred caterer and concessionaire* means the contracted preferred caterer and concessionaire of the Northwest Georgia Trade and Convention Center.

*Premises* means either:

- (1) That definite, closed or partitioned-in locality, whether room, shop or building, owned or leased by the licensee, wherein alcoholic beverages are sold, either by package or for consumption in such locality; or
- (2) As to any pouring outlet, any other location not nearer than 100 feet to any property boundary of the lands exclusively owned, leased or hired by the licensee for such pouring outlet.

*Private club* means a non-profit association organized and existing under the laws of the state, actively in operation within the city, which has been in existence at least one year prior to the filing of its application for a license to be issued under this chapter; and which complies with all requirements set forth in this section: it has at least 40 members who regularly pay monthly, quarterly, or semiannual dues; and, it is organized and operated exclusively for pleasure, recreation and other non-profit purposes; and, no part of its net earnings inure to the benefit of any shareholders or members; and, it owns, hires or leases a building or space therein for

the reasonable use to its members with suitable kitchen and dining room space and equipment; and, it maintains and uses a sufficient number of servers and employees for cooking, preparing and serving meals for its members and guest; provided, that no member or officer, agent or employee of the club is paid or receives, directly or indirectly, in the form of salary or other compensation, any profits from the sale of spirituous liquors to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meetings or by its governing board out of the general revenue of the club.

*Proper identification* shall mean any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and such person's date of birth. Proper identification includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate and shall not include any traffic citation and complaint form.

*Public safety commission* means the commission established by section 7-1 of the Charter.

*Purchase price* means the consideration received for the sale of alcoholic beverages by the drink valued in money, whether received in cash or otherwise, including receipts, credit, property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.

*Purchaser* means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular number, who orders and gives present or future consideration for any alcoholic beverage by the drink.

*Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly prepared and served, without sleeping accommodations, such place seating a minimum of 40 or more people, and holding a certificate of approval from the county health department. A restaurant shall maintain a full-service kitchen which consists of, at a minimum, a three-compartment pot sink, a stove or grill permanently installed and a refrigerator. A restaurant serves meals every hour that it is open and the serving of such meals shall be the principal business conducted, with the serving of distilled spirits, beer and/or wine to be consumed on the premises as only incidental thereto. In order to be classified as a restaurant under this chapter, the licensee must derive a minimum of 50 percent of its total annual gross food and beverage sales, over any 12-month period of time, from the sale of prepared meals or food. In the case of an audit, the relevant time period shall be the 12 months immediately preceding the commencement of the audit. If the restaurant being audited has been in operation as a restaurant for less than 12 months, the audit period shall be the period of time the entity has operated as a restaurant, and the restaurant must derive a minimum of 50 percent of its total annual gross food and beverage sales for that audit period from the sale of prepared meals or food.

*Restaurant Lounge* means a separate room connected with, a part of or adjacent to the restaurant, as defined in this section, and are part of such restaurant's operations, provided that the seating capacity of the lounge shall not exceed that of its connected restaurant.

*Retail sale* means selling or offering for sale alcoholic beverages to any member of the public.

*Return* means any return filed or required to be filed as provided in this Chapter.

*School* means only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges of this state.

*Tax* means the tax imposed under each Article

## **Sec. 6-2. Purposes of chapter.**

This chapter has been enacted in accordance with a plan designed for the following purposes, among others:

- (1) Promoting the health and general welfare of the community;
- (2) Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages to protect and preserve schools and churches;
- (3) Giving effect to existing land use and preserving certain residential areas, with reasonable considerations, among others, to the character of the area and the peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining the stability of neighborhoods and property values; and
- (4) Protecting against the evils of concentration of ownership of retail outlets for alcoholic beverages or preventing undesirable persons from engaging in or having any interest in alcoholic beverages.

## **Sec. 6-3. Applicability.**

The sections of this chapter and the license fees levied in this chapter shall apply to all persons residing or maintaining a place of business in the city or to any person bringing alcoholic beverages into the city for the purpose of sale, except those sales made by a salesperson upon order and delivery later.

## **Sec. 6-4. Compliance with chapter.**

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages without having first complied with this chapter including, but not limited to, obtaining the appropriate alcoholic beverage license from the city.

## **Sec. 6-5. Laws and regulations adopted.**

The state laws and regulations relating to the sale and distribution of alcoholic beverages in the state, as revised and promulgated by the general assembly and by the state revenue department and especially as they relate to wholesale and retail package sales and retail sales for consumption on the premises, are incorporated into and made a part of this chapter as if fully set out in this section.

## **Sec. 6-6. Penalties.**

Any person violating any of the sections of this chapter or who shall assist any dealer in alcoholic beverages in the city to evade or avoid the payment of the fees and taxes provided for in this chapter shall be guilty of a violation of this chapter and, upon conviction in the municipal court, shall, in addition to any fine or sentence of the municipal court, be subject to the fines and penalties set forth in as set out in Section 6-233.

## **Sec. 6-7. Applications and Renewals.**

For the purposes of this chapter, the mayor and council are vested with the following duties and powers:

- (1) *Initial applications.* To screen, verify, investigate and review all initial applications for licenses for the sale of alcoholic beverages, at wholesale and retail, by the package and by the drink, and to grant or to deny licenses for the sale of alcoholic beverages by the package and for the sale of alcoholic beverages by the drink. The mayor and council shall make a determination of all qualifications and requirements to ensure that the applicant meets the qualifications and requirements.
- (2) *Renewals.* To investigate and hear reports and charges constituting probable cause not to renew licenses for the sale of alcoholic beverages at wholesale and retail, by the package and by the drink,

and to grant or to deny renewals of licenses for the sale of alcoholic beverages by the package and for the sale of alcoholic beverages by the drink.

### **Sec. 6-8. Public safety commission powers and duties generally.**

For the purposes of this chapter, the public safety commission is vested with the following duties and powers:

- (1) *Determinations of conduct or offenses requiring penalty, suspension, revocation or combination thereof.* To conduct hearings upon charges of the city to any alcohol beverage licensee as to the occurrence of conduct or an offense for which penalty, suspension, revocation, adjustment of operating hours, or a combination thereof is provided under this chapter; to cause a record and transcript of such hearing to be made and kept; to take any of the actions provided for in section 6-233 below.
- (2) *Modifications.* To recommend to the mayor and council modifications to this chapter and other city ordinances and policies pertaining to the regulation, control and taxing of alcoholic beverages.
- (3) *Rules.* To promulgate rules and regulations governing procedure before it.

### **Sec. 6-9. Possession of unsealed containers.**

It shall be unlawful for any person to possess any distilled spirit in an unsealed container on premises licensed for the sale of alcoholic beverages by the package, and it shall be unlawful for any licensee to permit possession of a distilled spirit in an unsealed container on the premises licensed for the sale of alcoholic beverages by the package.

### **Sec. 6-10. Possession in public places.**

- (a) Except as provided in subsection (b) of this section and section 6-11, it shall be unlawful for any person to drink, consume, transport, carry alcoholic beverage (except in the original package and with the seal unbroken), on any public street, sidewalk, or in any city park, city maintained recreation facility, public parking lot or semi-public parking lot located within the city limits. The term "semi-public parking lot" shall include any area wherein motor vehicles are parked by the public in conjunction with any business, enterprise, commercial establishment, office building or apartment building.
- (b) The following activities shall not be a violation of this section:
  - (1) Alcohol beverage sales by the drink at the Northwest Georgia Trade and Convention Center within areas designated by its management.
  - (2) Beer and/or wine sales by the drink within a special outdoor area as provided for in section 10-112.
- (c) Within the area bordered on the north by Hawthorne Street, on the east by the western right-of-way of the L&N Railway, on south by Morris Street and on the west by Thornton Avenue (the "area"); the following regulations shall apply:
  - (1) *One drink on-street limit.* Any establishment within the Area licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup conforming to cup specifications promulgated by the Downtown Dalton Development Authority from time to time for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than one such alcoholic beverage from the licensed premises.
  - (2) *Size limited to 20 ounces.* No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 20 fluid ounces in size. No person shall hold in possession on the



streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds 20 fluid ounces in size.

- (3) *Drinking from can, bottle, or glass prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.
- (4) *Outside consumption of alcoholic beverages permitted within the area.* Outside consumption of an alcoholic beverage from a container that is in compliance with this subsection (c) of section 6-9 and obtained from an establishment within the area licensed to dispense alcoholic beverages by the drink for consumption on the premises is permitted within the area between 12:30 p.m. and midnight. Provided, however, consumption of an alcoholic beverage in a parked or moving vehicle within the area is prohibited.

### **Sec. 6-11. Sidewalk cafes, open area and patio sales.**

The consumption and/or sale of alcoholic beverages shall be allowed in sidewalk cafes that are in compliance with Article 5 of Chapter 10 of this Code, and in open areas and patios under the control of the licensee provided that such open areas and patios are separated from public areas by a physical barrier, fence, rail or similar structure sufficient to prevent ingress and egress by a person(s) except through a controlled access point and further provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment and its sidewalk cafe, open area or patio, including, but not limited to, regulations pertaining to maximum capacity, ingress and egress. In the event the designated area is separated from the licensee's premises so that it is necessary to traverse public property to get from one location to the other, then in such event it shall be unlawful for alcoholic beverages to be carried from said premises to the designated area or vice versa by anyone but licensee or employees of licensee.

### **Sec. 6-12. Underage persons prohibited on premises.**

No person who holds a license to sell malt beverages, wine, distilled spirits, or other alcoholic beverage shall allow any person underage to be in, frequent or loiter about the premises of the licensee unless such underage person is accompanied by a parent or a legal guardian. However, this section shall not apply to a licensee whose annual sales of food and non-alcoholic beverages upon the premises comprise more than 50 percent of the licensee's annual gross sales and where the sales of alcoholic beverages are merely incidental to the business.

### **Sec. 6-13. Sales to persons underage.**

No licensee or any other person on a licensed premises shall sell alcoholic beverages to any person under the age of 21 years.

### **Sec.6-14. Purchase or possession by underage persons; misrepresentation of age.**

It shall be unlawful for any person under age to purchase or possess any alcoholic beverage. It shall be unlawful for any person under age to misrepresent his or her age in any manner whatsoever for the purpose of illegally obtaining any alcoholic beverages.

### **Sec. 6-15. Employees.**

Except as otherwise provided by law:

- (1) No person issued a license under this chapter shall employ any person under 18 years of age in or about the premises where alcoholic beverages are sold, consumed or offered for sale to sell or deliver or to aid or assist in the sale or delivery, directly or indirectly, of alcoholic beverages; and

- (2) No person under 18 years of age shall sell, take orders for or deliver or in any manner take part or assist in the sale, serving or delivery of alcoholic beverages.

**Sec. 6-16. Furnishing to underage persons.**

It shall be unlawful for any person to buy distilled spirits or other alcoholic beverages and furnish them to a person under age, except as provided by law.

**Sec. 6-17. Business hours of licensed wholesaler.**

The business hours of any wholesaler licensed to sell alcoholic beverages shall be at all times not inconsistent with limitations on such sales as set forth in this chapter or in state law.

**Sec. 6-18. Hours and sale of alcoholic beverages by the package.**

Unless state laws and regulations hereafter provide otherwise, alcoholic beverages by the package may be sold only between the hours of 8:00 a.m. and 11:30 p.m. Monday through Saturday, and only between the hours of 12:30 p.m. and 11:30 p.m. on Sunday.

**Sec. 6-19. Hours and sale of alcoholic beverages for consumption on the premises.**

Unless state laws and regulations hereafter provide otherwise, alcoholic beverages for consumption on the premises may be sold Monday through Saturday from 8:00 a.m. to 2:00 a.m. the following day. Properly licensed eating establishments, establishments that derive at least 50 percent of their total annual gross income from the rental of rooms for overnight lodging, micro-breweries and micro-distilleries may sell alcoholic beverages for consumption on the premises on Sunday from 11:00 a.m. to 12:00 Midnight. Provided, however, if New Year's Day, January 1, of any year falls on a Monday, then such establishments may sell or serve alcoholic beverages by the drink between the hours of 12:01 a.m. and 1:00 a.m. on New Year's Day.

**Sec. 6-20. Closing and vacation of premises of pouring outlets.**

The premises of all pouring outlets shall be completely closed and vacated by all persons except those persons regularly employed for management, sanitation and supply purposes, no later than 2:00 a.m.

**Sec. 6-21. Service after hours at pouring outlets.**

No alcoholic beverages shall be mixed or sold at pouring outlets during the prohibited hours, based upon timely sale of tickets, chits, decanters or other devices.

**Sec. 6-22. Coin-operated devices; amusement machines.**

No retail dealer in distilled spirits by the package shall permit on his premises any slot machines, electronic or mechanical games of chance machines of any kind or character, any coin-operated amusement machines, or any other machines operated for amusement purposes.

**Sec. 6-23. Delivery by retailer beyond licensed premises.**

It shall be unlawful for any person issued a license under this chapter to make deliveries of any alcoholic beverages by the package beyond the boundaries of the premises covered by the license or any alcoholic beverages by the drink beyond the indoor boundaries of the premises covered by the license.

**Sec. 6-24. Clear view of entrance and interior of licensed premises.**

- (a) No licensee for the sale of alcoholic beverages by the package shall operate under the license unless the front entrance to the licensed premises is clearly visible from the public street.
- (b) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted upon the doors of any retail store for the sale of alcoholic beverages by the package, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such premises shall be so lighted that its interior is visible day and night.

**Sec. 6-25. Sales in connection with other businesses.**

No retail license for the sale of distilled spirits by the package shall be allowed in or in connection with any restaurant, cafe or eating place or in the same room where a bar is maintained for the dispensing and sale of malt beverages and wine by the drink or any other business establishment. Nothing in this section, however, shall be construed to limit or prohibit the operation of a package store in the same building complex with other businesses.

**Sec. 6-26. Misrepresentation of contents.**

Under this chapter it shall be unlawful for licensees or their Designated Agents to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

**Sec. 6-27. Sale to certain persons.**

No person issued a license under this chapter or any other person on the licensed premises shall sell any alcoholic beverages to any person in an intoxicated condition or to any person known to such licensee or his or her employees to be a habitual drunkard or to any person known to such licensee or his employees to be of intemperate habits or of unsound mind.

**Sec. 6-28. Private clubs.**

Any private club that secures a pouring license under this chapter and that is operated behind locked doors shall provide at least two keys to each lock or, where cards are used for admittance, two cards for each lock, properly marked. One key or card shall be provided to the chief of police, and one key or card shall be provided to the county sheriff. The changing of the locks without supplying new keys or cards shall be grounds for revocation of the license.

**Sec. 6-29. Copy of chapter on premises.**

It shall be the duty of the management of a pouring or package outlet to maintain a copy of the pouring or package license ordinance contained in this chapter at the location and to instruct each employee on the terms thereof.

**Sec. 6-30. Sale of gasoline on premises where beer, wine and malt beverages sold.**

The sale of gasoline shall be allowed at a convenience store location which holds a valid and effective beer, wine or malt beverage license issued by the city, subject to the following restrictions:

- (1) There must be present on the premises an inventory of retail goods and merchandise available for sale having a retail value of not less than \$8,000.00, excluding the value of alcoholic beverages and cigarettes, at all times. For purposes of measuring whether an inventory of retail goods and

merchandise of a value of at least \$8,000.00 is available at all times for sale on the premises, there must be an average monthly inventory based upon the inventory records for the specific premises of at least \$8,000.00, excluding alcoholic beverages and cigarettes.

- (2) No drive-in window sales of alcoholic beverages shall be allowed.
- (3) Each license holder at the premises shall have his monthly inventory records showing the retail value of all goods and merchandise on the premises at the location of the premises at all times during regular business hours for inspection by the chief of police.

### **Sec. 6-31. Limitation on consumption sales.**

It shall be unlawful for any person to knowingly and intentionally sell any alcoholic beverage for consumption on premises located within 100 yards of any housing authority property or library.

### **Sec. 6-32. Responsibility to examine proper identification; exceptions to prohibitions.**

It shall be the responsibility of the licensee to examine the proper identification of each patron to ascertain that such patron is 21 years of age or older. The prohibitions of sections 6-12 and 6-13 of the Code shall not apply with respect to the sale of alcoholic beverages by a person when such person has been furnished with proper identification showing the alcohol beverage is to be sold to a person who is 21 years of age or older.

### **Sec. 6-33. Rebuttable presumptions.**

For the purpose of any administrative hearing conducted pursuant to the provisions of this chapter 6 of the Code, the following shall constitute rebuttable presumptions without the necessity of further proof:

- (1) The sworn testimony of a police officer that such officer has determined that a person is under the age of 21 years after the examination of such person's identification or the records of any law enforcement agency shall create the rebuttable presumption that such person is under the age of 21 years.
- (2) The fact that a person has been issued an alcoholic beverage license pursuant to this chapter 6 of the Code shall create a rebuttable presumption that the licensee's sale of alcoholic beverages constitutes more than 50 percent of the licensee's annual gross sales.

### **Sec. 6-34. Brown bagging prohibited; exception; sanction.**

- (1) Except as otherwise provided herein, it shall be unlawful for the owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of such establishment for consumption purposes unless such business holds a valid alcoholic beverage license for the type of alcoholic beverage permitted to be brought into the establishment.
- (2) No food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment shall permit customers, guests or invitees to bring an alcoholic beverage onto the premises if any alcoholic beverage license associated with that establishment is suspended or revoked.
- (3) A violation of this section shall result in the suspension of the privilege to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of the establishment for a period of two years. Provided, however, if the violation occurs during the suspension or revocation of the alcoholic beverage license associated with the establishment, the suspension of the privilege shall be for a period of time that is the longer of the period of suspension or revocation of the alcoholic beverage license and two years.

- (4) This ordinance shall not apply to a private event on any premises where the general public is not allowed entry. An event at a private club where only club members are allowed entry shall not be deemed a private event for the purposes of this ordinance.
- (5) Any owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink, or entertainment who violates this ordinance shall, upon conviction thereof, be punished by a civil penalty of not less than \$200.00 and not more than \$1,000.00.

#### **Sec. 6-35. Freight depot.**

- (a) The sale and consumption of alcoholic beverages on the premises of the freight depot during an event shall be allowed as provided herein.
- (b) The sale of alcoholic beverages on the premises of the freight depot is exempted from the minimum food sale requirements of this chapter.
- (c) The serving and/or sale of alcoholic beverages on the premises of the freight depot must be in compliance with state law and, except as otherwise provided in this section, in compliance with this chapter.
- (d) The executive director of the Dalton Area Convention and Visitors Bureau, or his designee, may hold an alcoholic beverage license for the freight depot so that the orderly operation of the freight depot will not be interrupted in the event the party holding the alcoholic beverage license for the facility is unable to serve alcoholic beverages for any reason. There shall be no city license fee paid by the executive director of the Dalton Area Convention and Visitors Bureau, or his designee.
- (e) The hours of sale of alcoholic beverages on the premises of the freight depot shall be the same as provided in section 6-20 of this chapter for the sale of alcoholic beverages upon licensed premises.
- (f) When an event at the freight depot is to include the South Depot Street area, barriers approved by the chief of police or his designee must be erected at the northern and southern boundaries of the South Depot Street area prior to the commencement of the event and promptly removed at its conclusion. The city police department must be given five days prior notice of any event that will close South Depot Street. The chief of police or his designee shall have the authority to prohibit the closing of South Depot Street if public safety will be compromised.
- (g) The party leasing or using the freight depot for an event that will include the South Depot Street area shall be responsible for the cleanup of the South Depot Street area after the event. Such party shall pay a refundable street cleanup deposit in the amount of \$100.00 to the city clerk in addition to any other required deposits. If the South Depot Street area is not cleaned to the reasonable satisfaction of the public works director, or his designee within 12 hours of the conclusion of the event, then the street cleanup deposit shall be forfeited. The street cleanup deposit may be waived by the city administrator.

#### **Sec. 6-36. Security camera requirements.**

- (a) Any retail business establishment licensed by the city to engage in the sale of alcoholic beverages, beer or malt beverages by the package for off-premises consumption is required to install security cameras in accordance with this article.
- (b) Cameras meeting the requirements of this section must be capable of producing a retrievable image on film, tape, or digital media that can be made a permanent record and can be enlarged through projection or other means. Cameras meeting the requirements of this section shall be maintained in proper working order at all times and shall be subject to periodic inspection by the chief of police, a designee of the chief of police, or other Authorized City Official. In addition, the location of all such

cameras shall be approved or determined by the chief of police, a designee of the chief of police, or other Authorized City Official.

- (c) If the system camera used is a still frame camera, it shall contain the following equipment capabilities:
- i. Automatic still frame.
  - ii. Capable of being concealed.
  - iii. Remote activation.
  - iv. Quiet activation.
  - v. Must be digital format of at least four megapixels quality.
  - vi. Produce good-quality color photographs.
  - vii. Must have automatic focus.
  - viii. Easily accessible for maintenance checks, film loading, etc.
  - ix. Capable of showing signs or signals of activation covertly.
  - x. Must have wide-angle capacity.
  - xi. If the system camera is a still video camera, it must be capable of following:
    1. All components must be compatible to produce sharp, detailed, still frame video images in color.
    2. The recording equipment shall be able to transfer images to a CD or other digital media within 24 hours of activation.
    3. Remote activation.
    4. Quiet activation.
    5. Color images.
- (d) Retail establishments required to install the camera security system shall be responsible for the maintenance, supplies and periodic check of such systems.
- (e) In the event of an actual robbery or other crime in any establishment containing a security camera, the police department shall be given, upon demand, the recording media that captured the incident. Under such circumstances, the recorded media shall become the property of the police department and shall be retained by it for use in any criminal proceedings.
- (f) The city administrator or Authorized City Official may, at his or her discretion, require a security camera system in the parking lot of any business licensed for the sale of alcohol and consumption on-premises based upon any history of fighting, disorderly conduct, crime or evidence of criminal acts, loitering, or a demand on public safety resources greater than such demand from other licensed alcohol establishments. The police department will have access to such security cameras at all times. Such security camera equipment will comply with subsection (c) of this section, or as determined by the city administrator or Authorized City Official.

**Secs. 6-37—6-60. Reserved**

## ***ARTICLE II. LICENSE***

## *DIVISION 1. GENERALLY*

### **Sec. 6-61. Approval of mayor and council.**

- (a) With the exception of a temporary permit, no alcoholic beverage license shall be issued until it has been approved by the mayor and council.
- (b) No alcoholic beverage license shall be approved unless all sections of this chapter have been met.

### **Sec. 6-62. Grant or privilege.**

Every license issued under this article shall be a mere grant or privilege to carry on such business during the term of the license, subject to all the terms and conditions imposed by this chapter and related laws, applicable sections of this Code and other city ordinances and resolutions relating to such business.

### **Sec. 6-63. Types of licenses.**

The types of alcoholic beverage licenses which may be issued under this article are as follows:

- (1) Pouring distilled spirits.
- (2) Pouring wine and malt beverages.
- (3) Package distilled spirits.
- (4) Package wine and malt beverages.
- (5) Wholesale alcoholic beverages.
- (6) Manufacturer, distilled spirits 50,000 gallons or more annually.
- (7) Manufacturer, malt beverages 5,000 barrels or more annually.
- (8) Micro-distillery
- (9) Micro-brewery
- (10) Brewpub.
- (11) In-room service.
- (12) Preferred caterer and concessionaire.
- (13) Local caterer or concessionaire.
- (14) Temporary permit.
- (15) Private club.
- (16) Retail delivery license.
- (17) Package delivery license.

### **Sec. 6-64. Holding more than one retail license.**

A retail alcoholic beverage licensee may hold more than one type of retail license, provided that each license must be approved by the mayor and council.

**Sec. 6-65. Use restricted to license type.**

It shall be unlawful for a licensee to engage in any activity pertaining to the sale of alcoholic beverages except as authorized by the type of license held.

**Sec. 6-66. Limitations on use.**

- (a) It shall be unlawful for any person operating a premises license for the sale of wine and malt beverages to store or have on the premises any distilled spirits without a license therefor.
- (b) Holders of a pouring distilled spirits license shall not sell distilled spirits in the package for carryout purposes at any time.
- (c) Holders of a pouring wine and malt beverages license shall not sell malt beverages or wine by the package for carryout purposes:
  - (1) On any day or at any time when the sale of packaged malt beverages or wine for carryout purposes is otherwise prohibited by law; or
  - (2) At any location which is within distances to grounds or buildings where the sale of packaged malt beverages or wine for carryout purposes is otherwise prohibited by law.
- (d) Holders of a pouring distilled spirits license shall not be permitted to sell distilled spirits in the package for home delivery.
- (e) Holders of a pouring wine license shall be permitted to sell wine by the package for home delivery upon obtaining a retail delivery license.
- (f) Holders of a pouring malt beverage license shall be permitted to sell malt beverages by the package for home delivery upon obtaining a retail delivery license.
- (g) Holders of a package wine license shall be permitted to sell wine by the package for home delivery upon obtaining a package delivery license.
- (h) Holders of a package malt beverage license shall be permitted to sell malt beverages by the package for home delivery upon obtaining a package delivery license.
- (i) Holders of a package distilled spirits license shall be permitted to sell distilled spirits by the package for home delivery upon obtaining a package delivery license.

