

City of Guyton, Georgia
CITY COUNCIL MEETING
February 8, 2022 at 7:00 P.M.



C.D. Dean, Jr., Public Safety Complex
GUYTON GYMNASIUM
505 Magnolia Street
Guyton, GA 31312

AGENDA

1. **Call to Order**
2. **Invocation and Pledge of Allegiance**
3. **Consideration to Approve the Agenda**
4. **Consideration to Approve Minutes of Meetings**

January 11, 2022 City Council Meeting
5. **Reports from Staff or Committees**

Police Department	James Breletic
Fire Department	Clint Hodges
Public Works/Water/Sewer	EOM
Planning and Zoning	Lon Harden
Industrial Development	Lon Harden
Historical Commission	Pearl Boynes
Hospital Authority	Tamela Mydell
6. **Public Comments (will be limited to Agenda Items only)**
7. **New Business**
 - a. Nominations for Leisure Services Commission Board
 - b. Swearing in of Leisure Services Commission Board Members
 - c. Consideration to approve agreement with Yolanda Harkness for Zumba Instruction
 - d. Consideration to approve paving of Poplar St. Ext as Guyton's 2022 LMIG project
 - e. Second reading and consideration to approve Ordinance 2022-01 regarding a purchasing policy

- f. Second reading and consideration to approve Ordinance 2022-02 regarding request for Annexation and Rezoning of Parcel No. 03190043, 03190046, and 03190040A00
- g. Consideration to approve addition of City Clerk Lori Nease as a signer for City Bank Accounts
- h. Consideration to authorize the Mayor to execute consent order with the State Election Board regarding SEB Case file 2019-045
- i. Consideration to approve surplus of office equipment
- j. Consideration to approve 2022 Events Calendar

8. General Government

- a. Alcohol Policy
- b. LAS Progress

9. Dates to Remember

- a. Wednesday, February 16, 2022 from 1:00pm to 6:00pm –Red Cross Blood Drive, Guyton Gymnasium, 505 Magnolia Street, Guyton, GA 31312
- b. Tuesday, March 1, 2022 from 9:00am to 12:00pm – Seniors in the Know, Guyton Gymnasium, 505 Magnolia Street, Guyton, GA 31312
- c. Tuesday, March 1, 2022 at 7:00pm – City Council Workshop, Guyton Gymnasium, 505 Magnolia Street, Guyton, GA 31312
- d. Tuesday, March 8, 2022 at 7:00pm – City Council Meeting, Guyton Gymnasium, 505 Magnolia Street, Guyton, GA 31312
- e. Saturday, March 19, 2022 from 9:00am to 12:00pm – Trail Walk for Health, Guyton Walking Trail

10. Consideration to move from the Regular Meeting into an Executive Session referencing Personnel and Property Acquisition

11. Consideration to take any action needed arising from Executive Session

12. Consideration to Adjourn this meeting



**City of Guyton
City Council Meeting
January 11, 2022 – 7:00 p.m.**

MINUTES OF MEETING

Call to Order – The City of Guyton Council held a Council Meeting on January 11, 2022 at the City of Guyton Gymnasium, 505 Magnolia Street in Guyton. This meeting was called to order by Mayor Russ Deen at approximately 7:00 p.m. Mayor Russ Deen, Mayor Pro Tem Michael Johnson, Sr., Councilmember Joseph Lee, Councilmember Hursula Pelote and Councilmember T. Marshall Reiser were present at this meeting.

Other Administrative Staff Present – City Attorney Bobo Mullins, Acting City Clerk Crisa Fort were present.

Guest Present - The guests sign-in sheets are filed in the office of the City Clerk.

Swearing in of Councilmembers Johnson and Lee – City Attorney Mullins swore in Johnson and Lee for their terms as Councilmembers.

Invocation –Pelote gave the invocation.

Pledge of Allegiance – The Pledge of Allegiance was led by Deen

Consideration to approve amended agenda adding Item E. Leisure Services under General Government and Item F. Consideration to approve well 3 motor replacement expense from SPLOST under New Business – Johnson made a motion to approve the agenda as amended. Lee seconded the motion. **Motion passed unanimously.**

Consideration to approve minutes of the December 14, 2021 Council Meeting - Johnson made a motion to approve minutes. Reiser seconded. **Motion passed unanimously.**

Reports from Staff or Committees

New Business

Consideration to approve the assignment to CWS of the contract between the City and WastePro, conditioned upon CWS's provision to the City of the certificates of Insurance and Performance Bond - Johnson made a motion to approve. Pelote seconded. **Motion passed unanimously.**

First reading of Ordinance 2022-01 regarding a Purchasing Policy

Consideration to approve Resolution 2022-01 regarding a fee schedule amendment- Johnson made a motion to approve Resolution 2022-01. Lee seconded. **Motion passed unanimously.**

Consideration to approve Mayor Deen and Manager Brown as the representative delegation for LOST negotiations- Johnson made a motion to approve. Lee seconded the motion. **Motion passed unanimously.**

Consideration to approve the Georgia Safe Sidewalks Full Project for \$28,100 with funds from SPLOST- Reiser made a motion to approve. Johnson seconded. **Motion passed unanimously.**

Consideration to approve Well 3 motor replacement expense from SPLOST- Pelote made a motion to approve. Johnson seconded. **Motion passed unanimously.**

General Government

Package Sales Update- Update given by Deen

TPLOST Update- Update given by Deen

Effingham Fire Water Fill Stub Discussion- Effingham Fire wants a stub for emergency water use. Chief Hodges presented the request.

2022 Events Calendar- Update given by Deen

Leisure Services- Guyton is reactivating the Leisure Services Commission. Request made for individuals interested in serving.

Dates to Remember

Consideration to move from the Regular Meeting into an Executive Session referencing Personnel and Property Acquisition. Johnson made a motion to approve. Reiser seconded. **Motion passed unanimously.**

Consideration to take any action needed arising from Executive Session- Deen nominated Lori Nease for the position of City Clerk. **Nease was appointed unanimously.**

Consideration to adjourn- Pelote made a motion to approve. Reiser seconded. **Motion passed unanimously.**

City of Guyton

Russ Deen, Mayor

Attest:

Crisa Fort, Acting City Clerk

AGREEMENT

This Agreement is entered into this __ day of ____, 2022, between the City of Guyton, Georgia (the “City”) and Yulonda Harkness (“Harkness”) (“Agreement”)

WHEREAS, Harkness desires to provide Zumba Fitness classes at the Guyton Civic Center, 505 Magnolia St. Guyton, Georgia (the “Gym”); and

WHEREAS, the City is willing to allow Harkness to provide the Zumba Fitness classes at the Gym subject to the provisions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and of the following commitments and mutual obligations, Harkness and the City agree as follows:

1. Harkness shall offer a free Zumba class once a week to all members of the community and surrounding areas.
2. Any Zumba special events/fundraisers offered by Harkness shall be preapproved by the Mayor and City Council prior to any advertising or use of the Gym.
3. Harkness will ensure that all participants in Zumba Fitness classes at the Gym sign a liability waiver, the form of which is attached hereto as Exhibit A. Failure of Harkness to do so will entitle the City to terminate this Agreement immediately and with no further obligations of the City.
4. In exchange for her use of the Gym, Harkness shall pay the City \$10.00 for her use of the Gym to hold Zumba classes or events and for which she receives monetary compensation from attendees.
5. Harkness agrees to provide information and instruction about Zumba Fitness to participants prior to each Zumba class at the Gym. Harkness will ensure that participants understand that Zumba Fitness requires physical exertion that may be strenuous and may cause physical injuries, which may include, but are not limited to: contusion, muscle strains, sprains, broken bones, lacerations, cardiac malfunction, head, neck, and back injury. Harkness shall ensure that participants are made fully aware of the risks and hazards involved and that they knowingly choose to voluntarily participate in the Zumba Fitness Class.
6. It is understood and agreed that Harkness is not and shall not be deemed an independent contractor or employee of the City. Harkness shall supervise her performance and the performance of her agents and employees and shall have control over the manner and means by which she hosts Zumba classes and events. Nothing in this Agreement will be interpreted as creating any relationship of principal and agent, partnership or joint venture between Harkness and the City. Neither Harkness nor the City will represent in any manner to any third party that Harkness is an agent of, or affiliated with, the City in any capacity other than as an independent contractor, and nothing in this Agreement shall be construed to be inconsistent with such status.
7. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or

implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

IN WITNESS WHEREOF, all Parties hereto have set their hands and seals the day and year first above written.

Yulonda Harkness

CITY OF GUYTON

By: _____
Hon. Russ Deen, Mayor

Attest: _____
Meketa Hendricks-Brown, City Clerk

Date: _____

Approved as to form:

Benjamin M. Perkins, Esq., City Attorney

Zumba Fitness with Yulonda Liability Waiver

This Agreement is between Yulonda Harkness (Licensed Zumba Instructor), The City of Guyton, and individuals who may participate in Zumba Fitness classes at the Guyton Civic Center, 505 Magnolia St. Guyton, Georgia (the "Gym").

I _____ (print name) hereby agree to the following:

I am participating in Zumba Fitness classes offered by a Licensed Zumba Instructor during which I will receive information and instruction about Zumba Fitness. I recognize that Zumba Fitness requires physical exertion that may be strenuous and may cause physical injuries, which may include, but are not limited to: contusion, muscle strains, sprains, broken bones, lacerations, cardiac malfunction, head, neck, and back injury. I am fully aware of the risks and hazards involved and knowingly choose to voluntarily participate in the Zumba Fitness Class.

I understand that it is my responsibility to consult with a physician prior to and regarding my participation in Zumba Fitness classes. I represent and warrant that I am physically fit and have no medical condition that would prevent my full participation in Zumba Fitness Classes.

I understand that my presence in the Gym and my use of the Gym involves risk, including the risk of slipping or falling on uneven or slippery floors. I hereby knowingly and freely assume all risk and responsibility for any and all damage to property or bodily and/or personal injury, including death, in connection with my use of the Gym.

In consideration of being permitted to participate in Zumba Fitness classes, I voluntarily and knowingly agree to assume full responsibility for any and all risks, injuries, or damages, known or unknown, which I might incur as a result of participating in the program and acknowledge my informed consent to do so.

I, my heirs, spouse, and legal representatives forever release, hold harmless, waive, discharge, and covenant not to sue the Zumba Fitness Instructor(s) (Yulonda Harkness) and/or the City of Guyton (including its agents, employees, and officials) for any injury or death resulting from or caused by my voluntary participation in Zumba Fitness classes, whether caused by the negligence of Ms. Harkness, the City of Guyton, or otherwise.

