

TITLE 7

Licensing and Regulation

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CHAPTER 2

Peddling, Soliciting and Canvassing

State Law Reference: County licensing of peddlers, O.C.G.A., Sec. 43-32-1 et seq.

§ 7-2-1 Registration required.

§ 7-2-2 Registration fee; application for identification card.

§ 7-2-3 Exhibition of registration card.

§ 7-2-4 Unlawful acts.

Sec. 7-2-1 Registration required.

Any person peddling, soliciting or canvassing within the city shall be required to register and obtain an identification card as provided by this chapter.

Sec. 7-2-2 Registration fee; application for identification card.

Any person desiring to peddle, solicit or canvass within the city shall pay to the city clerk or his designated representative a registration fee as fixed from time to time by the city council and shall make application with the chief of police for an identification card which shall show payment of the registration fee and the days that the registrant has registered to peddle, solicit or canvass within the city.

Sec. 7-2-3 Exhibition of registration card.

Each registrant shall at all times while in the city have upon his person the registration card and shall exhibit the same when requested to do so by any law enforcement officer or by any municipal authority and by any person being solicited. Possession of this registration card shall not in any way represent an endorsement or approval of any products or project by the city.

Sec. 7-2-4 Unlawful acts.

- (a) It shall be unlawful for any person to peddle, canvass or solicit after sundown.
- (b) It shall be unlawful for any person to peddle within the fire zone of the city.
- (c) It shall be unlawful for any person to peddle, canvass or solicit without having registered with the city clerk in accordance with this chapter or to peddle, solicit or canvass without having on his person and in his possession an identification card issued in accordance with this chapter.

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ALCOHOLIC BEVERAGES

ARTICLE I - IN GENERAL

- Sec. 7-3-1 In General.
This ordinance shall be known as the “Alcoholic Beverages” ordinance for the City of Pembroke, Georgia.
- Sec. 7-3-2 No malt beverages or wine shall be sold within the City of Pembroke except under license issued pursuant to this Chapter promulgated by the Mayor and City Council of Pembroke.
- Sec. 7-3-3 Purpose.
(a) The purposes of this Chapter shall include, without necessarily being limited to the following:
(1) Compliance with and effectuation of the general state law.
(2) Prevention and control of the sale of alcoholic beverages by unfit persons.
(3) Insuring that any licenses issued for the consumption of alcoholic beverages on the premises are issued only to a legitimate restaurant as defined in this chapter.
(4) The protection of schools, homes, churches, parks, and other institutions;
(5) Protection of the public health, safety, and welfare.
(b) To the maximum extent permissible under state and federal law, the business of selling alcoholic beverages shall under this chapter be considered to be a privilege to be accorded in conformity with the foregoing and other public policies of the city, rather than a right.
- Sec. 7-3-4 Definitions.
Unless a contrary intention is clearly apparent from the context, the following terms used in this chapter shall have the following meaning:
"Alcoholic beverage": All malt beverages, wine and fortified wines defined in this section.
"Beer": Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing alcohol by volume in the amount set by state law, and including ale, port, brown, stout, lager beer, small beer and strong beer.
"License": The authorization by the City Council to engage in the sale of alcoholic beverages.
"Licensed premises": Includes not only the room wherein alcoholic beverages are sold or served but also the entire building in which such room is located (except that when such room is located in a shopping

center, hotel, motel, or similar facility or in a facility that houses more than one business under the same roof or in the same building or structure), then only such room and any adjoining storage, office, toilet, and other similar rooms shall constitute the "Licensed Premises". Licensed premises shall not include any parking lot, sidewalk, adjoining alley or lane, or any other area outside the interior of the Licensed Premises. "Licensed Premises" shall not include the entirety of the Premises or Business Premises as those are hereafter defined.

"Licensee": includes an individual licensee and in the case of the partnership, corporation, or other legal entity, includes both the partnership or corporation, other legal entity and the named licensee.

"Licensees for the Sale of Alcoholic Beverages": Any person, partnership or corporation, or other entity duly licensed to sell alcoholic beverages.

"Person": includes a corporation, partnership, company, association, club or institution, or other legally recognized entity.

"Premises or Business Premises": The physical location of a business, including the building itself and all sidewalks, patios, porches, entranceways, driveways, and parking areas provided by said business for its customers, guests, patrons, or employees. For purposes of construction in this Chapter "Business Premises" shall also be deemed to include any area thirty feet or less from the main public entrance to any building of a Business or Business Premises, regardless of whether or not the entirety of such area is under the exclusive possession or control of the Licensee.

"Wholesale Dealer and Distributor": Any person engaged in distributing or selling to licensees for the resale of alcoholic beverages.

"Wine": Any alcoholic beverage, containing alcohol by volume in the amount set by state law, made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. "Wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products.

ARTICLE II

VIOLATIONS; PENALTIES

Sec. 7-3-5 Violations; Penalties

- (a) Any person who violates any provision of this Chapter shall upon conviction be punished as provided in this Code, which may include a fine or imprisonment, or both fine or imprisonment. Any such punishment, if imposed, shall be in addition to and not in lieu of suspension or revocation of any license granted under

this chapter.

- (b) The violation of any of the provisions of this Chapter shall be grounds for suspension or revocation of any retail or wholesale license issued hereunder.
 - (1) For the first violation there shall be a \$500.00 fine.
 - (2) For the second offense within a two year period there shall be revocation of license privileges for a period of 30 days.
 - (3) For the third violation within a two year period the license shall be automatically suspended subject to the Licensee's right to request a full process hearing before the mayor and council. At any such hearing the licensee may present evidence, be represented by an attorney, and make a transcript of the hearing and proceedings.
 - (4) Any suspension or revocation of a license may be appealed to the mayor and city council within 30 days time and full due process shall be afforded during the appeal.
 - (5) Violations shall be accumulated for only two years.
 - (6) For the third violation within a two-year period, the license shall be suspended for two years.

ARTICLE III

LICENSING

Sec. 7-3-6 Required Classifications, etc.

- (a) *Required.* It shall be unlawful for any person to sell or offer for sale any alcoholic beverages within the city except under a valid license issued under this chapter and in compliance with the provisions of this chapter.
- (b) *Pay schedule.* License fees shall be payable in advance for an entire year. License fees shall not be prorated for a part of a year. The suspension or revocation of any license granted pursuant to this article shall not entitle the licensee to a return of any portion of the license fee.
- (c) *Classification fee.* Classes of licenses issued under this chapter, activities permitted and regulated thereunder, and the annual license fees shall be as follows:
 - (1) *Retail package licenses:* Package sales for off-premises consumption of beer and wine...\$500.00 each;
 - (2) *Retail consumption on-the-premises licenses:* Pouring license for beer and wine only on the premises...\$750.00 each;
 - (3) *Festival licenses:* (subject to restrictions in Article IX herein) Pouring license for beer and wine...\$100.00 each;

- (d) *Application fees.* Each application for a license under this chapter shall be accompanied by a nonrefundable application fee in the following amount:
- (1) Sale off-premises of package malt beverage, beer, and wine license...\$75.00
 - (2) Sale on-premises of malt beverage, beer, and wine license...\$125.00
 - (3) Festival license...\$25.00
- (d) *Payment of fees.* Application fees shall be paid at the time the application is filed and shall not be refunded under any circumstances. An applicant shall pay the annual license fee at the time the application is filed; and in such event the annual license fee shall be refunded if the license applied for is not issued. If the annual license fee is not paid at the time of the application, the annual license fee shall be paid prior to the issuance of the license by the mayor and city council and no later than 14 days after notification of approval of the license by the mayor and city council.

Sec. 7-3-7

Procedure for issuance.

- (a) A license issued to an individual shall be issued in the name of the individual. A license issued to a partnership shall be issued in the name of the partnership and in the name of one of the partners who shall be the named licensee. A license issued to a corporation having as its principal business the sale of alcoholic beverages shall be issued in the name of the corporation and in the name of the majority stockholder or a principal officer of the corporation; and such majority stockholder or officer shall be the named licensee. A license issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages shall be issued in the name of the corporation and in the name of the officer or employee of the corporation primarily responsible for the operation of the licensed premises; and such officer or employee shall be the named licensee. A license issued to any other legally recognized entity (such as a limited liability company) having as its principal business the sale of alcoholic beverages shall be issued in the name of the business entity and in the name of one of the members who shall be the named licensee.
- (b) In the case of a partnership, each partner shall join as an applicant for the license and each partner must meet the qualifications of an individual licensee, as provided herein.
- (c) In the case of a corporation having as its principal business the sale of alcoholic beverages, the majority stockholder and each principal officer of the corporation shall join as applicants for the license; and each such person must meet the qualifications of an individual

licensee, as provided herein except for the residency requirement which shall be required only for the named licensee.