**Sec. 6-67. Display.**

Each licensee for the sale of alcoholic beverages shall have his or her license posted conspicuously in his place of business. The failure of a licensee to display the license conspicuously in his or her place of business shall be a violation of this chapter and shall subject the licensee to citation and nonjudicial sanctions as provided in this chapter upon a finding of a violation after a hearing.

**Sec. 6-68. Inspection of licensed establishments.**

Sworn officers of the police department and the code enforcement inspector shall have the authority to inspect establishments licensed under this article during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other city officer to conduct inspections authorized by other sections of this Code.



### **Sec. 6-69. Audits.**

The city administrator and the city clerk shall be authorized to conduct an audit of the records and books of a retail alcoholic beverage licensee for the purpose of determining whether such licensee is in compliance with this chapter or any other provision of the Code. The city administrator, city clerk or their designees shall notify a licensee of the date, time and place of the audit, and the licensee shall present for inspection at such date, time and place its books and records for audit purposes, and such licensee shall cooperate with the city officials and the agents of the city conducting said audit.

The burden of proving compliance with minimum annual food sales requirement contained in this chapter shall be on the licensee. Compliance with such requirement may only be proven through the submission of licensee's business records made and kept in the ordinary course of business. If the licensee is unable to meet its burden of proof with such business records, then licensee shall be deemed to be in violation of this article, and, in addition to any other remedy or right available to the city, the licensee shall be liable for, and shall pay to the city upon demand, the cost of said audit.

### **Sec. 6-70. Eligibility for pouring license.**

Except as otherwise provided in this chapter, no application shall be considered from and no license granted to an applicant whose business location for alcoholic beverages is anything other than a bar, restaurant, hotel, private club, micro-brewery, micro-distillery, hotel lounge, mall lounge, or restaurant lounge. Neither a micro-brewery nor a brewpub shall be eligible for a license to sell distilled spirits.

### **Sec. 6-71. Separate businesses.**

Under this chapter a separate license shall be required for each business location, and a separate application shall be made for each such place.

### **Sec. 6-72. Annual fees.**

All annual alcoholic beverage license fees shall be paid in advance on or before January 15 of each year, and any new license granted during a calendar year shall be prorated for the remainder of the calendar year.

### **Sec. 6-73. Amount of fees.**

- (a) Each person manufacturing or selling distilled spirits in the city shall pay an annual license fee as follows:
- (1) Manufacture, distilled spirits 50,000 gallons or more annually \$5,000.00
  - (2) Manufacturer, malt beverages 5,000 barrels or more annually \$5,000.00
  - (3) Micro-distillery \$750.00
  - (4) Micro-brewery \$750.00
  - (5) Wholesalers \$100.00
  - (6) Retailers, package only \$5,000.00
  - (7) Pouring \$2,000.00
  - (8) Private club, pouring only \$2,000.00
  - (9) Temporary permit \$100.00
  - (10) Local caterer or concessionaire \$2,000.00
  - (11) Preferred caterer and concessionaire \$4,000.00

- (12) Retail delivery license \$500.00
- (13) Package delivery license \$500.00
- (b) Each person manufacturing or selling malt beverages in the city shall pay an annual license fee as follows:
  - (1) Manufacturer \$5,000.00
  - (2) Wholesaler \$100.00
  - (3) Retailer, package only \$750.00
  - (4) Pouring \$750.00
  - (5) Temporary permit \$50.00
  - (6) Local caterer or concessionaire \$375.00
  - (7) Brewpub \$750.00
  - (8) Preferred caterer and concessionaire \$750.00
- (c) Each person manufacturing or selling wine in the city shall pay an annual license fee as follows:
  - (1) Wholesaler \$100.00
  - (2) Retailer, package only \$750.00
  - (3) Pouring \$750.00
  - (4) Temporary permit \$50.00
  - (5) Local caterer or concessionaire \$375.00
  - (6) Preferred caterer and concessionaire \$750.00
- (d) The license fee for in-room service shall be \$500.00.

**Sec. 6-74. Responsibility for employee's conduct.**

Every person issued an alcoholic beverage license is responsible for the conduct or actions of his employees while in his or her employ.

**Sec. 6-75. Availability of prices and penal sections.**

Each retail licensee for the sale of distilled spirits shall have conspicuously displayed within the interior of the licensed premises not less than four copies of a printed price list of the beverages offered for sale and one printed copy of the penal sections of this article. However, a licensee, in lieu of having four copies of a printed list, may have the price placed on the bottles or on the bottom of the shelf where beverages are exhibited for sale.

**Sec. 6-76. Occupancy requirements; security.**

- (a) Every holder of an alcoholic beverage license for a brewpub or the pouring of distilled spirits, wine or malt beverages shall comply with the occupancy load requirement set forth in part 1003.2.2.5 of the International Fire Code (2000 edition), as amended.
- (b) No holder of an alcoholic beverage license as described in subsection (a) hereof shall allow the occupancy of the holder's establishment to exceed the posted occupancy load for the space.
- (c) If the holder of a pouring distilled spirits license operates a pouring outlet other than a restaurant, then such license holder shall comply with the following security requirements: During all times of operation, the pouring outlet must have a minimum of one security person and at least two security persons for each 100

persons present during the hours of operation of the pouring outlet. Security personnel must be at least 21 years of age with no criminal convictions other than moving traffic violations. Security personnel must wear clothing which clearly identifies the personnel as security while on duty.

**Sec. 6-77. Malt beverage, wine and distilled spirits tasting.**

- (a) A malt beverage tasting permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of malt beverage by the package and a valid current malt beverage license from the state.
- (b) A wine tasting permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of wine by the package and a valid current wine from the state.
- (c) A distilled spirits tasting permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of distilled spirits beverage by the package and a valid current distilled spirits beverage license from the state.
- (d) Any tasting occurring on the premises of a business possessing a tasting permit shall be limited to an area that is separated from the retail area of the premises by walls or other partitions that prohibit pedestrian traffic through the tasting area.
- (e) An eligible licensee may petition the city for a tasting permit provided it meets all requirements of the city's alcohol beverage ordinance and presently maintains a valid license for the sale of malt beverage, wine, or distilled spirits by the package issued by the city.
- (f) A tasting permit shall allow the permittee to offer or sell samples in connection with an instructional or educational promotion and the samples must be consumed in the presence of a representative of the licensed business.
- (g) A tasting permit shall allow the permittee to offer 52 tasting events per year, for no more than one time per day, for a maximum of four hours, and only during the hours the licensed premises may lawfully sell unbroken packages of alcohol.
- (h) A tasting event may only include one type of alcoholic beverage per event, may include more than one brand of each type of alcoholic beverage, and no more than four brands may be open at any one time during the tasting event.
- (i) A tasting permittee shall be subject to all laws, rules and regulations of the city and state, including O.C.G.A. § 3-3-26 and rule 560-2-5-.05 of the state department of revenue, alcohol and tobacco division, and shall be subject to tasting permit revocation for violation thereof.
- (j) Said tasting permit need only be applied for once and shall automatically renew when said license to sell malt beverages, wine, or distilled spirits by the package is renewed. Provided, however, that the city may revoke or suspend such tasting permit and/or impose such conditions on its operation at the city's discretion for violation of this Code or in furtherance of the health, safety and welfare of the city's inhabitants.

**Sec. 6-78. Public benefits verification.**

- (a) The mayor and council find that the issuance of an alcohol beverage license is a public benefit as defined by federal and state law and therefore all persons who apply for an alcohol beverage license individually or on behalf of a partnership, corporation, limited liability company or other entity shall, as a condition precedent to the issuance of an alcohol beverage license, execute and deliver to the city clerk an affidavit on a form approved by the city clerk which shall state:
  - (1) The applicant is a United States citizen or legal permanent resident 18 years of age or older; or
  - (2) The applicant is a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, 18 years of age or older lawfully present in the United States and provides

the applicant's alien number issued by the Department of Homeland Security or other federal immigration agency.

- (b) Eligibility for an alcohol beverage license shall be made through the Systematic Alien Verification of Entitlement (SAVE) program operated by the Department of Homeland Security or successor program.
- (c) Until such eligibility verification is made, the affidavit shall be presumed to be proof of lawful presence in the United States and an alcohol beverage license may be issued conditioned upon eligibility verification through the SAVE program. In the event the applicant's non-eligibility is determined through the SAVE program, the alcohol beverage license shall be immediately deemed null and void.

**Sec. 6-79. Home deliveries.**

- (a) A package goods retailer that holds a pouring malt beverage license may obtain a retail delivery license for home deliveries of malt beverages.
- (b) A package goods retailer that holds a pouring wine license may obtain a retail delivery license for home deliveries of wine.
- (c) A package goods retailer that holds a package malt beverage license may obtain a package delivery license for home deliveries of malt beverages.
- (d) A package goods retailer that holds a package wine license may obtain a package delivery license for home deliveries of wine.
- (e) A package goods retailer that holds a package distilled spirits license may obtain a package delivery license for home deliveries of distilled spirits.
- (f) A retail delivery licensee and package delivery licensee shall be subject to all laws, rules and regulations of the city and state, including O.C.G.A. § 3-3-10 and shall be subject to delivery license revocation for violation thereof.

**Secs. 6-80—6-100. Reserved.**

*DIVISION 2. QUALIFICATIONS GENERALLY*

**Sec. 6-101. Issuance to person.**

A license required under this article shall be issued to a person, as defined in the Georgia Alcoholic Beverage Code (O.C.G.A. tit. 3) and state regulations, as amended.

**Sec. 6-102. Location of premises.**

No license for the manufacture, wholesale or retail sale of alcoholic beverages shall be issued except where such business is to be located in the area of the city properly zoned for such business.

**Sec. 6-103. Distance requirements.**

- (a) For an alcoholic beverage license to be issued to other than a preferred caterer and concessionaire, local caterer or concessionaire or temporary permit, the premises of the applicant must meet the following distance requirements:

- (1) For a license for distilled spirits, or wine or malt beverages, the premises shall not be located in or within 100 yards of an alcoholic treatment center owned and operated by the state, the county, or the city.
  - (2) For a license for distilled spirits, the premises shall not be located in or within 100 yards of any church building, housing authority property; or within 200 yards of any school building, educational building, school grounds, or college campus.
  - (3) For a license for wine or malt beverages, the premises shall not be located in or within 100 yards of any school building, school grounds, or college campus.
  - (4) As used in this subsection (a), the term "school building" or "educational 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 school or in colleges of the state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).
  - (5) Nothing in this subsection (a) shall prohibit the licensing and the sale or distribution of alcoholic beverages for consumption on the premises only for premises located in zoning classification C-3.
- (b) No new retail package liquor licensed place of business or the relocation of an existing retail package liquor licensed place of business engaged in the retail package sale of distilled spirits shall be located within 500 yards of any other business licensed to engage in the retail sale of distilled spirits as measured by the most direct route of travel on the ground. Its distance limitation shall not apply to any hotel otherwise licensed under state and local law, any location for which a license has been issued prior to July 1, 1997 or to the renewal of such license, and any location for which a new license is applied for if the sale of distilled spirits was lawful at such location at any time during the 12 months immediately preceding the application.
- (c) An applicant for a new alcoholic beverage license who has acquired a previously licensed alcoholic beverage location may, within 12 months after the expiration of the previous owner's license, obtain an alcoholic beverage license, limited to the type or types of license of the previous owner, for that location even though the location may not meet the distance requirements set forth in this section. An application filed under this subsection shall meet and qualify under all other requirements of this section 6-103 for the granting of a new license. Provided, however, an application filed under this subsection (c) shall not be required to provide a survey showing that distance requirements have been met.
- (d) For the purposes of subsection (a) and (b) of this section, distance shall be measured by the most direct route of pedestrian travel on the ground along the right-of-way. Distance shall be measured from the nearest building wall of any church or nearest property line of any school, public library, college campus or public recreation area to the center of any door of customer entry of the proposed premises of the applicant.

**Sec. 6-104. Disqualified location.**

Except as provided herein the city clerk may not accept or process an alcoholic beverage license application for a location that is associated with a license that is suspended, revoked, or a license that is terminated or expired pursuant to section 6-208. An alcoholic beverage license application for such location may be accepted and processed by the city clerk if the business at such location is sold pursuant to a bona fide sale at fair market value to a person or entity with no direct or indirect relationship to the holder, or equity owner of the holder if the holder is not an individual, of the suspended, revoked, or expired alcoholic beverage license at that location. Conditions precedent to the acceptance and processing of a license at such location shall be the delivery of the following documents to the city clerk:

- (a) Copy of the sales contract for the business.
- (b) Sworn affidavit of seller, or all equity owners of seller if seller is not an individual, that the:
  - (1) Sale price represents the fair market value of the business;
  - (2) Affiant does not have and will not have an interest in business of the applicant buyer;

- (3) Affiant is not a relative of the buyer or any equity owner of buyer, if applicable; and
  - (4) Affiant will receive no payment from the buyer other than as set forth in the sales contract.
- (c) Sworn affidavit of buyer, or all equity owners of buyer if buyer is not an individual, that the:
- (1) Sale price represents the fair market value of the business;
  - (2) Affiant has never had an interest in business of the seller;
  - (3) Affiant is not a relative of the seller or any equity owner of seller, if applicable; and
  - (4) Seller, and the equity owners of seller, if applicable, will receive no payment from the buyer other than as set forth in the sales contract.

**Sec. 6-105. Citizenship, age, and residency requirements.**

Citizenship, age, and residency requirements for an applicant for a license to engage in the sale of alcoholic beverages shall be as follows:

- (1) If an individual, the person shall be a United States citizen or an alien lawfully admitted for permanent residence, a resident of the city, and at least 21 years of age; provided, however, the individual applicant need not be a city resident if the applicant designates a resident of the city or county who is at least 21 years of age as his or her Designated Agent who shall be responsible for any matter relating to the license.
- (2) If a partnership, corporation, limited liability company, or other entity, this section shall apply to all its partners, officers, managers and principal owners as defined in section 6-108(a). If a corporation or limited liability company, the license shall be issued to the corporation or limited liability company. Where the principal owner or member is not a resident of the city or county, the corporation or limited liability company shall designate an individual as its Designated Agent who must be a resident of the city or county at least 21 years of age who shall be responsible for any matter relating to the license. For a partnership, the license shall be issued to one of the partners. If a partner is not a resident of the city or county, the partnership must designate a city or county resident at least 21 years of age as the partnership Designated Agent who shall be responsible for any matter relating to the license.
- (3) Notwithstanding anything in this section to the contrary, an applicant for a license to sell packaged distilled spirits must have been a bona fide resident of the city for at least 12 months immediately preceding the application.

**Sec. 6-106. Filing of changes.**

Any change in any relationship declared in this division must be filed, when made, with the City Clerk’s office, and failure to do so within a period of 30 days after such change is made shall be grounds for cancellation of a license granted under this chapter by the mayor and council.

**Sec. 6-107. Disqualification generally.**

No application for any license required under this article shall be granted where the application, investigation or the evidence presented at a hearing before the mayor and council shows any of the following conditions to exist:

- (1) The applicant or his Designated Agent has a conviction, as defined in section 6-108, or does not have sufficient mental capacity to conduct the business for which application is made or who has been dishonorably discharged from the armed services of the United States.
- (2) The applicant or any agent, stockholder, partner or member of the applicant has had any license issued by the city or any other municipality previously revoked.

- (3) The applicant or his Designated Agent, as a previous holder of a license to sell alcoholic beverages, has violated any law, regulation or ordinance relating to such business, within a 36-month period immediately preceding the date of the application. In the event of a renewal application, offences prosecuted and resolved pursuant to this chapter shall not be considered.
- (4) The applicant's business is not properly zoned for the license applied for or does not otherwise meet the requirements of this chapter.

**Sec. 6-108. Persons with prior convictions.**

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Convicted* includes an adjudication of guilt or a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime;

*Principal owner* refers to an individual owning, directly or indirectly, a five percent or more interest in a corporation, partnership, limited partnership, limited liability company or other entity.

- (b) No license for the sale of alcoholic beverages shall be issued to any individual, partnership, limited partnership, corporation or limited liability company where such individual or any individual who is a principal owner of any partnership, limited partnership, corporation, limited liability company or other entity, or who is the Designated Agent responsible for matters relating to the license shall have been:
  - (1) Convicted under any federal, state or local law of any misdemeanor involving sexual misconduct, dishonesty, possession or use of a controlled substance, or possession of drug paraphernalia within ten years prior to the filing of the application for such license; or
  - (2) Convicted under any federal state or local law of any felony within ten years prior to the filing of the application for such license.

**Sec. 6-109. In-room service.**

- (a) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom which contains beer and/or wine only, which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of beer and/or wine contained therein is final at the time requested, except for a credit which may be given to the guest for any unused portion.
- (b) Any hotel-motel that acquires this in-room service shall also be required to obtain a consumption on the premises license and meet all of the requirements of this chapter.
- (c) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so.
- (d) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.
- (e) Keys for in-room service shall only be sold to guests between the hours of 9:00 a.m. until 12:00 midnight, Monday through Saturday.

**Sec. 6-110. Local caterer or concessionaire; preferred caterer and concessionaire.**

- (a) A local caterer or concessionaire may seek a license from the mayor and council for the sale of alcoholic beverages for consumption by the drink at catered affairs, provided such applicant meets all of the requirements of this chapter. Any person holding a preferred caterer and concessionaire license may operate as a local caterer or concessionaire and shall not be required to obtain a local caterer or concessionaire license.

- (b) A local caterer or concessionaire licensee and a preferred caterer and concessionaire licensee shall only sell alcoholic beverages for consumption by the drink in conjunction with the service of catered food items.
- (c) A local caterer or concessionaire licensee and a preferred caterer and concessionaire licensee shall not sell alcoholic beverages on Sunday.
- (d) Except as set forth in this section, a local caterer or concessionaire licensee and a preferred caterer and concessionaire licensee must comply with all other sections of this chapter.

**Sec. 6-111. Temporary permits for nonprofit civic organizations.**

- (a) For the purposes of this section, a "nonprofit civic organization" is defined as the Dalton Downtown Development Authority or an organization which is an exempt organization under section 501(c) or (d) of the Internal Revenue Code of 1986, as amended, whose membership includes city residents or property owners.
- (b) Upon the filing of an application, payment of the required fee and notification to the police chief on the required form by a nonprofit civic organization, the city clerk may issue a permit authorizing the organization to serve alcoholic beverages for consumption on the premises or to sell wine at retail for off-premises consumption, or both, for a period not to exceed three days, subject to any law regulating the time for serving such beverages. No more than three permits may be issued to a qualified organization in any one calendar year pursuant to this section. Permits issued pursuant to this section shall be valid only for the location, times and dates specified in the permit. No permit may be issued unless the sale of such alcohol beverages is lawful in the place for which the permit is issued.

**Sec. 6-112. Brewpub.**

- (a) No individual shall be permitted to own or operate a brewpub without first obtaining a proper brewpub license from the mayor and council pursuant to the same procedures as are set forth in division 3 of this article, and each brewpub license holder shall comply with all other applicable state and local license requirements. A brewpub license authorizes the holder of such license to (i) manufacture on the licensed premises not more than 5,000 barrels of beer in a calendar year solely for retail on the premises and solely in draft form; and (ii) operate an eating establishment that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only and, provided further, in addition to draft beer manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.
- (b) Possession of a brewpub license shall not prevent the holder of such license from obtaining any other license available under this chapter for the same premises.
- (c) A brewpub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.
- (d) A brewpub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesalers.
- (e) Except as set forth in this section, a brewpub license holder shall be subject to all sections of this chapter.

**Secs. 6-113—6-140. Reserved.**

*DIVISION 3. APPLICATION AND ISSUANCE GENERALLY*



**Sec. 6-141. Application required.**

Every person desiring to obtain a license required under this chapter shall make formal written application to the mayor and council for such privilege, signed by the applicant and Designated Agent, if applicable, upon forms to be prepared and provided by the city clerk. All such applicants and Designated Agents shall furnish all reasonable data, information and records requested of them by the mayor and council, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss the application. Applicants or those having an interest in the application, by filing an application, agree to produce any criminal record for review by the mayor and council and, for oral interrogation, any person requested by the mayor and council and considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within 30 days after being requested to do so shall result in the automatic dismissal of the application. The application must be in the name of the person conducting the business at the address contained in the application.

**Sec. 6-142. False information.**

Any material omission or untrue or misleading information contained in or left out of an original or renewal application for an alcoholic beverage license shall be cause for the denial thereof. If any license has previously been granted on the basis of such misleading statements or material omissions, such shall constitute cause for the revocation of the license.

**Sec. 6-143. Processing fee.**

Upon filing an application for an alcoholic beverage license with the city clerk, the city shall require the applicant to pay a fee to cover the cost of processing the application in such an amount as the mayor and council shall set from time to time.

**Sec.6-144. Payment of taxes and other debts to city.**

The city clerk shall cause an inquiry to be made into the city tax records to determine if an applicant for an alcoholic beverage license or other party with interest in the application has any outstanding taxes or special assessments that are delinquent against his property or any other monies owing to the city. No license shall be issued or renewed until such debts are paid in full.

**Sec.6-145. Issuance.**

Upon an application for an alcoholic beverage license being granted by the mayor and council, a license shall be issued to the applicant as of the date the applicant commences his alcoholic beverage business and upon the payment by the applicant of the license fee prescribed in section 6-73.

**Sec. 6-146. Notification of denial.**

The denial of an application for an alcoholic beverage license shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant. Upon timely application, any applicant aggrieved by the decision of the mayor and council regarding a permit or license shall be afforded a hearing with an opportunity to present evidence and cross examine opposing witnesses.

**Sec. 6-147. Acceptance and consideration of application after rejection or revocation.**

When any application for an alcoholic beverage license is denied for cause or any license is revoked for cause by the Public Safety Commission, the mayor and council shall not accept or consider any application by such applicant or licensee for a license to operate the same type of business within 24 months in the event of a denial for cause and 60 months in the event of a revocation for cause.

**Sec. 6-148. Approval of applications for sites under construction.**

An application for a proposed licensed alcoholic beverage premises may be approved by the mayor and council prior to the applicant obtaining an occupancy permit for the premises if the premises are currently under construction, renovation or rehabilitation. If approved by the mayor and council, the city clerk shall not issue the alcohol beverage license until the applicant has obtained an occupancy permit and all other approvals required by the state and city for fire and building code purposes and has advised the city clerk in writing of the date on which the alcoholic beverage business shall commence, which date shall not exceed 12 months from the date of application approval. The license shall be dated as of such commencement date and shall not be effective until that date. If the applicant fails to obtain an occupancy permit or to commence the alcoholic beverage business within 12 months of the date of approval of the alcohol beverage license by the mayor and council, the applicant shall forfeit his application which shall, by virtue of failure to obtain an occupancy permit or failure to commence the alcoholic beverage business, be rejected without the necessity of any further action of the mayor and council.

**Sec. 6-149. Time limit for commencement of business.**

Except for a license issued to a site under construction which is governed by section 6-149, an applicant must open the alcoholic beverage business in the establishment referred to in the application within six months after its approval by mayor and council. The city clerk shall not issue the alcoholic beverage license until presented with the applicant’s notarized statement stating the applicant is in fact the owner of the establishment and will open for business on a date certain. The license shall be dated as of the date certain in the affidavit and shall not be effective until that date. Failure to open the licensed establishment within the six-month period or the date stated in the applicant’s affidavit shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

**Sec. 6-150. Time limit for closed business.**

Any holder of a license issued under this division who shall begin the operation of the business authorized in the license, but who shall for a period of six consecutive months thereafter cease to operate the business as authorized in the license, shall, upon completion of the six-month period, automatically forfeit his or her license, which license shall, by virtue of the failure to operate, be revoked without the necessity of any further action of the mayor and council.

**Secs. 6-151—6-175. Reserved.**

*DIVISION 4. RESTRICTIONS*

**Sec. 6-176. Compliance with article by wholesalers.**

All wholesalers licensed under this article shall file a certified statement of the gross sales of the business for the preceding calendar month with the city clerk on or before the 20th of the following month.

**Sec. 6-177. Interest in other licenses by wholesalers.**

No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license or an interest in any license under the terms of this article.

**Sec. 6-178. Sales and deliveries by wholesalers.**

Alcoholic beverage deliveries and sales by wholesalers under this article shall only be made to retailers properly licensed for the operation of alcoholic beverage establishments in the city. Deliveries shall be made in a conveyance owned and operated by the licensed wholesaler, and such license shall, at all times when deliveries are made in the corporate limits, be in the conveyance making such deliveries and shall be subject at all times to inspection by any and all duly authorized city authorities.

**Sec. 6-179. Retailers to purchase from licensed wholesalers.**

Retail dealers in alcoholic beverages licensed under the applicable sections of this article shall not buy or accept deliveries of alcoholic beverages from wholesalers or other persons offering alcoholic beverages for sale except from wholesalers duly licensed under this article. Any such retail dealer shall only accept deliveries of alcoholic beverages directly to the premises for which his license or permit is issued and by no means other than a conveyance owned and operated by a wholesaler licensed as required by this article. However, on written request to the mayor and council and upon the granting of permission by the mayor and council in writing, deliveries may in special instances be made otherwise upon terms and conditions as prescribed by the mayor and council as to each such delivery.