This Agreement applies to personal injury or death arising from my participation at all Zumba Fitness locations taught by the above-named instructor and includes injuries and claims for any damages for loss of property sustained in and around the facility where Zumba Fitness is taught.

The undersigned agrees that this waiver and release is intended to be as broad and inclusive as permitted by the laws of the state of Georgia. I have read the above release and waiver of liability and fully understand its content. I voluntarily agree to the terms and conditions stated above. This Agreement shall remain in effect for as long as I participate in Zumba Fitness classes with Yulonda for any injuries and damages I may sustain as a result thereof.

Printed Name of Participant

Date

Participants Signature

Participant's Phone Number

**CITY OF GUYTON
STATE OF GEORGIA**

ORDINANCE NUMBER 2022-01

AN ORDINANCE OF THE CITY OF GUYTON AMENDING AND RESTATING ITS PURCHASING POLICY; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND RESOLUTIONS AND PARTS THEREOF IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Guyton, Georgia is authorized by O.C.G.A. §36-35-3 to adopt ordinances and resolutions relating to its property, affairs, and local government; and

WHEREAS, Section 6.32 of the Charter of the City of Guyton provides that “[t]he city council shall by ordinance prescribe procedures for a system of centralized purchasing for the city”; and

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF GUYTON, GEORGIA IN A REGULAR MEETING ASSEMBLED AND PURSUANT TO LAWFUL AUTHORITY THEREOF, AS FOLLOWS:

Section 1. Adoption of Purchasing Policy. The City Council of the City of Guyton hereby adopts the Purchasing Policy attached hereto as Exhibit A and incorporated by reference as if set forth verbatim herein.

Section 2. Severability. If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 3. Repealer. All ordinances and resolutions and parts thereof in conflict with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance including the Purchasing Policy attached hereto shall become effective upon its adoption by the City Council.

SO ORDAINED, this ____ day of _____, 2022.

CITY OF GUYTON

Hon. Russ Deen, Mayor

Attest:

Meketa Hendricks-Brown, City Clerk

Mayor Pro Tem Michael Johnson

Council Member Joseph Lee

Council Member Hursula Pelote

Council Member Marshall Reiser

EXHIBIT A

City of Guyton Purchasing Policy



PURCHASING POLICY

Original Adoption:

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Purchasing Policy

GENERAL INFORMATION

The Mayor and Council of the City of Guyton, Georgia hereby adopts the following policy as the rules by which purchases by all City Departments and City Officers shall be made. This policy shall promote and effect open and intelligent purchasing of supplies, equipment and services, which will result in the maximum value received for each tax dollar spent.

This policy shall supersede and replace any and all previously adopted policies pertaining to municipal purchases that may have been in effect prior to the effective date of this policy as noted below.

In any event that any portion of this policy is found to be in violation of federal or state law or inconsistent with any provision applicable thereto, the remainder of this policy shall remain in full force and effect.

The City shall not discriminate in its selection of vendors on the basis of race, gender, political affiliation, family relations, friendship or business affiliation. In the event an employee makes a purchase from any vendor whom a personal, business or family relationship exists, three written price quotes shall be required as evidence that the best possible deal for the City was obtained. Employees shall not make any purchases from a vendor in which that employee has an ownership interest, except when specifically authorized by the City Council. Employees must publicly disclose all potential purchase conflicts prior to any purchasing decisions being made.

The City shall seek to obtain the best quality products and services at the lowest possible price in the most convenient manner under all circumstances. However, local vendors should be supported to the greatest extent possible without sacrificing quality or price.

PURCHASING AGENT

The Purchasing Agent shall be appointed by the City Manager and report to him/her. The Purchasing Agent is responsible for overseeing the procurement of centralized goods and services, the administration of the Contracting and Purchasing Policy and the management of surplus of City property.

GIFTS AND UNAUTHORIZED PURCHASES

City employees, officers or officials are not entitled to any special consideration from vendors and merchants in their personal affairs nor are such city employees, officers, or officials to attempt to procure materials for the personal use of any other person. City employees, officers or officials shall not solicit or accept any gifts. Except for emergencies or other authorized exemption, no purchase shall be made without specific authorization as outlined in this policy. The person ordering the unauthorized purchase may be held personally liable for the costs of the purchase or contract.

PURCHASE ORDER PROCEDURES

- (a) Department Heads shall submit a Requisition to the Purchasing Agent prior to initiation of the purchase. Documentation of the required procurement procedures shall be attached to the requisition.
- (b) The Purchasing Agent shall verify proper coding, availability of budgeted funds, proper bidding/quote procedures, then forward the requisition to the City Manager.
- (c) The City Manager shall approve, deny, or forward the request to the Mayor and Council.
- (d) Mayor and Council Approval shall be required when any one of the following conditions are met:
 - 1. Item is not specifically approved in the budget and exceeds ten thousand dollars (\$10,000)
 - 2. Item is specifically approved in the budget yet exceeds twenty-five thousand dollars (\$25,000)
 - 3. Purchase will require a budget amendment.

PROCUREMENT REQUIREMENTS

\$2,500 - \$10,000	Department Head shall solicit a minimum of three (3) price quotes, when possible, (written, oral, phone, or catalog methods are acceptable) and documentation shall be attached to the corresponding purchase requisition before forwarding to the Purchasing Agent. Approval of the City Manager shall be obtained prior to initiation of purchase.
\$10,001 - \$25,000	The Purchasing Agent shall solicit a minimum of three (3) price quotes, when possible, (written, oral, phone, or catalog methods are acceptable) and documentation shall be attached to the corresponding purchase requisition before forwarding to the City Manager. Approval of the City Manager shall be obtained prior to initiation of purchase.
\$25,001 and up	The Purchasing Agent shall solicit sealed bids, compile all bid information, and present to the Mayor and Council for approval. Approval of the City Manager shall be obtained prior to initiation of purchase.

COMPETITIVE SEALED BIDS

- (a) Competitive Sealed Bidding Process:
 - 1. Invitation & Notice – An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement. Adequate public notice of the invitation to bids shall be given not less than ten (10) calendar days prior to the date set forth therein for the opening of bids for contracts under \$50,000 and thirty (30)

days for contract over \$50,000. Such notice shall include publication in a newspaper of general circulation. The public notice and all invitations to bid shall state the place, date, and time of bid opening and shall state that the bids should be submitted to the Purchasing Agent.

2. Bid Opening – Bids shall be opened publicly in the presence of more than one witness at the place and not earlier than the time designated in the invitation for bids. The amount of each bid and such other relevant information as the City deems appropriate, together with the name of each bidder shall be open to public inspection in accordance with the policy.
 3. Bid Evaluation and Acceptance – Bids received at or prior to the time set for bid opening shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measureable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation to bids.
 4. Correction or Withdrawal of Bids – Subject to any provisions of federal or state granting authorities to the contrary, correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts basis on such bid mistakes, shall be in accordance with this section. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, no corrections to bid or provisions shall be permitted but, in lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - (A) The mistake is clearly evident on the face of the bid document; or
 - (B) The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids shall be supported by a written determination by the City.
- (b) Multi-Step Sealed Bidding: When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined technically acceptable under the criteria set forth in the first solicitation.
- (c) Cancellation of Invitations: An invitation for bids, a request for proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation. Each solicitation issued by the City shall state that the solicitation may be cancelled and that any bid or proposal by be rejected in whole or in part at the City’s discretion with or without a showing of good cause. (All bids shall include the following statement: “The City of Guyton has the right to reject any or all bids if doing so is in the best interest of the City.”)

- (d) Determination of Non-responsive: If a bidder does not meet all the terms, conditions and specifications of the bid the bid will be considered non-responsive during the bid opening. A written determination of non-responsiveness, setting forth the basis of the finding, shall be prepared by the Purchasing Agent and approved by the City Manager. A copy of the determination shall be made part of the contract file and be made public record. Examples where a bid may be considered non-responsive include: the bid is incomplete, not signed, or late, there are discrepancies in the bid, bidder not attending a mandatory pre-bid conference or not submitting a bid bond.
- (e) Determination of Non-responsibility: If a bidder who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Purchasing Agent and approved by the City Manager. The unreasonable failure of a bidder to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder. A copy of the determination shall be made part of the contract file and be made public record. Examples where a bidder may be considered not responsible include poor references, bidder does not have proper business registration or licenses, banned from working with other agencies, not qualified as a foreign corporation, or questions about financial capability to perform.
- (f) Right of Nondisclosure: Information furnished by a bidder in reliance upon a written offer of confidentiality by the City pursuant to this section shall not be disclosed by the City outside of the office of the purchasing agent or using agency without prior written consent by the bidder.
- (g) Use of Subcontractors: All contracts between the City of Guyton and its consultants, vendors, and contractors shall state that “should you (the consultant, vendor, or contractor) utilize subcontractors, vendors or consultants to fulfill this contract with the City, you agree to use all reasonable efforts to include Effingham County based businesses in your bidding process.”
- (h) Bid and Payment Bonds: Bids and payment bonds or other security may be requested for supply contracts or service contracts, as the City Attorney deems advisable to protect the City’s interest. Any such bonding requirements shall be set forth in the solicitation. Bid or payment bonds shall not be used as a substitute for a determination of a bidder’s responsibility.

CONTRACTING FOR LABOR OR PROFESSIONAL SERVICES

- (a) The procurement of labor/professional services with a value of two thousand five hundred dollars (\$2,500) or more per project shall require a written agreement between the City, and the service provider. Department Heads shall be authorized to informally solicit professional services. Any Agreement requires approval from the City Manager. Contracts or agreements are not valid if signed by anyone other than the City Manager. Copies of agreements shall be furnished to the City Manager in lieu of a Requisition.
- (b) Each project/professional service which requires an expenditure of more than five thousand dollars (\$5,000) shall require such bonds and/or cash securities (such as retainage) as may be determined by the City Manager.

- (c) As a condition of performing contracted services for the City, all contractors, subcontractors and persons other than City employees shall be required to indemnify and hold harmless the City of Guyton for damages, claims and liabilities which may arise as a result of the work to be performed.
- (d) Except for written manufacturer's exclusions allowed by law, all contracted services for construction or installation of equipment, parts and materials shall be warranted by the City for at least one year from date of final completion of work, to include replacement and/or repairs at no cost to the City.
- (e) The City shall require all contractors, subcontractors and person other than City Officials who perform labor services for the City with a calendar year value of ten thousand dollars (\$10,000) or more to maintain insurance coverage and list the City as an additional insured in accordance with the following minimum amounts. Prior to the start of any work, the City must be furnished with an insurance certificate as proof that coverage is in place. Certificates shall be placed on file with the City Clerk. NOTE: Nothing in this Section shall be deemed to prohibit the City Manager or City Council from requiring coverage amounts at a higher level or imposing additional types of coverage up to the value of the entire project as may be in the best interest of the City.