- (d) In the case of a corporation having as its principal business an activity other than the sale of alcoholic beverages, the officer or employee who is to be the named licensee shall be the applicant and must meet the qualifications of an individual licensee, as provided herein; provided, however, that the mayor and city council may require the fingerprinting and investigation of officers and shareholders of the corporation if they deem it necessary in making their investigation.
- (e) In the case of a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. In the case of a corporation, the corporation shall be responsible for the actions of the named licensee and the conduct of the licensed business.
- (f) In the case of a limited liability company or other legally recognized entity, each member shall be responsible for the actions of the named licensee and the conduct of the licensed business.

Sec. 7-3-8

Qualifications.

- (a) A licensee must be at least 21 years of age, of good moral character and a citizen of the United States.
- (b) A licensee shall not have been convicted within the past five years of any felony, any misdemeanor involving moral turpitude, or any other misdemeanor or violation of city alcohol ordinances within the past two years, or at any time of any criminal offense relating to alcoholic beverages, drugs, taxes or gambling. This subsection shall apply with respect to the laws of this state, other states, the United States, and other countries. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection. The mayor and city council may at their discretion waive the conviction of a misdemeanor for purposes of this subsection if the mayor and city council determine that the misdemeanor does not have a bearing on the applicant's fitness for a license.
- (c) A licensee shall not have been denied or had revoked, within the five years next preceding his application, any license to sell alcoholic beverages issued by any governmental entity.
- (d) A licensee shall be the owner of the premises to be licensed or the holder of a lease thereon for substantially the same period to be covered by the license.
- (e) No license for the sale of alcoholic beverages by the drink for consumption on the premises shall be issued to any applicant who does not meet the requirements of a restaurant as defined in this chapter.

Sec. 7-3-9 Application procedures.

- (a) Application for a license for the retail sale of beer and malt beverages in the city shall be filed with the city clerk upon forms prescribed by the city and made available at city hall. The application shall be subscribed by the applicant under oath and fully completed and executed.
- (b) There shall be attached to the application a bank money order, certified check or like remittance of the application and the license fee in full.
- (c) As a prerequisite to the issuance of the license, the applicant shall furnish a complete set of fingerprints to be forwarded to the state bureau of investigation which shall search the files and forward the fingerprints to the Georgia Bureau of Investigation and/or the Federal Bureau of Investigation to determine past criminal activity.
- (d) Failure to fully complete and execute an application for a license or to furnish accurately all data, information and records required by the application form as well as failure to accompany the application with the payment of the prescribed fee or the affidavit of publication shall be deemed just cause for denying the application with prejudice.
- (e) Upon proper completion of the application and payment of fees, the city clerk shall refer the application to the police chief for such investigation and hearings thereon as deemed necessary under this article.
- (f) After its investigation, the police chief shall make a recommendation to the mayor and city council which shall act thereon, thereby either granting or denying the application for a license.
- (g) If the application is denied, the application fee shall not be refunded.

Sec. 7-3-10. Renewal.

All alcoholic beverage licensees shall be required to apply for renewal of their licenses annually on forms prescribed by the city clerk and must comply with all provisions of this article, with the exception that publication of notice and submission of fingerprints shall not be required for renewal of a license unless there has been a change of ownership of the business or other interest therein.

Sec. 7-3-11. Transfer.

- (a) Except as provided in this section, no license shall be transferable to any other person or location.
- (b) If a licensee seeks to move his place of business from the licensee's premises to another place within the city, application shall be made as for an original license.

- (c) In the case of death of an owner of a license or financial interest therein, such license or interest therein may be transferred to the administrator, executor, or adult heir or heirs of the deceased unless the mayor and city council determines that it would otherwise violate this chapter. If the transferee cannot meet all the requirements of this chapter when the time comes to renew the license, it shall not be renewed.
- (d) Nothing in this section shall prohibit one or more partners in a partnership from retiring therefrom in favor of one or more of the other partners; provided such withdrawal shall not, introduce any new partner or result in any new person acquiring an interest in the licensed business, unless application for a new license is made.
- (e) Where a license is issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages, a change in the named licensee may be permitted by the mayor and city council if the new named licensee meets the requirements of new license applicants.
- (f) In the circumstances described in subsections (c), (d) and (e) of this section, the license may be revoked if the mayor and city council determines that the change results in a failure to meet the requirements of this chapter.

Sec. 7-3-12. Change in business ownership.

- (a) If any licensee withdraws from, sells or otherwise transfers the licensee's interest in the licensed business, the licensee shall immediately notify the mayor and city council and surrender the license.
- (b) In the case of such a withdrawal, transfer, or sale, a new application shall be made as for an original license.

Sec. 7-3-13. Temporary license.

- (a) A temporary license may be issued by the mayor and city council if, in their judgment, the denial of a temporary license would create an undue hardship such as the closing of an existing business. The temporary license shall be issued for an extra fee of \$50.00 for a 90-day period with one additional 90-day extension if needed.
- (b) A temporary license may be revoked, with or without cause, by the mayor and city council at any time, and the grant or denial of a temporary license shall not affect or have any bearing upon the grant or denial of a permanent license.

Sec. 7-3-14 Suspension/revocation.

- (a) Upon final disposition of a case by any court of competent jurisdiction, a license may be suspended or revoked by the mayor and city council for any violation of this chapter and/or other city

ordinances, for any violation of state or federal law, for any material misrepresentation or omission in the application for the license, or if the licensee or the licensed business ceases to meet the eligibility requirements for license.

- (b) The mayor and city council are authorized to suspend the sale of alcoholic beverages under any license for any emergency situation such that the mayor and city council deems such suspension necessary for the protection of the public health, safety or welfare. Such suspension may be made effective immediately and may remain in force until the mayor and city council determine that the emergency is over or until the next meeting of the mayor and city council, at which time the suspension shall cease unless it is extended by the mayor and city council.
- (c) Prior to suspending or revoking a license, except as noted in emergency situations herein, the clerk shall provide written notice to the applicant or licensee of the clerk's order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or licensee of the right to appeal under the provisions of this chapter. Any applicant or licensee who is aggrieved or adversely affected by a final action of the city clerk may have a review thereof by appeal to the city council. Such appeal shall be by written petition, filed in the office of the city clerk within fifteen (15) days after the final order or action of the city clerk. A hearing shall be conducted within thirty (30) days of the filing with the city clerk. The appellant shall have the right to be represented by an attorney at his or her own expense. The findings of the city council shall be final.

Sec. 7-3-15 Automatic revocation.

A license shall be automatically revoked by operation of law if:

- (a) The licensee's state alcoholic beverage license is revoked.
- (b) Payment of the annual license fee is not received by the city within 14 days after notification that the issuance of a license has been approved by the mayor and city council.
- (c) Operation of the licensed activity is not commenced within six months after the license is issued.
- (d) Operation of the licensed activity is commenced and then discontinued for a period of 30 days unless extended by the mayor and city council for good cause.
- (e) The licensed business declares bankruptcy or receivership, is the subject of levy or legal process, or fails to properly account for, file, report and pay any excise tax levied under this chapter.
- (f) The licensed business fails to properly account for, file, report and maintain any records or remit any license fee imposed or taxes required under this chapter.

- (g) Payment of the annual renewal license fee is not received by the city within the time prescribed.
- (h) The named licensee is convicted of a felony by a court of competent jurisdiction.

ARTICLE IV

LOCATION

Sec. 7-3-16 Sale/service in public places.

It shall be unlawful to furnish or dispense alcoholic beverages through kegs, barrels, cylinders or other portable receptacles containing tap or pump-type devices, in which the flow of contents is controlled by the operator, in a public street or in any public or semipublic parking facility or in the common area of an apartment, condominium or multifamily residential building. It shall further be unlawful to furnish or dispense alcoholic beverages using vehicles containing tap or pump-type devices. The term "semipublic parking facility" shall include any privately owned area wherein motor vehicles may be parked by the public in conjunction with any business, enterprise, commercial establishment, place of worship, office building or multiple-family residential facility. When receptacles are found in violation of this section and the person maintaining the receptacle cannot be identified, the receptacle shall be confiscated and held for 30 days by the city police. The receptacle may be claimed by the owner or lessor, but will be disposed of at the end of 30 days if unclaimed. Nothing in this section shall prohibit persons holding licenses pursuant to this article from dispensing through kegs, barrels, cylinders or other such receptacles inside the establishments or premises approved by the mayor and city council for a pouring license.