**Sec. 6-180. Invoices.**

Upon every delivery of distilled spirits by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared, showing the quantities and brands of distilled spirits delivered together with the price thereof and the tax collected on the distilled spirits. The original copy of such invoice shall be delivered by the wholesaler to the retailer simultaneously with each such delivery. The wholesaler shall retain the second copy of the invoice and shall keep it for a period of 12 months. The wholesaler shall keep such invoices for one year after the date of the invoices, and during the year such invoices shall be made available for inspection by authorized city representatives. If requested by an authorized city representative, a copy of such invoices shall be attached to any reports requested or required by the city.

**Secs. 6-181—6-205. Reserved.**

*DIVISION 5. RENEWAL AND TRANSFER*

**Sec. 6-206. Renewal required.**

All licensees under this article shall be required to renew their licenses annually on forms prescribed by the city clerk.

**Sec. 6-207. Time of renewal; provisional renewal.**

- (a) Any person licensed under this article shall be required to renew his or her license on or before the next January 15. Any license not renewed by January 15 shall expire automatically and without notice at 12:01 a.m. on January 16. Any application for a new license necessitated by the failure to timely renew shall be assessed a penalty in the amount of ten percent of the license fee to cover administrative costs associated therewith.

- (b) In the event an applicant for renewal of licenses has not paid all required city taxes on or before January 1 for the reason that the county tax digest was not timely approved by the state revenue commissioner and the deadline for timely tax payments has been extended past January 1, then, in such event, the city clerk shall be authorized to issue a provisional license to the applicant who is otherwise qualified for renewal and pays the appropriate fee. The provisional renewal shall be conditioned upon the timely payment of all city taxes due from the applicant after approval of the county tax digest. Failure of an applicant to timely pay all city taxes due shall result in the automatic expiration of the provisional license without notice.
- (c) The city clerk shall not accept a renewal application for a suspended license until the suspension period for that license has ended.

**Sec. 6-208. Transferability.**

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.
- (b) If an individual licensee dies, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall first occur. However, no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application with the city clerk for authorization to continue to sell for such period.
- (c) (1) If a licensee or responsible person, other than the owner, severs such person's association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 60 days from the date of such severance, provided a new application is filed with the clerk within ten days of such severance which submits a new licensee or responsible person, as the case may be, for approval and indicates that there has been no change in the ownership of the licensed establishment. If approved, the term of the new license shall be for the remaining term of the original license and the original license shall terminate as of the date of such approval. No additional license fees, other than an advertising and administrative fee set by the clerk from time to time, shall be required from the applicant.
- (2) If a licensed establishment is sold to a person who, at the time of the sale, holds a valid license to sell alcohol at another establishment located within the city (purchaser), the purchaser may continue, if otherwise qualified and with the written permission of the original license holder, to sell alcohol under the permit or permits of the selling license holder for a period of 60 days from the date purchaser's application to sell alcohol at the purchased licensed establishment (the temporary period), provided purchaser makes such application on or before the date of sale and in writing on a form approved by the clerk, agrees to accept, all responsibility for and arising from the license during the temporary period. If approved, the term of the purchaser's license shall be for the remaining term of the original license and the original license shall terminate as of the date of such approval. No additional license fees, other than an advertising and administrative fee set by the clerk from time to time, shall be required from the purchaser.
- (d) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license and who meet the qualifications of a licensee under this article. This subsection shall not prohibit the transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license, nor shall it prohibit transfers of stock which do not result in any person increasing such person's holdings by a total of ten percent or more of any class stock.
- (e) If a transfer of location is approved by the mayor and council, with no change of ownership of the business, the license fee paid for the old location shall be applied to the new location.
- (f) Except as provided in this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued automatically, without the necessity of any hearing.

- (g) Violation of this section shall result in revocation of the license being used, and no license will be issued to the old or the new owner in the city for one year from the date of the violation.

**Sec. 6-209. Surrender of licenses.**

- (a) *Criteria generally.* Any licensee authorized to engage in the sale of alcoholic beverages on specifically described premises shall be required to surrender the license held by such licensee without demand of the mayor and council upon any of the following events: except as otherwise provided in this chapter, (i) revocation of the license by the Public Safety Commission; or (ii) any sale or transfer of any interest in the business of the license holder, whether an actual sale of any of the license holder's stock or proprietorship or partnership interest to any unregistered person or upon a sale of all or substantially all of the license holder's assets to any unregistered person. For purposes of this subsection, the term "unregistered person" shall mean any individual, corporation, partnership, limited partnership, club, association or fraternal order not shown upon any current application for an alcoholic beverage license on the specific premises involved. For purposes of this subsection, a sale of all or substantially all of the licensee's assets shall include, or be deemed to include, any sale of any specifically described premises or bulk sale of inventory or assets at any specifically described premises for which the license holder is licensed to engage in the sale of alcoholic beverages in the city. For purposes of this subsection, any corporation or limited partnership or association whose stock is traded on any stock exchange recognized by the United States Securities and Exchange Commission shall be excepted from this requirement to the extent of any transfer of shareholding or partnership interests not exceeding five percent in any one trade or transaction.
- (b) *Time limit.* Surrender as provided in this chapter shall be made to the city clerk within 30 days of any event requiring surrender of the license.
- (c) *Fines for failure to surrender.* For failure to surrender the license within the period provided in subsection (b) of this section, the applicant shall be fined an amount as follows:
  - (1) The sum of \$50.00 for failure to surrender within 30 days of the date that any surrender of the alcoholic beverage license is required; and
  - (2) An additional sum of \$10.00 per day for each day thereafter from which the applicant fails or defaults in the surrender of the license after the date upon which the surrender is required.
- (d) *Assessment of penalty.* The city clerk shall assess any penalty against any applicant for failure to surrender the license as required by this section. Notice of assessment shall be by certified letter to the licensee based upon information and belief of the city clerk stating the date that any required surrender should have been made by the licensee. The licensee shall have a period of ten days from the date of receipt of the certified letter of the city clerk of the notice of assessment of the penalty to protest the assessment to the city clerk by presenting evidence or information in writing to the city clerk as to the licensee's position. If the city clerk shall not agree with the licensee's position after the licensee's written showing, the licensee shall have ten days from the date of the written notice of the city clerk's written decision disagreeing with the licensee's protest to request in writing a hearing before the public safety commission. The public safety commission may recommend either approval or rejection or modification of the city clerk's assessment and shall forward the recommendation to the mayor and council who shall at its next regular meeting accept, reject or modify the assessment of the penalty.

**Secs. 6-210—6-219. Reserved.**

### *DIVISION 6. LICENSE STATUS*

#### **Sec. 6-220. Expiration upon delinquency.**

A license issued under this article shall expire automatically and without notice upon the occurrence of a delinquency of 20 days in:

- (a) Filing any required monthly report under this chapter; or
- (b) Paying over any required excise tax levied under this chapter or any other indebtedness owed to the city.

#### **Sec. 6-221. Revocation of state license.**

Whenever the state department of revenue shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, any license issued under this chapter for the same licensed premises shall thereupon be automatically revoked without any action by the mayor and council or any city officer, and the licensee shall not be entitled to any refund of any license fee theretofore paid to the city.

#### **Sec. 6-222. Suspension in emergency.**

The mayor and the chief of police are each delegated the authority to suspend any license issued under this chapter for due cause in any emergency situation, and the suspension shall be made effective immediately and shall remain in force until the next regular or called meeting of the mayor and council.

#### **Sec. 6-223. Other licenses.**

When the mayor and council or public safety commission find a violation of any section of this Code for which the licensee shall have his alcoholic beverage license suspended or revoked, all alcoholic beverage licenses of the licensee shall be so suspended or revoked.

#### **Secs. 6-224—6-230. Reserved.**

### *DIVISION 7. HEARING PROCESS*

#### **Sec. 6-231. Due cause hearing; defined; cost of hearing.**

- (a) Except as provided in sections 6-220 through 6-223, no license which has been issued or which may be issued pursuant to this article shall be suspended or revoked except for due cause and after a hearing as provided in this chapter of the Code.
- (b) The term "due cause" for the purposes of this chapter of the Code shall include, but not be limited to:

- (1) A conviction, judicial finding, or the entering of a plea of guilty or nolo contendere by, the licensee or any person holding an interest in the license for any felony, or any violation of any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws.
- (2) A conviction, judicial finding, or the entering of a plea of guilty or nolo contendere by, the licensee or any person holding an interest in the license for any sex offense when the licensed business permits on-premises consumption.
- (3) Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act, which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter, shall be deemed a violation of the requirement attempted to be circumvented.
- (4) Violation of any provision of this chapter, or any failure to meet or maintain any standard or regulation prescribed by this chapter as a condition or qualification for holding a license.
- (5) Failure of the licensee or any employee or agent of the business in which such license is utilized to promptly report to the police department of the city any of the following which occurred on the licensed premises:
  - i. Any violation of this article;
  - ii. Any other violation of law;
  - iii. Any violation of any other city ordinance; or
  - iv. Any breach of the peace, disturbance or altercation.
- (6) Failure of the licensee or the employees, agent or servants of the business in which such license is utilized to promptly control and prevent upon the premises of such business any of the following activities or conduct:
  - i. Fighting;
  - ii. Disorderly conduct;
  - iii. Utilization of controlled substances;
  - iv. Gambling;
  - v. Indecent conduct;
  - vi. Noise ordinance violations; or
  - vii. Other conduct which constitutes a nuisance.
- (7) Any documented negative impact to adjacent property owners (such as litter, parking, noise, property damage, etc.) for which the owner or tenant has failed to remedy through good faith efforts.
- (8) Failure to maintain parking lot of property in such a manner as to prevent littering, loitering, acts of disorderly conduct, excessive demand for public safety resources, and on-going disturbance of adjacent property owners.
- (9) Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling, narcotics or sex offenses it shall create a rebuttable presumption that the violative act was done with the knowledge or consent of the licensee.

### **Sec. 6-232. Notice of violation.**

The city clerk shall notify the licensee of any charge of conduct or offense subject to penalty, suspension or revocation or any combination thereof. If the potential sanction is suspension or revocation the notice shall also state the place and time the public safety commission will hear the charges against the licensee. The notice may also contain such additional information, as the city clerk may deem appropriate. The notice shall be delivered to the licensee at least five days prior to the hearing date by personal delivery, first class mail addressed to licensee at the address contained in licensee's alcohol beverage license application, or by posting the notice on the front door of the licensed premises. In the case of delivery by first class mail the notice shall be deemed delivered two days after being deposited into the US mail properly addressed and with adequate postage.

### **Sec. 6-233. Action by public safety commission.**

Unless waived by the licensee, the public safety commission shall conduct a hearing on any charge against a licensee alleging conduct or offense that is subject to a suspension or revocation, at its next regularly scheduled meeting, but not later than 60 days from the date of notice to the licensee unless a continuance is granted at the request of the city or the licensee. The public safety commission shall have the discretion to call a special meeting to conduct a meeting or to reschedule or continue any hearing upon the request of the city or the licensee. The licensee shall be allowed to appear at said hearing and to present evidence and cross-examine witnesses. Upon hearing evidence from the city and licensee, if the licensee shall present any evidence, the public safety commission shall, no later than 30 days after the hearing, either dismiss all or some the charges against the licensee and/or, make a finding that a violation has occurred as to all or any one of the charges. If a violation is found to have occurred the public safety commission shall levy the monetary penalty provided in the table below. The public safety commission may also make a finding that a licensee shall be allowed to pay any applicable penalty within a time certain not to exceed 30 days. The public safety commission shall have the authority to suspend the license of any licensee for a period of time not to exceed 14 days who:

- (1) Has been found to have incurred more than three violations in a three-year period; or
- (2) Has been found to have willfully violated the provisions of this chapter.

The public safety commission may also make a finding that a willful violation of this article has occurred, and upon making such a finding, may recommend to the mayor and council that (i) the license of any licensee be suspended for a period of time not to exceed 60 days or revoked; or (ii) the serving times of the licensee be curtailed. For the purposes of this article, a finding that:

- (1) The violation or a pattern of violations shows that the licensee lacks operational control regarding the responsible sale of alcohol or that the licensee's operations are contrary to the public safety or welfare of the community;
- (2) That the licensee knowingly violated a provision of this article; or
- (3) Knowingly made a false statement on either a document filed with the city or to any city official, shall create a rebuttable presumption that a willful violation has occurred. The failure of the public safety commission to make a written recommendation to the mayor and council no later than 30 days after the hearing shall result in a dismissal of the charge.

The City Attorney, or the City Attorney's designee, shall represent the City in all such public safety commission hearings.



<u><i>Offenses Involving Underage Persons</i></u>	<u><i>First Offense</i></u>	<u><i>Second Offense Within 36 Months of First Offense</i></u>	<u><i>Third Offense Within 36 Months of Two Preceding Offenses</i></u>
1. Sale or furnishing alcohol to underage person	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$10,000.00 fine and Rev. of license for 12 months
2. Keeping a place where underage person can come and purchase, drink or possess any alcoholic beverage	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$10,000.00 fine and Rev. of license for 12 months
3. Permitting an underage person to be in, frequent or loiter about the premises unaccompanied by a parent or legal guardian	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$10,000.00 fine and Rev. of license for 12 months
4. Employment of a minor in or about premises where minor sells or delivers, aids or assists in selling or delivering of alcoholic beverages	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$10,000.00 fine and Rev. of license for 12 months
5. Any of the following conduct or offenses enumerated as 6 through 32 where underage person is involved in the transaction	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$10,000.00 fine and Rev. of license for 12 months
<u><i>Time, Place, and Manner of Violations</i></u>	<u><i>First Offense</i></u>	<u><i>Second Offense Within 36 Months of First Offense</i></u>	<u><i>Third Offense Within 36 Months of Two Preceding Offenses</i></u>
6. Sunday sales	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
7. Sale at prohibited times other than Sundays	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
8. Failure to vacate premises of pouring outlets at required time	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months

9. Retail dealer of distilled spirits by package permitting slot machines or mechanical music boxes or pinball machines or any other coin-operated machine or machines except cigarette machines on premises	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
10. Selling or dispensing distilled spirits or wine from drive-in or service windows	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
11. Sale or delivery of alcoholic beverage whether by package or by drink beyond the premises or by curbside service	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
12. Failure to report change in interest or ownership of business and/or change in information on application for license	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months
13. Conducting music, dancing or other entertainment on premises licensed as pouring outlet without prior notification and permit of Public Safety Commission	\$1,000.00 fine	\$2,500.00 fine	Rev. for 60 months

<u>Sexual Offenses</u>	<u>First Offense</u>	<u>Second Offense Within 36 Months of First Offense</u>	<u>Third Offense Within 36 Months of Two Preceding Offenses</u>
14. Prostitution in violation of O.C.G.A. § 16-6-9	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
15. Keeping a place of prostitution in violation of O.C.G.A. § 16-6-10	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
16. Pimping in violation of O.C.G.A. § 16-6-11	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
17. Pandering in violation of O.C.G.A. § 16-6-12	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
18. Solicitation of sodomy in violation of O.C.G.A. § 16-6-15	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months

19. Masturbation for hire in violation of O.C.G.A. § 16-6-16	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
20. Giving massages in place used for lewdness, prostitution, or masturbation for hire in violation of O.C.G.A. § 16-6-17	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
<b><u>Offenses Against Public Order and Safety</u></b>	<b><u>First Offense</u></b>	<b><u>Second Offense Within 36 Months of First Offense</u></b>	<b><u>Third Offense Within 36 Months of Two Preceding Offenses</u></b>
21. Maintaining a disorderly house in violation of O.C.G.A. § 16-11-44	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
22. Engaging in prohibited teaching, training or demonstration to others of the use, application, or making of any illegal firearm, dangerous weapon, explosive or incendiary device in violation of O.C.G.A. § 16-11-151	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
<b><u>Offenses Against Public Health and Morals</u></b>	<b><u>First Offense</u></b>	<b><u>Second Offense Within 36 Months of First Offense</u></b>	<b><u>Third Offense Within 36 Months of Two Preceding Offenses</u></b>
23. Contributing to the delinquency, unruliness, or deprivation of a minor in violation of O.C.G.A. § 16-12-1	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
<b><u>Gambling</u></b>	<b><u>First Offense</u></b>	<b><u>Second Offense Within 36 Months of First Offense</u></b>	<b><u>Third Offense Within 36 Months of Two Preceding Offenses</u></b>
24. Commercial gambling in violation of O.C.G.A. § 16-12-22	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months
25. Keeping a gambling place in violation of O.C.G.A. § 16-12-23	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months
26. Possession, manufacture, or transfer of gambling device or parts including but not limited to electronic slot machine in violation of O.C.G.A. § 16-12-24	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months

27. Communicating gambling information in violation of O.C.G.A. § 16-12-28	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months
28. Solicitation of another to gamble with intent to defraud or deceive in violation of O.C.G.A. § 16-12-25	\$2,500.00 fine	\$2,500.00 fine	Rev. for 60 months

**Offenses Involving Narcotics**

**First Offense**

**Second Offense Within 36 Months of First Offense**

**Third Offense Within 36 Months of Two Preceding Offenses**

29. Distribution of Georgia Controlled Substances Act, O.C.G.A. § 16-13-70, et seq.	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
30. Violation of Georgia Controlled Substances Act, O.C.G.A. § 16-13-20	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
31. Violation of the Georgia Dangerous Drugs Act, O.C.G.A. § 16-13-70, et seq.	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months

**Miscellaneous Offenses**

**First Offense**

**Second Offense Within 36 Months of First Offense**

**Third Offense Within 36 Months of Two Preceding Offenses**

32. Violation of any heretofore unspecified provision of chapter 4 of the Revised Code of the City of Dalton and of the Revenue Regulations of the Division of Alcohol, Tobacco and Firearms of the Georgia Department of Revenue pertaining to holding state alcohol beverage license	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
33. Failure to complete audit	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
34. Failure of audit	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months
35. Nuisance violation	\$1,000.00 fine and 10 days license suspension	\$2,500.00 fine and 30 days license suspension	\$2,500.00 fine and Rev. of license for 12 months

**Sec. 6-234. Action by mayor and council.**

- (a) The mayor and council shall perform an on-record review of the hearing record before the public safety commission. The mayor and council shall determine from the hearing record whether there is sufficient evidence to support the finding of the public safety commission. The licensee shall not be permitted to present additional evidence or arguments before the mayor and council. If the appeal concerns a revocation recommendation, then upon a finding by the mayor and council that sufficient evidence exists to support the recommendation, the mayor and council shall revoke the license of the licensee for a period not to exceed 60 months. The mayor and council shall, after deliberation, make such determination as to sufficient evidence at its first regular or called meeting after delivery of the hearing record, but in any event no later than 60 days after the hearing before the public safety commission, and shall notify the licensee of its determination at such meeting or in writing no later than 30 days after such meeting. Failure of the mayor and council to confirm the findings of the public safety commission within 60 days after the hearing before the public safety commission shall be deemed a finding that insufficient evidence exists to support the findings of the public safety commission and shall result in a dismissal of the charge.
- (b) If the hearing is before the mayor and council as a result of a suspension pursuant to section 6-222, the licensee shall be allowed to appear at said hearing and to present evidence and cross-examine witnesses. The mayor and council shall notify the licensee of its determination at such meeting or in writing no later than 30 days after such meeting. Upon a finding by the mayor and council that sufficient evidence exists to support the emergency, the mayor and council may revoke the license of the licensee for a period not to exceed 60 months. Failure of the mayor and council to notify the licensee of its determination at such meeting or in writing no later than 30 days after such meeting shall result in a dismissal of the charge.

**Sec. 6-235. Appeal to mayor and council; notice.**

- (a) Any licensee adversely affected by a determination by the public safety commission with regard to a license violation may appeal such decision to the mayor and council. Any such appeal must be filed with the city clerk within 15 days of the date of determination by the public safety commission.
- (b) The city clerk shall give a licensee at least five business days written notice of the time and date of the meeting of the mayor and council at which licensee's appeal will be considered.

**Sec. 6-236. Procedures for first three violations.**

- (a) Except for a violation of this chapter that results in a suspension under section 6-222, or an initial determination by the Public Safety Commission that a willful violation has occurred, then, within ten business days of a citation for a violation of this chapter, a licensee may pay the monetary penalty to the city clerk for the first three violations of this chapter within a moving three-year period and forgo a hearing before the public safety commission.
- (b) A licensee who fails to timely pay the monetary penalty as provided in the preceding section shall be noticed to a hearing before the public safety commission as provided in section 6-232.

**Secs. 6-237—6-245. Reserved.**

## *DIVISION 8. SANCTIONS*

### **Sec. 6-246. Sanctions for violations.**

- (a) *Judicial remedy for violation of this chapter.* Any person who violates any part of this chapter of the Code, or knowingly and willfully makes a false statement in any affidavit required in section 6-104, shall be subject to citation and subpoena to the appropriate court, and to the judicial penalties resulting therefrom as provided in the Code or by general law.
- (b) *Nonjudicial sanctions for violation of this chapter.* For purposes of determining sanctions under this section, a violation shall include each distinct violation of this chapter though they are presented in a single hearing.
  - (1) The failure of a licensee to pay when due any penalty or costs assessed pursuant to the terms of this chapter of the Code shall result in the immediate suspension of all alcohol licenses issued by the city to such licensee. A suspension under this subsection shall continue until all penalties and other sums due the city by the licensee are paid in full.
  - (2) A revoked license shall become null and void as of the time of revocation. A holder of a revoked license shall not be entitled to a refund of all or a part of the license fee. A holder of a revoked license may apply for a new license after the expiration of the revocation period.

### **Sec. 6-247. No refund of fee.**

When an alcoholic beverage license is revoked, suspended or expires pursuant to section 6-220, the city shall not be required to refund any portion of the license fee.

### **Sec. 6-248. Removal of signs and alcoholic beverages.**

When any license for selling alcoholic beverages is revoked or automatically expires pursuant to section 6-220, all alcoholic beverages and all signs indicating that such beverages may be sold or purchased shall be removed from the place of business, both outside and inside. After receipt by the police department of notice of such revocation or expiration, the police department shall take the necessary steps to see that this section is enforced.

### **Sec. 6-249. Costs.**

If due cause to assess sanctions is found to exist, then the licensee shall be charged with and shall pay, in addition to any sanction, the actual costs of the court reporter arising from the take down and transcription of the hearing proceedings and, if applicable, the cost of translation services.

### **Secs. 6-250—6-275. Reserved.**

## ***ARTICLE III. EXCISE TAX***

### ***DIVISION 1. GENERALLY***

#### **Sec. 6-276. Pouring outlets.**

There is levied an excise tax of the lesser of \$0.80 or the legal limit on each gallon of distilled spirits or fraction thereof purchased by licensees for sale by the drink under this chapter.

#### **Secs. 6-277—6-305. Reserved.**

### ***DIVISION 2. DISTILLED SPIRITS***

#### **Sec. 6-306. Unlawful sales.**

It shall be a violation of this division for any person to sell at retail within the city any distilled spirits on which the taxes provided for in this division have not been paid.

#### **Sec. 6-307. Levied.**

In addition to all other taxes or license fees imposed upon retail dealers engaged in the city in the business of selling distilled spirits, as defined in this chapter, there is imposed and levied upon all such dealers an excise tax, to be computed and collected as set forth in this division.

#### **Sec. 6-308. Duties of wholesaler.**

Each wholesale dealer or distributor selling, shipping or delivering distilled spirits to any retail dealer in the city shall, as a condition of the privilege of carrying on such business in the city:

- (1) Keep true and correct records of all sales, shipments or deliveries of such distilled spirits to each retail dealer in the city. Such records shall be preserved for a period of one year and shall be made available on request for the inspection of any duly authorized city representative.
- (2) Collect from each such retail dealer in the city, at the time of delivery of the distilled spirits, the amount of tax due under this division and hold the money in trust for the city until such amount is remitted to the city as provided in subsection (3) of this section.
- (3) On or before the 20th day of each calendar month, make a verified and comprehensive report to the city which shall correctly show all sales and deliveries of distilled spirits to or for retail dealers in the city for the month immediately preceding the report. The report shall show the name and address of each retail dealer, quantities delivered to each retail dealer, the amount collected under the terms of this division and such other information as may be called for by the city. The report shall be accompanied by remittance to the city for all taxes collected or due as shown on the report. There is assessed a ten-percent late charge on the gross tax due for the month. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the

Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

**Sec. 6-309. Unlawful deliveries.**

It shall be unlawful and a violation of this division for any wholesale dealer or distributor or other person to deliver any distilled spirits to any retail dealer in the city without collecting the taxes provided for in this division at the time of delivery.

**Sec. 6-310. Noncompliance by wholesale dealer, distributor.**

If any wholesale dealer or distributor fails or refuses to make the reports provided for in this division, the city shall notify the person in writing. If the reports are not made and the taxes remitted within five days from the date of the notice, the city may withdraw from the wholesale dealer or distributor the privilege of doing business in the city by revoking his license.

**Sec. 6-311. Frequency of payment.**

The tax imposed in this division shall be computable and payable monthly.