- 1. General Liability \$1,000,000.00
- 2. Property Damage \$1,000,000.00
- 3. Personal Injury \$1,000,000.00
- 4. Automotive Liability \$ 500,000.00
- 5. Worker's Compensation (statutory requirements)

(f) Selection Procedure: (For contracts or agreements which exceed \$25,000.)

- 1. Request for Qualifications and Notice – Adequate notice of the need for the desired professional service shall be given by the City through a request for qualifications. The request for qualifications shall describe the services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.
- 2. Statement of Qualifications – Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. The city may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.
- 3. Interviews – The City Manager may conduct interviews with any offeror who has submitted a statement of qualifications for the purpose of ranking the qualifications of the offerors, based on the evaluation factors set forth in the request for qualifications.

Interviews shall not disclose any information derived from statements submitted by other offerors.

4. Award – Award shall be made to the offeror determined to be the best qualified based on evaluation factors set forth in the request for qualifications, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If statements were submitted by one or more offerors determined to be qualified, negotiations may be conducted with such other offerors, in order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

- (a) Cancellation of Invitations: See “Competitive Sealed Bids” above.
- (b) Determination of Non-responsibility: See “Competitive Sealed Bids” above.
- (c) Right of Nondisclosure: See “Competitive Sealed Bids” above.
- (d) Bid and Payment Bonds: See “Competitive Sealed Bids” above.
- (e) Use of Subcontractors: See “Competitive Sealed Bids” above.

STATE CONTRACT AND OTHER GOVERNMENT AGENCY CONTRACTS

The use of State Government and Other Governmental organizations contracts that have already been competitively bid may be used after approval from the Purchasing Agent and City Manager. All purchase order procedures and approvals will still be required when using government contracts.

SOLE SOURCE PURCHASING

A contract may be awarded without competition when the City determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, service or construction item. The City Manager or his or her designee shall conduct negotiations, as appropriate, as to price, delivery and terms. A statement of the basis for the sole source determination shall be placed in the contract file.

EMERGENCY PURCHASES

In the event of a genuine emergency, a Department Head may purchase items and services without adhering to the procedures described herein, provided that he/she gets pre-approval from the City Manager, or in the absence of the City Manager, the Mayor or department liaison. An emergency situation shall be defined as one which threatens the lives or health of the people, the property of the municipality or its citizens, or the delivery of necessary services to the citizens of Guyton.

CREDIT CARD USE

- (a) No individual, including Department Heads, has the authority to open a credit card account in the City's name. All new City credit card accounts shall be approved by the City Manager prior to submitting an application.
- (b) The City credit card may be used for official City purposes only. No personal use or purchases of a personal nature shall be allowed, regardless of payback intentions. Credit cards belong to the City and can be cancelled or revoked at any time at the discretion of the City Manager. Should any employee lose or have his/her card stolen, they should notify the Purchasing Agent one (1) business day after discovery.
- (c) Within forty-eight hours (48) of each credit card transaction the Department Head shall furnish the Purchasing Agent with a signed receipt. All other purchasing procedures as set forth in the policy shall also apply. *Payment for purchases without receipts may become the responsibility of the employee.*

LEASE PURCHASES

- (a) The purchase or lease of any equipment, vehicles or materials which require periodic payments over a course of one year or more shall be subject to all applicable provisions of this policy in accordance with the dollar values set forth herein.
- (b) All lease purchase agreements shall contain a non-appropriation clause whereby the City shall not be obligated under the terms of the lease if the necessary funds are not appropriated at a future City Council Meeting.

LEGAL SERVICES

- (a) The City Council is the only agent of the City with the authority to select legal representation, solicit legal opinions, contract for legal services, initiate judicial or quasi-judicial proceedings, defend against legal action or otherwise obligate resources for legal purposes on behalf of the City, except as otherwise prescribed by law.
- (b) The City Council shall have the ultimate authority for deciding whether any other City official, elected or appointed, shall be allowed to seek a legal opinion at the expense of the City. The City Council or City Manager may also decide, within their sole discretion, as to whether an agent of the City shall be allowed to engage the City Attorney or some other attorney at the City's expense.
- (c) Notwithstanding the other provisions of this Section, it shall be permitted for the City Manager or a duly authorized individual to contact the City Attorney in the judicious exercise of the responsibilities of the position for which they have been appointed provided: (1) the nature of contact is for advisory purposes related to work duties only; (2) the reasons for the contact are not a subterfuge of any City official to circumvent the provisions or this policy; (3) the City Manger shall be notified of the nature for requesting legal services, the City Manager shall be

informed of the correspondence as soon thereafter as possible; and (4) all correspondence to and from the City Attorney shall be in writing whenever possible with courtesy copies available to the City Council.

- (d) Written and oral communications between the City Council and authorized City Officials shall be considered confidential.

EXEMPTIONS & WAIVERS

- (a) It is understood that pre-approved purchase orders and multiple price quote requirements will usually not be feasible when it comes to repairs to City-owned vehicles and specialized equipment. Under these circumstances' authority shall be given to Department Heads to choose a vendor with a satisfactory history of fair pricing and superior work quality.
- (b) The City Council may vote to waive any and all purchasing requirements set forth here in as it may deem to be in the best interest of the City.
- (c) Department Heads shall not be required to annually solicit sealed bids for the purchase of materials that are regularly purchased in bulk quantities or materials used for general repairs that are regular in nature. However, the City Manager may periodically require Department Heads to acquire unit-based quotes or solicit sealed bids for these items as he/she deems in the best interest of the City.

EMPLOYEE REIMBURSEMENT

- (a) Employees should not expend personal funds for City expenses. However, should an employee spend their own money to obtain needed goods or services, a written explanation of the emergency nature of the purchase shall accompany any request for reimbursement by the City. In addition, the employee shall submit a receipt for the purchase and corresponding charge receipt, if applicable, to the Purchasing Agent within five (5) business days after the date of purchase.
- (b) The City will reimburse employees during the next accounts payable run.
- (c) Employees are encouraged to use the Department's issued credit card and not their own funds to purchase small items for City services or events.

BUDGET AMENDMENTS

- (a) Departments shall be permitted to overspend a line item or category budget. Before doing so, Department Heads shall submit a line item Budget Amendment to the City Manager to correct a potential line-item when an expenditure account has exceeded budget authorization and/or with a Requisition, if the Requisition amount exceeds line item authorization in the expenditure account.
- (b) Budget amendments that debit and credit line items for like amounts within a department do not require City Council approval; however, exceeding departmental totals authorized in the

budget, deficit spending and the purchase of items not identified in the approved budget require City Manager and City Council approval.

SURPLUS OF PROPERTY

- (a) Department Heads shall submit in writing a request to surplus any City-owned property to the City Manager for approval. Once approval is granted by the City Manager, he will then forward the request to City Council for final approval.
- (b) Unless requested by City Council, items will be sold “as is” to the highest bidder. The City will contract with a professional auctioneer, internet auction provider, who will conduct auctions and collect all proceeds, or will conduct a sealed bid procedure.
- (c) Should attempts to sell surplus items fail, the City Manager may (at his/her discretion), declare the items as worthless and authorize their discard.
- (d) Upon authorization of the City Council, the City may contribute items to non-profit organizations or other local governments.

GRANT APPLICATIONS-ADMINISTRATION

No City employee shall apply for a grant on behalf of the City of Guyton without first obtaining approval from the City Manager. The Department Head needs to submit a request in writing to the City Manager. After the City Manager has approved, signed and dated the request, the Department Head may apply for the grant. When the Grant has been awarded, all Grant Award paperwork, including copies of the original request, shall be submitted to the Purchasing Agent. These documents shall state exactly how much was awarded and exactly what the grant funds will be spent on. The Department that sought the grant shall submit a budget amendment form to the Purchasing Agent, which will assign a new revenue account and a new expenditure account. All other purchasing procedures shall be followed.

ADMINISTRATION

- (a) All purchases shall be limited to those items and services which have been budgeted in advance, to the greatest extent possible. All purchases, which do not meet this criterion, must be essential to fulfilling the mission of the City. Equipment not specifically approved through the budget process will require more detailed explanation at the time of purchase.
- (b) No employee shall make any purchase without first obtaining approval of the Department Head.
- (c) In so much as possible, all bulk purchases for office supplies and commonly used materials shall be acquired through the Purchasing Agent who shall attempt to coordinate departmental acquisitions in a manner that is most advantageous to the City.

- (d) Upon the award of a solicited bid or proposal, it shall be the policy of the City to acknowledge in writing the City's appreciation for each bid or proposal received along with a summary of the results.
- (e) Department Heads should turn in all receipts or invoices from purchases to the Purchasing Agent before the close of business each day.
- (f) Violations of this policy may result in an employee being subject to disciplinary action, including discharge for egregious acts.

STATE OF GEORGIA
CITY OF GUYTON

ORDINANCE # 2022-02

AN ORDINANCE TO ANNEX CERTAIN PROPERTY INTO THE CITY OF GUYTON, GEORGIA PURSUANT TO CHAPTER 36 OF TITLE 36 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED, AND TO AMEND THE ZONING ORDINANCE AND OFFICIAL ZONING MAP OF THE CITY OF GUYTON, GEORGIA, AS AMENDED, TO REZONE CERTAIN PROPERTY CURRENTLY KNOWN AS EFFINGHAM COUNTY PARCEL NO.'S 03190043, 03190046, AND 03190040A00 FROM EFFINGHAM COUNTY ZONING CLASSIFICATION AR-2 (PARCEL NO. 03190043), AR-1 (PARCEL NO. 03190046), AND AR-2 (PARCEL NO. 03190040A00) TO CITY OF GUYTON ZONING CLASSIFICATION R-1; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF GUYTON, GEORGIA in a regular meeting assembled and pursuant to lawful authority thereof, as follows:

SECTION 1. That the area contiguous to the City of Guyton, currently known as Effingham County Parcel No.'s 03190043, 03190046, and 03190040A00, as more fully described in Appendix A, which is attached to and incorporated as part of this ordinance, is hereby annexed into the City of Guyton and is made a part of said city.

SECTION 2. That the zoning ordinance and Official Zoning Map of the City of Guyton, Georgia, as amended, be amended so that Parcel No.'s 03190043 (currently zoned Effingham County zoning classification AR-2), 03190046 (currently zoned Effingham County zoning classification AR-1), and 03190040A00 (currently zoned Effingham County zoning classification AR-2) shall be rezoned to City of Guyton zoning classification R-1.