Sec. 7-3-17 Proximity Restrictions

- (a) No person knowingly and intentionally may sell or offer to sell:
- (1) Any beer or wine in or within 100 yards of any school building, educational building, or school grounds.
 - (2) Any beer or wine in or within 100 yards of any church or other building used as a place of worship.
 - (3) For the purposes of this Article, distances shall be measured by the manner and method employed by the state department of revenue in determining such distances as measured presently and as may be changed in the future.

ARTICLE V

SALES

- Sec. 7-3-18 Responsibility of named licensee.
The named licensee shall be active in the operation of the licensed business and shall be personally present on the licensed premises sufficiently to assure compliance with the provisions of this chapter.
- Sec. 7-3-19 Rentals paid restricted.
- (a) Except as otherwise provided in this section, it shall be unlawful for a licensee to enter into any agreement whereby the rental paid for licensed premises is based in whole or in part on the volume of sales of alcoholic beverages by the licensed business or whereby the lessor otherwise shares in the profits or receipts from the licensed business's sale of alcoholic beverages.
 - (b) Subsection (a) shall not apply where the primary business of a package licensee is an activity other than the package sale of alcoholic beverages; for example, a grocery store selling package beer and wine.
- Sec. 7-3-20 Display of License.
Each license issued under this chapter shall at all times be kept plainly exposed to view upon the licensed premises.
- Sec. 7-3-21 Retention of records.
- (a) All consumption-on-the-premises licensees shall keep and preserve records of all alcoholic beverages purchased and sold by the licensee and shall keep and preserve records of all food and non-alcoholic beverages purchased and sold by them. Such records shall at all times during normal business hours be open for inspection by an authorized agent of the city. Such records shall be maintained for a period of at least three years, provided that the mayor and city council may authorize the disposal of records prior to the expiration of three years if the maintenance of such records is no longer required by the city.
 - (b) All consumption-on-the-premises licensees shall file with the city clerk the following reports at the time and in the form prescribed by the mayor and city council;
 - (1) Semi-annual on-premises consumption report;
 - (2) A certified copy of the licensee's annual state sales tax report as filed with the state department of revenue for the period coinciding with the on-premises consumption report;
 - (3) Any other documents, reports, records, or books as shall be required by the mayor and city council.

Sec. 7-3-22 Knowledge of chapter provisions.

Every licensee shall, prior to applying for a license, read and familiarize himself with the provisions of this chapter and an application shall constitute a certification by the applicant that he has done so. Every licensee shall maintain a copy of the ordinance from which this chapter derives on the licensed premises and shall instruct each employee engaged in the sale or handling of alcoholic beverages on the relevant provisions of the ordinance from which this chapter derives.

Sec. 7-3-23 Sales to underage persons prohibited.

(a) Except as otherwise provided in this section:

(1) No person, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.

(2) No person under 21 years of age shall purchase or possess any alcoholic beverage.

(3) No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining unlawfully any alcoholic beverage.

(4) No personnel shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.

(5) It shall be a violation not to require and properly check identification to ensure underage persons are not sold alcoholic beverages while in a licensed establishment. Identification shall be as required in subsection (b) below.

(b) The prohibition contained in subsection (a)(1) above, shall apply with respect to the sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification, driver's license, or an identification card authorized under O.C.G.A. §§ 40-5-100- - 40-5-104. "Proper identification" shall not include a birth certificate or school ID.

(c) This section shall not prohibit employment of a person under 21 years of age in licensed premises if such employment is lawful.

Sec. 7-3-24 Days of sale prohibited.

(a) No licensee shall permit the sale of alcoholic beverages on any day or any time when such sales are prohibited by state law.

(b) The wholesale or retail sale of beer and wine shall be lawful during

the polling hours of any election; however, the sale of alcoholic beverages within 250 feet of a polling place is unlawful during such hours as the polls are open.

- (c) No licensee shall permit the sale of alcoholic beverages on Sunday.

Sec. 7-3-25 Hours of sales.

Package sales of beer and wine for off-premises consumption shall be between the hours of 6:00 a.m. and 12 midnight, Monday through Saturday. The act by the licensee or his representative of allowing any persons to consume packaged alcohol on the premises shall constitute grounds for revocation of the package sales license.

Sec. 7-3-26 Sales to intoxicated persons; gambling; disorderly conduct.

- (a) No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on licensed premises.
- (b) No licensee shall permit any gambling, betting, illegal lottery, or other device for the hazarding of any money or other thing of value on the licensed premises, except that this prohibition shall not apply with respect to a properly licensed bingo game.
- (c) No licensee shall permit on the licensed premises any disorderly conduct, breach of the peace, or activity which is disturbing to the surrounding neighborhood.

Sec. 7-3-27 Breaking package or drinking on premises.

It shall be unlawful for any person to open or consume any alcoholic beverages on premises licensed for the sale of alcoholic beverages by the package.

ARTICLE VI

CONSUMPTION ON PREMISES

Sec. 7-3-28 Generally-Eligibility restricted.

A consumption-on-the-premises license may be granted only to a restaurant, as defined in this Article VI, and shall also comply with the provisions of Sections 7-3-24 – 7-3-27 of Article V of this Title 7. No consumption-on-the-premises license shall be granted to any other type of establishment.

Sec. 7-3-29 Definitions.

(a) Restaurant: In order to be eligible for a pouring or limited pouring consumption-on-the-premises license, a restaurant shall:

- (1) Be used and held out to the public as a place where meals prepared on the premises are regularly served to the public for adequate pay each day the establishment is open for business;
- (2) Contain one or more public dining rooms, with adequate and sanitary kitchen facilities and staff to prepare, cook and serve suitable food for its guests;
- (3) Have a cook available to serve meals prepared on the premises during any time the establishment is open for business, such cook being a person who is employed by the establishment and who is available to prepare food and serve meals during any of the establishment's operating hours;
- (4) Have a valid Bryan County Health Department Food Service Permit and any other applicable local, state or federal permits, licenses, etc. required for food service establishments;
- (5) Have at least fifty (50) percent of its total sales (dollar amount) comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises; and for this purpose, if a restaurant makes a minimum charge, cover charge, or admission charge, or any other non-food or non-alcoholic beverage charge, the amount so charged shall not be counted in computing total sales and shall not be counted as food or beverage sale; and
- (6) Have a permanent seating capacity at tables, not counting bar stools, of at least 16 persons;

(b) Food. For purposes of construction of paragraph (a) of this section, "food" shall not include items such as candy bars, chips, crackers, or other snack items, or canned or bottled soda or other

non-alcoholic beverages. "Food" shall be deemed to be food that is prepared by a cook for consumption in the restaurant.

Sec. 7-3-30 Ratio of alcoholic/non-alcoholic sales.

Should the total sales from food and non-alcoholic beverages reported by any licensee for consumption on the premises not be equal to or more than 60% of such sales for any two consecutive reporting periods, the license may be suspended or revoked by the mayor and council after a hearing as provided for in section 24-14.

Sec. 7-3-31 Statement of sales.

In addition to the reporting requirements detailed in section 24-21, the mayor and city council may require that a licensee furnish a statement from a certified public accountant or a registered public accountant that reports the percentage of the licensee's total sales derived from the sale of food and non-alcoholic beverages sold on the premises compared to the sale of all alcoholic beverages sold on the premises in the licensee's most recent reporting period.

Sec. 7-3-32 Illumination of premises, location of sales restricted.

- (a) All restaurants including all tables, booths, and other areas where customers are served and including all passageways for customers, shall be sufficiently well-illuminated so that they may be viewed by those inside the premises.
- (b) The sale of alcoholic beverages in any back room or side room which is not open to the general public is prohibited.

Sec. 7-3-33 Removal of beverages prohibited.

(a) All alcoholic beverages sold by consumption on-the-premises licensees shall be consumed only on the licensed premises, inside the licensed premises. It shall be unlawful for any person to remove from the interior of the licensed premises any alcoholic beverages sold for consumption on the premises. Each licensee shall be responsible for ensuring that no person so removes any alcoholic beverages from inside the premises in any type of container.

(b) As to any alcoholic beverage purchased for consumption on the premises, it shall be unlawful for any person to drink or have in his possession an open container of any such alcoholic beverage outside the licensed premises.

(c) As to any alcoholic beverage purchased for consumption on the premises, it shall be unlawful for any person to drink or have in his possession an open container of any such alcoholic beverage on any public street, sidewalk, park or other public place within the city, or upon or within any motor vehicle on the streets, sidewalks, parks, and public places of the city.

Sec. 7-3-34 Prohibited practices.