**Sec. 6-312. Rate.**

The tax levied under this division shall be computed on the basis of \$0.80 per gallon of distilled spirits sold or delivered.

**Secs. 6-313—6-340. Reserved.**

*DIVISION 3. MALT BEVERAGES*

**Sec. 6-341. Imposed generally.**

Except as provided in section 6-342, there is levied and imposed upon each wholesale dealer selling malt beverages within the city an excise tax in the amount of \$0.05 per 12 ounces or proportionately of such amount of malt beverages sold by such wholesale dealer within the corporate limits, so as to graduate the tax on bottles, cans and containers of various sizes.

**Sec. 6-342. Tap or draft beer.**

All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer shall not be subject to the excise tax provided for in section 6-341, but in lieu thereof there is imposed upon each wholesale dealer selling such malt beverages within the corporate limits an excise tax of \$6.00 for each barrel or bulk container having a capacity of not more than 15½ gallons sold by such wholesale dealer within the city and at a like rate for fractional parts thereof.

**Sec. 6-343. Separate from other charges.**

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



**Sec. 6-344. Payment and collection generally.**

The excise tax imposed in this division shall be paid and collected in the manner provided in this division.

**Sec. 6-345. Duties of retail dealers for receipt and presentation of invoices.**

All retail dealers of malt beverages and all persons selling at retail malt beverages within the city shall keep a correct record of all purchases of malt beverages and shall demand of and require all persons from whom they purchase malt beverages to furnish and deliver to them with such beverages a correct invoice of each purchase. The invoice shall be kept and preserved by the retailer at his place of business for a period of 12 months from date of the purchase. The invoices shall be open and subject to inspection by any authorized city representative at all reasonable times.

**Sec. 6-346. Report of wholesale dealers.**

Each wholesale dealer who has sold malt beverages within the city shall file a report by the tenth day of each month itemizing for the preceding calendar month the exact quantities of all malt beverages, by size and type of container, for the month sold within the city. Each such wholesale dealer shall remit to the city on the tenth day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this division.

**Sec. 6-347. Marking.**

No decal, stamp or other marking may be required on malt beverages designating the particular municipality or county in which a sale of malt beverages is made or in which resides a licensed retailer to whom the beverages are delivered.

**Sec. 6-348. Delinquencies.**

The failure to make a timely report and remittance under this division shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of ten percent of the amount of such remittance for each successive 30-day period or any portion thereof during which such report and remittance are not filed. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

**Sec. 6-349. False report.**

The filing of a false or fraudulent report under this division shall render the wholesale dealer making such report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report.

**Sec. 6-350. Revocation of license.**

In addition to the penalties set forth in this chapter, the failure to make a timely report or remittance or the filing of a false or fraudulent report under this division shall also constitute grounds for the revocation of the business license issued by the city to a wholesale dealer.

### *DIVISION 4. WINE*

#### **Sec. 6-376. Levied.**

There is imposed and levied a specific excise tax upon all retail dealers in wine within the city limits at the rate of \$0.22 per liter container.

#### **Sec. 6-377. Separate from other taxes and fees.**

The tax levied under this division shall be in addition to all other taxes or license fees imposed upon retail dealers in wine and may be added by the retail dealer and collector as a sales tax from each customer, but the tax shall be paid nevertheless to the city by the retail dealer.

#### **Sec. 6-378. Payment and collection generally.**

The excise tax imposed in this division shall be paid and collected as provided in this division.

#### **Sec. 6-379. Invoices.**

Each distributor, wholesale dealer or manufacturer selling, shipping or delivering wine to any retail dealer or to any establishment having a pouring license in the city, by rail, truck or otherwise, shall make three true and correct copies of invoices of all sales and deliveries made to and for retail dealers in the city. One copy shall be delivered to the retail dealer at the time of delivery and one copy shall be retained and preserved by the wholesaler, distributor or manufacturer for a period of 12 months from the date of the sale to the retail dealer. The copy so retained shall be subject to inspection by any duly authorized city representative at all reasonable times.

#### **Sec. 6-380. Collection and custody.**

At any time of delivery of wine, the wholesale dealer, distributor or manufacturer shall collect from the retail dealer the taxes imposed by this division and shall hold the money in trust for the city until the tax is remitted to the mayor and council as provided in this division.

#### **Sec. 6-381. Monthly report.**

On or before the 20th day of each calendar month, each wholesale dealer, distributor and/or manufacturer delivering wine to or for any retail dealer or to an establishment having a pouring license shall make a true and correct report to the mayor and council on blanks to be furnished by the mayor and council of all sales and deliveries made to or for retail dealers in the city for the current month immediately preceding the report. The report shall show the name of each retail dealer, the location of the place of business of the retailer or the place where each delivery was made, the method of delivery, the number and size of each container, the amount collected as taxes and such other information as may be called for by the mayor and council. The failure to receive such blanks will not excuse the furnishing of the report and the remittance of the taxes.

**Sec. 6-382. Remittance.**

The report required by section 6-381 shall be accompanied by remittance to the city for all taxes collected or due as shown on the report.

**Sec. 6-383. Duties of retail dealers for receipt and preservation of invoices.**

All retail dealers of wine and all persons selling wine at retail within the city shall keep a correct record of all purchases of wine and shall demand of and require all persons from whom they purchase wine to furnish and deliver to them, with the wine, a correct invoice of each purchase. The invoice shall be kept and preserved by the retailer at his place of business for a period of 12 months from the date of the purchase. The invoices shall be open and subject to inspection by any authorized city representative at all reasonable times.

**Sec. 6-384. Failure to make reports.**

If a wholesaler, distributor or retail dealer of wine fails and refuses to make the reports or maintain records as provided in this division and at the time specified, the mayor and council shall notify the party in writing by mail or otherwise. If the reports are not made and the taxes paid within five days from the date of the notice, the mayor and council shall proceed to assess the amount of taxes due by the dealer from the best information available, together with ten percent thereof as a penalty, and proceed to collect the taxes and penalty as provided for the collection of delinquent license taxes. Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.

**Sec. 6-385. Sale upon which tax not paid.**

It shall be a violation of this article for any person to sell at retail or otherwise within the city any wine on which the tax as set out in this division has not been paid to the wholesaler or distributor for the city as provided or on which the tax not paid to the wholesaler or distributor at the time of delivery is not paid to the city by the retailer.

**Sec. 6-386. Prohibited sales and deliveries.**

It shall be unlawful and a violation of this article for any wholesaler, distributor, manufacturer or other person to deliver any wine to any retail dealer in the city or to transport wine into the city for resale by any means whatsoever, except to licensed wholesale distributors, without collecting the taxes thereon as set out in this division at the time of delivery.

**Sec. 6-387. Revocation of license.**

Any retail dealer of wine failing or refusing to pay the tax imposed and levied in this division or failing to abide by any of the terms or sections of this article shall be deemed to have forfeited his privileges of conducting or engaging in the business of selling wine in the city, and any license issued to the dealer by the city prior to that time shall be revoked and canceled.

**Secs. 6-388—6-416. Reserved.**

*DIVISION 5. ALCOHOLIC BEVERAGES BY THE DRINK*

**Sec. 6-417. Imposition and rate.**

There is imposed and levied upon every purchaser of an alcoholic beverage for beverage purposes by the drink within this city a tax in the amount of three percent at the purchase price of the beverage.

**Sec. 6-418. Administration of division.**

- (a) *Authority of mayor and council.* The mayor and council shall administer and enforce this division for the collection of the tax imposed by this division.
- (b) *Records required from licensee; form.* Every licensee for the sale of alcoholic beverages by the drink in this city shall keep such records, receipts, invoices and other pertinent papers in such form as the mayor and council may require.
- (c) *Examination of records; audit.* The mayor and council, City Administrator, City Clerk, or any person authorized in writing by the mayor and council may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for the sale of the alcoholic beverages by the drink and any licensee liable for the tax in order to verify the accuracy of any return made or, if no return is made by the licensee, to ascertain and determine the amount required to be paid.
- (d) *Authority to require reports; contents.* In the administration of this division, the mayor and council may require the filing of reports by any person or class of persons having possession or custody of information relating to purchases which are subject to the tax. Reports shall be filed with the mayor and council when required by the mayor and council and shall set forth the purchase price for each purpose, the date of purchase and such other information as the mayor and council may require.

**Sec. 6-419. Violations.**

Any person violating any section of this division shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in section 1-7. Any licensee or any other person who fails to furnish any return required to be made or who fails or refuses to furnish a supplemental return or other data required by the mayor and council or who renders a false or fraudulent return shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in this section.

**Sec. 6-420. Authority and requirement of licensee to collect.**

Every licensee or his or her Designated Agent is authorized and directed to collect the tax imposed in this division from purchasers of alcoholic beverages by the drink within the licensed premises. Such licensee or Designated Agent shall furnish such information as may be required by the mayor and council to facilitate the collection of the tax.

### **Sec. 6-421. Collection; receipts. rules and regulations.**

Every licensee for the sale of alcoholic beverages by the drink operating a place of business in this city shall, at the time of collection for food and/or drink served, give to the purchaser a receipt on which the purchase price and tax imposed by this division on alcoholic beverages by the drink shall be itemized separately. When the collection of food and/or drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The mayor and council shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

### **Sec. 6-422. Determination, returns and payments.**

- (a) *Due date.* The tax imposed by this division shall become due and payable from the purchaser at the time of the purchase of any mixed drink in this city. All amounts of such taxes collected by the licensee shall be due and payable in the city monthly on or before the 20th day of every month next succeeding each respective monthly period.
- (b) *Return.* On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the City Clerk in such form as the mayor and council may prescribe by every licensee liable for the payment of the tax under this division. All returns shall show the gross receipts of the sale of alcoholic beverages by the drink and the amount of the tax collected on such drinks.
- (c) *Collection fee allowed licensees.* Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the Georgia Retailers' and Consumers' Sales and Use Tax Act, approved February 20, 1951, as amended (O.C.G.A. § 48-8-1 et seq.).

### **Sec. 6-423. Deficiency determinations on returns.**

- (a) *Generally.* If the mayor and council have cause to believe that the return of the tax or the amount of tax required to be paid to the city under this division by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) *Interest.* Delinquent amounts shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release of H. 15 on or after January 1 of each calendar year.
- (c) *Notice of determination; service.* The city or its designated representatives shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his address as it appears in the city records. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (d) *Timeframe for mailing.* Except for failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should last expire.

**Sec. 6-424. Determination if no return made.**

- (a) *Estimates of gross receipts.* If any person fails to make a return as required in this division, the mayor and council shall make an estimate of the amount of the gross receipts of the person or, as the case may be, of the amount of the total sales in this city which are subject to the tax. The estimate shall be made for the period in respect to which the person failed to make the return and shall be based upon any information which is in possession of the mayor and council. Written notice shall be given in the manner prescribed in subsection 6-423(c).
- (b) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or fraction thereof from the 20th day of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment.

**Sec. 6-425. Penalty for nonpayment.**

Any person who fails to pay the tax imposed in this division or who fails to pay any amount of the tax required to be collected and paid to the city within the time required shall pay a penalty of 15 percent of the tax or amount of the tax, in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in subsection 6-424(b).

**Sec. 6-426. Action for tax; tax credit; penalty or interest paid more than once or erroneously or illegally collected.**

At any time within three years after any tax or any amount of tax required to be collected pursuant to this division becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the mayor and council may bring an action in the courts of this state any other state or of the United States in the name of the city to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto. Whenever the amount of any tax, penalty or interest has been paid more than once or has been paid erroneously or illegally collected or received by the city under this division, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the city, he will have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. Such claim must include the report of a certified public accountant describing the overpayment in sufficient detail. The claim shall be audited. If the claim is approved by the mayor and council, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid or from his administrators or executors.

**Secs. 6-427—6-485. Reserved.**

**ARTICLE IV. NORTHWEST GEORGIA TRADE AND CONVENTION CENTER**

**Sec. 6-486. Applicability of chapter.**

All other sections of this chapter not inconsistent with this article shall apply.

**Sec. 6-487. License required.**

No person shall sell or offer for sale or pour or offer to pour any alcoholic beverages in the Northwest Georgia Trade and Convention Center without first having applied for and received an appropriate license from the city.

**Sec. 6-488. Authority license authorized.**

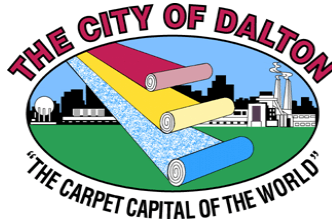
If otherwise qualified, the Northwest Georgia Trade and Convention Center Authority is authorized to apply for and to obtain licenses to sell alcoholic beverages by the drink within the confines of the Northwest Georgia Trade and Convention Center. The costs of such licenses shall be the same as the costs for a preferred caterer or concessionaire for similar licenses as provided in section 6-73 of the Code.

**Sec. 6-489. Minimum policy guidelines.**

The following shall be the minimum policy guidelines the Northwest Trade and Convention Center Authority shall use in regulating the consumption and sale of alcoholic beverages on the premises of the Northwest Georgia Trade and Convention Center:

- (1) No alcoholic beverage shall be sold, dispensed or given away at youth-oriented events. The management of the Northwest Georgia Trade and Convention Center, in its sole discretion, will determine whether an event is youth oriented.
- (2) No alcoholic beverages shall be sold, dispensed or given away at religious-oriented functions unless requested by the lessee.
- (3) No alcoholic beverage shall be sold, dispensed or given away to anyone under 21 years of age. It shall be the policy of the Northwest Georgia Trade and Convention Center to ensure that identification of those who purchase or consume alcoholic beverages are checked to determine whether the person is 21 years of age or older.
- (4) The selling and dispensing of alcoholic beverages shall be curtailed prior to the conclusion of a public event.
- (5) Only designated areas shall be used for selling or dispensing or consuming alcoholic beverages. These areas are to be designated by the management of the Northwest Georgia Trade and Convention Center.
- (6) Alcoholic beverages will not be permitted to be taken out of the Northwest Georgia Trade and Convention Center.
- (7) Only the licensee will be permitted to sell or dispense alcoholic beverages.

# PROCLAMATION



## AMERICAN RED CROSS MONTH MARCH 2024

**WHEREAS**, during American Red Cross Month in March, we recognize the compassion of people in the City of Dalton and reaffirm our commitment to care for one another in times of crisis; and

**WHEREAS**, this generous spirit is woven into the fabric of our community and advances the humanitarian legacy of American Red Cross founder Clara Barton — one of the most honored women in our country’s history — who nobly dedicated herself to alleviating suffering; and

**WHEREAS**, today, kindhearted individuals in our community exemplify Barton’s commitment as they step up through the Northwest Georgia Chapter to provide a beacon of hope for our neighbors in need. Through their voluntary and selfless contributions, they make a lifesaving difference in people’s darkest hours — whether it’s delivering shelter, food and comfort during disasters; providing critical blood donations for hospital patients; supporting military families, veterans and caregivers through the unique challenges of service; saving lives with first aid, CPR and other skills; or delivering aid and reconnecting loved ones separated by global crises; and

**WHEREAS**, we hereby recognize this month of March in honor of all those who lead with their hearts to serve people in need, and we ask everyone to join in this commitment to strengthen our community.

**NOW, THEREFORE BE IT RESOLVED, I**, Annalee Harlan Sams, Mayor of the City of Dalton, Georgia, do hereby proclaim March 2024 as Red Cross Month. I encourage all citizens of our city to reach out and support its humanitarian mission.

*In witness whereof, I have hereunto set my hand  
and caused the seal of this city to be affixed.*

Mayor \_\_\_\_\_

Date \_\_\_\_\_ March 4, 2024 \_\_\_\_\_



THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
FEBRUARY 5, 2024

The Mayor and Council held a meeting this evening at 6:00 p.m. at City Hall. Present were Mayor Annalee Sams, Council members Nicky Lama and Steve Farrow, City Administrator Andrew Parker and City Attorney Jonathan Bledsoe. Council members Dennis Mock and Tyree Goodlett were absent.

CALL TO ORDER

Mayor Sams called the meeting of the Mayor and Council to order.

PLEDGE OF ALLEGIANCE

Councilmember Lama led the audience in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Councilmember Farrow, second Council member Lama, the agenda was amended to remove items (1) Dalton State College Update and Item (10) Corrective Action Plan located at 2251 Rocky Face Circle. The vote was unanimous in favor.

On the motion of Councilmember Farrow, second Council member Lama, the agenda was approved as amended. The vote was unanimous in favor.

PUBLIC COMMENTARY

Mary Reynoso addressed the Mayor and Council regarding issues accessing her residence due to parking issues. City Administrator Andrew Parker stated to Mrs. Reynoso both Police Chief Cason and Public Works Chad Townsend would be in touch.

Patty Durand addressed the Mayor and Council regarding her concerns of Dalton Utilities owning a portion of a Nuclear Power Plant and future cost to the City. The entire discussion can be viewed at

[https://www.youtube.com/watch?v=zOGXM6ge8yw&ab\\_channel=CityofDaltonGeorgia](https://www.youtube.com/watch?v=zOGXM6ge8yw&ab_channel=CityofDaltonGeorgia)

MINUTES

The Mayor and Council reviewed the Regular meeting minutes of February 5, 2024. On the motion of Council member Farrow, second Council member Lama, the minutes were approved. The vote was unanimous in favor.

2024 NEW ALCOHOL BEVERAGE APPLICATION

The Mayor and Council reviewed the following New 2024 Alcohol Beverage Application:

Business Owner:	The Waggle, LLC
d/b/a:	The Waggle, LLC
Applicant:	Jeffery Tatum
Business Address:	825 Chattanooga Ave. Suite 35
License Type:	Pouring Liquor
Disposition:	<b>License Addition</b>

On the motion of Council member Lama, second Council member Farrow, the Alcohol Beverage Application was approved. The vote was unanimous in favor.

RESOLUTION 24-08 - TRANSFER FROM THE DALTON-WHITFIELD REGIONAL SOLID WASTE MANAGEMENT AUTHORITY

CFO Cindy Jackson presented Resolution 24-08 to transfer \$2.5 million from the Dalton-Whitfield Regional Solid Waste Management Authority's Unrestricted Net Assets into the City of Dalton's General Fund. On the motion of Council member Farrow, second Council member Lama, the Mayor and Council approved the Resolution. The vote was unanimous in favor.

FINAL CHANGE ORDER APPROVAL FOR RAMP REHAB PHASE 2 AT AIRPORT

Airport Manager Andrew Wiersma presented the Final Change Order Approval for Ramp Rehab Phase 2 at Airport. Wiersma stated the original contract amount was \$1,518,057.20. Wiersma further stated a change order in the amount of \$731,149.86 was approved by the Mayor and Council for extensive remediation of poor soils encountered during construction. Wiersma continued stating that additional grant funds were collected for the project in the amount of \$546,423 which the Mayor and Council approved 02/05/24. Wiersma stated the difference between the final project amount and grant funding amount is \$119,711.90 which he stated is eligible for future reimbursement at 90%. On the motion of Council member Lama, second Council member Farrow, the Final Change Order was approved. The vote was unanimous in favor.

CHANGE ORDER 001 DATA AND SOUND SPECIALTIES, INC. CAMERA, ACCESS CONTROL & CABLING UPGRADES PROJECT

IT Director Jorge Paez presented Change Order 001 with Data and Sound Specialties, Inc. for the Camera, Access Control & Cabling Upgrade project which will include: door strike retro-fit kits, wire management, door position indicators & labor, two access control antennas to be mounted at the Police Department and an additional camera for the Police Departments impound lot. Paez stated the change order will cost an additional \$12,600.00. On the motion of Council member Farrow, second Council member Lama, the Change Order was approved. The vote was unanimous in favor

RIDGE STREET STORMWATER BYPASS PROJECT CONTRACT CHANGE ORDER

Public Works Director Chad Townsend presented the Ridge Street Stormwater Bypass Project Contract Change Order for Rock Removal. Townsend stated that unforeseen conditions associated with bedrock residing within the vertical limits of the open trenching for the stormwater conveyance system being installed. Townsend further stated the bedrock must be removed prior to installation at a rate of \$475.00 per hour with a possible limit of up to \$60,000.00. On the motion of Council member Farrow, second Council member Lama, the Change Order was approved. The vote was unanimous in favor.

RIGHT OF WAY ENCROACHMENT - 505 N GLENWOOD AVENUE

Public Works Director Chad Townsend presented a right of way encroachment for a project located at 505 North Glenwood Avenue. Townsend stated the proposed work within the right of way is to include demolition of an existing retaining wall, installing a storm drain as well as demo replacement of multiple driveway aprons. On the motion of Council member Lama, second Council member Farrow, the Right of Way Encroachment was approved. The vote was unanimous in favor.

Mayor and Council Minutes

Page 3

February 19, 2024

CORRECTIVE ACTION PLAN - 2251 ROCKY FACE CIRCLE

Removed from the agenda.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 6:20 p.m.

---

Bernadette Chattam  
City Clerk

---

Annalee Sams, Mayor

Recorded

Approved: \_\_\_\_\_

Post: \_\_\_\_\_



## CITY COUNCIL AGENDA REQUEST

<b>Meeting Type:</b>	Mayor & Council Meeting
<b>Meeting Date:</b>	3/4/2024
<b>Agenda Item:</b>	Renewal of Statewide Mutual Aid and Assistance Agreement
<b>Department:</b>	Administration
<b>Requested By:</b>	Todd Pangle
<b>Reviewed/Approved by City Attorney?</b>	Yes
<b>Cost:</b>	N/A
<b>Funding Source if Not in Budget</b>	N/A

### **Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

#### **Purpose:**

- Provide an agreement in advance of an emergency for the rapid and efficient deployment of resources in all types of emergency
- Designate City of Dalton members who may request mutual aid and assistance

#### **Important Points:**

- Assistance may be requested from GEMA and/or another participating county or municipality; and the City of Dalton may be requested by GEMA and/or another participating county or municipality
- City employees who render aid to a requesting party have immunity from liability
- City employees still act under City of Dalton policy and procedure

#### **Reimbursement:**

- If the City of Dalton uses resources while rendering aid to another county/municipality, it may request reimbursement within sixty (60) days
- Likewise, if Dalton requests aid, the responding party(s) may request reimbursement from Dalton with sixty (60) days

# STATEWIDE MUTUAL AID AND ASSISTANCE AGREEMENT

County/Municipality: City of Dalton

The State of Georgia is vulnerable to a wide range of natural and man-made disasters and emergencies. The Georgia Emergency Management Act, as amended (The Act) gives the local governments of the State the authority to make agreements for mutual aid assistance in emergencies. Pre-existing agreements for mutual aid assistance in emergencies help to ensure the timely provision of mutual aid assistance and the reimbursement of costs incurred by those parties who render such assistance.

This mutual aid agreement is entered pursuant to authorities contained in Articles I through III, Chapter 3, Title 38, Official Code of Georgia Annotated.

## ARTICLE I STATEMENT OF AGREEMENT, DEFINITIONS AND AUTHORITIES

This Agreement is made and entered into between the participating political subdivisions, which approve and execute this Agreement, hereinafter called "Participating Parties" and the Georgia Emergency Management and Homeland Security Agency (GEMA/HS). For purposes of this Agreement, the following terms and expressions shall apply:

- (1) "Agreement" means this agreement, generally referred to as the "Statewide Mutual Aid Agreement" (SWMAA).
- (2) "Assistance" includes personnel, equipment, facilities, services, supplies and other resources furnished to a Requesting Party pursuant to this Agreement during an emergency or disaster.
- (3) "Assisting Party" means a party that provides assistance pursuant to this Agreement during an emergency or disaster.
- (4) "Authorized Representative" means a Participating Party's elected or appointed official or employee who has been authorized in writing by that party to request, to offer, or otherwise to provide mutual aid assistance.
- (5) "Participating Party" means a county or municipality of the State of Georgia that has become party to this Agreement by its approval and execution of this agreement.
- (6) "Participating Parties" means the combination of counties and municipalities that have become parties to this Agreement by their approval and execution of this Agreement.
- (7) "Requesting Party" means a party that requests assistance pursuant to this Agreement during an emergency or disaster.

Any term or expression not defined in this Agreement shall have the meaning specified in the Georgia Emergency Management Act, as amended (the Act) and rules promulgated thereunder, unless used in a context that clearly suggests a different meaning.

ARTICLE II  
GENERAL PURPOSE

The purpose of this Agreement is to:

1. Provide the framework to support mutual assistance in managing an emergency or disaster occurring within any political subdivision that is a Participating Party, whether arising from natural disaster, technological hazard, human caused disaster, civil emergency, community disorders, insurgency, enemy attack, acts of terrorism, other significant events or homeland security activity; and
2. Identify those persons who are authorized to act on behalf of the Participating Party signing this Agreement as their Authorized Representative(s) concerning the provision of mutual aid resources and requests for mutual aid resources related to any mutual aid assistance sought from another Participating Party, or from or through the State of Georgia. Appendix A of this Agreement shall contain the name(s) of the Participating Party's Authorized Representative for purposes of this Agreement. Appendix A can be amended by the authorizing Participating Party as needed with no effect on the entire Agreement. All such amendments to Appendix A shall be done in writing and the Participating Party shall notify GEMA/HS and all other Participating Parties of such amendment within thirty (30) days.

