

**AN ORDINANCE TO REGULATE THE SALE OF ALCOHOLIC BEVERAGES IN UNION COUNTY, GEORGIA; THE MANUFACTURE OF MALT BEVERAGES AND WINE; AND TO PROVIDE FOR LICENSES, ENFORCEMENT, PENALTIES FOR VIOLATION, EXCISE TAXES, AND FOR OTHER PURPOSES.**

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<b><u>Section 1</u></b>	<b>Purpose</b>	

The Union County Sole Commissioner desires to set out fair and comprehensive rules and regulations establishing reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcoholic beverages:

- 1-1 To promote the tourism trade, prosperity, economic well-being and the general welfare of the county;
- 1-2 To protect and preserve the community, including its schools and churches;
- 1-3 To maintain and promote desirable living conditions, and sustain stability of neighborhoods and property values;
- 1-4 To prevent undesirable persons from engaging in or having any interest in the sale of alcoholic beverages; and
- 1-5 For the health and welfare of the citizens of Union County

**Section 2      Definitions**

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

*Alcohol Board* means a five member board established to investigate, grant, supervise, monitor, and enforce alcoholic beverage licenses as provided in this chapter.

*Alcoholic beverage* means and includes all distilled spirits, alcohol, beer, malt beverage, wine, or fortified wine.

*Alcoholic beverages for consumption on the premises* means all distilled spirits, alcohol, beer, malt beverage, wine, or fortified wine that are consumed on the premises, including bottles of beer or malt liquor and bottles of wine that are opened only for consumption on the premises.

*Ancillary Wine Tasting* means samples of wine provided to customers of licensed wine-only package stores, under the conditions set forth in Section 9 of this Ordinance.

*Bed and Breakfast* means any establishment where five (5) or more rooms used for sleeping accommodations are offered for pay to guests, which regularly prepares and serves breakfast, where there exists one (1) or more dining rooms serving prepared meals, whether public or for the use of guests, with a seating capacity of at least ten (10), with a kitchen that has been approved by the health and fire departments.

*Church* means a permanent building including the main structure together with any auxiliary structures where persons regularly assemble for religious worship.

*Convenience store* means a small store or shop that sells, but is not limited to, such items as candy, ice-cream, soft drinks, water, lottery tickets, tobacco products, newspapers, magazines, a selection of processed foods, sandwiches, a few items of groceries, ATM and money order services, as well as fuel, motor oils, etc., such as are typical in Union County.

*County* means Union County, Georgia.

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

*Eating establishment* means any public place, including a place available for rental by the public, with seating for thirty (30) or more persons, or other number as specified in this article, selling prepared food for consumption by the public on the premises, with a full service kitchen which must be approved by the health and fire departments, and sanitary restroom facilities.

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

*Farm winery* means a domestic winery as defined and regulated by O.C.G.A. § 3-6-21.1, which is licensed as a farm winery by the State of Georgia.

*Farm winery tasting room* means an outlet for the promotion of a farm winery's wine by providing complimentary samples of such wine to the public and for retail sale of such wine as provided and regulated by O.C.G.A. § 3-6-21.1.

*Fortified wine* means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. Fortified wine includes, but is not limited to, brandy.

*Front* means any person or entity that is operating under authority or agency of another.

*Fuel* means any petroleum product including but not limited to gasoline, diesel, kerosene, ethanol and propane.

*Grocery store* means a store established primarily for the retailing of food. This term includes large grocery stores, such as supermarkets, that also stock products other than food, such as paper goods, cleaning supplies and household items in addition to food items.

*Governing Authority* means the Sole Commissioner of Union County or his duly appointed designee, or any succeeding legally constituted County Board or Commission.

*Hotel, motel or resort* means every building or structure, or combination of buildings and structures, that is kept, used, maintained, advertised and held out to the public as a place where sleeping accommodations are offered for pay to travelers and guests, whether transient, permanent or residential, which contains ten (10) or more rooms used for the sleeping accommodations of such guests, has one (1) or more public dining rooms with kitchen and a seating capacity of at least thirty(30), contains one or more conference/meeting/banquet rooms, and such sleeping accommodations and dining rooms and conference/meeting/banquet rooms in either the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel, motel or resort operations.