- (a) No consumption on-the-premises licensee shall engage in any of the following practices:
- (1) The sale of alcoholic beverages during any special period of the day at prices lower than those customarily charged during the remainder of the day;
 - (2) The giving away of any alcoholic beverages in conjunction with the sale of any other alcoholic beverages;
 - (3) The sale of two or more alcoholic beverages for a single price or the sale of all the alcoholic beverages a customer can or desires to drink;
 - (4) The sale or serving of two or more alcoholic beverages at substantially the same price customarily charged for one such alcoholic beverage;
 - (5) Requiring or encouraging the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the first such beverage has been consumed;
 - (6) Sponsoring, conducting, or allowing contests or promotions which have as their primary purpose the increasing of the consumption of alcoholic beverages on the premises; or
 - (7) Allowing, authorizing, encouraging, or inviting the persons to bring alcohol onto the licensed premises for consumption on the premises shall be prohibited; Any alcohol consumed on the licensed premises must be purchased from the licensee according to the provisions of this Chapter.
- (b) The commission of the prohibited actions described in paragraph (a) of this Section by a licensee or his employees shall constitute grounds for suspension or revocation of the licensee's consumption-on-premises license pursuant to the provisions of Articles III and IV of this Chapter.

Sec. 7-3-35 Hours of Sale

Consumption on-the-premises licensees shall only engage in the sale and service of alcoholic beverages between the hours of 11:00 a.m. and 12 midnight Monday through Saturday, with consumption of purchased beverages on the premises until 12:30 a.m. All patrons, customers, guests, or other members of the public must vacate the licensed premises and the business premises by 1:00 a.m. Each licensee shall be responsible for ensuring that the Licensed Premises and Business Premises are vacated by 1:00 a.m., that the doors are secured, and that the Licensed Premises is closed for business by 1:00 a.m. The act by the licensee or his

representative of allowing any persons other than the licensee or his employees to remain on the Licensed Premises or the Business Premises after 1:00 a.m. shall constitute grounds for revocation of the consumption on premises license.

ARTICLE VII

WHOLESALE LICENSES

Sec. 7-3-41 Required issuance.

Any wholesale dealer in alcoholic beverages who is licensed by the state and who has a place of business in the city shall procure a license under the same provisions applicable to retail licensees.

ARTICLE VIII

EXCISE TAX ON BEER AND WINE

Sec. 7-3-42 Tax imposed.

(a) There is hereby levied and imposed upon the sale of malt beverages within the city, a specific excise tax as follows:

(1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of six dollars (\$6.00) on each container containing not more than 15 1/2 gallons and a proportionate tax at the same rate on all fractional parts of 15 1/2 gallons;

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

(b) There is hereby levied and imposed upon the sale of wine within the city, a specific excise tax of twenty-two (\$0.22) per liter and a proportionate tax at the same rate on all fractional parts of a liter. The taxes imposed by this section shall not be levied with respect to:

a. Wine sold to and used by established and recognized churches and synagogues for use in sacramental services only;

b. Any sale of wine, which is exempt from taxation by the state under the Constitution of the United States;

c. Wine sold to persons outside the state for resale or consumption outside the state; or

d. Wine which contains less than one-half of one percent alcohol.

(c) The excise taxes provided for in this section shall be imposed upon and shall be paid by the licensed wholesale dealer in malt beverages. Each wholesale dealer selling malt beverages within the city shall file a report with the city by the tenth day of each month showing for the preceding calendar month the exact quantities of malt beverages by size and type of the container, sold during the month 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 section.

Each person responsible for the payment of the excise tax under this section shall file a report with the clerk by the tenth day of each month showing for the preceding calendar month the exact quantities of wine, by size and type of container, sold during the month within the city. Each such person 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 section.

ARTICLE IX

FESTIVALS

Sec. 7-3-43 General.

This article shall be known as The Festival Ordinance of the City of Pembroke, Georgia.

Sec. 7-3-44 Definitions.

Words and terms used in this article are defined as follows:

- (a) *Festival*: A program of cultural and/or entertainment events open to the general public and taking place either fully or in part on public streets, thoroughfares, parks, squares, or other public property in connection with a community festival such as the Balloon Festival. To be regulated by this Article, each such festival must be designated as a festival by the Mayor and Council.
- (b) *Festival Area*: The area specifically designated and defined by the Mayor and Council as the location of festival events and activities.
- (c) *Controlled zone*: A zone within the Festival Area in which special regulations may apply as determined by the Mayor and Council, including but not limited to controlled access by fencing and gating, wristband identification of persons admitted to a controlled zone, wristband identification of persons authorized to purchase and hold in possession alcoholic beverages, loudspeaker limits and controls, enhanced security measures, and entertainment controls.
- (d) *Alcoholic Beverage*: Any beverage containing alcohol.

Sec. 7-3-45 Designation of a community festival.

The Mayor and Council may designate and name certain community festival days, including the Balloon Festival and/or the Christmas Festival, and during such festival days authorize cultural and entertainment events and initiate the regulatory provisions of this Article within the festival area.

Sec. 7-3-46 Designation of Festival area.

Any festival area shall be designated by the Mayor and Council and shall be kept on record in the City Clerk's office.

Sec. 7-3-47 Designation and Management of Controlled Zone.

The Mayor and Council may designate one or more controlled zones within the festival area, and may implement regulations and controls which will be specific for each designated controlled zone. Such regulations and controls may include, but are not limited to, the following:

- (a) fencing and gating. Fencing designated controlled zone(s) and establishing entrance gates for controlling and limiting access to each controlled zone.
- (b) Identification, entrance criteria. Requiring pre-numbered wrist bands or other means of identifying persons who have met entrance criteria. Entrance criteria may include, but are not limited to, prohibiting persons from entering with weapons, alcoholic beverages, skates, bicycles, and other items which may be dangerous, disruptive, or inconvenient in crowded conditions, and prohibiting entry by persons appearing to be intoxicated.
- (c) Identification, consumption of alcoholic beverages. Requiring wrist bands or other means of identifying persons who have displayed proof of attaining the age of 21 years, and who are authorized to purchase or hold in possession alcoholic beverages within the controlled zone, both within and outside of licensed alcoholic beverage establishments. A fee as set by the Mayor and Council may be charged for such wrist band. Displaying such a wrist band does not relieve alcoholic beverage establishments of responsibility for determining if a person has attained the age of 21 years before dispensing alcohol to that person.
- (d) Designation of festival manager within controlled zone. The Mayor and Council may designate and authorize a non-profit tax-exempt organization or similar entity to organize and manage festival activities within a controlled zone. Such designation may include authorization to collect and expend funds, in which case paragraph (e) below will apply.
- (e) Financial requirements, audit. Any organization designated and authorized to collect fees and generate revenues from the public in connection with such event shall, within 60 calendar days of conclusion of the event, provide to the City Clerk a certified, comprehensive report that provides a full accounting of all revenues and expenditures associated with the event. The designated organization shall be required to maintain certain financial records and other documentation supporting event revenues and expenditures. The City will have complete and free access to all such financial records at all reasonable times for purposes of review and audit. The City may also require

submission of a budget and spending plan prior to authorizing such event.

- (f) Insurance. Any organization authorized to organize and manage festival activities within a controlled zone shall take out and keep in force for all activities associates with such event a *Special events liability policy*. Such policy shall provide the following:
- (1) Minimum coverage limits: \$1,000,000 single limit;
 - (2) Names as additional insured: Mayor and Council of City of Pembroke; and
 - (3) Certificate of Insurance: A certificate of insurance shall be issued to the additio0nal insured at least five days prior to the beginning of the event. Such certificate shall be on a standard form and will provide for notification of the additional insured within 10 days of termination of coverage.

Sec. 7-3-48 Restricting hours of alcohol sales.

Within the festival area outdoor dispensing of alcoholic beverages under any permit or license will be permitted from 11:00 a.m. to 12 midnight only.

Sec. 7-3-49 Transport of alcoholic beverages into or out of a designed controlled zone.

The transport of alcoholic beverages for personal consumption either into or out of any designated controlled zone is prohibited. (Ord. 02/09/2004)

CHAPTER 4

Taxicabs

- § 7-4-1 Definitions of terms.
- § 7-4-2 Application of chapter.
- § 7-4-3 Application for permit.
- § 7-4-4 Hearing and report; issuance of permit.
- § 7-4-5 Transfer of permit.
- § 7-4-6 Suspensions.
- § 7-4-7 Display of name, address and telephone number of owner.
- § 7-4-8 Regulation of rates.
- § 7-4-9 Vehicles to be operated from fixed points.
- § 7-4-10 Insurance and bond.

Sec. 7-4-1 Definitions of terms.

(a) As used in this chapter:

- (1) Taxicab or cab means a vehicle of distinctive color or design, with a seating capacity of not more than seven (7) persons, including the driver, operated for hire from a fixed stand in the street, or from garages, the destination of which is under the direction of the passenger or passengers transported therein.
- (2) Highway means any of the public streets, boulevards, avenues, drives or alleys in the city.
- (3) Owner means any person having control of the operation, maintenance of, or collection of the revenue derived from cabs and taxicabs.
- (4) Driver means any person in charge of or operating a cab or taxicab whether as owner, agent, employee or otherwise.
- (5) Permit means the written authority granted by the city council to engage in the cab or taxicab business in the city.
(Code 1974, Sec. 5-1301)

Sec. 7-4-2 Application of chapter.