ARTICLE III  
ACKNOWLEDGEMENT OF PRINCIPLES

The prompt, full and effective utilization of resources of the Participating Parties, including any resources on hand or available from the State or Federal Government or any other source, that are essential to the safety, care and welfare of the people shall be the underlying principle on which all articles of this Agreement shall be understood.

In the event of a conflict between any provision of this Agreement and any existing intrastate mutual aid agreement affecting a Participating Party, the provisions of this Agreement shall be controlling.

On behalf of the governing authority of each political subdivision of this State participating in the Agreement, the director of emergency management of such political subdivision will be responsible for formulation of the appropriate mutual aid plans and procedures necessary to implement this Agreement.

ARTICLE IV  
PARTICIPATING PARTY RESPONSIBILITIES

(a) It shall be the responsibility of each Participating Party to formulate procedures and programs for intergovernmental cooperation in the performance of the responsibilities listed in this Article. In formulating such plans, and in carrying them out, each Participating Party, insofar as practical, shall:

- (1) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material; and

(2) Inventory and set procedures for the loan and delivery of human and material resources, together with procedures for reimbursement.

(b) Whenever a Participating Party requires mutual aid assistance from another Participating Party and/or the State of Georgia, the Requesting Party may request assistance by:

(1) Contacting the Participating Party who is the owner/operator/employer of the supplies, equipment and/or personnel being sought for mutual aid assistance (the Assisting Party); or

(2) Contacting GEMA/HS to serve as the facilitator of such request for those resources being sought for mutual aid that are owned/operated/employed by Participating Parties (where such Participating Parties have submitted a record of those resources to GEMA/HS for such use); and/or, when such resources being sought for mutual aid are owned/operated/employed directly by the State of Georgia.

The provisions of this Agreement shall only apply to requests for assistance made by an Authorized Representative. Requests may be verbal or in writing. If verbal, the request must be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, such as but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, damage assessment, volunteer and donated goods and search and rescue; and

(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time each will be needed; and

(3) The specific place and time for staging of the Assisting Party's response and a point of contact at that location.

The Assisting Party will (a) maintain daily personnel time records, material records and a log of equipment hours (or miles, if appropriate) and (b) report work progress to the Requesting Party at mutually agreed upon intervals.

#### ARTICLE V LIMITATIONS

Any Participating Party requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this Agreement in accordance with the terms hereof; provided that it is understood that the Participating Party who is asked to render aid may withhold resources to the extent necessary to meet the current or anticipated needs of the Participating Party's own political subdivision to remain in compliance with such Participating Party's policy, rule or law.

The Assisting Party's mutual aid resources will continue under the command and control of their own

supervisors, but the organizational units will be under the operational control of the emergency services authorities of the Requesting Party unless the Assisting Party approves an alternative.

In the event the Governor should declare a State of Emergency, any and all provisions of this Agreement which may conflict with the declared State of Emergency shall be superseded by the terms and conditions contained within the State of Emergency.

#### ARTICLE VI LIABILITY AND IMMUNITY

(a) In accordance with O.C.G.A. § 38-3-35(a), no political subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management worker or member of any agency engaged in emergency management activity. The foregoing shall not affect the right of any person to receive benefits or compensation to which he might otherwise be entitled under Chapter 9 of Title 34, Code Section 38-3-30, any pension law, or any act of Congress.

(b) In accordance with O.C.G.A. § 38-3-35(b), no political subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any political subdivision thereof, nor any volunteer or auxiliary emergency management worker or member of any agency engaged in any emergency management activity complying with or reasonably attempting to comply with Articles 1 through 3, Chapter 3, Title 38, Official Code of Georgia Annotated; or any order, rule, or regulation promulgated pursuant to Articles 1 through 3 of title, or pursuant to any ordinance relating to precautionary measures enacted by any political provisions of Articles 1 through 3 of said chapter and title, or pursuant to any ordinance relating to precautionary measures enacted by any political subdivision of the state shall be liable for the death of or the injury to person or for damage to property as a result of any such activity.

(c) It is the express intent of the parties that the immunities specified in accordance with O.C.G.A. § 38-3-35 shall apply in addition to any other immunity provided by statute or case law.

#### ARTICLE VII RIGHTS AND PRIVILEGES

In accordance with O.C.G.A. § 38-3-30(a), whenever the employees of any Assisting Party or political subdivision are rendering outside aid pursuant to this agreement and the authority contained in Code Section 38-3-27, the employees shall have the same powers, duties, rights, privileges and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

#### ARTICLE VIII REIMBURSEMENT

In accordance with O.C.G.A. § 38-3-30(b), The Requesting Party shall be liable for any loss of or damage to equipment used or placed within the jurisdiction of the Requesting Party and shall pay any expense incurred in the operation and maintenance thereof. No claim for the loss, damage or expense shall be allowed unless, within 60 days after the same is sustained or incurred, an itemized notice of



the claim under oath is served by mail or otherwise upon the designated fiscal officer of the Requesting Party. Appendix B of this Agreement shall contain the name(s) of the Participating Party's designated fiscal officer for purposes of this Agreement. Appendix B can be amended by the authorizing Participating Party as needed with no effect on the entire Agreement. Appendix B can be amended by the authorizing Participating Party as needed with no effect on the entire Agreement. All such amendments to Appendix B shall be done in writing and the Participating Party shall notify GEMA/HS and all other Participating Parties of such amendment within thirty (30) days.

The Requesting Party shall also pay and reimburse the Assisting Party for the compensation paid to employees furnished by the Assisting Party during the time of the rendition of the aid, as well as the actual travel and per diem expenses of such employees while they are rendering the aid. The reimbursement shall include any amounts paid or due for compensation due to personal injury or death while the employees are engaged in rendering the aid. The term "employee," as used herein, shall mean, and this provision shall apply with equal effect to, paid, volunteer and auxiliary employees and emergency management workers.

Expenses to be reimbursed by the Requesting Party shall include the following:

- (1) Labor costs, which shall include all usual wages, salaries, compensation for hours worked, mobilization and demobilization, the Assisting Party's portion of payroll taxes (as employer), insurance, accrued paid leave and other fringe benefits, but not those amounts paid or due as a benefit to the Assisting Parties personnel under the terms of the Georgia Workers Compensation Act; and
- (2) Equipment costs, which shall include the fair rental value, the cost of fuel and other consumable supplies, service and repairs. If the equipment is damaged while in use under this Agreement and the Assisting Party receives payment for such damage under any contract for insurance, the Requesting Party may deduct such payment from any item or items invoiced; and
- (3) Material costs, which shall include the total reasonable cost for the use and consumption of any and all consumable supplies delivered by the Assisting Party for the benefit of the Requesting Party; and
- (4) Meals, lodging and other related expenses, which shall include charges for meals, lodging and other expenses relating to the provision of assistance pursuant to this Agreement shall be the actual and reasonable costs incurred by the Assisting Party.

The Assisting Party shall maintain records and submit invoices within 60 days for reimbursement as specified hereinabove and the Requesting Party shall pay the invoice no later than 30 days following the invoice date.

#### ARTICLE IX IMPLEMENTATION

This Agreement shall become operative immediately upon its approval and execution by GEMA/HS and any two political subdivisions of this State; thereafter, this Agreement shall become effective as to any other political subdivision of this State upon its approval and execution by such political subdivision.

Any Participating Party may withdraw from this Agreement by mailing notice of withdrawal, approved by the governing authority of such political subdivision, but no such withdrawal shall take effect until 30 days after the governing authority of the withdrawing political subdivision has given notice in writing of such withdrawal to the governing authorities of all other Participating Parties. Such action shall not relieve the withdrawing political subdivision from obligations assumed hereunder prior to the effective date of withdrawal.

Copies of this Agreement shall, at the time of their approval, be deposited with each of the respective Participating Parties and with GEMA/HS.

ARTICLE X  
TERM OF AGREEMENT

This Agreement, once executed, is valid until March 1, 2028. Agreement of the Participating Parties to extend the term of this agreement at any time during the last year of its original term or the last year of any subsequent four-year term shall extend the term of this agreement for four years. Each four-year extension shall constitute a separate agreement.

ARTICLE XI  
VALIDITY

If any provision of this Agreement is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this Agreement and the applicability thereof to other persons and circumstances shall not be affected thereby.

Agreed:

\_\_\_\_\_  
Chief Executive Officer - Signature

Annalee Harlan Sams  
\_\_\_\_\_  
Chief Executive Officer – Print Name

County/Municipality: City of Dalton

Date: 03/04/2024

\_\_\_\_\_  
GEMA/HS Director – Signature

\_\_\_\_\_  
GEMA/HS Director – Print Name

Date: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

APPENDIX A  
AUTHORIZED REPRESENTATIVE

The below named individual(s), in addition to the chief executive officer, is/are the “Authorized Representative(s)” for City of Dalton \_\_\_\_\_ (county/municipality), and are authorized to request, offer, or otherwise provide and coordinate mutual aid assistance on behalf of the above-named county/municipality:


Cliff Cason  
Print Name

Chief of Police  
Job Title/Position

  
Signature of Above Individual

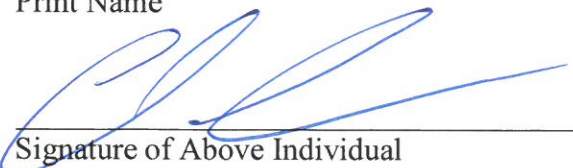
Matt Daniel  
Print Name

Fire Chief  
Job Title/Position

  
Signature of Above Individual

Chad Townsend  
Print Name

Public Works Director  
Job Title/Position

  
Signature of Above Individual

\_\_\_\_\_  
Chief Executive Officer - Signature


Date: 03 / 04 / 2024

Annalee Harlan Sams  
Chief Executive Officer – Print Name


APPENDIX B  
DESIGNATED FISCAL OFFICER(S)

The below named individual(s) is/are the “designated fiscal officer(s)” for City of Dalton  
(county/municipality) for the purpose of reimbursement sought for mutual aid:

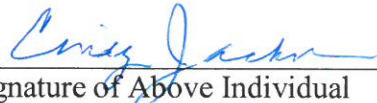
Andrew Parker City Administrator  
Print Name Job Title/Position

  
Signature of Above Individual

Bernadette Chattam City Clerk  
Print Name Job Title/Position

  
Signature of Above Individual

Cindy Jackson Chief Financial Officer  
Print Name Job Title/Position

  
Signature of Above Individual

\_\_\_\_\_  
Chief Executive Officer - Signature

Date: 03/04/2024

Annalee Harlan Sams  
Chief Executive Officer – Print Name



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 3/4/2024

**Agenda Item:** **The request of Shazman Ali to rezone from Heavy Commercial (M-2) to General Commercial (C-2) a tract of land totaling 4.05 acres located at 1028 Willowdale Road, NW, Dalton, Georgia. Parcels (12-159-01-059 and 12-159-01-065)**

**Department:** Planning and Zoning

**Requested By:** Ethan Calhoun

**Reviewed/Approved by City Attorney?** Sent for Review

**Cost:** N/A

**Funding Source if Not in Budget** N/A

**Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

See attached staff analysis and recommendation

**ORDINANCE NO. 24-05**

To rezone property of Knight and Marshal, LLC from a Heavy Manufacturing (M-2) Classification to a General Commercial (C-2) Classification; to provide for an effective date; to provide for the repeal of conflicting ordinances; to provide for severability; and for other purposes.

**WHEREAS**, Knight and Marshall, LLC, by and through its attorney-in-fact, Shazman Ali, has petitioned for rezoning of certain real property it owns from M-2 classification to C-2 classification;

**WHEREAS**, the application for rezoning appears to be in proper form and made by all owners of the Property sought to be rezoned;

**WHEREAS**, the rezoning is in conformity with the City of Dalton Joint Comprehensive Plan; and

**WHEREAS**, all other procedures as required by Georgia law have been followed.

**NOW, THEREFORE, BE IT HEREBY ORDAINED**, by the Mayor and Council of the City of Dalton, Georgia, as follows:

**Section 1.**

The real property as described in Exhibit “A” (the “Property”), which is attached to and incorporated herein as a part of this Ordinance, is hereby rezoned from M-2 classification to C-2 classification.

**Section 2.**

This Ordinance shall be effective as of the date of approval of this Ordinance.

**Section 3.**

The City Clerk is instructed to send a copy of this Ordinance to the Dalton-Whitfield Zoning Administrator with a request to record this rezoning on the Official Zoning Map of Whitfield County, Georgia.

**Section 4.**

All ordinances and parts of ordinances in conflict with this Ordinance are repealed.

**Section 5.**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR/MAYOR PRO TEM

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK, CITY OF DALTON

EXHIBIT "A"

**Parcel No. 12-159-01-059**

**Parcel No. 12-159-01-065**

Tract 1:

A certain tract or parcel of land lying and being in Land Lot 146 of the 12th District and 3rd Section of Whitfield County, Georgia, being a part of Tracts 2 and 3 of the Willowdale Subdivision, as per plat of same recorded in Plat Book I, page 107, Deed Records of Whitfield County, Georgia, being a portion of that property shown on plat of survey prepared by Peter L. Bakkum for Earl Crawford dated March 5, 1974 and amended March 20, 1974 and recorded in Plat Book 10, page 10, Deed Records of Whitfield County, Georgia, being more particularly described as follows:

BEGINNING at a point on the west line of said Tract 2, said point being located 341.71 feet north of the right-of-way of the Old Dixie Highway; thence north 00 degrees 57 minutes 20 seconds west 436.54 feet; thence north 88 degrees 46 minutes 20 seconds east 350 feet to an iron pin; thence south 00 degrees 57 minutes 20 seconds east 503.24 feet; thence north 80 degrees 27 minutes 58 seconds west 357.30 feet to the point of beginning.

Tract 2:

A certain tract or parcel of land lying and being in Land Lot 146 of the 12th District and 3rd Section of Whitfield County, Georgia, being a part of Willowdale Subdivision as per plat of same recorded in Plat Book 1, page 107, being a portion of that property shown on plat of survey prepared by Peter L. Bakkum for Earl Crawford dated March 5, 1974 and amended March 20, 1974 recorded in Plat Book 10, page 10, being more particularly described as follows:

COMMENCING at an iron stake located 560.62 feet east and south 00 degrees 57 minutes 20 seconds west 2,007.24 feet and north 80 degrees 27 minutes 58 seconds west 1 foot from the northwest corner of Land Lot 146, said district and section, as measured in an easterly direction; thence southerly, thence in a westerly direction from said land lot corner; thence south 00 degrees 57 minutes east 233.5 feet to an iron stake located on the north side of the right-of-way of Willowdale Road; thence south 81 degrees 58 minutes 40 seconds west 50.39 feet to an iron stake; thence north 00 degrees 57 minutes 20 seconds west 248.85 feet to an iron stake; thence south 80 degrees 27 minutes 58 seconds east 50.87 feet to an iron stake and the point of beginning.



**DALTON-VARNELL-WHITFIELD COUNTY PLANNING COMMISSION  
503 WEST WAUGH STREET  
DALTON, GA 30720**

**MEMORANDUM**

**TO:** City of Dalton Mayor and Council  
Andrew Parker  
Jonathan Bledsoe  
Jean Price-Garland

**FROM:** Jim Lidderdale  
Chairman

**DATE:** February 27, 2024

**SUBJECT: The request of Shazman Ali to rezone from Heavy Commercial (M-2) to General Commercial (C-2) a tract of land totaling 4.05 acres located at 1028 Willowdale Road, NW, Dalton, Georgia. Parcels (12-159-01-059 and 12-159-01-065)**

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on February 26, 2024, at 6:00 p.m. at the Whitfield County Courthouse meeting room. A portion of the agenda included a public hearing concerning the above matter. A quorum of four members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by Shazman Ali.

**Public Hearing Summary:**

Mr. Calhoun summarized the staff analysis which recommended approval of the C-2 rezoning. There were no further questions for Calhoun.

Shazman Ali stated his intent to remodel the existing structure to house indoor pickleball courts and refreshments. Chairman Lidderdale asked Ali if the building was currently occupied to which Ali stated that it was not. Lidderdale asked Ali if he knew of the property's former use to which Ali stated that he was unsure beyond its use for a carpet-related business. Chairman Lidderdale asked Ali if there were plans to improve the driveway access to the subject property noting its poor condition. Ali stated there are plans to improve the driveway with up to a 5' widening to accommodate additional ingress/egress. Chris Shiflett asked Ali how many courts were planned for the facility to which Ali stated their plans account for up to seven pickleball courts.

With no other comments being heard for or against, the hearing closed at 6:31

**Recommendation:**

Chairman Lidderdale sought a motion on the requested C-2 rezoning. **Chris Shiflett then made a motion to recommend the C-2 rezoning be approved. Jody McClurg then seconded the motion and a unanimous recommendation to approve the C-2 rezoning followed, 3-0.**

**STAFF ANALYSIS**  
**REZONING REQUEST**  
*Unified Zoning Ordinance*

**ZONING CASE:** Shazman Ali is seeking to rezone from Heavy Manufacturing (M-2) to General Commercial (C-2) two tracts of land (parcels 12-159-01-059, and 065) containing a total of 4.05 acres located at 1028 Willowdale Road. The subject property has been developed with a 20,100 sq ft warehouse building since 1982 according to the County tax records.: The petitioner's request was made to remodel the former manufacturing building to be used as an indoor recreation center with affiliated food service.

The surrounding uses and zoning areas follows: A 30 acre undeveloped tract of land to the north zoned R-2. A larger undeveloped tract of land to the east is zoned R-2. A tract of land to the south that contains an apartment complex zoned R-7. A large tract of land to the west contains a single-family detached dwelling and is zoned M-2.

The subject property is within the jurisdiction of the City of Dalton Mayor and Council.

**CONSIDERING FACTORS FOR A REZONING/ANNEXATION ANALYSIS**

**(A) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby properties.**

The subject property lies at the convergence of the R-2 and M-2 zone districts. These zone districts share no similarities in character. The subject property has been developed with a warehouse-type building since the early 1980's. The petitioner's proposal to remodel the existing structure for an indoor recreation center would reduce the overall intensity of the subject property when compared to the current M-2 zone district. The proposed C-2 rezoning could serve as a more gradual transition of land use intensity between the established R-2 and M-2 zone districts in this area.

**(B) Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.**

The subject property has been developed for industrial and manufacturing use since the early 1980s with no observed negative impact on any adjacent properties. The proposed C-2 rezoning would require similar buffers where the subject property abuts residential zoning along its northern, eastern, and southern boundaries. The overall land use intensity of the C-2 zone district will be lesser than that of the current M-2 zone district.

**(C) Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property for the proposed zoned uses.**

The subject property could be utilized for manufacturing or warehousing purposes as currently zoned. The proposed rezoning would create more opportunities for commercial use of the subject property as compared to that of industrial and manufacturing.

**(D) Whether there is relative gain to the health, safety, morals, or general welfare of the public as compared to any hardship imposed upon the individual owner under the existing zoning.**

N/A

**(E) Whether the proposed (C-2) amendment, if adopted or approved, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.**

This is an area with an abundance of public utility capacity for both water and sewer as well as proximity to one of the county's arterial corridors, so there would be no expectation for a burden in regard to public infrastructure if this rezoning is approved. The potential traffic generation of the proposed development of the subject property would be comparable to that which could occur under the current M-2 zone district.

**(F) Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses which are contrary to the plan recommendation, and if the plan has been amended, does this rezoning or annexation request allow uses which are compatible to the existing uses in the vicinity.**

The comprehensive plan's future development map shows this property to be within the Industrial character area. This character area is intended for high-intensity manufacturing and industrial land uses. While the current M-2 zoning is a perfect match for the Industrial character area, the subject property lies at the convergence of the M-2 and R-2 zone districts. The proposed C-2 rezoning would limit the overall land use intensity potential for the subject property and create a more gradual transition between the R-2 and M-2 zone districts in this area.

**(G) Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an "entering wedge" and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zone) as interpreted by current Georgia law.**

No issues were identified here. The proposed rezoning would establish an island of C-2 zoning. The large adjacent M-2 zone district prevents concern for spot zoning in relation to the adjacent residential properties.

**(H) Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, storm water, or historical issues that influence the development of the subject property under any zoning designation.**

N/A

**CONCLUSION:**

The staff can provide a recommendation to approve the requested C-2 rezoning of the subject property based on the following factors:

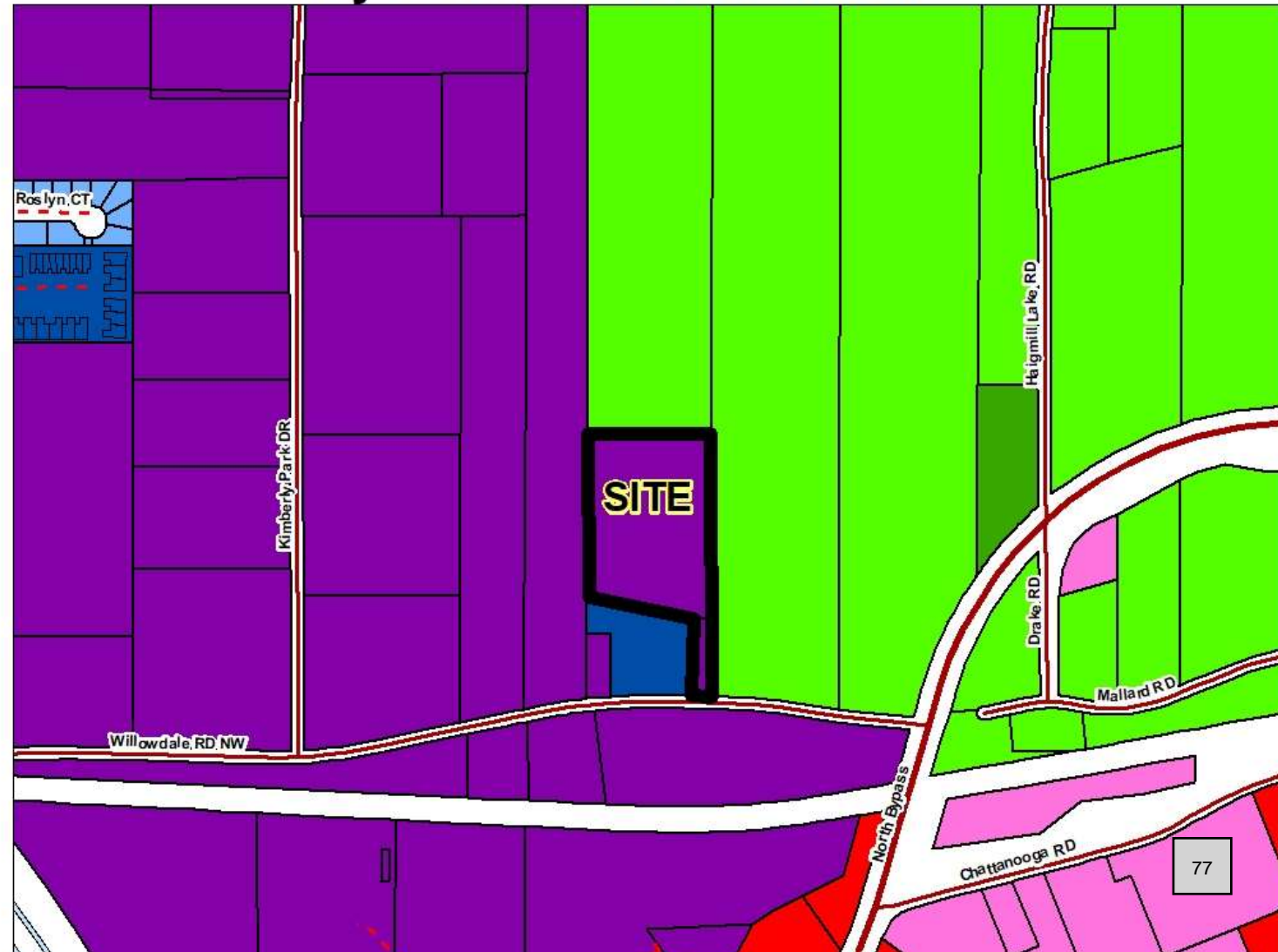
1. The requested C-2 zone district would allow for the use of the subject property in a manner that would not conflict with the established pattern of development in this area.
2. There is no expectation that the proposed rezoning and development would harm the values of adjacent or nearby properties given the reduction in proposed land use intensity.
3. The requested C-2 zone district would allow for the remodeling of the existing warehouse building in order to be used for commercial purposes rather than industrial. The Industrial character area in the Comprehensive Plan indicates the subject property is already appropriately zoned, but the C-2 rezoning would help to create a more gradual transition between the R-2 and M-2 zone districts.