*Licensee* means a person, as defined herein, holding any class of license issued under this article.

*Malt beverage* (commonly referred to as beer) means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, hard cider, and strong beer. The term does not include sake, known as Japanese rice wine.

*Non-profit organization* means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. Sections 501 (c), 501 (d), 501 (e).

*Package* means a bottle, can, keg, barrel, box or other original consumer container.

*Person or Entity* means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, limited liability company, agency, syndicate, estate, trust, business trust, receiver, fiduciary, sole proprietorship, or other group or combination acting as a unit, whether such entity operates for profit or non-profit.

*Premises* means the entire building and lot, including parking area.

*Retail consumption dealer* means any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.

*Retail package dealer* means any person or store for the retail package sale of beer, malt beverages or wine, or any combination thereof, by unbroken packages in sealed containers to consumers at retail only and not for resale.

*Wholesaler or wholesale dealer* means an entity that sells alcoholic beverages to other wholesale dealers, retail package dealers, or retail consumption dealers.

*Wine* means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products.

### **Section 3      Applicability of Article**

- 3-1      It shall be unlawful for any person to sell, provide, manufacture, or offer for sale at wholesale or retail any alcoholic beverages without having first complied with this article.
- 3-2      It shall be the duty of each licensee to maintain a copy of this article on the licensed premises, and to instruct each employee as to the terms of this article. The licensee and each employee shall at all times be familiar with this article and any amendments thereto.
- 3-3      A licensee is charged with the responsibility for compliance with this article by its officers, agents, servants and employees. A licensee is responsible for acts in violation of this article committed by others, other than those listed in this article, if within the knowledge of the licensee.

- 3-4 The state laws and regulations relating to the sale and distribution of alcoholic beverages, malt beverages and wine in Georgia are incorporated into and made a part of this article as if fully set out herein. Any violation of such state law or regulations shall be grounds for suspension or revocation of any license issued under this article.

**Section 4 Sale in Unincorporated Area of County; License a Privilege**

- 4-1 Alcoholic beverages for consumption on the premises may be sold in the unincorporated area of the county under licenses granted by the Alcohol Board or the Governing Authority upon the terms and conditions provided in this section.
- 4-2 Malt beverages and wine may be sold in the unincorporated area of the county by the package under licenses granted by the Alcohol Board or the Governing Authority upon the terms and conditions provided in this section.
- 4-3 All licenses in this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this article and state law.
- 4-4 All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to being revoked and annulled, and is subject to any further ordinances which may be enacted."

**Section 5 Types of Licenses to be Issued**

- 5-1 Only the following alcoholic beverage licenses shall be issued under this ordinance:
- (a) Malt beverages for sale by the package;
  - (b) Wine for sale by the package;
  - (c) Malt beverages for consumption on the premises
  - (d) Wine for consumption on the premises;
  - (e) Distilled spirits by the drink for consumption on the premises; and
  - (f) Combination licenses:
    - 1. Malt beverages and wine for sale by the package. Malt beverages and wine to be served for consumption only on the premises;
    - 3. Distilled spirits, malt beverages, and wine for consumption only on the premises;
    - 4. Wine only by the package, with ancillary wine tasting;
  - (g) Manufacturing and Farm winery licenses;
  - (h) Temporary licenses;
  - (i) Wholesale dealer licenses.