No person shall engage in the business of operating cabs or taxicabs on city highways until he has complied with the provisions of this chapter.
(Code 1974, Sec. 5-1302)

Sec. 7-4-3 Application for permit.

Any person desiring to engage in the business of operating cabs or taxicabs shall first make application to the city council for a permit to operate such vehicle on the highways of the city. The application shall be in writing, addressed to the council, and shall be filed with the city clerk. It shall contain the full name and address of the applicant, and if the applicant is a corporation, the names and addresses of its officers. It shall

also state the business to be engaged in, the location from which the business is to be operated, the type of equipment to be used, the maximum number of passengers each vehicle is manufactured to carry, the number of vehicles to be operated, and any other information required by the city council Or city clerk. (Code 1974, Sec. 5-1303)

Sec. 7-4-4 Hearing and report; issuance of permit.

Upon the filing of such application, the city council shall refer the same to the city clerk, who shall fix a time and place for a public hearing. At such hearing, testimony shall be heard for or against the granting of the permit. After the hearing, the city clerk shall make his recommendation of favorable or unfavorable to the city council at its next regular meeting, unless a special meeting is called to pass upon the report. The city council may adopt the report of the city clerk or approve the application on its own determination. If the application is approved, a permit shall be issued. No person shall operate any such vehicle upon the highways of the city until a permit has been granted and issued after such application and hearing.

Sec. 7-4-5 Transfer of permit.

Any permit granted a person may be sold, assigned, transferred, leased, or mortgaged by the holder with the approval and consent of the city council. (Code 1974, Sec. 5-1305)

Sec. 7-4-6 Suspensions.

The chief of police may suspend from operation any cab or taxicab found to be unsafe. Any vehicle so suspended shall not be operated again until repaired and put in proper condition for use, and then only after its condition has been approved by the chief of police. (Code 1974, Sec. 5-1306)

Sec. 7-4-7 Display of name, address and telephone number of owner.

Every cab or taxicab shall display inside the cab at a convenient place visible to passengers, a card not less than two (2) inches in width by four (4) inches in length which shall have printed thereon the name, business address and telephone number of the owner of such vehicle. Every car shall have displayed on each side thereof the name and telephone number of the owner in letters and numerals of such size as to be readily visible to the public. (Code 1974, Sec. 5-1307)

Sec. 7-4-8 Regulation of rates.

The city council reserves the right, at any time, and from time to time, to regulate the rates and fares to be charged by taxicabs in the city. (Code 1974, Sec. 5-1308)

Sec. 7-4-9 Vehicles to be operated from fixed points.

All vehicles operated as cabs or taxicabs shall be operated only from

public or private garages or from fixed stands in the streets. Before using the streets for stands or parking places, the owner or operator of such vehicle must first make known to the city clerk the stand or parking place selected, and receive a permit for the use thereof, which permit shall state the place to be used. The space or area reserved for such stand shall be designated and marked by the police department. No cab or taxicab shall run along the streets advertising itself as a taxicab or solicit passengers along the streets, provided this shall not prevent any taxicab from answering a call to any person at any place in the city.

Sec. 7-4-10 Insurance and bond.

No person shall be granted a license or permit to operate a cab or taxicab in the city unless each and every vehicle used in the business is insured by some casualty company authorized to do business in the State of Georgia, so as to cover property damages and personal injuries in amounts as required by title 33, chapter 34 of O.C.G.A. as it now exists and as it may hereafter be amended. A copy of the insurance policy shall be filed with the city. The insurance shall remain in force until the city is notified in writing of its termination by the insurance company.

CHAPTER 5

Pawnbrokers and Secondhand Dealers

State Law Reference: Pawnbrokers, O.C.G.A., Sec. 44-12-130 et seq.; municipal supervision, O.C.G.A., Sec. 44-12-136.

- § 7-5-1 Permit required for pawnbrokers.
- § 7-5-2 Inspection of stock and records.
- § 7-5-3 Reports.
- § 7-5-4 Buying or receiving from minors.

Sec. 7-5-1 Permit required for pawnbrokers.

- (a) No person shall operate a pawnbroker business without first obtaining a permit therefor from the city clerk.
- (b) Any applicant who has not been granted a permit within 30 days after he makes application therefor may appeal to the city council. Any pawnbroker who has had his permit revoked may appeal to the city council. (Code 1974, Sec. 5-311(a), (d))

Sec. 7-5-2 Inspection of stock and records.

No pawnbroker shall refuse to submit his stock of goods or books of account to inspection by any member of the police force. (Code 1974, Sec. 5-311(c))

Sec. 7-5-3 Reports.

Every purchaser or dealer in secondhand articles, junk, old iron, brass or other metals and keepers of pawnshops shall keep an accurate list or memorandum of any secondhand articles purchased or accepted as security for money advanced and shall each day, except on Sunday, and on Monday after the preceding Saturday, before 10:00 a.m. report to the chief of police on blanks to be furnished by him, a list or description of all secondhand articles purchased or accepted as security or on which money or thing of value was loaned on the preceding day, or on the preceding Saturday, if the report is made on Monday, and the description of the person from whom received, the name of the person from whom received together with the place of residence of the seller or borrower, and the amount paid therefor, or the amount advanced as a loan against the security of such property. If there is no such property received, he shall report that fact and the word "none" shall be sufficient for this purpose. It shall be the duty of the chief of police to cause to be prepared and made available such forms as are necessary to report the property and shall be furnished to such person upon request. (Code 1974, Sec. 6-125)

State Law Reference: Contents of records to be kept, O.C.G.A., Sec. 44-12-132.

Sec. 7-5-4 Buying or receiving from minors.

No operator of any secondhand jewelry store, or any pawnbroker, junk dealer or secondhand dealer, shall buy, take or receive by any way of pledge, pawn or exchange, any goods, wares or merchandise or article of personal property of any kind from any persons under the age of 18. (Code 1974, Sec. 6-126)

CHAPTER 6

Miscellaneous Regulations

- § 7-6-1 Parades; permit required.
 § 7-6-2 Parade Routes (revised 8-11-2009)
 § 7-6-3 Application for permit. (revised 8-11-2009)
 § 7-6-4 Investigation. (revised 8-11-2009)
 § 7-6-5 Poolrooms; minors prohibited.
 § 7-6-6 Tents used for public assemblies.

Sec. 7-6-1 Parades; permit required.

It shall be unlawful for any person to participate in, conduct or accompany any organized parade or procession, other than a funeral procession, on the public streets, sidewalks or other public property in the city unless an application has been previously filed and a permit granted to conduct such parade or procession within the city.

Sec. 7-6-2 Approved Parade Route.

The road network through the center of Pembroke with three state highways, to include Hwy 67, Hwy 119, and Hwy 280, cross over each other within a two block section and create a complex traffic pattern. Due to this complexity setting up and managing traffic detours for pedestrian and vehicular safety requires significant overtime for staff to coordinate, set up, monitor, and direct vehicular traffic during a planned parade or march. Therefore the City adopts the following preferred parade route for non-government sponsored/hosted activities;

Assembly area to be in the public parking areas around the Bryan County Courthouse;

Starting at the Bryan County Courthouse, the parade shall move north on South College Street (Hwy 67),

The route shall turn left, west, on Railroad Street,

The route shall then turn right, north, on S. Main Street (Hwy 119), crossing over the railroad tracks and Hwy 290 and continue on N. Main Street (Hwy 67) to City Hall.

If the participants need to return as a group to the parking areas they shall return by the same route.

This will be the preferred parade route and shall be used on a non-interference basis with the City of Pembroke Council and Bryan County Board of Commissioners regularly scheduled meetings. Approval of a

parade or march shall be handled administratively as described in Section 7-6-4. Any other route desired by the organizers shall be considered by the City Council at a regularly scheduled Council meeting.

Sec. 7-6-3 Application for permit.

- (a) An application for permit to conduct or sponsor a parade or procession shall be filed with the city administrator in writing and shall contain the following information furnished by the person in official charge of the proposed parade or procession:
- (1) the name of all organizations or persons organizing or sponsoring the parade or procession;
 - (2) the purpose of the parade or procession;
 - (3) the date and hours of the parade or procession;
 - (4) the proposed route of the parade or procession, and its beginning and termination points;
 - (5) the number and types of vehicles, marching units and floats to be used in the parade or procession; and
 - (6) the number of persons participating in the parade or procession.