SECTION 3. That the City Zoning Official and/or the City Clerk of Guyton is instructed to send within 30 days of the effective date of this ordinance an annexation report required under O.C.G.A. § 36-36-3 to: (1) the governing authority of Effingham County; (2) the Georgia Department of Community Affairs; and (3) the United States Census Bureau. The annexation report shall contain all information required under O.C.G.A. § 36-36-3.

SECTION 4. This ordinance shall become effective upon adoption.

SECTION 5. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

ADOPTED this ____ day of _____, 2022 by the Mayor and Council Members of the City of Guyton, Georgia.

THE CITY OF GUYTON, GEORGIA

By: _____
Russ Deen, Mayor

By: _____
Michael Johnson, Mayor Pro Tempore

By: _____
Joseph Lee, Councilman

By: _____
Hursula Pelote, Councilwoman

By: _____
Marshall Reiser, Councilman

Attested: _____
Lori Nease, City Clerk

APPENDIX A

Parcel 03190043 (0.66 acres of the property described below is to be annexed into the City and rezoned; the other 0.37 acres of said property already lies within the City's corporate boundaries)

ALL that certain lot, tract or parcel of land situate, lying and being in the County of Effingham, State of Georgia, being shown upon a plat or map prepared for William Hunter as Parcel Number Two (2). Said parcel containing One and Three Hundredths (1.03) acres, more or less, and is more fully shown upon said plat or map which is recorded in the Office of the Clerk of the Superior Court of Effingham County, Georgia, in Plat Cabinet "B", Slide B-117-C, reference being made to said plat for a more particular description of the conveyed premises, said map being incorporated herein by reference and made a part hereof.

Parcel 03190046

ALL that certain lot, tract or parcel of land situate, lying and being in the City of Guyton, County of Effingham and State of Georgia containing One and Twelve Hundredths (1.12) acres of land, more or less, and is identified as Parcel Number 03190046 according to the tax map of Effingham County, Georgia. Said parcel is also shown as the Ella Howard parcel on a survey prepared for William Hunter, Jr. by Warren E. Poythress on February 9, 2016 and is recorded in the Office of the Clerk of the Superior Court of Effingham County, Georgia, in Plat Cabinet D-159, Page A1.

This being the same property conveyed by Warranty Deed from Delores H. Brown to Kimberly S. Young dated May 1, 2017 and recorded in said Clerk's Office in Deed Book 2405, Page 273.

Parcel 03190040A00

ALL that certain lot, tract or parcel of land situate, lying and being in the County of Effingham, State of Georgia, containing One and One-Half (1.50) acres and being a Subdivision of the lands of William Hunter located in Guyton, 10th G.M. District of Effingham County, Georgia, and being delineated in a survey prepared for William Hunter by Harold R. Johnson, R.L.S. dated September 25, 2003 and recorded in the Office of the Clerk of the Superior Court of Effingham County, Georgia, in Plat Cabinet "C", Slide 59-D-1. Express reference is hereby made to said survey for a more particular description of the conveyed premises, said Survey being incorporated herein by reference and made a part hereof.

**BEFORE THE STATE ELECTION BOARD
STATE OF GEORGIA**

In the matter of:

CITY OF GUYTON;

Respondent.

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**SEB Case 2019-045
Effingham County**

CONSENT ORDER

The State Election Board, by and through counsel, and the City of Guyton (“Respondent”), hereby enter into the following Consent Order for use in this matter before the State Election Board in lieu of an evidentiary hearing.

FINDINGS OF FACT and CONCLUSIONS OF LAW

The findings of fact and conclusions of law set forth in the following Paragraphs 1 through 2 have been asserted against Respondent. Respondent denies any willful misconduct but desires that the above-captioned case be resolved in its entirety in order to avoid further litigation. Respondent acknowledges that there is evidence of a *prima facie* case supporting the following assertions and enters into this negotiated Consent Order to resolve the issues that arose related to the November 5, 2019 Municipal General Election in Guyton, Georgia.

1.

During the November 5, 2019 Municipal General Election, Early Voting was conducted in the conference room of City Hall in Guyton, Georgia. An investigation found that, the positioning of the voting booths in the conference room made one booth visible in the field of view of a City Hall security camera. When the issue was brought to the attention of the City Manager, during the course of Early Voting for the November 5, 2019 Municipal General

Election, corrective measures were taken to block the view of the camera. No evidence was produced to show that the security camera was used by any individuals to view a voter's ballot as they were marking their selections.

2.

By placing one of the voting booths in the field of view of the security camera without first screening the location of the voting booth from observation, Respondent violated the provisions of O.C.G.A. § 21-2-267(a) of the Georgia Election Code.

ORDER

1.

This Consent Order addresses and resolves all matters regarding Respondent in connection with SEB case file 2019-045.

2.

The State Election Board, having considered the particular facts and circumstances of this case, inclusive of the within and foregoing Findings of Fact and Conclusions of Law, hereby ORDERS that Respondent cease and desist from further violations of the Election Code, and hereby publicly reprimands Respondent. The State Election Board further ORDERS Respondent City of Guyton to pay a one-hundred and fifty dollar (\$150.00) civil penalty to the State Election Board, to be paid within sixty (60) days after the State Election Board's approval of this consent order.

3.

Members of Respondent City of Guyton's current City Council Members and Mayor have been provided with a copy of this Consent Order and have acknowledged that they understand the contents. Respondent understands that it has a right to a hearing in this matter. Respondent knowingly and voluntarily waives such right to a hearing, as well as any other rights

under the Georgia Administrative Procedure Act pertaining to notice and hearing for contested cases, by entering into this Consent Order.

4.

This Consent Order is entered in settlement of disputed matters, and the Consent Order entered herein is not to be construed as an admission of guilt or liability on the part of Respondent but is entered herein to resolve this State Election Board case. This Consent Order is a civil settlement and has no criminal ramifications.

5.

This Consent Order, inclusive of its Stipulations and Order, shall not become effective unless and until approved by the State Election Board. If not approved by and executed on behalf of the State Election Board, neither the stipulations nor any other part of this agreement shall have any binding legal effect whatsoever and shall not constitute an admission against interest or prejudice the ability of either the State Election Board or Respondents to adjudicate this matter.

This _____ day of _____, 2022.

Consented to:

CITY OF GUYTON

BY: _____
RUSS DEEN
MAYOR

Sworn to and subscribed
before me this ____ day
of _____, 2022.

NOTARY PUBLIC

Approved by the State Election Board this _____ day of _____, 2022.

STATE ELECTION BOARD

BY: _____
CHAIRPERSON

Model	Type	Serial Number	Reason for Surplus	Keep?
APC Back-UPS 650	UPS	PB0222122650	Obsolete	No
AX45 Motherboard	Motherboard	N/A	Obsolete	No
Casette Tapes		N/A	Obsolete	No
CoinMaster	Metal Detector	N/A	Obsolete	No
CSI Custom PC	Computer	22122085JK	Obsolete	No
CSI Custom PC	Computer	22121468JK	Obsolete	No
CSI Custom PC	Computer	22121481JK	Obsolete	No
CSI Custom PC	Computer	22121703JK	Obsolete	No
CyberPower Rack Surge	Surge Protector	N/A	Broken	No
HP 3D DriveGuard	Laptop	CNU82624CN	Obsolete	No
HP Compaq 6515b	Laptop	CNU8272X4F	Obsolete	No
HP Compaq dc5750 Microtower	Computer	MXL8340P5H	Obsolete	No
HP Compaq dc5750 Microtower	Computer	MXL8340P4Y	Obsolete	No
HP Compaq dc5750 Microtower	Computer	2UA7251G0V	Obsolete	No
HP Compaq dc5750 Microtower	Computer	MXL8320GR8	Obsolete	No
HP Compaq DC7600 SFF	Computer	2UA609JXTL	Obsolete	No
HP Compaq DC7600 SFF	Computer	MXL6200JJ8	Obsolete	No
HP Compaq DC7600 SFF	Computer	2UA62301XQ	Obsolete	No
HP Compaq DC7600 SFF	Computer	MXL53603FH	Obsolete	No
HP Compaq DC7600 SFF	Computer	2UA6400T8X	Obsolete	No
HP laserjet 2035	Printer	CNB9H00049	Broken	No
HP Storage Works	Cassette Reader	HU10811ZFJ	Obsolete	No
HP UPS T750	UPS	2CJ7321303	Obsolete	No
IEEE 284	Printer Cable	N/A	Obsolete	No
NEC LCD Monitor	Monitor	59120642TA	Obsolete	No
Quill.com	Shredder	130508180	Broken	No
RadioShack Intercom	Intercom	N/A	Obsolete	No
Sampo Alphascan 511	Monitor	S4600204RC01104	Obsolete	No
Telemecanique	Contacto	ATS48D47YU	Obsolete	No
UniFi AP Pro	Access Point	1228TDC9FDB1A3723	Obsolete	No
UniFy AP	Access Point	1201K002722BE54	Obsolete	No
Untangle Firewall	Firewall	C50300029A00239	Obsolete	No

2022 Events Calendar

March 1	Seniors in the Know	9:00am to 12:00pm
March 19	Walk for Health on Trail	9:00am to 12:00pm
April 23	Spring Sale on Trail	8:00am to 2:00pm
June 16	Historical Committee Summer Social	5:00pm
July 23	Summer Sale on Trail	8:00am to 2:00pm
October 22	Fall Sale on Trail	8:00am to 2:00pm
October 29	CASA Superhero Run	8:00am
October 29	Trick or Trail	5:00pm to 7:00pm
November 28	Christmas Tree Lighting	6:00pm
December 3	Winter Sale on the Trail and Christmas Parade	8:00am to 2:00pm
December 13	Luminary Service	5:30pm

Blood Drive Dates

1:00pm to 6:00pm at the Guyton Gym

Wednesday 2/16/22

Wednesday 4/27/22

Wednesday 6/22/22

Wednesday 8/17/22

Wednesday 10/26/22

Wednesday 12/21/22

Chapter 6 ALCOHOLIC BEVERAGES¹

ARTICLE I. IN GENERAL

Sec. 6-2-1. Definitions.

When the words “alcohol,” “alcoholic beverage,” “distilled spirits,” “malt beverage,” “wine,” “fortified wine” “person,” “retail consumption dealer,” “retail dealer,” “wholesale dealer” or “wholesaler,” “manufacturer,” “package,” “retail package liquor store,” “retail consumption dealer,” “retailer,” “retail dealer,” and “gallon” are used in this chapter, they shall be used and applied as defined in O.C.G.A. § 3-1-2.

Sec. 6-2-2. Jurisdiction; Purpose; Privilege.