# Ali Rezoning Request M-2, Heavy Manufacturing to C-2, General Commercial City of Dalton Jurisdiction



ZONING	
	Low Density Single Family Residential (R-2)
	Medium Density Single Family Residential (R-3)
	Zero Lot Line Residential (R-4)
	High Density Residential (R-7)
	Neighborhood Commercial (C-1)
	General Commercial (C-2)
	Heavy Manufacturing (M-2)


**FEET**  
**400**



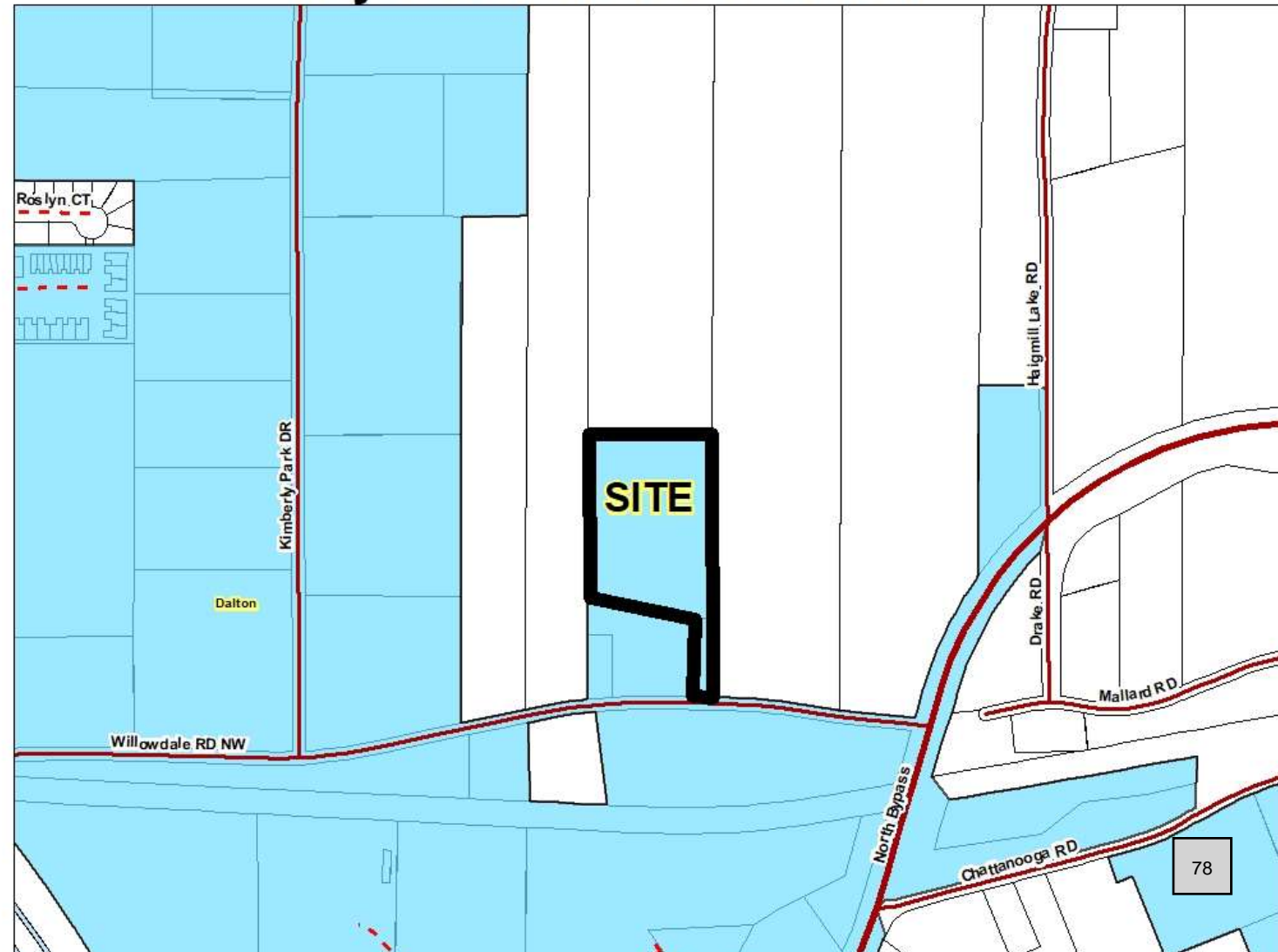
# Ali Rezoning Request M-2, Heavy Manufacturing to C-2, General Commercial City of Dalton Jurisdiction



**DALTON CITY LIMITS**

 Town\_Boundaries

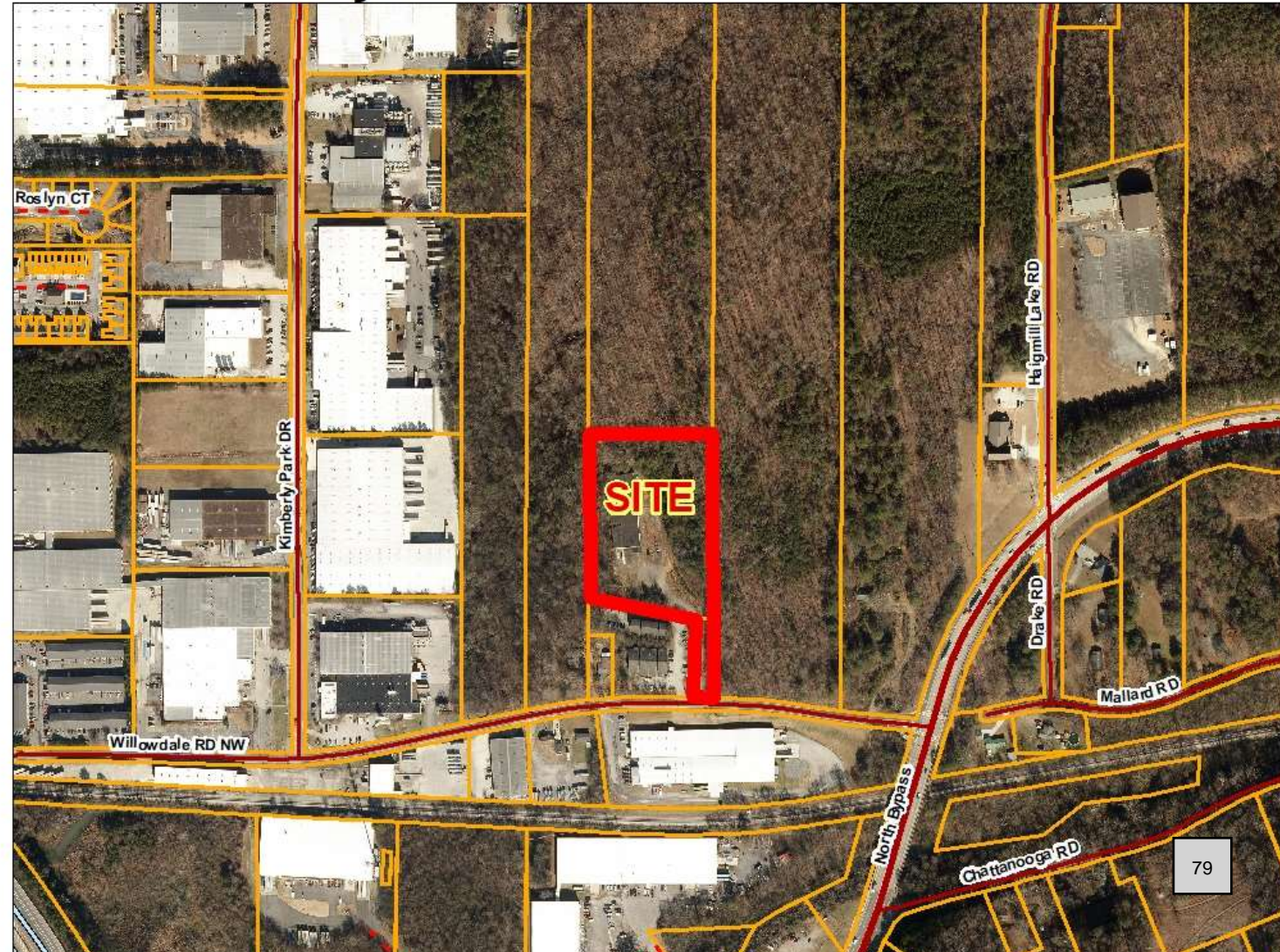
**FEET**  
**400**



# Ali Rezoning Request M-2, Heavy Manufacturing to C-2, General Commercial City of Dalton Jurisdiction



**FEET**  
**400**



**Ali Rezoning Request  
M-2, Heavy Manufacturing  
to  
C-2, General Commercial  
City of Dalton Jurisdiction**



**FEET  
300**





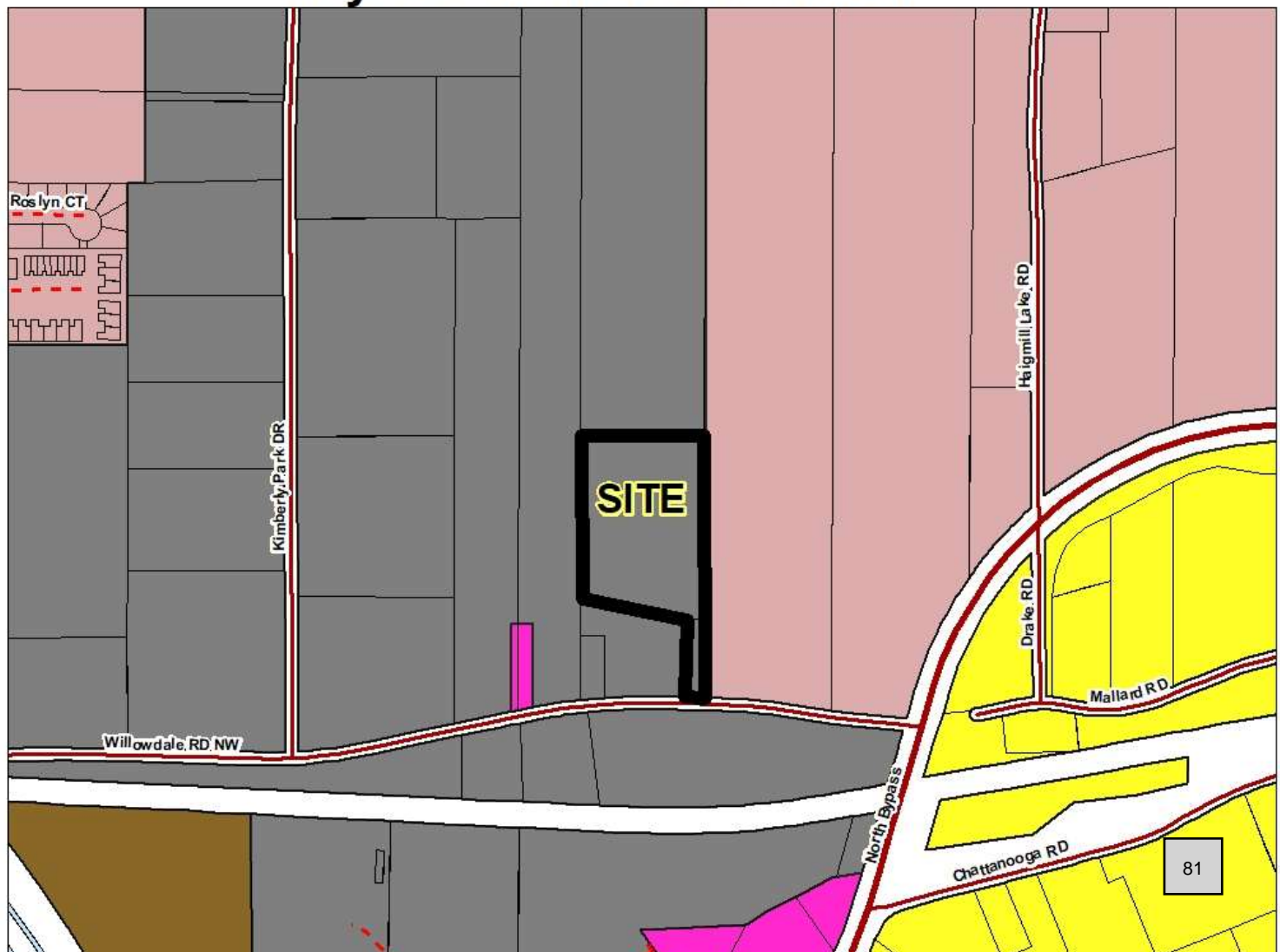
# Ali Rezoning Request M-2, Heavy Manufacturing to C-2, General Commercial City of Dalton Jurisdiction



**FUTURE DEVELOPMENT MAP**

- Emerging Suburban and Exurban Areas
- Industrial
- Interchange
- Regional Activity Center
- Suburban Neighborhood

**FEET**  
**400**





## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 3/4/2024

**Agenda Item:** **The request of Danielle Putnam to rezone from Medium Density Single Family Residential (R-3) to Rural Residential (R-5) a tract of land totaling 0.32 acres located at 405 Mosedale Drive, Dalton, Georgia. Parcel (12-241-02-009)**

**Department:** Planning and Zoning

**Requested By:** Ethan Calhoun

**Reviewed/Approved by City Attorney?** Sent for Review

**Cost:** N/A

**Funding Source if Not in Budget** N/A

**Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

See attached staff analysis and recommendation

**ORDINANCE NO. 24-06**

To rezone property of TNFR, LLC from a Medium-Density Single Family Residential (R-3) Classification to a Rural Residential (R-5) Classification; to provide for an effective date; to provide for the repeal of conflicting ordinances; to provide for severability; and for other purposes.

**WHEREAS**, TNFR, LLC, by and through its attorney in fact, Danielle Putnam, has petitioned for rezoning of certain real property it owns from R-3 classification to R-5 classification;

**WHEREAS**, the application for rezoning appears to be in proper form and made by all owners of the Property sought to be rezoned;

**WHEREAS**, the rezoning is in conformity with the City of Dalton Joint Comprehensive Plan; and

**WHEREAS**, all other procedures as required by Georgia law have been followed.

**NOW, THEREFORE, BE IT HEREBY ORDAINED**, by the Mayor and Council of the City of Dalton, Georgia, as follows:

**Section 1.**

The real property as described in Exhibit “A” (the “Property”), which is attached to and incorporated herein as a part of this Ordinance, is hereby rezoned from R-3 classification to R-5 classification.

**Section 2.**

This Ordinance shall be effective as of the date of approval of this Ordinance.

**Section 3.**

The City Clerk is instructed to send a copy of this Ordinance to the Dalton-Whitfield Zoning Administrator with a request to record this rezoning on the Official Zoning Map of Whitfield County, Georgia.

**Section 4.**

All ordinances and parts of ordinances in conflict with this Ordinance are repealed.

**Section 5.**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR/MAYOR PRO TEM

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK, CITY OF DALTON

EXHIBIT "A"

**Parcel 12-241-02-009**

All that tract or parcel of land lying and being in Land Lots Nos. 241 and 242 in the 12th District and 3rd Section of Whitfield County, Georgia, and being designated as Lots Nos. 34, 35 and 36 and PART of Lots Nos. 37 and 38 of the W. F. McGhee Subdivision, as per plat made by R. E. Smith, Surveyor, dated 6/20/1941, as appears of record in Plat Book 1, page 191, in the Office of the Clerk of the Superior Court of Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at the northwest corner of Lot No. 34, which beginning point is 223 feet south of the Dalton-Chatsworth Highway and running thence south 70 degrees east 145 feet, thence south 5 degrees west 92 feet; thence north 75 degrees west 132.9 feet to the east side of Mosedale Drive; thence north 108 feet along the east side of Mosedale Drive to the point of beginning.

**DALTON-VARNELL-WHITFIELD COUNTY PLANNING COMMISSION  
503 WEST WAUGH STREET  
DALTON, GA 30720**

**MEMORANDUM**

**TO:** City of Dalton Mayor and Council  
Andrew Parker  
Jonathan Bledsoe  
Jean Price-Garland

**FROM:** Jim Lidderdale  
Chairman

**DATE:** February 27, 2024

**SUBJECT: The request of Danielle Putnam to rezone from Medium Density Single Family Residential (R-3) to Rural Residential (R-5) a tract of land totaling 0.32 acres located at 405 Mosedale Drive, Dalton, Georgia. Parcel (12-241-02-009)**

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on February 26, 2024, at 6:00 p.m. in the Whitfield County Courthouse meeting room. A portion of the agenda included a public hearing concerning the above matter. A quorum of four members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by Danielle Putnam.

**Public Hearing Summary:**

Mr. Calhoun summarized the staff analysis which recommended approval of the R-5 rezoning. There were no further questions for Calhoun.

Danielle Putnam stated that the subject property was formerly developed with a single-family detached dwelling that had been converted to a duplex dwelling. Putnam stated that the condition of the former dwelling on the subject property was dilapidated beyond the point of repair and so it was demolished. Putnam stated her desire to redevelop the subject property with a new duplex dwelling.

With no other comments being heard for or against, the hearing closed at 6:36

**Recommendation:**

Chairman Lidderdale sought a motion on the requested R-5 rezoning. **Jody McClurg then made a motion to recommend the R-5 rezoning be approved. Eric Barr then seconded the motion and a unanimous recommendation to approve the R-5 rezoning followed, 3-0.**

**STAFF ANALYSIS**  
**REZONING REQUEST**  
*Unified Zoning Ordinance*

**ZONING CASE:** Danielle Putnam is seeking to rezone from Medium-Density Single-Family Residential (R-3) to Rural Residential (R-5) a tract of land (parcel 12-241-02-009) containing a total of 0.32 acres located at 405 Mosedale Drive. The subject property is vacant: The petitioner's request to rezone was made in order to construct a single duplex structure on the subject property.

The surrounding uses and zoning are as follows: Two adjacent tracts of land are found to the north. One of the northern tracts contains a single-family detached dwelling while the other contains an aging commercial building. The eastern adjacent tract of land contains a small commercial building and is zoned C-2. A single tract of land is adjacent to the south side of the subject property zoned R-3 and contains a single-family detached dwelling. There are two tracts of land to the west across Mosedale Drive zoned R-3 and each contains a single-family detached dwelling.

The subject property is within the jurisdiction of the City of Dalton Mayor and Council.

**CONSIDERING FACTORS FOR A REZONING/ANNEXATION ANALYSIS**

**(A) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby properties.**

The subject property lies at the convergence of the R-3 and C-2 zone districts. This area has seen a diverse blend of land uses and zoning through the years. The subject property was likely occupied by a single-family dwelling in the past, but the former dwelling has since been demolished and the lot is now vacant. The proposed rezoning would allow for the development of a single duplex dwelling on the subject property. Within a short distance from the subject property, multiple multi-family dwellings as well as high-density single-family dwellings can be found. The proposed rezoning and duplex would not introduce a character to the area that does not already exist.

**(B) Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.**

While there are no adjacent duplexes or other multi-family structures, the adjacent commercial zone district and development throughout this area give grounds for more residential density than is currently permitted in the R-3 zone district. It is unlikely that the addition of a duplex dwelling would have a negative impact to the values of adjacent properties.

**(C) Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property for the proposed zoned uses.**

The subject property could be developed as it is currently zoned with a single-family detached dwelling. The petitioner is proposing the construction of a duplex dwelling that

would require the requested R-5 rezoning. The proximity of the subject property to the heavily commercialized area give reason for consideration of a slight increase in residential density at this location.

**(D) Whether there is relative gain to the health, safety, morals, or general welfare of the public as compared to any hardship imposed upon the individual owner under the existing zoning.**

N/A

**(E) Whether the proposed (R-5) amendment, if adopted or approved, would result in a use which would or could cause excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.**

This area is well-served by public utilities such as water and sewer. There are multiple outlets to access local roads and more than sufficient sight distance at this location regarding ingress/egress.

**(F) Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses which are contrary to the plan recommendation, and if the plan has been amended, does this rezoning or annexation request allow uses which are compatible to the existing uses in the vicinity.**

The comprehensive plan's future development map shows this property to be within the Regional Activity Center character area. This character area is intended to represent areas surrounding commercial centers and places that attract large crowds. This character area recommends residential uses be of a higher density than just single-family dwellings. Based on the surrounding zoning and development, the proposed R-5 rezoning is not in conflict with the intent of the Regional Activity Center in the Comprehensive Plan.

**(G) Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an "entering wedge" and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zone) as interpreted by current Georgia law.**

No issues identified.

**(H) Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, storm water, or historical issues that influence the development of the subject property under any zoning designation.**

N/A



**CONCLUSION:**

The staff can provide a recommendation to approve the requested R-5 rezoning of the subject property based on the following factors:

1. The requested R-5 zone district would allow for the use of the subject property in a manner that would not conflict with the established pattern of development in this area.
2. There is no expectation that the proposed rezoning and development would harm the values of adjacent or nearby properties given the established zoning and development pattern of this area.
3. The requested R-5 zone district would allow for the subject property to be developed with a duplex dwelling. Multi-family development is a recommended land use in the Regional Activity Center character area in the Comprehensive Plan.

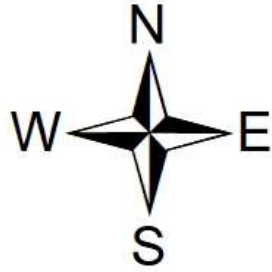
# Putnam Rezoning Request

## R-2, Low Density Single Family Residential

to

## R-5, Rural Residential

### City of Dalton Jurisdiction

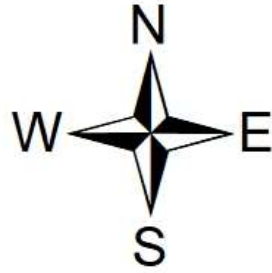


ZONING	
	Low Density Single Family Residential (R-2)
	Medium Density Single Family Residential (R-3)
	Rural Residential (R-5) Cond
	High Density Residential (R-7)
	Neighborhood Commercial (C-1)
	General Commercial (C-2)
	Heavy Manufacturing (M-2)

**FEET**  
**250**



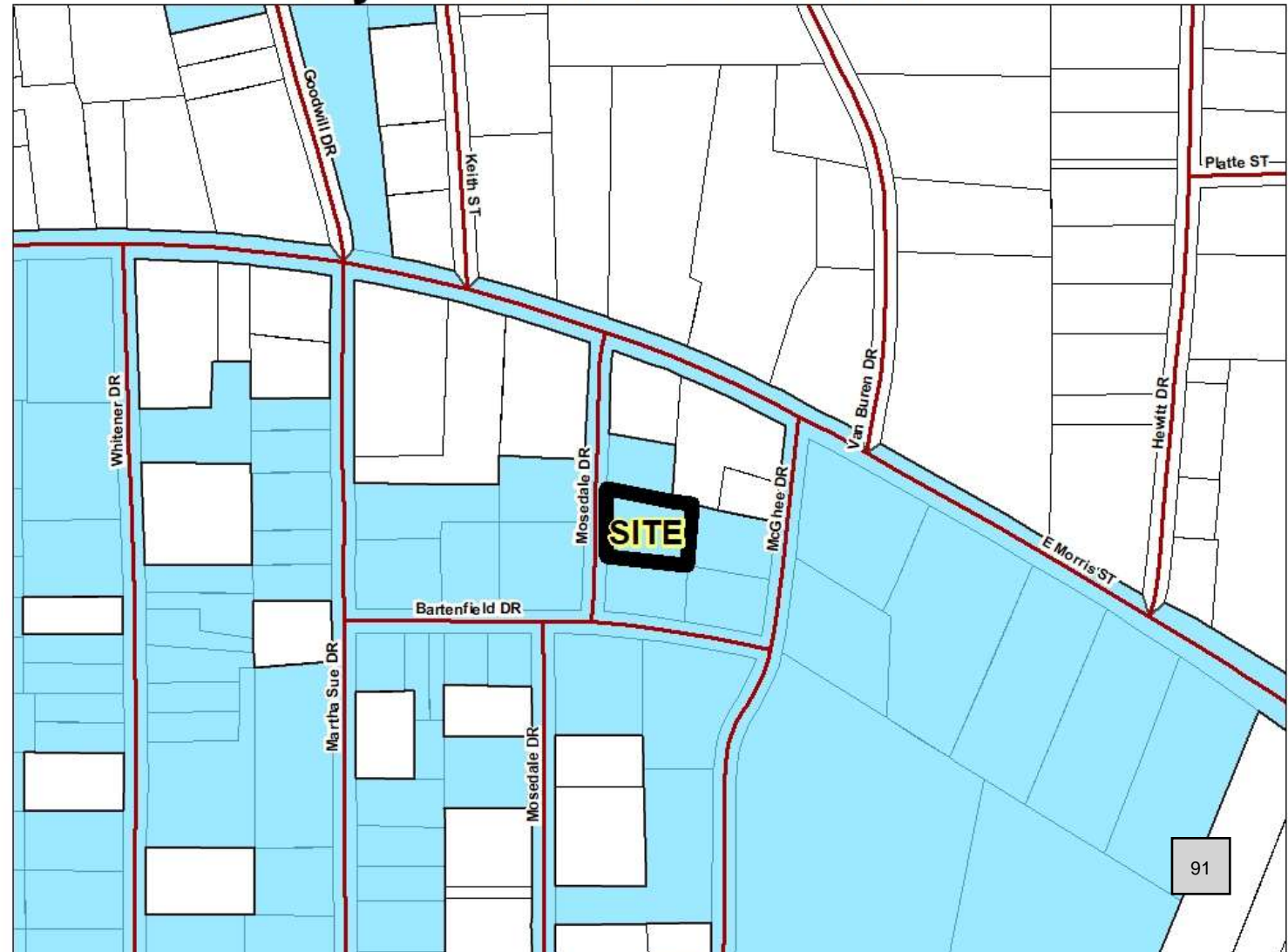
# Putnam Rezoning Request R-2, Low Density Single Family Residential to R-5, Rural Residential City of Dalton Jurisdiction