Sec. 7-6-4 Investigation.

The City Administrator, or designee, shall investigate all applications for parade permits, and shall issue permits where the information specified in section 7-6-3 has been furnished and the proposed route is the preferred route in section 7-6-2, provided the proposed parade or procession is otherwise lawful and can be held without undue interference with vehicular and pedestrian traffic within the city. If a route other than that listed in Section 7-6-2 is desired the City Administrator, or designee, shall prepare a report and submit the request to the Mayor and City Council for their consideration at their next regularly scheduled meeting.

Sec. 7-6-5 Poolrooms; minors prohibited.

It is unlawful for any person who operates a billiard parlor or poolroom in the city to allow any person under 16 years of age to enter billiard parlors or poolrooms in the city, unless accompanied by a parent or guardian.

Sec. 7-6-6 Tents used for public assemblies.

- (a) No one shall construct or allow to be constructed on his property any tent or other temporary structure for the purpose of evangelistic services, recreational activities or for any other purpose without first obtaining permission from the city.
- (b) Permits shall be granted by the city upon submission of documentary evidence that the structure is covered with insurance to protect citizens entering the structure from any injuries sustained; provided that the proposed use and location of the tent or structure is otherwise lawful.

CHAPTER 7

Cable Television

Editorial Note: The Cable Communications Policy Act of 1984, codified at 47 USC 521 et seq., extensively regulates municipal franchising and control over cable television.

Historical Note: Unless otherwise indicated, the provisions of this chapter are derived from an Ord. of 12/22/82.

- § 7-7-1 Franchise grant; effect; limitations.
- § 7-7-2 Duration of franchise grant.
- § 7-7-3 Franchise rights subject to police powers.
- § 7-7-4 Franchise required; duration; exclusivity.
- § 7-7-5 Definitions.
- § 7-7-6 Acceptance of franchise.
- § 7-7-7 Procedure to consider franchise renewal.
- § 7-7-8 Joint use of poles.
- § 7-7-9 Erection and maintenance of facilities; relocation.
- § 7-7-10 Excavations.
- § 7-7-11 Interference with television reception.
- § 7-7-12 Quality of service.
- § 7-7-13 Indemnification of city.
- § 7-7-14 Franchise fees; inspection of records.
- § 7-7-15 Records; reports; inspection authority.
- § 7-7-16 Compliance with governmental regulations.
- § 7-7-17 Certificate of compliance.
- § 7-7-18 Service standards.
- § 7-7-19 Enforcement.
- § 7-7-20 Subsequent regulation.
- § 7-7-21 Privacy.
- § 7-7-22 Antennas; standards.
- § 7-7-23 Establishment of a regulatory entity.
- § 7-7-24 Stray radiation.
- § 7-7-25 Forfeiture of franchise.
- § 7-7-26 Damaging, interfering with property of franchisee.
- § 7-7-27 Further agreement and waiver by franchisee.

Sec. 7-7-1 Franchise grant; effect; limitations.

The franchise to be granted by the city council pursuant to this chapter shall grant to the grantee, the right, privilege and franchise to erect, construct, operate and maintain in, upon, along, across, above and over and under the streets, alleys, public ways and public places now laid out or dedicated and all such extensions thereto and additions thereto in the city: any poles, wires, cables underground, conduits, manholes, and other television conductors and fixtures necessary for the maintenance and

operation of a CATV system for the interception, sale, transmission and distribution of television programs and other audiovisual electrical signals and the right to transmit the same to the inhabitants of the city on the terms and conditions hereinafter set forth. The city expressly reserves the right to grant a similar use of said streets, alleys, public ways and places to any person at any time during the period of this franchise. It is further the intention of this chapter to limit the activity of a grantee hereunder solely to the operation of cable television systems within the incorporated limits of the city.

Sec. 7-7-2 Duration of franchise grant.

The term of the franchise to be granted to the city pursuant to this chapter shall be for a period of not more than 30 years from and after the grant and acceptance date of the franchise to be awarded, subject to the conditions and restrictions as hereinafter provided, and further provided that the city council shall have the right to review such franchise periodically at such times as the council may from time to time elect to do so and as hereinafter provided.

Sec. 7-7-3 Franchise rights subject to police powers.

In accepting this franchise, the grantee acknowledges that its rights hereunder are subject to the police power of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the city pursuant to such power.

Sec. 7-7-4 Franchise required; duration; exclusivity.

- (a) The city shall grant a franchise for the use of the streets and roads within the city for the construction, operation and maintenance of a CATV franchise.
- (b) This franchise shall be granted for a term of not more than 30 years. The franchise to operate a cable television service shall be on a nonexclusive basis.

Sec. 7-7-5 Definitions.

- (a) Cablecasting, origination, and access.
 - (1) Cablecasting means programming (exclusive of broadcast signals) carried on a cable television system.
 - (2) Origination cablecasting. Programming (exclusive of broadcast signals) carried on a cable television system over one (1) or more channels, and subject to the exclusive control of the cable operator.
 - (3) Access cablecasting. Services provided by a cable television system on its public, education, local government or leased channels.
 - a. Public access channel. A specifically designated

- non-commercial public access channel available on a first-come, non-discriminatory basis for which the system shall maintain and have available for public use at least the minimal equipment and facilities necessary for the production of programming for such a channel.
- b. Education access channel. A specially designated channel for use by local educational authorities.
 - c. Local government access channel. A specially designated channel for local government uses.
 - d. Leased access channel. Portions of the system's nonbroadcast bandwidth including unused portion of the specially designated channels for leased access services.
- (b) Cable communication system, cable system, CATV or system shall mean a system of coaxial cables or other electrical conductors and equipment used or to be used to originate or receive television or radio signals directly or indirectly off the air and to transmit them via cable to subscribers for a fixed or variable fee, including the origination, receipt, transmission, and distribution of voices, sound signals, pictures, visual images, digital signals, telemetry, and any other type of closed circuit transmission by means of electrical impulses, whether or not directed or originating signals or receiving signals off the air.
- (c) City shall mean the City of Pembroke, Georgia and all the territory within its existing and future territorial limits. The city officer or officers or employee or employees designated in this chapter shall mean the person or persons elected to or appointed to such position.
- (d) Convertor means an electronic device, which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, or by an appropriate channel selector also permits a subscriber to view all signals delivered at designated dial locations.
- (e) Franchise agreement means the agreement between the city and the franchisee made pursuant to this chapter. All provisions of this chapter, as amended, are part of the franchise agreement.
- (f) Franchisee shall mean the entity to whom the CATV franchise is awarded and shall include all persons having any rights, powers, privileges, duties, liabilities or obligations under this franchise agreement, and also all persons having or claiming any title or interest in or to the system, whether by reason of the franchise itself or any subcontract, transfer, assignment, mortgage, pledge, hypothecations, security agreement, management or operating agreement, or otherwise arising or created.

- (g) Gross subscriber revenues shall mean those revenues derived directly from the supplying of regular subscriber service within the city, including monthly service charges and fees for regular cable benefits including the transmission of broadcast signals and access or origination channels if any; it also includes installation fees or reconnect charges, revenues derived from per-program or per-channel charges, leased channel revenues, advertising revenues, or any other revenue derived from the system, except any revenue derived from investment or other income-producing revenue of net profits from the system.
- (h) Pay TV shall mean an arrangement under which a charge is made to a subscriber for receiving a particular television program or series of programs.
- (i) Programmer means any person, firm, corporation, or entity who or which produces or otherwise provides program material for transmission by video, audio, digital, or other signals, either live or from recorded tapes, to subscribers, by means of the cable communications system.
- (j) Public agency shall mean an agency which is supported wholly, or substantially, by public funds.
- (k) Service, basic and additional. Basic subscriber service means a total of all the following:
- (1) the transmission of all broadcast video channel signals provided for herein;
 - (2) the transmission of the public, educational, or local r-' government access channel signals;
 - (3) the transmission of the local origination channel signals;
 - (4) the transmission of such other cablecast channel signals as are required by the FCC to match the number of broadcast channel signals being transmitted; and
 - (5) the installation and reconnection of subscriber outlets.
- Additional services means any of the following: Such video services as the transmission of all leased access channel signals not included in basic subscriber service, as well as the transmission of cablecast video advertising messages and pay television signals.
- (l) Streets and highways. Streets and highways means streets, roads, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers, alleys and all other public rights of way and public grounds or waters within or belonging to the city.
- (m) Subscriber shall mean a person or organization whose premises are physically wired to receive, and/or who is receiving by any manner, any transmission from the system.
- (n) Subscriber service drop shall mean such extension wiring from the franchisee's distribution lines to a subscriber's building or ultimate

usage terminal.