- (a) **Jurisdiction.** This chapter shall be effective and applicable in the corporate limits of the city.
- (b) **Purpose.** This Ordinance is enacted for the purposes, among others, of promoting the health, safety, and general welfare of the community; establishing reasonable and ascertainable standards for regulation and control of licensing and dispensing of sales of all permissible forms of alcoholic beverages, whether through package sales or by the drink; preserving residential areas, with reasonable consideration to the character of the areas and their suitability for particular uses; protecting and preserving schools, churches, and other public institutions; reducing congestion in roads and streets; and with a general intent of promoting desirable living conditions and sustaining stability of neighborhoods and property values.
- (c) **Privilege, Not a Right.** Nothing in this Chapter shall be construed as giving a person a right to sell or otherwise deal in alcoholic beverages, whether through package sales or by the drink.
 1. **License Language.** All licenses issued under this Ordinance shall have printed on the front these words:

“THIS LICENSE IS A MERE PRIVILEGE SUBJECT TO SUSPENSION AS WELL AS REVOCATION AND ANNULMENT, AND IS SUBJECT TO ANY AND ALL ORDINANCES NOW IN EFFECT OR WHICH MAY BE ENACTED.”

Sec. 6-2-3. License.

- (a) **License Required.** Every person engaged in either a retail or wholesale alcoholic beverage business, as approved by the State of Georgia, shall file an application with the city clerk for a license to conduct such business, to be approved by the City Council, before engaging in or continuing such business in the City of Guyton.
 - (b) **Persons Prohibited from Holdings Licenses.** Alcoholic beverages licenses shall not be issued to the following:
 1. Any person who has been convicted of driving under the influence of intoxicants or drugs or who has pleaded nolo contendere or forfeited bond in connection with any such charge within the preceding two (2) years;
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2. Any person who has been convicted of any criminal offense if such conviction tends to indicate that the applicant would not maintain the operation for which a license is being sought in conformity with federal, state, or city law;
 3. Any person who has been convicted of a felony or who has pleaded nolo contendere or forfeited bond in connection with any such charge within the preceding five (5) years;
 4. Any person who has been convicted of a violation of law pertaining to the sale of alcoholic beverages or the sale or possession of a controlled substance or who has pleaded nolo contendere or forfeited bond in connection with any such charge within the preceding five (5) years;
 5. Any partnership, unless all partners qualify;
 6. Any corporation or limited liability company, unless all officers or members who will be directly concerned in the management of the business qualify;
 7. Any trust, unless all trustee(s) qualify; and
 8. Any person whose license to sell alcoholic beverages has been revoked by any licensing authority during the preceding five (5) years.
 9. Any person under the age of twenty-one (21) at the time the application is submitted.
- (c) After investigation by the Chief of Police of the fitness of the applicant and the proposed location, all licenses shall be granted or denied by the governing authority at a public meeting.

Sec. 6-2-4. Expiration date.

Alcoholic beverage licenses shall expire at the end of each calendar year and may be renewed only in the manner and form as provided in this chapter for the original granting of such licenses.

Sec. 6-2-5. License fees.

- (a) License fees for the following alcoholic beverage license categories are as set forth in the schedule of fees and charges.
- (1) Retail malt beverages, by package only
 - (2) Retail malt beverages, and wine, by package only
 - (3) Retail liquor, malt beverages, and wine, by package only
 - (4) Consumption on-premises, liquor, malt beverages, and wine
 - (5) Consumption on-premises, malt beverages and wine
 - (6) Consumption on-premises, malt beverages only
 - (7) Wholesale liquor
 - (8) Wholesale malt beverages
 - (9) Wholesale wine
 - (10) Special Event Venue
 - (11) Distiller, brewer, or manufacturer
 - (12) Transfer license

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- (b) **Assessment of Fees.** Alcoholic beverage license fees are fixed and assessed on an annual basis or on a prorated basis as set forth in subsection (c) of this section. License fees shall be paid annually to the city clerk.
 - (c) **Payment of Fees.** Every person engaged in any of the businesses provided for in subsection (a) of this section shall pay the license fees in amounts as set forth in the fee schedule for every separate place in which he or she transacts or engages in such business. Any person engaging in such business prior to July 1 of any year shall pay the full annual license fee in amounts as set forth in the fee schedule. Any person engaging in such business after July 1 shall pay the balance of such annual fee in amounts as set forth in the schedule of fees and charges. There shall be no difference or deduction in the annual license fee for wholesalers.
 - (d) **Transfer of License.** To transfer a license during the calendar year, any person engaged in any of the businesses provided for in subsection (a) of this section must make a written application to the city clerk, to be approved by the City Council, and pay a fee as set forth in the fee schedule. The transfer application shall be subject to the same requirements and criteria as an application for a new license.

Sec. 6-2-6. Tax on wholesalers.

Each wholesaler shall pay, in addition to the regular license fees as set forth in the fee schedule, a tax on beverages sold to retailers located within the corporate limits of the city in accordance with the following:

- (1) **Malt beverages.**
 - a. Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons;
 - b. Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.
- (2) **Distilled spirits.** For distilled spirits sold to retailers located within the city for sale either by the package or by the drink, an excise tax shall be paid at the rate of \$0.22 per liter or \$0.83 per gallon. The tax on distilled spirits sold in other size containers shall be computed at proportionate rates.
- (3) **Wine.** For wine sold to retailers located within the city, an excise tax shall be paid at the rate of \$0.22 per liter or \$0.83 per gallon. The tax on wine sold in other size containers shall be computed at proportionate rates.

Sec. 6-2-7. Returns to finance department; right to inspect.

- (a) Each wholesale dealer receiving, selling, shipping or delivering malt beverages, distilled spirits or wine to wholesalers or retailers in the corporate limits of the city shall make a return to the city clerk by the tenth of the month following the month for which the tax is due, and shall pay the taxes imposed by this chapter. The dealer shall also file with his or her monthly return a certified copy of his or her report of monthly sales to retailers made to the state department of revenue.
- (b) The city shall have free and complete access by its duly authorized agents to any books, papers, records or memoranda bearing upon the statement for the purpose of ascertaining the correctness of any statement required to be filed by this chapter.
- (c) Any establishment holding a license issued under this Chapter shall at all times, during the period allowable by law for operation of the business, be open to inspection by any officer of the City Police Department, any licensed inspector of the city, or to any person designated by the governing authority or the City Chief of Police. In addition, if the premises are being used after hours by employees or the owners or their agents, the premises may be inspected at this time by the persons designated in this section.

Sec. 6-2-8. Sale if taxes are not paid.

- (a) It shall be unlawful for any person to sell by the package or for consumption on the premises any malt beverages, wines, or distilled spirits on which the taxes provided for in this chapter have not been paid to the wholesale dealer or distributor from which such alcoholic beverages have been purchased.
- (b) It shall be unlawful for any wholesale dealer or other person to deliver any malt beverages, wines or distilled spirits to any retail dealer in the city without first collecting the taxes as provided in this chapter.

Sec. 6-2-9. Possession by retailers if taxes are not paid.

It shall be unlawful for any retail dealer to have in his or her possession any alcoholic beverages unless the tax required by the city has been paid to the wholesaler, distributor or other source delivering or causing the beverages to be delivered to the retail dealer. Whenever any alcoholic beverages are found in the possession of a retail dealer and the records of the payment of the taxes do not appear upon the records of the wholesaler, it will be presumed that the tax has not been paid and the burden shall be upon the retailer or seller to prove such fact. All alcoholic beverages found in the possession of any retail dealer on which the tax has not been paid shall be subject to confiscation by the city authorities and shall be sold by the city authorities and the receipts thereof paid into the city treasury.

Sec. 6-2-10. Granting of license.

- (a) **Public Interest and General Welfare.** The City Council shall grant an alcoholic beverage license when it is found to be in the public interest and general welfare.
- (b) **Licensing Criteria.** The City Council, in determining whether or not any license or permit applied for under this chapter shall be granted or denied, shall consider the following:
 - (1) The applicant's reputation, character and mental and physical capacity to conduct a business engaged in the sale of wine, beer and/or alcoholic beverages.
 - (2) The location for which the license is sought as to traffic congestion, general character of the neighborhood and the effect such an establishment would have on the adjacent and surrounding property values.
 - (3) The number of licenses previously granted for similar businesses in the trading area of the place for which the license is sought.
 - (4) The proximity of the location of such establishment to church buildings, alcoholic treatment centers, school buildings, educational buildings, school grounds, college campuses and other public buildings or property in the surrounding area as provided for in section 6-2-11.
 - (5) Whether the applicant is a previous holder of a license to sell wine, beer and/or alcoholic beverages, and whether the applicant has violated any law, regulation or ordinance relating to such business.
 - (6) If the applicant is a previous holder of a license to sell wine, beer and/or alcoholic beverages, whether unusual police observation and inspection were required, including the number and frequency of complaints filed by citizens objecting to the manner in which the business was conducted in such location.
 - (7) Whether the applicant or the applicant's employee(s) have violated any state or federal law or regulation or any provision of this Chapter or other municipal ordinance, at any time adopted, relating to the sale, use, possession, or distribution of drugs or alcoholic beverages.
 - (8) The making of any untrue or misleading statement in the application for a license or any renewal thereof or the omission from such application or renewal of any information required in the application.

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- (9) Whether the license application is filed in good faith or is filed by some person as subterfuge for any other person.
 - (11) Evidence that the type and number of schools, churches, libraries, or public recreation areas, including playgrounds, or other circumstances, in the vicinity of the place of business could cause minors to frequent the immediate area, even though there is compliance with the minimum distances as provided in this Chapter.
 - (12) Whether the premises meets the requirements of all state, county, and city laws, ordinances and regulations which apply to said premises, including, but not limited to, zoning, building, fire, and sanitation codes as well as the distance requirements set forth in this Chapter.
 - (13) Whether the applicant has defaulted on any obligation, of any kind whatsoever, owing to the City of Guyton.
 - (14) Whether there is evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location during the twelve (12) months immediately preceding the date of the application
 - (15) Whether an application has previously been denied on the basis of the qualifications or suitability of the proposed location.
- (c) **Maximum Number of Distilled Spirits Retail Licenses Permitted.**
- (1) Subject to subsection (2)–(5) below, the city will not accept any applications for the retail sale of distilled spirits by the package, and no licenses for the retail sale of distilled spirits by the package shall be issued over the number of two (2).
 - (2) If at any time and for whatever reason, the number of active licenses for the retail sale of distilled spirits by the package falls below two, then the city shall accept applications for and issue such additional licenses for the retail sale of distilled spirits by the package so as to bring the total number of active licenses for the retail sale of distilled spirits by the package to two. The City Manager shall set the dates during which applications under this Section shall be accepted.
 - (3) The provisions of subsection (2) notwithstanding, one (1) additional license may be issued once the population of the city exceeds 10,000. In this regard, additional licenses may be issued in the future for each 7,500 person increase in population over 10,000. In determining population, the city shall utilize the most recent population figures published by the Coastal Regional Commission of Georgia. In the absence of such figures, the city shall utilize any future decennial census.
 - (4) If the total number of permitted licenses has increased pursuant to subsection (c) above, and if at any time and for whatever reason thereafter, the number of active licenses for the retail sale of distilled spirits by the package falls below the number then permitted, then the city shall accept applications for and issue such additional licenses for the retail sale of distilled spirits by the package so as to bring the total number of active licenses for the retail sale of distilled spirits by the package to the total number then permitted. The City Manager shall set the dates during which applications under this Section shall be accepted.
 - (5) If the city receives more applications than allotted licenses to be issued under this section which applications comply with the standards for the issuance of licenses for the sale of package distilled spirits set forth in this Chapter, then the selection of the successful application(s) shall be conducted by a lottery system overseen by an independent third party firm. The applications drawn from the lottery system shall then be presented to the City Council for action on the approval of the initial licenses to be issued under this Chapter.