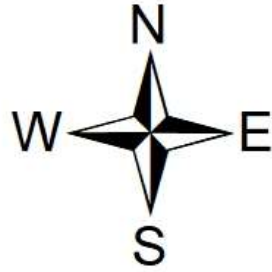
## DALTON CITY LIMITS

 Town\_Boundaries

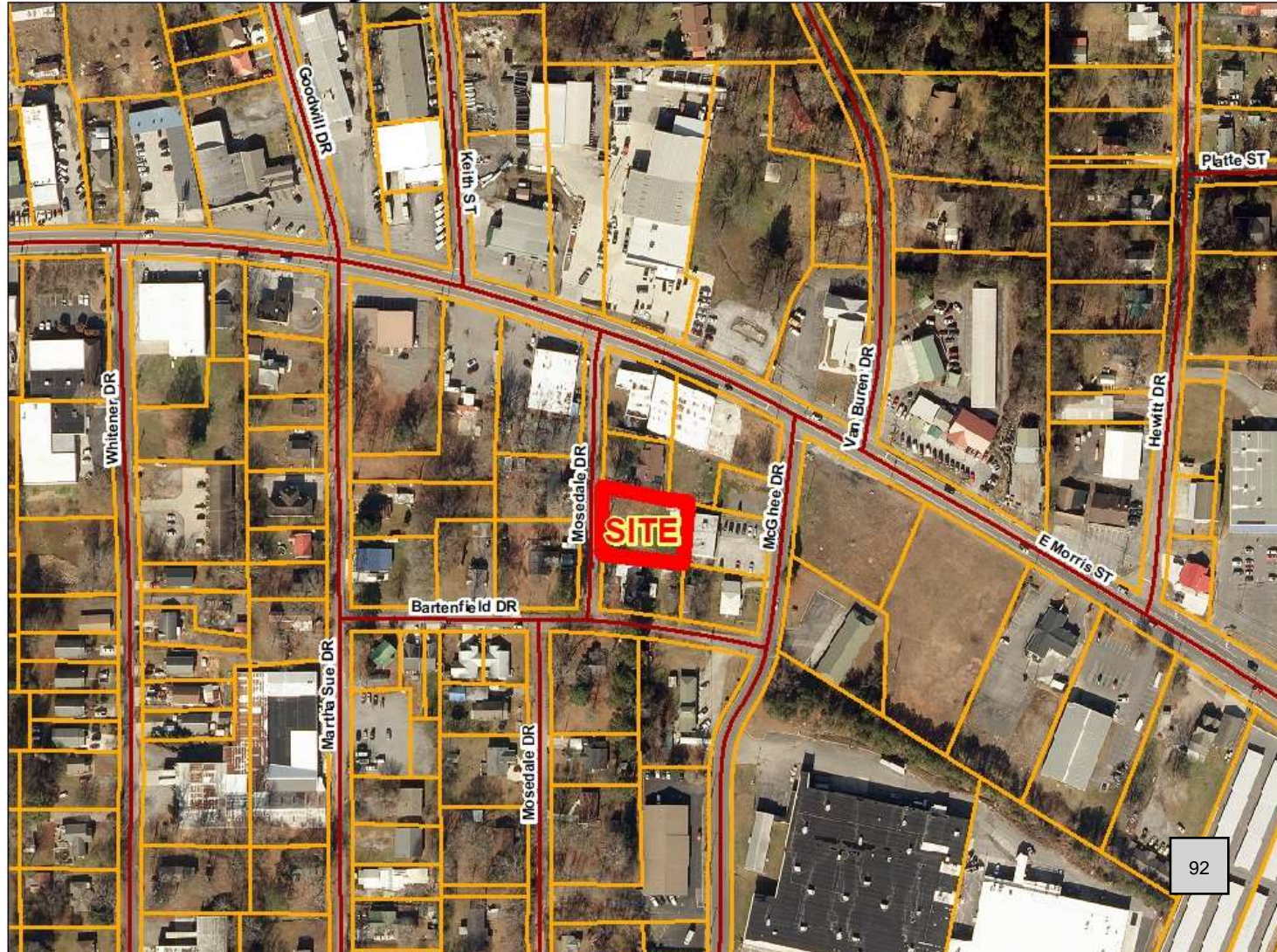
**FEET**  
**250**



# Putnam Rezoning Request R-2, Low Density Single Family Residential to R-5, Rural Residential City of Dalton Jurisdiction



**FEET**  
**250**



**Putnam Rezoning Request  
R-2, Low Density Single Family Residential  
to  
R-5, Rural Residential  
City of Dalton Jurisdiction**



**FEET  
100**



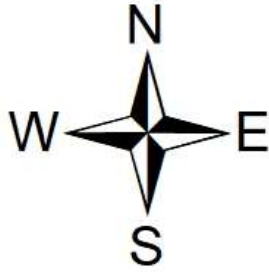
# Putnam Rezoning Request

## R-2, Low Density Single Family Residential

to

## R-5, Rural Residential

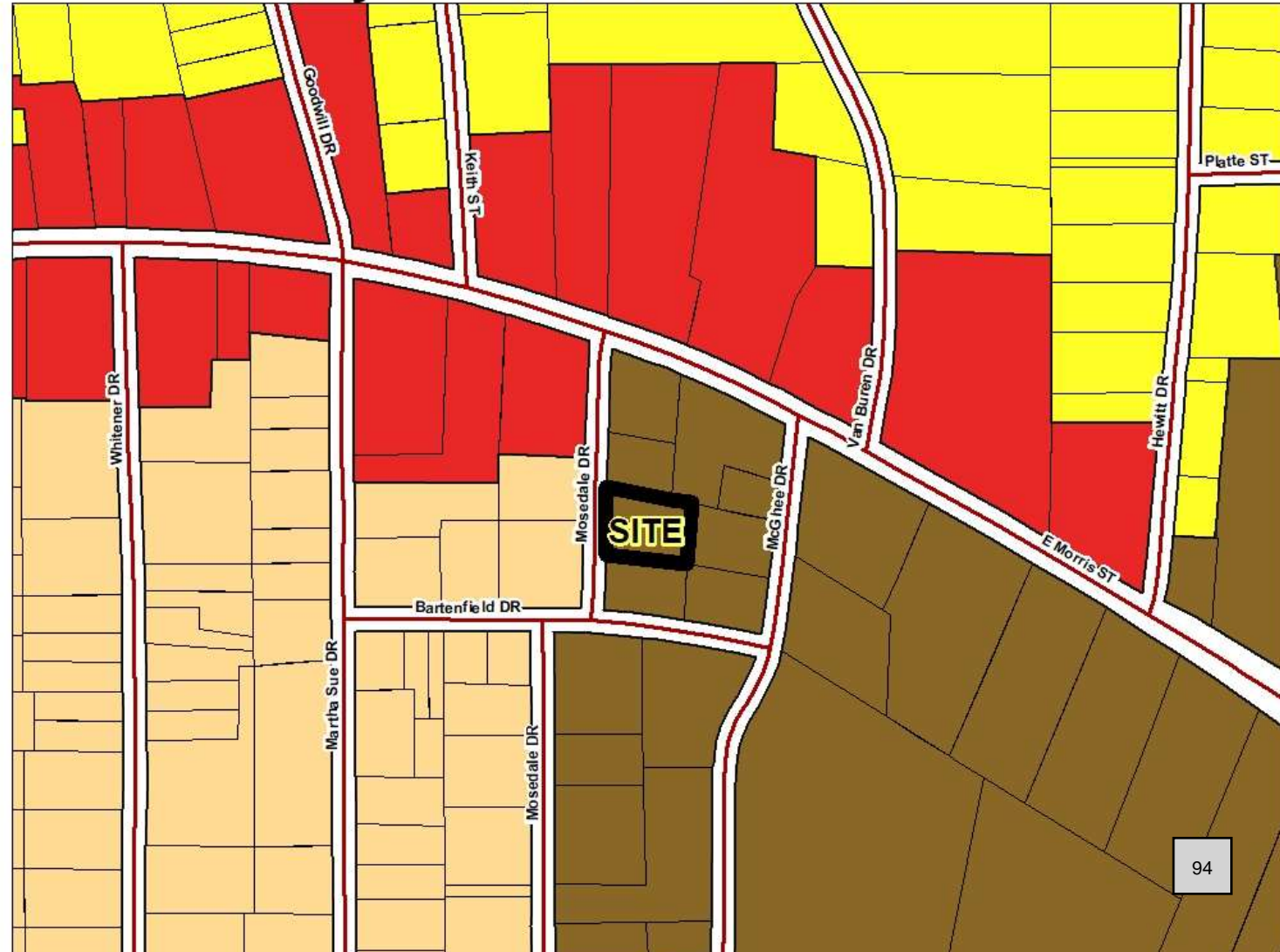
### City of Dalton Jurisdiction



#### FUTURE DEVELOPMENT MAP

-  Commercial Corridor
-  Regional Activity Center
-  Suburban Neighborhood
-  Town Neighborhood Revitalization

**FEET**  
**250**





## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 3/4/24

**Agenda Item:** Resolution 24-09 To Approve the Acceptance of Funds from The Distribution of Certain Cemetery Trusts

**Department:** Administration

**Requested By:** Andrew Parker

**Reviewed/Approved by City Attorney?** Yes

**Cost:**

**Funding Source if Not in Budget**

**Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

Resolution 24-09 A Resolution to Approve the Acceptance of Funds from The Distribution of Certain Cemetery Trusts

**RESOLUTION 24-09**

**A RESOLUTION TO APPROVE THE ACCEPTANCE OF FUNDS FROM THE DISTRIBUTION OF CERTAIN CEMETERY TRUSTS**

**WHEREAS**, Wells Fargo Bank, N.A. (the “Petitioner”), in its capacity as trustee of the Elizabeth Roberts Cemetery Trust, the Margaret H. Bard Cemetery Trust and the W.C. Martin Cemetery Trust (each, a “Trust” and collectively, the “Trusts”) has petitioned (the “Petition”) the Superior Court of Whitfield County to terminate the Trusts and distribute the assets in the Trusts to the City of Dalton; and

**WHEREAS**, the City of Dalton has agreed to accept the trust funds upon certain conditions as described in the Petition;

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and Council of the City of Dalton hereby agrees to accept the assets of the Trust and hereby authorizes the Mayor to execute the Petition or Joinder to the Petition on behalf of the City and such other documents, instruments, certificates, assignments, and papers which, in the judgment of the Mayor, may be necessary and desirable to effect the proposed transaction. Such agreements, instruments, certificates, assignments, papers and/or documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City in accordance with this Resolution, and the execution of such agreements, instruments, certificates, assignments, papers, and documents by the Mayor on behalf of the City is herein authorized and shall be conclusive evidence of any such approval;

**BE IT FURTHER RESOLVED**, that all acts and doings of the Mayor in connection with the proposed transaction which are in conformity with the purposes and intents of these Resolutions and in furtherance of the transaction contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed;

**BE IT FURTHER RESOLVED**, that the signature of the Mayor to any of the consents, agreements, instruments, certificates, assignments, papers, and documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such consents, agreements, instruments, certificates, assignments, papers, and other documents on behalf of the City.

**BE IT FURTHER RESOLVED**, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**BE IT FURTHER RESOLVED**, that these Resolutions shall take effect immediately upon their adoption.



**SO RESOLVED**, this \_\_\_\_ day of \_\_\_\_\_, 2024.

**CITY OF DALTON, GEORGIA**

\_\_\_\_\_  
Mayor/Mayor Pro Tem

ATTESTED TO:

\_\_\_\_\_  
City Clerk

**IN THE SUPERIOR COURT OF WHITFIELD COUNTY  
STATE OF GEORGIA**

**IN RE: CEMETERY TRUSTS (HELD BY ) CASE NO. \_\_\_\_\_**  
**WELLS FARGO BANK, N.A.) )**  
**)**  
**) FILED ELECTRONICALLY**  
**)**

**PETITION TO TERMINATE AND APPROVE DISTRIBUTION, CONDITIONS AND  
COSTS/FEEES OF CERTAIN CEMETERY TRUSTS**

**TO THE HONORABLE JUDGES OF THE SAID COURT:**

By this Petition, Wells Fargo Bank, N.A. respectfully represents that:

1. Petitioner is Wells Fargo Bank, N.A. (“Petitioner”), in its capacity as trustee of the Elizabeth Roberts Cemetery Trust, the Margaret H. Bard Cemetery Trust and the W.C. Martin Cemetery Trust (each, a “Trust” and collectively, the “Trusts”).

2. Each of the Trusts benefits particular plots located at cemeteries owned by the City of Dalton, Georgia (the “City”). The Trusts’ beneficiaries, restricted purposes and fair market values are listed on Exhibit A, which is attached hereto and incorporated herein by reference.

3. Petitioner is located at 101 North Independence Mall East, 6<sup>th</sup> Floor, Philadelphia, Pennsylvania 19106.

4. With respect to the Elizabeth Roberts Cemetery Trust, such trust’s governing document provides that trust income is to be distributed to West Hill Cemetery for the care and maintenance of one or more particular plots at such cemetery.

5. The Margaret H. Bard Cemetery Trust’s governing document provides that trust income is to be distributed to West Hill Cemetery and Old Presbyterian Cemetery for the care and maintenance of one or more particular plots located at such cemeteries.

6. Finally, the W.C. Martin Cemetery Trust's governing document provides that trust income is to be distributed in part to West Hill Cemetery for the care and maintenance of one or more particular plots located at such cemeteries.

7. The Trusts were created solely for the benefit of a particular plot or plots at one or more cemeteries and, therefore, the Trusts are treated as noncharitable trusts.

8. The Trusts' financial statements are attached hereto as Exhibit B and incorporated herein by reference. True and correct copies of the Trusts' governing documents are attached hereto as Exhibit C and incorporated herein by reference.

9. Petitioner believes that each Trust's fair market value is insufficient to justify each Trust's continued administration.

10. Petitioner previously attempted to terminate the Trusts nonjudicially and distribute each Trust's remaining assets, less final costs and expenses (the "Net Assets") to the City, to be used by the City to maintain the applicable plots at the applicable cemeteries.

11. The City advised that it was unable to subaccount for the Net Assets to maintain the applicable plots at the applicable cemeteries, but that it could add the Net Assets to its existing cemetery fund to be used for the care and maintenance of the cemeteries as a whole (which include the applicable plots).

12. Because Petitioner has no legal authority to unrestrict the Net Assets for the care of the cemeteries as a whole, as requested by the City, the Trusts were not terminated nonjudicially.

13. As such, Petitioner brings this Petition to terminate the Trusts and distribute the Trusts' remaining assets, less final costs and expenses (the "Net Assets"), outright, to the City, to be added to the City's cemetery fund for the care and maintenance of the cemeteries as a whole (which include the applicable plots) (the "Proposed Distribution").

14. In exchange for the Proposed Distribution, the City has agreed to the following conditions (collectively the “Conditions”):

- a. The City will execute a Receipt and Refunding Agreement in a form substantially similar to the form attached hereto as Exhibit D and incorporated herein by reference;
- b. The City will deposit the funds in its cemetery fund to be used to care for and maintain West Hill Cemetery and Old Presbyterian Cemetery where the plots associated with the Trusts are located; and
- c. The City will use the funds from its cemetery fund to add to the funds available to the City so as to provide maintenance of the West Hill Cemetery, and Old Presbyterian Cemetery as a whole, but has not agreed to be otherwise required to maintain any specific cemetery plot or any specific cemetery headstone.

15. Petitioner desires that the costs and fees incurred in connection with this matter (including, but not limited to, attorneys’ fees) be assessed, pro rata, against each Trust’s principal prior to the Trusts’ terminations; provided, however, that any tax preparation fees incurred on behalf of a specific Trust shall be chargeable to such Trust individually and shall not be prorated.

16. Petitioner proposes that the pro rata costs and fees incurred in connection with this matter (including, but not limited to, attorneys’ fees) to be paid by each Trust be determined by dividing the Trust’s fair market value set forth herein by the total fair market value of all Trusts set forth herein and multiplying such resulting percentage by the total costs and fees incurred by Petitioner, on behalf of the Trusts.

17. Petitioner respectfully requests that this Honorable Court: (i) approve the Trusts’ terminations, (ii) approve the Proposed Distribution, (iii) approve the Conditions, and (iv) approve

Petitioner's costs and fees associated with the preparation and filing of this Petition and termination of the Trusts, and the payment of such costs and fees, pro rata or individually, as applicable, from the Trusts' principal prior to termination/distribution.

**Request for Approval of Termination, Distribution, Conditions and  
Payment of Expenses and Costs/Fees**

18. Pursuant to O.C.G.A. § 53-12-65(b), a court may terminate a trust "if it determines that the value of the trust property is insufficient to justify the cost of administration."

19. Additionally, upon petition, a court may terminate a trust if the continued costs of administration would defeat or substantially impair the trust's purposes. O.C.G.A. § 53-12-61(d)(6)(A) and (e).

20. Pursuant to O.C.G.A. § 53-12-61(c)(2), the court shall approve a petition to "[t]erminate an irrevocable trust if all qualified beneficiaries consent, the trustee has received notice of the proposed termination, and the court concludes that continuance of such trust is not necessary to achieve any material purpose of such trust."

21. Petitioner is the trustee of the Trusts and, pursuant to O.C.G.A. § 53-12-61(e), is authorized to file this Petition to terminate the Trusts.

22. The value of each Trust is insufficient to justify the continued cost of administering each Trust, especially in light of the unique dispositive provisions of each Trust.

23. Further, Petitioner believes that the City, as the owner of the applicable cemeteries, is best equipped to determine the ongoing maintenance needs of the applicable cemeteries and address such needs without intervention by Petitioner.

24. For the reasons set forth herein, Petitioner respectfully requests that this Honorable Court approve the termination of each Trust.

25. Petitioner respectfully requests that this Honorable Court approve the Proposed Distributions.

26. Petitioner respectfully requests that this Honorable Court approve the Conditions.

27. Finally, Petitioner respectfully requests that this Honorable Court authorize Petitioner to pay from each Trust's principal, on a pro rata basis, all costs and fees incurred by Petitioner, in its capacity as trustee of the Trusts, in preparing and filing this Petition and terminating the Trusts; provided, however, that any tax preparation fees incurred on behalf of a specific Trust be chargeable to such Trust individually.

### **Parties in Interest**

28. Notice of any petition to terminate a trust under O.C.G.A. § 53-12-61(d) shall be given, *inter alia*, to the settlor, if living, and the qualified beneficiaries. O.C.G.A. § 53-12-61(f).

29. A qualified beneficiary is (i) a distributee or permissible distributee of income or principal, (ii) would be a distributee or a permissible distributee if the interests of the current distributees terminated without causing the trust to terminate, or (iii) would be a distributee or a permissible distributee if the trust terminated. O.C.G.A. § 53-12-2(10)(A)-(C).

30. The settlors of the Trusts are all deceased.

31. The qualified beneficiaries of the Trusts are the applicable cemeteries listed herein; and the City, on behalf of each such cemetery, consents to this Petition, as evidenced by the written Consents and Joinders attached hereto as Exhibit E and incorporated herein by reference.

32. The only other party known to Petitioner to have an interest in the Trusts is the Office of the Attorney General for the State of Georgia (the "Attorney General's Office").

33. Notice of the intended filing of this Petition and a copy of the Petition have been delivered to the Attorney General's Office.

WHEREFORE, Petitioner respectfully requests that this Honorable Court issue an Order (i) approving each Trust's termination, (ii) approving the Proposed Distribution, (iii) approving the Conditions and (iv) approving Petitioner's costs and fees incurred in preparing and filing this

Petition and terminating the Trusts, and the pro rata or individual payment of such costs and fees, as applicable, from each Trust's principal prior to termination/distribution.

Respectfully submitted on this the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2024.

**FOX ROTHSCHILD LLP**

By: /s/ Kristy M. Caron

Kristy M. Caron  
Georgia Bar Number: 917583

Jordan B. Forman  
Georgia Bar Number 269298

G. Marshall Kent, Jr.  
Georgia Bar Number 415129

999 Peachtree Road, NE  
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JForman@foxrothschild.com  
MKent@foxrothschild.com

*Attorneys for Wells Fargo Bank, N.A.,  
Trustee*

**IN THE SUPERIOR COURT OF WHITFIELD COUNTY  
STATE OF GEORGIA**

**IN RE: CEMETERY TRUSTS (HELD BY )  
WELLS FARGO BANK, N.A.) ) CASE NO. \_\_\_\_\_  
)  
) FILED ELECTRONICALLY  
)**

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2024, upon consideration of the Petition to Terminate and Approve Distribution, Conditions and Costs/Fees of Wells Fargo Bank, N.A., Trustee (“Petitioner”) (the “Petition”), as trustee of the cemetery trusts listed in the Petition (collectively the “Trusts”), and any response thereto, it is hereby **ORDERED** and **DECREED** that the Petition is **GRANTED**.

It is **FURTHER ORDERED** that the Trusts shall terminate, and their remaining assets, less final costs and expenses (the “Net Assets”), shall be distributed, outright, to the City, to be added to the City’s existing cemetery fund and used for the care and maintenance of West Hill Cemetery and Old Presbyterian Cemetery where most of the plots associated with the Trusts are located.

It is **FURTHER ORDERED** that the City shall comply with the “Conditions” (as such term is defined in the Petition).

It is **FURTHER ORDERED** that Petitioner is hereby authorized to pay from each Trust’s principal, on a pro rata basis, all costs and fees incurred by Petitioner, on behalf of the Trusts, in preparing and filing this Petition and terminating the Trusts, prior to distributing the Net Assets; provided, however, that any tax preparation fees incurred on behalf of a specific Trust shall be chargeable to such Trust individually and shall not be prorated.



It is **FURTHER ORDERED** that the pro rata costs and fees to be paid by each Trust shall be determined by dividing the Trust's fair market value as set forth in the Petition, by the total fair market value of the Trusts, and multiplying such resulting percentage by the total costs and fees incurred by Petitioner, on behalf of the Trusts.

BY THE COURT:

**JUDGE, SUPERIOR COURT OF WHITFIELD COUNTY  
CONASAUGA JUDICIAL CIRCUIT**

Order Prepared by:

By:     /s/ Kristy M. Caron    

Kristy M. Caron

Georgia Bar Number: 917583

Jordan B. Forman

Georgia Bar Number 269298

G. Marshall Kent, Jr.

Georgia Bar Number 415129

999 Peachtree Road, NE

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MKent@foxrothschild.com

*Attorneys for Wells Fargo Bank, N.A., Trustee*

**IN THE SUPERIOR COURT OF WHITFIELD COUNTY  
STATE OF GEORGIA**

**IN RE: CEMETERY TRUSTS (HELD BY ) CASE NO. \_\_\_\_\_**  
**WELLS FARGO BANK, N.A.) )**  
**) FILED ELECTRONICALLY**  
**)**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the Petition to Terminate and Approve Distribution, Conditions and Costs/Fees on behalf of Petitioner, Wells Fargo Bank, N.A., has been served this \_\_\_\_ day of \_\_\_\_\_, 2024, by first class mail, postage prepaid, upon:

Office of the Attorney General  
40 Capitol Square, SW  
Atlanta, Georgia 30334

By: /s/ Kristy M. Caron

Kristy M. Caron  
Georgia Bar Number: 917583

Jordan B. Forman  
Georgia Bar Number 269298

G. Marshall Kent, Jr.  
Georgia Bar Number 415129

999 Peachtree Road, NE  
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JForman@foxrothschild.com  
MKent@foxrothschild.com

*Attorneys for Wells Fargo Bank, N.A.,  
Trustee*

**VERIFICATION**

I, Christy Loomis, hereby certify that I am a Vice President of Wells Fargo Bank, N.A.; that I am authorized to execute this Verification on Petitioner's behalf; and that the statements made in the foregoing Petition are true and correct to the best of my knowledge, information and belief.

WELLS FARGO BANK, N.A.

BY: Christy Loomis  
NAME: Christy L. Loomis  
TITLE: Vice President

Date: November 15, 2023

## **EXHIBIT A**

**IN THE SUPERIOR COURT OF WHITFIELD COUNTY,**  
**STATE OF GEORGIA**

IN RE: CEMETERY TRUSTS (HELD BY WELLS FARGO BANK, N.A.)

CASE NO. \_\_\_\_\_

**EXHIBIT A: TRUSTS**

***SINGLE-PURPOSE TRUSTS***

**ELIZABETH ROBERTS CEMETERY TRUST**

Beneficiary/Recipient: West Hill Cemetery

Restricted Purpose(s): To maintain the Roberts lot and the graves of Lucy Roberts and Lizzie Roberts on the Kirk lot in West Hill Cemetery.

Cemetery: West Hill Cemetery  
City of Dalton  
P.O. Box 1205  
Dalton, Whitfield County, Georgia 30720

Fair Market Value: \$17,851.45

***MULTI-CEMETERY TRUSTS***

**MARGARET H. BARD CEMETERY TRUST**

Beneficiary/Recipient: West Hill Cemetery and Old Presbyterian Cemetery

Restricted Purpose(s): To maintain graves of Testatrix's aunt and mother in West Hill Cemetery.

To maintain graves of Testatrix's father, mother and other relatives in Old Presbyterian Cemetery.