- (o) User shall mean a person utilizing a system channel as a producer or purposes of production of or transmission of material, or as a subscriber, for purposes of receipt of material.

Sec. 7-7-6 Acceptance of franchise.

- (a) This franchise and the rights, privileges and authority hereby Granted shall take effect and be in force from and after acceptance by franchisee of the franchise offered by the city council, subject to the terms of this chapter and the rules and regulations of the Federal Communications Commission and/or its successor agency. Franchisee must within 60 days after being offered this franchise by the city council accept such franchise and agree to comply with and abide by all the provisions of this chapter, as amended. Such acceptance and agreement shall be in writing, duly executed and sworn to, by or on behalf of the grantee before a notary public or other officer authorized by law to administer oaths. This franchise contract is made apart of this section as though fully set forth herein.
- (b) Should the grantee fail to comply with subsection (a) above, it shall acquire no rights, privileges or authority under the franchise whatever.

Sec. 7-7-7 Procedure to consider franchise renewal.

- (a) At least 30 days' public notice shall be given of a meeting of the council to proceed to determine whether the operator has satisfactorily performed his obligations under the franchise. To determine satisfactory performance, the city council shall look at the technical developments and performance of the system, programming, services offered, cost of service, and any other particular requirement set forth in this chapter such as the availability of programming equipment and personnel to aid access channel users; also, the city council shall consider the franchisee's annual reports made to the city or to the FCC; provisions shall be made for community comment; and industry performance on a national basis shall be considered.
- (b) The city council will have four (4) months after notification to determine the franchisee's eligibility for renewal.
- (c) If the city council finds the franchisee's performance satisfactory, a new franchise may be granted pursuant to this chapter, as amended.
- (d) In the event the current franchisee is determined to have performed unsatisfactorily, the company shall have 60 days from the date of determination in which to cure any discrepancies, to the satisfaction of the city council. In the event such cure is not accomplished within the time allotted, the city council shall have

the right to terminate the franchise without penalty or other recourse by the franchisee.

Sec. 7-7-8 Joint use of poles.

The poles used for the franchisee's distribution system shall be those erected and maintained by an electric, telephone or other public utility company, when and where practicable, provided mutually satisfactory rental agreements can be entered into with those companies. Where the use of poles owned by an electric, telephone or other public utility is not practicable or mutually satisfactory, or where rental agreements cannot be entered into with the companies following a good faith effort on the part of the franchisee to obtain such agreements, the franchisee may request the city council to authorize franchisee to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system. The location and physical characteristics of the poles must be approved by the city council.

Sec. 7-7-9 Erection and maintenance of facilities; relocation.

- (a) The franchisee's transmission and distribution system poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of the persons or the use of city roads, or to interfere with existing and/or new improvements this city may deem proper to make or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges or other public property of the city or its citizens. The franchisee will at the request of the city move and relocate, if necessary, any of the franchisee's installations, including removal of poles to avoid such interference at the franchisee's expense. The city council shall be the sole judge as to what constitutes interference. However, the city council shall not act arbitrarily in determining what constitutes interference. Approval of all construction sites and routes must be secured from the city council prior to erection of any transmission or distribution facilities. Any change in the location of these facilities shall also be subject to prior approval by the city council. Construction and maintenance of the transmission or distribution system including house connections, shall be in accordance with the provisions of the National Electric Safety Code, as amended, prepared by the National Bureau of Standards, the National Electric Code, of the National Board of Fire Underwriters, as amended, and such applicable ordinances and regulations of the city affecting electrical installations, which may be presently in effect, or changes by future ordinances.
- (b) The franchisee shall, on the request of any private party holding an appropriate permit issued by the city, temporarily raise or lower its lines to permit the moving of any building or other structure, and the actual expense of the same shall be paid by the party requesting

the same.

- (c) In those areas where telephone and electric service lines are underground, the franchisee shall place its cables and service lines underground unless approval to place the cables and service lines on poles is secured from the city council. Franchisee is authorized to place all cables and service line underground in areas where poles are located.

Sec. 7-7-10 Excavations.

- (a) In the maintenance and operation of its television transmission and distribution system in the streets, alleys and other public places, and in the course of any new construction or addition to its facilities, the franchisee shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by franchisee in the course of its operations shall be made only after having obtained prior written permission to do so from the mayor or his representative, and the proper state and/or federal officials if a state and/or federal highway is involved. All such work shall be guarded and protected at all times by the placement of adequate barriers, fences, or boarding, the bounds of which, during periods of 30 minutes prior to sunset and for 30 minutes after sunrise, shall be clearly designated by appropriate warning lights.
- (b) All work in any way necessitated by the business of the franchisee which may involve the opening, breaking up or tearing up of a portion of the street, sidewalk or other part of any city owned or city controlled property, shall be done and repaired in a manner approved by the city, and may be done by the city at the expense of the franchisee, if mutually agreed upon by the city council and the franchisee or by the city council and charged to the franchisee if the franchisee refuses to repair the streets, sidewalks or city property promptly and/or fails to repair such in a satisfactory manner.
- (c) Nothing in this franchise chapter shall grant to the franchisee any right of property in city owned property, nor shall the city be compelled to maintain any of its property any longer than, or in any fashion other than in the city's judgment its own business or needs may require.

Sec. 7-7-11 Interference with television reception.

Installations by the franchisee shall be maintained so as not to interfere with TV reception already in existence.

Sec. 7-7-12 Quality of service.

Installation and maintenance of equipment shall be such that standard color signals shall be transmitted to any subscriber receiver. During the

terms of this franchise, the franchisee shall (subject to approved construction schedules) furnish to all persons desiring the service offered (subject only to the specifications of this chapter and paying for: the same) a service capable of producing as good a quality of television picture or: reception as may be practicable from time to time, and essentially, of the same quality as received at the antenna site. The franchisee shall make all reasonable and practicable efforts to improve the quality of services as the state of the art develops.

Sec. 7-7-13 Indemnification of city.

The franchisee shall indemnify, protect and save harmless the city at all times during the franchise period and any renewal thereof as a result of the grant of this franchise and from and against losses and physical damages to property, and bodily injury or death to persons, including payments under Workers' Compensation law, which may arise out of or be caused by the erection, maintenance, presence, use or removal of said attachments on poles within the city, or by an act of the franchisee, its agents or employees arising out of operations of the franchisee. The franchisee shall carry insurance with a company authorized to do business in Georgia to protect the parties hereto from and against all claims, demands, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The amounts of such general liability insurance against liability due to physical damage to property shall not be less than \$50,000 per occurrence for property damage and \$100,000 per aggregate for property damage, and not less than \$300,000 per person for personal injury to or the death of one (1) person and not less than \$500,000 per occurrence. The company shall also carry such insurance on its vehicles in an amount not less than \$100,000 for each person, \$300,000 per occurrence, and property damage insurance of \$300,000 per occurrence. Workers' Compensation shall be maintained as required by the laws of the State of Georgia. All insurance required by this agreement shall be and remain in full force and effect for the entire life of this agreement. Said policy or policies of insurance or a certified copy or copies thereof shall be approved by the city attorney and then deposited with and kept on file by the city clerk. Each policy of insurance shall state therein that the mayor and city council will be indemnified and saved harmless from and against all losses, damages, actions, court costs, and attorney fees arising out of action by the franchisee, its officials, employees, agents or contractors in constructing, repairing or maintenance of the TV cable system, and in the operation of the franchise (inside or outside city limits), up to the limits of the policy as established above. A certificate showing that such coverage has been obtained and is currently in force and effect shall be filed with the city clerk prior to the commencement of construction by the franchisee and within 30 days of the anniversary date of the policy in each and every year as long as this franchise and any extension thereof is in force. The certificate will state

that the insurance carrier will give the City 60 days advance notice of the termination of any policy furnished hereunder. Further, franchisee will save harmless and defend the city against copyright and patent infringement matter which arise out of the construction, repair, maintenance and operation of this franchise.

Sec. 7-7-14 Franchise fees inspection of records.

In further consideration of the granting of this franchise to the franchisee, the franchisee shall pay to the city annually, no later than 90 days after the end of franchisee's fiscal year an amount equal to three percent (3%) of gross (present Federal Communications Commission standard rate) of all cable revenues, including, but not limited to, subscriber revenues, advertising, pay cable and leased channel revenues of the franchisee derived from cable television operations within the incorporated limits of the city during the previous year. Provided further, if the standard percentage rate is increased by the Federal Communications Commission or its successor, then the fee authorized hereunder may be amended by the city council to the highest standard fee authorized by the Federal Communications Commission or its successor to regulatory matters, effective as of the date such higher standard fee is approved by such regulatory agency. In the event regulation of CATV is discontinued by the Federal Communications Commission, then any such franchise fee shall be renegotiated, in good faith, between the franchisee and the City. The City council shall have the right to inspect the records of the franchisee at any reasonable time for the purpose of ascertaining accurately what the actual gross receipts of the franchisee may have been for cable television for the past month, months, year and/or for the present year.