Sec. 6-2-10.1. Application; investigation consent.

- (a) All applications for licenses shall be made upon forms provided by the city. All applications shall contain a full and complete sworn and notarized statement by each applicant of all material facts as determined by the city manager to be relevant to the requirements of this chapter and further shall include, but not be limited to, the name of any other entity having a financial interest of ten percent or more in the establishment for which a license is sought.
- (b) Each applicant shall consent to an investigation and submit a complete set of fingerprints as instructed within the application, and fingerprints will be used to check the criminal history records maintained by the Georgia Crime Information Center (GCIC) and the FBI for any instance of criminal activity during the five years immediately preceding the date of the application.
- (c) An application fee, as set forth in the fee schedule, is required for non-Sunday sales license applications under this chapter. The application fee is nonrefundable except as otherwise provided in this chapter.

Sec. 6-2-11. Rules and regulations.

The following rules and regulations are established and shall govern the conduct and operation of every place of business selling wine, beer and/or alcoholic beverages, and of every person owning and operating such place of business:

- (1) **Sanitary Requirements.** All establishments duly licensed under this chapter must fully comply with all sanitary requirements promulgated by the county health department.
- (2) **No Illegal Gambling.** Illegal gambling conducted on the premises of any establishment licensed under this chapter shall be cause for revocation of such license.
- (3) **Proximity Requirements.** No alcoholic beverages provided for in this chapter may be kept for sale or given away in any building, storehouse, place of business, or vehicle located within 200 yards of any church building, alcoholic treatment center, school building, educational building, school grounds, or college campus.
- (4) **Disorderly Conduct.** Disorderly conduct in any place of business or other place where wine, beer and/or alcoholic beverages are permitted to be sold is expressly forbidden by this chapter, and every person owning and/or operating a place of business for which a license under this chapter has been granted, and for which the license fee has been paid, shall be subject to license revocation, in the manner provided for in section 6-2-15, for permitting any disorderly conduct in such place of business.
- (5) **Incorporation of State Laws.** All of the laws of the state pertaining to the sale of alcoholic beverages by retail dealers are incorporated in this chapter and are as fully applicable as though completely set forth in this chapter, including, without limitation, those pertaining to the sale of alcoholic beverage to persons under the age of twenty-one (21).
- (6) **Hours of Operation for Package Sales of Beer and Wine.** Except as provided in Sec. 6-2-11(18)(b) (regarding hours of operation for retail package liquor stores), hours of sale for package sales of beer and wine shall be from 8:00 a.m. until 2:00 a.m. of the following day, Monday through Friday, from 8:00 a.m. until 12:00 midnight on Saturday, and from 12:30 p.m. until 11:30 p.m. on Sunday.
- (7) **License Availability for On the Premises Consumption.** Licenses to sell alcoholic beverages by the drink may be granted only to inns and eating establishments, as those terms are defined in Sec. 6-2-12 of this chapter.

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- (8) **Hours of Operation for Sales of Alcoholic Beverages by the Drink.**
- a. Alcoholic beverages, including wine, malt beverages, and distilled spirits by the drink, may be sold for consumption on the premises from 10:00 a.m. to 2:00 a.m. of the following morning, Monday through Saturday.
 - b. Further, in and only in licensed establishments which derive at least 50 percent (50%) of their total annual gross income from the sale of food or rental of rooms for overnight lodging, alcoholic beverages for consumption on the premises may be served on Sundays from 12:30 p.m. to 12:00 midnight.
 - c. In addition, when New Year's Eve falls on a Sunday, alcoholic beverages may be sold for consumption on the premises from 12:01 a.m. to 2:00 a.m. on New Year's Day, so long as the establishment serving such alcoholic beverages is duly licensed to sell alcoholic beverages on Sundays.
 - d. In the event that any licensed premises shall remain open after the expiration of serving hours, such as a restaurant remaining open and continuing to serve food, all alcoholic beverages shall be removed from the public areas of said premises within thirty (30) minutes after the close of serving hours as set out above.
- (9) **Restrictions on Hours of Operation Applicable to All Sales of Alcoholic Beverages.** No licensee under this Chapter shall furnish, sell or offer for sale alcoholic beverages of any type at any of the following times:
- a. At any time on Sundays, except as specifically provided elsewhere in this Chapter, or on Christmas Day.
 - b. At any time in violation of State Law, a local ordinance or regulation or a special order of the governing authority; and
 - c. The wholesale or retail sale of alcoholic beverages shall be lawful during the polling hours of any election; provided however, that such sales do not occur within two hundred fifty (250) feet of a polling place during such hours that the polls are open.
- (10) **License Required.** No person shall serve or sell alcoholic beverages on Sunday unless a valid license for Sunday sales has been issued by the City Council as provided for in section 6-2-12.
- (11) **Removal of Beverages from Premises Licensed to Sell Alcoholic Beverages by the Drink.** All alcoholic beverages sold by consumption on the premises licensees shall be consumed only on the licensed premises, except to the extent that O.C.G.A. § 3-6-4 allows patrons to remove one unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises, provided such bottle must be securely resealed by the licensee or its employees before removal from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.
- (12) **Lighting.** Retail dealers shall keep their place of business sufficiently lighted to protect the health and safety of patrons and persons lawfully on the premises. All retail dealers and serving establishments shall keep their main entrance unlocked during normal scheduled business hours and allow entry for inspection. Exceptions may be granted for specially approved and permitted private events.
- (13) **Additional Regulations.** The city reserves the right to promulgate additional regulations or ordinances pertaining to the conduct of the business of selling alcoholic beverages, and any person licensed under this chapter shall be subject to such additional regulations that may be promulgated from time to time by the City Council.

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- (14) **Sale of Alcoholic Beverages on Local or Statewide Election Day.** All persons holding an alcoholic beverage license within the city shall be permitted to sell alcoholic beverages consistent with that license on any local and statewide election day; however, no sale of alcoholic beverages shall be permitted within 250 feet of any polling place or of the outer edge of any building within which such polling place is established. The term “election day” shall include all elections as defined in O.C.G.A. § 3-3-20.
- (15) **Temporary/Special Events Permits.** Temporary/special event permits to dispense alcoholic beverages may be issued to persons when the event is sponsored by:
- a. A private non-profit organization located in the State of Georgia as classified by the U.S. Internal Revenue Service and no less than 80 percent of the proceeds of the event must benefit the sponsoring non-profit organization. Selling of alcohol is permitted and admission to the event may be charged and advance tickets to the event may be sold.
 - b. Closed private event to which the general public is not invited and during which alcoholic beverages will be served only to invited guests. No exchange of anything of value such as admission charges or sale of alcoholic beverages shall be permitted under this subsection 15(b)
 - c. City sponsored events.
 - d. Temporary/special event permits will be issued for events to be held on Mondays through Saturdays, and are prohibited on Sundays. Applications will be submitted for approval by the police chief and City Council. Permits will be issued for a maximum of two days and at a rate specified in the fee schedule.
- (16) **Signage.**
- a. No lighted “distilled spirits” or “bar” or “liquor” or “beer” or “wine” or any other such sign indicating that an establishment deals in alcoholic beverages shall be allowed to burn after store hours. No plaque or sign of any kind which is visible from the exterior of a business shall make reference to the price of any alcohol sold therein. This section shall not prohibit the advertisement of brands or promotions inside the business or signs displaying the business’s name (e.g. John's Bar & Grill, Margarita Mary's, etc.).
 - b. All licensees under this Ordinance shall be required to post a sign, the printed portion of which shall be at least nine (9) inches wide by eleven (11) inches tall, in a conspicuous location in their place of business which reads as follows:

“It is against the law for a person under the age of twenty-one (21) years to have in his or her possession or under his or her control any alcoholic beverage. It is also a violation of the law for such a person to misrepresent his or her age in any manner for the purpose of obtaining any alcoholic beverage.

Any person who conspires, aids, abets, or assists any other person under the age of twenty-one (21) years to obtain an alcoholic beverage shall be guilty of violating these provisions.”
- (17) **Outdoor Dining Areas.** Alcoholic beverages, by the drink, shall be permitted in an outdoor dining area, in a space in which the licensee serves food and beverages as part of the operation of an eating establishment under the following provisions:
- a. An outdoor dining area may be located in front of an eating establishment or on the side, with no part located within a public right-of-way.
 - b. The width shall not exceed the width of the eating establishment and shall contain no more than 50 percent of the total seating capacity of the establishment.
 - c. The space shall be enclosed within a clearly delineated area, which is surrounded by a continuous physical barrier (not designed to create a ladder effect) at least 40 inches high with a maximum

height of 48 inches and shall have one or more points of emergency egress at least 36 inches wide.