Cemetery: West Hill Cemetery  
City of Dalton  
P.O. Box 1205  
Dalton, Whitfield County, Georgia 30720

Old Presbyterian Cemetery  
City of Dalton  
P.O. Box 1205  
Dalton, Whitfield County, Georgia 30720

Fair Market Value: \$24,359.68

**W.C. MARTIN CEMETERY TRUST**

Beneficiary/Recipient: West Hill Cemetery and Tilton Community Cemetery

Restricted Purpose(s): To maintain the Lewis family plot, the Testator's wife's plot and the Testator's plat in West Hill Cemetery.

To maintain the Testator's mother's plot in Tilton Community Cemetery.

Cemetery: West Hill Cemetery  
City of Dalton  
P.O. Box 1205  
Dalton, Whitfield County, Georgia 30720

Tilton Community Cemetery  
City of Dalton  
P.O. Box 1205  
Dalton, Whitfield County, Georgia 30720

Fair Market Value: \$14,064.66

## **EXHIBIT C**



14

WILL 3013000745

LETTERS ADMINISTRATION, BE BONISINON, WILL ANNEXED, No. 168.

STATE OF GEORGIA, Whitfield COUNTY.

By the Court of Ordinary for Said County.

To all whom these Presents shall come—Greeting:

KNOW YE, That on the 2nd day of April  
 in the year of our Lord, One Thousand Nine Hundred and Thirty Four  
 the last Will and Testament of Maragret H. Bard late  
 of Whitfield County deceased, was exhibited  
 in open Court, and in due form of law, proved and admitted to record, a copy of  
 which is hereunto annexed, and administration of all and singular, the goods, chat-  
 tels and credits of said deceased was granted to The First National Bank of  
Dalton, Georgia (W.M. Jones Jr as Trust Officer)  
 as Administrator with Will annexed, and he  
 having first taken the oath and performed all other requisites required  
 by law, He is by order of said Court, and by virtue of these  
 presents, legally authorized to administer the goods, chattels and credits of said  
 deceased, according to the tenor and effect of said Will and Testament, and accord  
 ing to law, and he hereby required to render a true and  
 perfect inventory of all and singular, the goods, chattels and credits of the said  
 deceased, and appraised and returned to this Court according to Law, and to render  
 a true and correct account to the said Court of his actings and doings  
 yearly, and every year until his administration is fully completed.

WITNESS my hand as Ordinary, and the seal of the said Court, this 2nd  
 day of April Nineteen Hundred and Thirty Four

J. C. Brooks Ordinary.

WILL OF MARGARET H. BARD

PROBATED IN COMMON FORM JANUARY TERM, 1920.

Filed Dec. 9th, 1919.

GEORGIA, WHITFIELD COUNTY.

I, Margaret H. Bard of said county, being of sound and disposing mind and memory, do make this my last will and testament, hereby revoking and annulling all other wills by me heretofore made:

ITEM 1: I desire and direct that my body be buried in a decent Christian like manner suitable to my situation and condition in life.

ITEM 2: I give and bequeath my diamond ring, trunk and watch to my niece Miss Lizzie Bard of the State of Oklahoma.

ITEM 3: I give and bequeath to my niece Mrs. Mary Bosworth of Knoxville, Tennessee all of my embroidered pictures; I may have; I give and bequeath to my niece Jennie Gray Dearmond now being with me, and all other pictures

ITEM 4: I give and bequeath embroidered chair to my nephew John Dearmond.

ITEM 5: My real estate consisting of the homeplace where I now live on Thornton Avenue, in Dalton, Georgia, I desire the same to be converted into money by my executor hereinafter named, and such money to be invested in such securities as my executor hereinafter named may think best and the income from such securities to be used by my executor in keeping up my two cemetery lots whereon are buried my aunt and sister in the cemetery in Dalton, Georgia, and also in keeping up the lots in the old Presbyterian cemetery in West Dalton whereon are buried my father, mother and other relatives.

ITEM 6: I hereby constitute and appoint Mr. J. G. McLellan, of Dalton, Georgia, the sole executor of this my last will and testament, and I expressly confer upon him power as such to administer my estate exorsing him from giving bond or making returns to the Ordinary. And I expressly confer upon him full authority and power to sell at private sale my real estate above designated and also give him power after taking a sufficiency of the money derived therefrom to pay for my burial and other expenses, and all debts which I may owe, to invest the remainder of the proceeds of such real estate in such securities as he may deem best and use the interest or income from such securities in keeping up the above named cemetery lots. And I further empower my said executor with authority to make such provision as in his judgment may be best

for the perpetual collection of the interest on said securities for the purpose of keeping up the cemetery lots as above stated and for reinvesting the money for the same purpose on maturity of any of said securities, and with power to change said securities himself or the authorizing of others by him to do so in the future. It is my intention to give my said executor full and complete authority to do what in his judgment may be wisest and best for the purpose of carrying out the above stated intentions and conditions of this my will.

This 9th day of January, 1915.

Margaret H. Bard.

Signed, sealed, declared and published by Margaret H. Bard as her last will and testament in the presence of us the undersigned who subscribe our names hereto in the presence of said testatrix, after she had signed her name thereto and at her special instance and request and in the presence of each other. This 9th day of January, 1915.

Mary Henning,  
P. B. Trammell, Jr.  
Emma Wilson.

GEORGIA, WHITFIELD COUNTY:

Whereas I, Margaret H. Bard, of said County, did on the 9th day of Jan. 1915, sign, seal, declare and publish my last will and testament in the presence of Mary Hennig, P. B. Trammell, Jr., and Emma Wilson, who signed the said will and testament as witnesses.

And whereas I am desirous of adding an additional bequest and devise in said will, I therefore make and publish this codicil to said will and testament:

1:

I hereby give, bequeath and devise unto my niece Jennie Gray D'Armond, now living with me, for and during her life, all of the income which may be had from the property or securities mentioned in paragraphs five and six of my original will, after after such sum from said income has been used by my executor as may be necessary in the discretion of my said executor in keeping in good condition the lots in the two cemeteries mentioned in my original will.

2:

And my executor named in my original will is authorized and directed to pay to said Jennie Gray D'Armond the portion of the income above stated from time to time, monthly or annually, or in such other way as is deemed best to do by my said executor. This 23rd day of June, 1915.

The words fairly in paragraph on line 6 stricken before the signing and sealing of this instrument.

Margaret H. Bard

Signed, sealed, declared and published by Margaret H. Bard as her last will and testament, in the presence of us the undersigned,

who subscribe our names hereto in the presence of said testatrix after she had signed her name thereto, and at her special instance and request and in the presence of each other. This 23rd day of June, 1915.

~~M. Anna T. Esham~~

Mrs. Nell McWilliams

Martha McWilliams.

Recorded in Will Book "B" page 198, 199, 200, and 201.



TR000452003100



INSTRUMENT

LEGAL FOLDER



01/20/2001

452003100

TW C MARTIN-CEM

TRB 001745

31

Last Will and Testament of W. C. Martin 45-20031-00 Probated in Solemn Form September Term, 1941

Georgia, Whitfield county

I, W. C. Martin, of said County, being of sound and disposing mind and memory, do make this my last will and testament, hereby revoking all wills heretofore made by me.

Item I.

I will and devise that my body be buried in Dalton, Georgia, on our cemetery lot, or such other lot as my wife and my executors may decide upon; and my wife or my executors may spend out of my estate for monument or mausoleum, on such lot, any sum up to \$10,000.00. And my executors are further directed to invest in good bonds the sum of \$2000.00, and use the income each year from such sum in keeping in good condition the cemetery lots of Lewis family, my wife and myself in Dalton, Georgia, and the cemetery lot in Tilton, Georgia, where my mother is buried.

Item II.

I will and direct that all of my just debts be paid as soon as practicable after my death; and for the purpose of paying such debts, I authorize my wife or my executors to sell, at private sale, any property or securities of my estate.

Item III.

After the above, I will and devise all of my property, both real and personal, of whatever kind and wherever situated, to my wife, Ella Lewis Martin, for and during her life; and my said wife to have the right to sell at private sale, exchange or otherwise dispose of any and all property of my estate, for the purpose of making, changing or improving investments, or to get income for her own use.

Item IV.

At the death of my said wife, I will and devise out of my estate as follows;

(a) That my executors have full and complete authority to make distribution of my wife's jewelry and household things, according to any written instructions or memoranda which she may make or leave about such jewelry and things.

(b) That my executors pay in money, or property, or securities, at the best market price, such price to be arrived at by my executors and be binding on all devisees as follows:

To my half-brother, C. C. Gilbert, \$10,000.00, and to the two sons of said C. C. Gilbert, Bob Gilbert and Charles Martin Gilbert, each \$2500.00; to my half-brother, John Gilbert, \$5,000.00, and to his daughter, Grace Gilbert, \$2000.00; to my half-sisters, Mrs. Jennie Messer, Mrs. Mary Best and Mrs. Emma McLain, each, \$5,000.00; to the two daughters of said Mrs. Emma McLain, each \$1000.00; to Mrs. John McCarty, \$10,000.00; to Eleanor McCarty, \$2500.00; to Mrs. T. L. Shelton, \$5000.00; to Ann Shelton, \$2000.00; to Sadie Sapp, \$5000.00.

Item V.

I further will and devise, in money or property or securities, at the best market price, such price to be arrived at by my executors and be binding on all devisees, as follows: To Miss Maggie Stuart, \$1000.00; to Miss Lela Stuart, \$1000.00; to Miss Nora Stuart, \$1000.00; to Miss Mamie Stuart, \$1000.00; to Mrs. Lizzie Stuart Hall, \$1000.00; to Miss Susie Stuart, \$1000.00; to Mrs. Laura McKamy, \$1000.00; to John Martin Mecklin, \$1000.00 to Mary Hope Mecklin, \$1000.00; to Miss Willie White \$1000.00; to Mrs. Jannice Meadows, \$2000.00; to Mattie Jones, colored, \$3000.00; to Gus Harlan, colored, \$2000.00; to Annie Black, colored, \$1000.00; to the trustees of the First Methodist Church, of Dalton, Georgia,

IN WITNESS WHEREOF I have hereunto set my hand and seal this 31st day of September 1941. W. C. Martin

(COPY)

\$3000.00, the income from same to be used in keeping in repair the church property.

Item VI.

I will and direct that if for any reason my estate should not be sufficient to pay in full the devisees as named in Items Four and Five, above, then and in that event that my estate be prorated among the legatees as named in Items Four and Five, according to the respective amounts named therein. And it is further directed that if at the time distribution is ready to be made under said Items Four and Five, above, any of the legatees named therein should be dead, the devisees to such one or ones so deceased shall be void and of no effect, and take nothing under this will.

Item VII.

After the above, I will and devise out of my estate, \$25,000.00, to constitute an educational fund, to be known as "W. C. Martin Educational Fund", the income from same to be used annually in helping to educate worthy boys and girls, or to help pay the expense of orphan, needy or dependent children, in any creditable orphan's home in the State of Georgia, or other creditable home in the State of Georgia, for helping such children. My executors to have broad powers in the handling of this fund so as to make it do the most possible good, with authority to sell any property, at private sale, to reinvest the proceeds in such securities, bonds, and stocks, as they may consider the safest and best for the good of the fund, or to change investments, as in their discretion they may deem wise; or to do any other thing which they in their discretion may decide is for the best interest of the fund, or will aid in any way in the handling of the same. And at such time as my acting executor or executors may see fit, they may appoint three trustees to handle this fund, with all the powers and authority above given to executors or trustees, such trustees to be the First National Bank of Dalton, Dalton, Georgia, or some strong bank or trust company, the Ordinary of Whitfield County, Georgia, and the Mayor of the City of Dalton, Georgia. It is further directed that in making investments or changing investments, such bank is to have the right to decide in case the three cannot agree; and such bank to keep all books and all records, and all securities and papers, and make regular annual reports to the Ordinary, or proper court; and for doing this work such bank is to be paid a fee of \$100.00, for taking into possession the property which may come into this fund, and to be paid one per cent on all income of this fund for receiving and paying out same. Title to all property coming into this fund to be in the executors of my estate, as the law of Georgia fixes the same, until trustees are appointed, and then in such trustees of my estate as the law of Georgia fixes the same in such cases; and deeds and all papers dealing with property or other things in this fund to be signed by executors (names of executors) as executors of the estate of W. C. Martin, deceased, and by trustees, when appointed. (names of trustees) as trustees of "W.C. Martin Educational Fund", or signed in such other way as the law or conditions may require. It is directed that if any farm property should come into this fund, that as soon as it is deemed wise that it be sold and the proceeds reinvested under the same uses. It is further suggested that the executors or trustees in helping children may do so from the income of said fund, by loans or donations, as they may think each case requires. Should any condition arise whereby the executors or trustees would not know how to proceed in the handling of this fund, then they should apply to the proper court for direction. It is further directed that this item of my will is not in any way to go into effect until after the death of my said wife, Ella Lewis Martin.

Item VIII.

After the above, I will and devise all the remainder or residue of my estate to the devisees named in Item Four of this will, such residue to be prorated among the devisees in said Item Four of this will, using as a basis in making such prorata division the respective amounts devised to each devisee, as set forth in said Item Four of this will.

THE FIRST NATIONAL BANK OF DALTON

DALTON, GEORGIA

June 24, 1970

Mr. Phillip E. Bailey, Jr.  
Whitfield Memorial Gardens  
P. O. Box 1445  
Dalton, Georgia 30720

Dear Phil:

Re: Trust Dept. Acct. No. 31  
Martin Cemetery Trust

You were most kind to spend some time with me today in West Hill Cemetery and to get a good look at the late W. C. Martin's lot.

This is to confirm our instructions to go ahead with re-sodding and re-seeding this tract.

We want this lot to look nice and to be in keeping with the family it represents.

Most cordially,

W. M. Jones  
Senior Vice President  
and Trust Officer

WMJ/bw

COPIES  
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Y



April 21, 1948

Mr. C.C. Gilbert  
Bank of LaFayette,  
LaFayette, Georgia

Dear Columbus:

Under Item 1 of the Martin will, the Executors were directed to invest in good bonds the sum of \$2,000.00, and use the income each year from such sum in keeping in good condition the Cemetery lots of the Lewis family, the Martin lot in Dalton and the Cemetery lot in Tilton where Col. Martin's mother is buried.

We are buying today \$2,000.00, U.S. Treasury 2½ of 6/15/62/59. These bonds will be placed in a new Trust Account known as Trust No. 31-Martin Cemetery Fund, and the proceeds from the Coupons on these bonds will be used from time to time in keeping up the Cemetery lots as provided in the will.

At present we have a contract to keep the Dalton lots mowed at least twice a month from April to October at a cost of \$3.00 per mowing.

We do not know where your mother and Col. Martins mother's lot in Tilton is, but we would like for you to either go with us to the lot or give us a description of the lot together with your mothers full name so that we may find it and arrange with some neighbor to take care of it, and arrange so that one of our officers can visit the grave at least once a year.

Yours very truly,

W.M. Jones,  
Vice President

WMJ/r

00000000000000000000



TR000452004000



INSTRUMENT

LEGAL FOLDER



01/20/2001

452004000

TW ELIZABETH ROBERTS-CEM

TRB 002150

ORIGINAL  
~~COMPLETE~~ DOCUMENT  
IN ARCHIVES

40-6

45-2

ORIGINAL SOURCE

GEORGIA, WHITFIELD COUNTY

I, MISS ELIZABETH ROBERTS, of said state and county, being of sound mind and disposing memory, do hereby make, declare and publish this my Last Will and Testament, expressly revoking and annulling any and all others that I may heretofore have made.

ITEM I. It is my will and desire, and I hereby so direct, that all my just debts be paid by my Executors hereinafter named, as soon as practicable after my death, and that said Executors erect a suitable marker at my grave, similar to the other markers on the lot where I am to be buried.

ITEM II. I hereby authorize and direct my Executors hereinafter named to set aside out of my estate the sum of Two Thousand \$2,000.00 Dollars in cash and invest the same in some good income producing investment, in the discretion of said Executors, and use the income from the same for the purpose of maintaining and keeping the Roberts lot in the Cemetery and the graves of Lucy Roberts and Lizzie Roberts on the Kirk lot.

- CEMETERY TRUST -

ITEM III. After the payment of any indebtedness that may be owing by me at the time of my death, I will and bequeath to my grand-niece, Mary Virginia Robinson, Two Thousand (\$2000.00) Dollars in cash, to be used by her for her education, and to be held by my Executor hereinafter named, and to be paid over to her as she may need the same for her education, any portion of the same not used by her for such purposes to be delivered to her upon her attaining the age of Twenty-One Years.

Elizabeth Roberts.

032479-603003

I will and bequeath to my niece, MRS. C. E. BUSCH Three Thousand (\$3,000.00) Dollars, to my niece, MRS. LUCILLE STUDEMAN, One Thousand (\$1,000.00) Dollars, to my niece, MRS. J. E. ROBINSON, Three Thousand (\$3,000.00) Dollars, to my niece, MRS. HARRY A. FAIN, Four Thousand (\$4,000.00) Dollars, to my niece MISS HATTIE KIRK, Two Thousand (\$2,000.00) Dollars, to my friend MRS. HOYT WEBB, One Thousand (\$1,000.00) Dollars.

ITEM IV: After the payment of the foregoing legacies, the entire balance, remainder and residue of my estate I will, bequeath and give equally share and share alike to the following:

- (1) First Church of Shrist, Scientist, of Atlanta, Georgia.
- (2) First Methodist Church of Dalton, Georgia.
- (3) The Scottish Rite Hospital of Atlanta, Georgia.
- (4) The Warm Springs Foundation, Inc. of Warm Springs, Georgia.
- (5) The Hamilton Memorial Hospital of Dalton, Georgia, with the request that it be used in the Pediatric Ward (Children's Ward).
- (6) The Methodist Children's Home at Decatur, Georgia.

ITEM V. My household goods, personal effects and belongings, I will bequeath and give to my nieces, MRS. C. E. BUSCH, MRS. J. E. ROBINSON, MRS. HARRY A. FAIN, MRS. LUCILLE STUDEMAN, AND MISS HATTIE KIRK, in equal shares, share and share alike.

ITEM VI. I hereby name, constitute and appoint SAM J. HEAD, and THE FIRST NATIONAL BANK OF DALTON, as Executors of and Trustees under this my Last Will and Testament, expressly relieving them from the making of any bond or the making of any returns or appraisal of my estate to the Ordinary or any other court and

Elizabeth Roberts



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expressly authorizing and empowering them, as such Executors, to administer my estate in any manner they think to the best interest of my estate; they are authorized to sell any part or all of the property belonging to my estate at either public or private sale, with or without order of court and make distribution THEREOF, EITHER in cash or in kind.

IN WITNESS WHEREOF, I, MISS ELIZABETH ROBERTS, do hereby set my hand and affix my seal to this instrument, declaring and publishing the same as my Last Will and Testament, this the 29th day of March, 1949.

(1) First Church of Swiss, Elizabeth Roberts (Seal)

Signed, sealed, declared and published by MISS ELIZABETH ROBERTS as her Last Will and Testament in the presence of each of us the undersigned, she first signing the same in our presence and we then, at her special instance and request, signing the same in her presence, and in the presence of each other.

This the 29 day of March, 1949.

Emma Louese Wilson  
Rebecca Richards  
Fred H. Tarply

Trustees under this my Last Will and Testament, I hereby request that they be authorized to make any and all necessary arrangements for the burial of my body and the funeral expenses thereon, and that they be authorized to make any and all necessary arrangements for the payment of my debts and the distribution of my estate to the beneficiaries named herein.

Elizabeth Roberts



**7J: ;4;F 6**



**RECEIPT AND REFUNDING AGREEMENT**

This Agreement is entered into by and between Wells Fargo Bank, N.A., in its capacity as trustee of the Elizabeth Roberts Cemetery Trust, the Margaret H. Bard Cemetery Trust, and the W.C. Martin Cemetery Trust (the "Trustee") (collectively, the "Trusts"), and the undersigned beneficiary of the Trusts (the "Beneficiary").

In consideration of the final distribution by the Trustee of all assets of the Trusts, without a judicial accounting and decree, the Beneficiary hereby:

Acknowledges receipt of the Beneficiary's interest in the Trusts, effective upon delivery of such assets to the Beneficiary;

Acknowledges that financial statements for the Trusts have been made available to it, and that it has examined such statements to the extent it deems appropriate or waived its right to do so;

Acknowledges that it is entitled to an account of the Trustee's acts as the trustee of the Trusts, and waives all right to any such account and further waives all right to a judicial settlement of the Trustee's account and to the issuance and service of citation or other process in any action or proceeding for the judicial settlement of the account, and consents that a judgment or decree may be entered in any court, without notice to it settling the account;

Acknowledges and agrees that the Trustee has made no representations regarding the tax consequences to the Beneficiary as a result of the execution of this Agreement and the Trusts' terminations;

Acknowledges that the approvals, consents and ratifications presented herein are granted in accordance with state law, and acknowledges it was not induced by improper conduct of the Trustee and that the Beneficiary has knowledge of the material facts relating to the matters contained herein and is aware of its rights; and

Acknowledges that (i) this Agreement is a legal document; (ii) it has been advised to have this Agreement reviewed by its attorney; and (iii) it has had the Agreement reviewed by such attorney.

Agrees to accept the assets from the Trusts on the condition that the Beneficiary is not required to provide any specific maintenance to the headstones of any cemetery lots nor any specific maintenance to any specific cemetery lot.

IN WITNESS WHEREOF, the undersigned, on behalf of the Beneficiary, intending to be legally bound hereby, has executed this Receipt, Release, Refunding and Indemnification Agreement on the date indicated below.

Beneficiary Name:

City of Dalton, Georgia

By: \_\_\_\_\_

Mayor

Date: \_\_\_\_\_

I, \_\_\_\_\_, am the \_\_\_\_\_ of the Beneficiary, and I do hereby certify that I am authorized to sign this Receipt, Release, Refunding and Indemnification Agreement on behalf of the Beneficiary.

Wells Fargo Bank, N.A., in its capacity as trustee of the Elizabeth Roberts Cemetery Trust, the Margaret H. Bard Cemetery Trust and the W.C. Martin Cemetery Trust

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

## **EXHIBIT E**

**CONSENT AND JOINDER**

I, \_\_\_\_\_, hereby certify that I am the \_\_\_\_\_ of the City of Dalton, Georgia, the owner of West Hill Cemetery and Old Presbyterian Cemetery, in Whitfield County, Georgia (the “Beneficiary”), that I am authorized to execute this Consent and Joinder on its behalf, and that, having read and considered the contents of the foregoing Petition to Approve Termination, Distribution, Conditions and Costs/Fees, I do herewith (i) waive the benefit of all requirements of notice of the presentation or service upon the Beneficiary of said Petition, (ii) authorize the Court to note the Beneficiary’s general appearance in said proceeding as though it had appeared personally or by counsel, (iii) waive all objections to the Court’s jurisdiction, (iv) consent to or join in the Petition’s request that this Court enter an Order terminating the Trust and approving the costs/fees associated with such action and (v) specifically consent to the application of the “Conditions” (as such term is defined in the Petition) to the Beneficiary.

City of Dalton, Georgia

BY: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_, 2024



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** March 4, 2024

**Agenda Item:** Amendment No. 2 to AIA Document B101-2017 for Project Renovations and Additions to the Existing John Davis Recreation Center

**Department:** Recreation

**Requested By:** Caitlin Sharpe

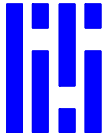
**Reviewed/Approved by City Attorney?** N/A

**Cost:**

**Funding Source if Not in Budget** 2020 SPLOST

**Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

Amendment No. 2 to AIA Document B101-2017 for Project Renovations and Additions to the Existing John Davis Recreation Center. Revisions to budget, construction dates, and architect fees.



FROM THE OFFICE OF GREGG SIMS, ARCHITECT

**Amendment No. 2 to AIA Document B101-2017**

Original Document Dated the Eighteenth day of April in the year Two Thousand Twenty-Two

Between:

City of Dalton  
P.O. Box 1205  
Dalton, GA 30722-1205

and

Gregg Sims, Architect  
P.O. Box 219  
Dalton, GA 30722-0219

**For the Project: Renovations and Additions to the Existing John Davis Recreation Center**

Please make the following changes to the Standard Form of Agreement Between the Owner and Architect dated April 18, 2022:

The Owner and Architect agree as follows:

**1. Revise Paragraph 1.1.3 to read:**

The Owner's budget for Construction Cost: \$10,500,000

**2. Revise Paragraph 1.1.4 to read:**

- .1** Design phase milestone dates, if any:  
Contract documents are to be complete by March 1, 2024.
- .2** Construction commencement date:  
Construction to commencement May 1, 2024.
- .3** Substantial Completion date or dates:  
Project to be complete by August 31, 2025.

**3. Revise Paragraph 1.1.5 to read:**

Construction Manager at Risk

**4. Revise Paragraph 11.2 to read:**

Six and one-quarter percent (6.25%) of Construction Cost.

**Owner: City of Dalton, GA**

**Architect: Gregg Sims, Architect**

\_\_\_\_\_  
(Signature)

Annalee Sams, Mayor

\_\_\_\_\_  
(Signature)

Gregg Sims, Architect (GA #2700)