Sec. 7-7-15 Records; reports; inspection authority.

The franchisee shall, during each year of this agreement provide to the city, copies of his federal and state income tax returns showing gross revenue received from the franchise area by the franchisee. In addition, the franchisee shall supply copies of any and all reports concerning revenue required to be filed with the Federal Communications Commission and the Public Service Commission of the State of Georgia and any other regulatory agencies. In addition, the franchisee agrees to prepare and maintain his records, books and accounts in such a manner as to accurately reflect the gross income from any franchise area granted to franchisee by the city. These records, books and accounts shall be available for inspection by the city at any reasonable time during normal working hours. Any such records required by the city and any reports shall be submitted to the city within 90 days of the close of franchisee's fiscal year. The franchisee further agrees that within 90 days of the end of its fiscal year it shall submit to the city a report of all gross revenue derived from any area under which the city has granted a franchise.

Sec. 7-7-16 Compliance with governmental regulations.

The franchisee shall, at all times, be in full compliance with all FCC regulations, as amended, pertaining to cable television systems. The franchisee shall furthermore at all times be in full compliance with all existing federal, state and local laws, ordinances and statutes as are applicable to the operation of a cable television system. No part of this chapter shall be construed as a waiver of any local, state or federal law, or as a limit of liability.

Sec. 7-7-17 Certificate of compliance.

The franchisee shall file with the Federal Communications Commission an application for a certificate of compliance and/or any and all reports required by said agency or its successor.

Sec. 7-7-18 Service standards.

- (a) To the extent required by the present rules of the Federal Communications Commission or any other rules or regulations or amendments thereto and until such time as that rule is changed or specific relief therefrom is granted by the FCC, the franchisee shall provide services, system performance, channel capacity, one (1) or two (2) way communications, operational policies, etc., in strict conformance with said rules.
- (b) In any case where the proposal shall provide for, or promise services, system performance, etc., which exceed the minimum requirements of the Federal Communications Commission, the proposal of the applicant shall be binding and shall be made a part thereof. Under no circumstances, however, shall the proposal of the franchisee contain provisions for services, performances, operations, etc., which are prohibited by the Rules of the Federal Communications Commission.
- (c) Section 76.31 of the Rules of the Federal Communications Commission, and any amendments thereto set out certain requirements and provisions that must be contained in this agreement in order for the franchisee to obtain a certificate of compliance from the FCC. It is the knowledge and belief of the city and the franchisee that all the present requirements of those rules are contained herein. Any changes in said rules that may be authorized and ordered by the FCC from time to time shall be incorporated into this agreement within the period of time stipulated by the FCC.

Sec. 7-7-19 Enforcement.

Failure to enforce or insist upon compliance with any of the terms of this franchise shall not operate as or constitute a general waiver or relinquishment of any of such terms or conditions, but the same shall be and remain at all times in full force and effect.

Sec. 7-7-20 Subsequent regulation.

The right is hereby reserved by the city by ordinance, to adopt in addition to the provisions herein contained and in addition to other existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power. In the event the Federal Communications Commission elects not to regulate cable television partially or abandons regulation of cable television, all of the rules and regulations set forth by the Federal Communications Commission at the time this chapter was first read shall remain in effect until changed by another regulatory agency, state or federal, and/or changed by the action of the city council.

Sec. 7-7-21 Privacy.

- (a) Use of data for subscriber. A franchisee shall not initiate or use any form, procedure or device for procuring information or data from cable subscribers' premises by use of the cable system without prior valid written authorization from each subscriber so affected. Valid authorization shall mean written approval from the subscriber for a period of time not to exceed one (1) year, and said authorization shall not have been obtained from the subscriber as a condition of service. Further, it shall be unlawful for the grantee, without such authorization, to activate and/or utilize any "Class IV Cable Television Channel" in any manner from the subscriber's premises. In any case, the subscriber shall have the right and opportunity to deactivate the return path from his premises.
- (b) Identifying subscribers. The city or a franchisee shall not, without prior valid written authorization from each subscriber so affected, provide any data identifying subscribers' names or addresses to any other party.
- (c) Procurement of information. It shall be unlawful for any firm, person, group; company, corporation, governmental body or agency to procure information or data from cable subscribers' premises by use of the cable system without prior written authorization from each subscriber so affected. Valid authorization shall mean written approval from a subscriber for a period of time not to exceed one (1) year and shall not have been obtained as a condition of the grantee providing cable service to the subscriber.
- (d) Specific authorization. No authorization for procurement or dissemination of subscriber identifiable information or data shall be valid unless it: (i) specifies the type or types of information or data covered; and (ii) the parties authorized to collect, receive, store, record, transmit, or otherwise convey this information or data. Further, all authorization shall specify the maximum period of time that any subscriber identifiable information or data shall be preserved in any manner or form.

Sec. 7-7-22 Antennas; standards.

- (a) Any antenna structure used in the city's cable television shall comply with construction marking and lighting of antenna structure, 47 C.F.R. 17.1 et seq., September, 1967.
- (b) All working facilities and conditions used during construction, installation, and maintenance of the city's cable television system shall comply with the standards of the Occupational Safety and Health Administration.

Sec. 7-7-23 Establishment of a regulatory entity.

The city shall have continuing regulatory jurisdiction and supervision over the operation of any franchise granted hereunder and may from time to time adopt such reasonable rules and regulations as they may deem necessary for the conduct of the business contemplated thereunder.

Sec. 7-7-24 Stray radiation.

Stray radiation (RF leakage) shall be checked at reception locations for emergency radio services to prove no interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no interference to airborne navigational reception in the normal flight patterns.

Sec. 7-7-25 Forfeiture of franchise.

- (a) In addition to all other rights and powers pertaining to the city by virtue of this franchise or otherwise, the city reserves the right to terminate and cancel this franchise and all the rights and privileges to the grantee hereunder, in the event that the grantee:
 - (1) Violates any provision of this chapter, as may be amended from time to time or any rule, order or determination of the city council made pursuant to this franchise, except where such violation is made without fault, or through excusable neglect.
 - (2) Becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt.
 - (3) Attempts to evade any of the provisions of this chapter or the franchise or practices any fraud or deceit upon the city.
 - (4) Fails to secure a certificate of compliance from the Federal Communications Commission or any other necessary license or permit within four (4) months of the acceptance of this franchise.
 - (5) Fails to exhibit substantial progress toward the completion of the construction of the system for a period of three (3) consecutive calendar months.
 - (6) Fails to complete construction schedule approved by the city under this franchise within the time set forth in the construction schedule accepted by the city.

- (7) Franchisee leases, subleases, sells or transfers the franchise without written consent of the city council. A sale of more than 51 percent interest in the franchise and/or 51 percent of the working control of the franchise is considered a transfer under this section of the chapter.
- (b) Such termination and cancellation shall be by action of the city council, adopted after 30 days notice to the grantee, and the granting of a period of 60 days in which the company shall correct any such discrepancies. This shall in no way affect the city's rights under the franchise agreement or any provision of law. In the event that such termination or such cancellation depends upon a finding of fact as made by the city council, and/or its representative, such findings of fact shall be conclusive on all parties. Provided, however, that before this franchise may be terminated and canceled under this section, the grantee must be provided with an opportunity to be heard before the city council. The city in making such findings shall not act in an arbitrary manner.

Sec. 7-7-26 Damaging, interfering with property of franchisee.

It shall be unlawful for any person intentionally and without authority to injure or destroy cables, pipes, conduits, wires, lines, posts, lamps or other apparatus belonging to the franchisee or intentionally and without authority to secure television cable service or in any manner to interfere with the operations of the franchisee in providing television cable service to other subscribers on the television cable system owned by the franchisee. Where there is no evidence to the contrary, the person performing any of the illegal acts set forth herein and/or the person who with knowledge of such violation receives the benefit of such service without proper charge as a result of such improper action shall be presumed to be responsible for such acts of tampering or diversion. Any person violating, concealing a violation, or harboring, assisting or protecting a person charged with or convicted of a violation of this action shall be fined not to exceed \$250 and/or by sentence of imprisonment not to exceed 60 days, and to work on the street or public works of the city for such violation, in the discretion of the appropriate judicial authority.

Sec. 7-7-27 Further agreement and waiver by franchisee.

The franchisee agrees to abide by all provisions of this chapter and the franchise agreement, and further agrees that it will not at any future time set up as against the city the claim that the provisions of this chapter and/or franchise are unreasonable, void or arbitrary.