- (18) **Package Sales of Distilled Spirits.** The package sale of distilled spirits shall only be permitted in retail package liquor stores (“liquor stores”) which are duly licensed by the city and state to sell distilled spirits by the package and which are devoted exclusively to the sale of alcoholic beverages in the original container for off-premises consumption. Such sales shall be subject to all state and federal laws and regulations, which shall supersede any sections of the City of Guyton Code of Ordinances that are less restrictive than state or federal laws and regulations, as well as the provisions of this Section:
- a. **Proximity Requirements.** In addition to the proximity requirements of Sec. 6-2-11(4) of this chapter, liquor stores may not be located within 500 yards of an existing liquor store.
 - b. **Hours of Operation.** Liquor stores may be open to the public and sell alcoholic beverages from 8:00 a.m. until 11:00 p.m. Monday through Saturday. Liquor stores may only engage in the package sale of wine and malt beverages during the hours set forth in this subsection.
 - c. **Display, Offer, or Sale of Products other than Distilled Spirits.** Liquor stores may only sell, display, or keep in stock such items permitted pursuant to G.A.C. Rule 560-2-3-.04.
 - d. **No Open Containers.** Liquor store licensees shall not permit and no person shall engage in the breaking of a package containing any alcoholic beverage or the drinking of any alcoholic beverage on the licensed premises.
 - e. **Building Requirements.** No license for the sale of distilled spirits shall be issued to any applicant whose building where the business will be conducted does not include a showroom of at least 1,500 square feet. For liquor stores desiring to sell malt beverages and wine in addition to distilled spirits, at least an additional 250 square feet of showroom, and at least 250 square feet of storage area is required over and above the minimum square feet for the establishment set forth above. For the purposes of this ordinance, cooler space shall be considered storage area and spaces such as offices, mechanical rooms, janitorial rooms, breakrooms and bathrooms shall not count towards the minimum square footage requirements.
 - f. **Minimum Inventory.** Liquor stores shall maintain a minimum inventory of at least \$150,000.00 in distilled spirits available for sale. Liquor stores selling malt beverages and wine in addition to distilled spirits shall maintain a minimum of \$10,000.00 inventory in malt beverages and wine.
 - f. **Ingress and Egress.** Public ingress and egress to a liquor store shall be provided directly to and only to the exterior of the building in which the liquor store is located and not to any other enclosed part of the building in which it is located. For example, if a liquor store is located in a shopping center, there shall be no ingress and egress to the liquor store from another store in the shopping center.
 - f. **Zoning Requirements.** No license for the package sale of distilled spirits by the package shall be valid or granted under this chapter unless all applicable requirements or approvals of the City’s zoning ordinance have been met or obtained.
 - g. **Restriction on Number of Licenses.** One person shall have not more than one (1) license for the package sale of distilled spirits in the city. No person shall either in his or her own right or as an associate of or through any company or agency own at any time more than one (1) license for the package sale of distilled spirits in the city.
- (19) **Measurements.** All measurements under this Chapter shall be measured from the front door of the structure from which beverage alcohol is sold or offered for sale; (b) in a straight line to the nearest public sidewalk, walkway, street, road or highway; (c) along such public sidewalk, walkway, street, road or highway by the nearest route; (d) to the front door of the building, or to the nearest portion of the grounds, whichever is applicable under the applicable Georgia statute.

(20) **Annexed Areas.** Any person(s), establishment, partnership, corporation, or other entity which holds a county license for the sale, manufacture, package, or distribution of alcoholic beverages and which is located in an area annexed by the city shall have thirty (30) days from the effective date of the annexation to apply for the appropriate licenses and permits under this ordinance. The applicant shall pay all applicable fees and costs for the equivalent license(s) to the city according to a biannually pro-rated schedule.

(21) **Proof of Insurance.**

- a. **Proof of Dram Shop Insurance.** Persons holding any license for the sale of alcoholic beverages shall, on or before commencement of sales, or within thirty (30) days of the approval of their application (whether for a new license or a renewal), whichever is sooner, submit to the City Clerk a certificate of alcohol liability insurance (dram shop), in effect for the license period and issued by an insurer required to be licensed pursuant to state law, providing an annual aggregate policy limit for dram shop insurance of not less than \$1,000,000.00 per policy year with a minimum \$500,000.00 sublimit on assault and battery claims. A 30-day notice of cancellation in favor of the city must be endorsed to the policy and attached to the certificate.
- b. **Proof of General Liability Insurance.** Persons holding any license for the sale of alcoholic beverages shall, on or before commencement of sales, or within thirty (30) days of the approval of their application (whether for a new license or a renewal), whichever is sooner, submit to the City Clerk a certificate of liability insurance, in effect for the license period and issued by an insurer required to be licensed pursuant to state law, providing at least \$1,000,000.00 in commercial general liability insurance coverage. A 30-day notice of cancellation in favor of the city must be endorsed to the policy and attached to the certificate.

Sec. 6-2-12. Sunday sales.

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

Sunday sales means the sale of alcoholic beverages for consumption on the premises in eating establishments or inns between the hours of 12:30 p.m. and 11:30 p.m. on Sundays.

Eating establishment means an establishment:

- (1) Whose primary business is the sale of prepared meals;
- (2) Which is licensed to sell distilled spirits, malt beverages or wine; and
- (3) Which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

An eating establishment shall have its primary floor area specifically designed, set aside, set up and operating to serve meals and food on the premises and shall have a fully-equipped commercial kitchen to include an appropriate stove, refrigerator, food preparation area, sink and other items required by the county health department and city inspections department for the preparation of food. An eating establishment shall have a printed or posted menu from which selections of prepared meals can be made.

Inn means an establishment which is licensed to sell distilled spirits, malt beverages or wines and which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

- (b) **Purpose and Intent.** The purpose and intent of this section is to allow those eating establishments that serve the public to sell alcoholic beverages with meals on Sunday. It is not the intent of this section to permit neighborhood taverns and bars to sell alcoholic beverages on Sunday via the mechanism of serving incidental meals on Sunday.

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- (c) **License application classifications.** The following three license application classifications and criteria for Sunday sales licenses are established:
- (1) *New applicant at new location* means an eating establishment or inn that has not been licensed for alcoholic beverage sales for any purpose for at least one year prior to application at such place of business.
 - (2) *Application at existing location* means an application for a Sunday sales license at a location which has an alcoholic beverage license under the same ownership or the previous business ownership within the previous license year.
 - (3) *Application at existing location with alcoholic beverage and Sunday sales license (transfer) and/or renewal* means a transfer or renewal of a Sunday sales license at an existing licensed location, licensed within the previous license year.
- (d) **Licensing procedures.**
- (1) An applicant for a new location shall include an affidavit by the applicant certifying to the intent to meet the requirements of this section and that it will be either an eating establishment or inn. Each new applicant, after having operated for a period of 12 months, must provide to the police department a certified public accountant (CPA) or registered public accountant (RPA) certified affidavit as set forth in subsection (d)(3) of this section.
 - (2) An application for an existing location shall include an affidavit by the applicant certifying to the intent to meet the requirements of this section for Sunday sales, and that such location is either an eating establishment or an inn.
 - (3) An application for a transfer or renewal license shall include a certified affidavit from a certified public accountant (CPA) or registered public accountant (RPA) attesting to the accuracy of the financial information supplied to him and that such location derived at least 50 percent (50%) of its gross revenues for the last 12 months of business under present or previous ownership from the sale of prepared meals or room rental in the case of an inn. In the absence of such data, the business owner will not be considered for Sunday liquor sales until a certified affidavit from a CPA or RPA is submitted certifying as to the revenues for the immediate 12 months of business preceding the time of application for a Sunday sales license. Failure to attach such affidavit to an application or failure to comply with the terms of the affidavit will result in disapproval of the application and revocation of the license.
 - (4) Each serving location or place under the same ownership and within the same building or structure under one roof shall be considered one business under the terms of this section, and shall be licensed by one application and one license issued.
 - (5) A separate license shall be required for serving locations in separate buildings under the same ownership or management control, and for all locations under separate ownership or management or ownership control.
 - (6) A separate license shall be required for a serving location within a building or structure if that serving location is under separate ownership or management control from other serving locations within the same building or structure, and in such case, each serving location shall meet the appropriate criteria for a Sunday sales license without considering either food sales or room rental of the owner serving locations within the same building or structure.
 - (7) The accounting and purchasing records for each license issued under this section must be maintained in a manner that is separate and distinct from any other business or activity.
 - (8) An application fee, as set forth in the fee schedule, is required for all Sunday sales license applications. The application fee is nonrefundable except as otherwise provided in this chapter. The license fee for Sunday sales of alcoholic beverages shall be set forth in the fee schedule. A license application for the Sunday sales of distilled spirits for such establishments shall be completed and submitted by December

31 of the year preceding the year for which the license is sought. Failure to submit the application by the deadline or failure to supply all information requested will result in disapproval of the application and denial of the license without a hearing.

(e) **Miscellaneous provisions.**

- (1) Only persons licensed under this section are authorized to sell distilled spirits, malt beverages or wine for consumption on the premises in those eating establishments and inns so licensed on Sundays, in compliance with the Georgia Alcoholic Beverage Code, O.C.G.A. § 3-3-1 et seq.
- (2) In enforcing this section, the city and its authorized agents, employees and representatives have the right to audit the records and financial books of applicants and license holders. The city and its authorized agents, employees and representatives also have the right to enter upon the premises of applicants and license holders to inspect the premises and determine whether they comply with this section.
- (3) The provisions of this section shall apply immediately to all Sunday sales licenses.

- (f) **Sale of Alcoholic Beverages on Sundays without Special License.** It shall be unlawful for any person to sell alcoholic beverages on Sunday within the city limits without obtaining and possessing a special license as set forth in this section.

Sec. 6-2-12.1. Sunday Package Sale of Wine and Malt Beverages.

Sunday package sales of wine and malt beverages means the package sale of wine and malt beverages by retailers between the hours of 12:30 p.m. and 11:30 p.m., for off-the-premises consumption only.

- (a) **Purpose and Intent.** The purpose and intent of this section is to allow those licensed retailers who engage in package sales of wine and malt beverages to be allowed to sell on Sundays.
- (b) **License application classifications.** Any retailer licensed to engage in the package sale of wine and malt beverages shall be permitted to sell on Sunday, in accordance with the provisions of this Chapter, once all applicable fees have been paid.
- (c) **Annual license fee.** The annual license fee for Sunday package sales of wine and malt beverages by retailers shall be set forth in the fee schedule.
- (d) **Miscellaneous provisions.**
 - (1) Only retailers licensed under section 6-2-10 of this chapter are authorized to engage in the package sale of wine and malt beverages on Sundays, in compliance with the Georgia Alcoholic Beverage Code, O.C.G.A. § 3-3-1 et seq.
 - (2) In enforcing this section, the city and its authorized agents, employees and representatives also have the right to enter upon the premises of applicants and license holders to inspect the premises and determine whether they comply with this section.
 - (3) The provisions of this section shall apply immediately to all retail Sunday sales licenses.

Sec. 6-2-13. Consumption on public property.

- (a) It shall be unlawful for any person to consume any alcoholic beverages or controlled substances in any of the city or public parks, grounds, public facilities or lands owned by the city, or areas appurtenant to any lands and facilities which are owned and/or operated under the jurisdiction of the city.
- (b) It shall be unlawful for any person to consume any alcoholic beverages or controlled substances in parking lots open to the public.

Sec. 6-2-14. Violation; penalty.

Any person convicted of violating any of the provisions of this chapter shall be punished as provided in section 1-1-12. Upon the conviction of any holder of any alcoholic beverage license of a violation of this chapter, the City Council, in its discretion, shall be authorized to revoke the license of the violator.

Sec. 6-2-14.1. Disciplinary action; reporting required.

Within 45 days of any disciplinary action, as defined in O.C.G.A. § 3-3-2.1(a)(1), taken by the city against a licensee, the city shall report such disciplinary action to the Georgia Department of Revenue "GDOR" in accordance with the format, rules, and regulations promulgated by the GDOR.

Sec. 6-2-15. Revocation, Suspension and Denial of License.

- (a) (1) In addition to any criminal penalty that may be imposed by section 6-2-14, the City Council shall have the right to deny, suspend or cancel any license under this chapter if:
- a. The license application is not filed in good faith or is filed by some person as a subterfuge for any other person.
 - b. Any applicant for a license or any licensee under this chapter willfully fails to comply with any provisions of this chapter.
 - c. Any person to whom a license has been issued under this chapter is no longer engaged in the dealing of alcoholic beverages or no longer qualifies as a licensee under this chapter.
 - d. The City Council, in its discretion, determines that a grant or renewal of a license is not in the public interest after considering the criteria set forth in section 6-2-10.
- (2) Except as otherwise provided in this chapter, before any denial, suspension, or cancellation of a license granted under this chapter, the applicant or licensee shall be afforded notice and a hearing as follows:
- a. The notice shall be served personally or by certified mail, not less than 20 days before the hearing. The notice shall include a:
 1. Statement of the time, place and nature of the hearing;
 2. Statement of the legal authority under which the hearing is to be held;
 3. Reference to the sections of ordinances and statutes involved;
 4. Short and plain statement of the matters asserted;
 5. Statement as to the right of any party to representation by legal counsel at the hearing; the right of any party to present evidence on all issues; and the right of any party to present witnesses and documentary evidence.
 - (b) **Hearing.** At the hearing, all parties may be represented by legal counsel, and may respond to and present evidence on all issues involved. The City Council, as the hearing agency, shall have the right to exercise the powers provided in O.C.G.A. § 3A-114, and to promulgate such other rules for the orderly disposition of the hearing as it deems appropriate.
 - (c) **Decisions in Writing.** All decisions of the governing authority or Municipal Court denying, suspending, revoking, or refusing renewal of a license application shall be stated in writing with the reasons therefor and a copy of such statement shall be provided to the applicant either personally or by certified mail, return receipt requested, within ten (10) days of said decision.

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- (d) **Denial.** In cases where the application is denied, the city clerk shall refund to the applicant the amount of the license fee submitted with the application, excluding costs for newspaper advertisement and investigatory activities.
 - (e) **Notice.** For the purpose of this Chapter, notice shall be deemed delivered when personally served or, when served by certified mail, return receipt requested, within three (3) days after the date of deposit in the United States mail with proper postage affixed.
 - (f) **Criminal Prosecution.** Any administrative action by the governing authority to suspend or revoke a license issued hereunder, shall not preclude and may be in addition to, any criminal prosecution by a proper authority as provided by the laws and ordinances of the City of Guyton, the State of Georgia, or the United States.

ARTICLE II. MIXED DRINK EXCISE TAX

Sec. 6-2-16. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectfully ascribed to them below except where the context clearly indicates a different meaning:

Distilled spirits or liquor: Any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including but not limited to, all fortified wines.

Drink: Any alcoholic beverage served for consumption on the premises which may or may not be diluted by any other liquid.

Due date: From the 20th day after the close of the monthly period for which tax is to be computed.

Licensee: Any person who holds a license or permit from the City of Guyton to sell alcoholic beverages by the drink.

Monthly period: The calendar months of any year.

Person: An individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or co-operative non-profit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular members, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the city is without power to impose the tax provided herein.

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

Purchaser: Any person who orders and gives present or future consideration for any distilled spirits by the drink.

Tax: The tax imposed by this section.

Sec. 6-2-17. Administration generally.

- (a) The city manager or his or her authorized representative shall administer and enforce the provisions of this article for the levy and collection of the tax imposed hereby.
- (b) The city manager shall have the authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the State of Georgia, or the Constitution of this state or the United States for administration and enforcement of the provisions of this article and the collection of taxes hereunder.

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- (c) Every licensee for the sale of distilled spirits by the drink in the city shall keep such records, receipts, invoices and other pertinent papers in such form as the city manager may require.
 - (d) The city manager or his or her designee may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.
 - (e) In administration of the provisions of this article, the city manager may require the filing of reports by any person having in such person's possession or custody information relating to the sales of distilled spirits which are subject to the tax. The reports shall be filed with the city manager's office when required and shall set forth the price charged for each sale, the date of sale and such other information as the city manager may require.

Sec. 6-2-18. Tax Imposed; rate.

There is hereby imposed and levied upon every sale of distilled spirits purchased by the drink in the city a tax in the amount of three percent (3%) of the purchase price of the drink.

Sec. 6-2-19. Collection due by licensee.

Every licensee or his or her agent is hereby authorized and directed to collect the tax imposed by this article from the purchasers of distilled spirits by the drink sold within his or her licensed premises.

Sec. 6-2-20. Payment; returns, collection fees; penalties and interest for late payments.

- (a) All amounts of such taxes shall be due and payable monthly to the city manager's office of the City of Guyton on or before the 20th day of the next succeeding respective monthly period.
- (b) The remittance of the taxes collected shall be on a return which shall include gross receipts from the sale of distilled spirits by the drink, amount of tax collected or due for the related period, and such information as may be required by the city manager.
- (c) Payments received after the 20th day of the month shall be assessed a penalty of ten percent of the amount due but not less than \$100.00 and interest at a rate of one percent per month or any part thereof.

Sec. 6-2-21. Determination of deficiency amount.

- (a) If the city manager is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the City of Guyton by any licensee he may compute and determine the amount required to be paid upon the basis of any information within his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the due date of the taxes.
- (c) In making a determination, the city manager's office may offset overpayment, for a period or periods, against any underpayment, for another period or periods against penalties and against the interest on underpayment. The interest on overpayment shall be computed in the same manner set forth in subsection (b) above.
- (d) If any part of the deficiency for which a deficiency determination has been made is due to negligence or disregard of the rules and regulation, a penalty amount of ten percent shall be added to the deficiency amount.
- (e) If any part of the deficiency for which a deficiency determination has been made is due to fraud or an intent to evade any provisions of this chapter or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added to the amount of the deficiency.

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- (f) The city manager or his or her or her authorized representative shall give to the licensee written notice of his or her determination. The notice may be served personally or by mail: if by mail, such service shall be addressed to the licensee at the address as it appears in the records of the city manager. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
 - (g) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should expire last.

Sec. 6-2-22. Determination upon failure to file return.

- (a) If any licensee fails to make a return, the city manager shall make an estimate of the amount of the gross receipts of the licensee for the sale of distilled spirits by the drink at said licensee's pouring outlet. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into possession of the city manager's office. Upon the basis of this estimate, the city manager shall compute and determine the amount required to be paid the City of Guyton, adding to the sum thus determined a penalty equal to ten percent thereof. One or more determinations may be made for one or for more than one period. Written notice shall be given in the manner prescribed in subsection 6-2-21(f).
- (b) The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the 20th day of the month that any portion thereof should have been returned, until the date of payment. In addition, a penalty of ten percent of the determination, but not less than \$100.00 shall be assessed for failure to file a return.

Sec. 6-2-23. Overpayment.

If the licensee or person determines that he has overpaid tax, penalty or interest, or paid more than once, which fact has been determined by the city manager, the licensee will have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claim shall be audited. If the claim is approved by the city manager, the excess amount paid the City of Guyton may be credited on any amounts then due and payable from the persons by whom it was paid or his or her administrators or executors.

Sec. 6-2-24. Purchasers or successors of business.

- (a) If any licensee or person liable for any amount under this article sells out his or her business or quits the business, his or her successors or assigns shall withhold a sufficient amount of the purchase price to cover such amount until the former owner produces a receipt from the city manager showing that the city has been paid or a certificate stating that no amount is due.
- (b) If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

Sec. 6-2-25. Legal action to collect.

At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city manager may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent, together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

Sec. 6-2-26. Revocation of license.

The failure to pay the above prescribed tax shall render the licensee or person liable therefor subject to revocation of their alcoholic beverage license in accordance with the procedures set forth in section 6-2-15.

Sec. 6-2-27. Penalty.

- (a) Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-1-12. Any licensee or other person who fails to furnish any return required to be made or who fails to furnish a supplemental return or other data required by the city manager or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction shall be punished as aforesaid.
- (b) Any person who fails to pay any taxes due under this article shall not be permitted to renew his or her occupational tax certificate or alcoholic beverage license until all said taxes have been paid in full.

**CITY OF GUYTON
STATE OF GEORGIA**

ORDINANCE NO. 2022-__

AN ORDINANCE TO AMEND THE CITY OF GUYTON, GEORGIA ZONING ORDINANCE, AS AMENDED; TO ALLOW LIQUOR STORES AS A SPECIAL PERMITTED USE IN THE C-1, C-2, AND C-3 ZONING DISTRICTS; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE AN EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF GUYTON, GEORGIA IN A CALLED MEETING ASSEMBLED AND PURSUANT TO LAWFUL AUTHORITY THEREOF, AS FOLLOWS:

SECTION 1. The text of Section 609(B) of the City of Guyton, Georgia Zoning Ordinance, as amended, shall be amended to add “Liquor Stores” as a Special Permit Use in the C-1 Zoning District.

SECTION 2. The text of Section 610(B) of the City of Guyton, Georgia Zoning Ordinance, as amended, shall be amended to add “Liquor Stores” as a Special Permit Use in the C-2 Zoning District.

SECTION 3. The text of Section 611(B) of the City of Guyton, Georgia Zoning Ordinance, as amended, shall be amended to add “Liquor Stores” as a Special Permit Use in the C-3 Zoning District.

SECTION 4. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance, or of the City of Guyton, Georgia Zoning Ordinance.

SECTION 6. This ordinance shall become effective upon the date of adoption.

SO ORDAINED AND RESOLVED, this __ day of _____, 2022.

CITY OF GUYTON

Russ Deen, Mayor

Attest:

Approved as to form:

Meketa Hendricks-Brown, City Clerk

Benjamin M. Perkins, Esq., City Attorney

Mayor Pro Tem Michael Johnson

Council Member Joseph Lee

Council Member Hursula Pelote

Council Member Marshall Reiser

First Reading

Second Reading and Adopted