## **Section 6      General Regulations for the Sale of Alcoholic Beverages**

- 6-1 No outdoor signs, flyers or billboards shall be allowed anywhere in the unincorporated area of the county advertising or promoting the sale of alcoholic beverages, except for signs allowed pursuant to OCGA 3-6-21.4 regarding farm wineries, and those signs required in Section 19 of this article.
- 6-2 No signs indicating the sale of any alcoholic beverages shall be permitted on or visible on the exterior of any building in which alcoholic beverages are sold, either by the package or for consumption on the premises, or manufactured, whether mounted inside a window or outside, including lighted advertising signs, subject to an exception for those holding an ancillary wine-tasting license for a wine-only package store shops as further provided in this chapter.
- 6-3 No alcoholic beverage license shall be issued to any person unless the building in which the business will be located shall comply with all county ordinances and state laws, regulations of the state revenue commissioner and the state. All buildings shall be subject to inspection and approval by the building inspector prior to final approval of a license.
- 6-4 Each building in which a business will be located shall be complete and in good repair, constructed of permanent exterior materials, and be neat, clean and well maintained not only at the time of application, but continuously maintained at all times a premise is licensed. In addition:
- (a) Any exterior lighting shall be aimed at and around the premises so as to minimize any negative effects on neighboring properties.
  - (b) All parking areas must be maintained in good repair in a neat and clean manner.
  - (c) Each location at which a business will be located shall front on a highway or a paved roadway.
- 6-5 Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building, or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. No percentage leases of buildings or realty shall be permitted.
- 6-6 If the Alcohol Board deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license(s) issued under this ordinance.
- 6-7 All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises or other office or headquarters located in Union County:
- (a) Monthly income or operating statements.

- (b) Daily sales receipts showing liquor, beer, wine , food, fuel and other items sales separately, according to the type of license.
  - (c) Daily cash register receipts such as Z tapes or guest tickets.
  - (d) Monthly state sales and use tax reports.
  - (e) Federal income tax return, with all Form 1099s.
  - (f) All invoices or other statements reflecting a record of alcohol purchases by the licensee.
  - (g) Electronic equivalents of records may be accepted, if needed, and if the county or Alcohol Board agrees.
- 6-8 All licensed establishments shall submit to the county at least semi-annually, on or before January 15 and July 15 of each year, or as at such other times as requested, summaries of financial records showing compliance with the required percentage sales requirements, together with copies of back-up documentation, or the electronic equivalent if the county or Alcohol Board agrees.
- 6-9 Any person, including the licensee, who is engaged in selling, pouring, mixing, serving alcoholic beverages or providing samples shall apply to the County Clerk for an alcoholic beverage permit. The County Clerk shall make such investigation as the County Clerk or Alcohol Board may deem necessary as to the qualification of such person before issuing an alcoholic beverage permit to that person.
- (a) The County Clerk shall arrange through the Sheriff an investigation that shall include a GCIC (computerized) search through the Sheriff's department, of both Georgia and also any state where an employee holds a current drivers license, as well as a search of the GBI, and the FBI data bases.
  - (b) Applicants for an alcoholic beverage permit shall make themselves available for photographing, fingerprinting and such other investigating as may be required by the County Clerk, the Alcohol Board or the Sheriff;
  - (c) Such person shall not have been convicted of any violation of the laws of this state or any other state relating to the sale of alcoholic beverages, controlled substances, weapons violations, or related offenses, or any offense involving moral turpitude within the past five (5) years; and shall not have had revoked, for cause, such as a violation of regulations or improper operation, within five (5) years before the date of application, any license or permit issued to the applicant by any state, county or municipality to sell pour, mix, or handle alcoholic beverages of any kind. Following any conviction of the above-listed offenses while employed, the employee shall promptly notify the county. The County Clerk or Alcohol Board may, after reasonable notice and hearing (unless waived), revoke a permit and demand its surrender where the employee violates the provisions of this article, or becomes one who adversely affects the public health, safety and welfare. It shall be unlawful for an employee whose permit has been

revoked, and upon whom demand for surrender of a permit has been made, to refuse to so surrender, or to alter, conceal, deface or destroy the permit.

- (d) Clerks in package retailers other than convenience stores who are not directly involved in the handling, purchasing or pricing of alcohol in establishments other than convenience stores shall not be required to comply with this requirement except to the extent their employers choose to require compliance.
  - (e) The alcoholic beverage permit issued to any person who is at least eighteen (18) years of age but less than twenty-one (21) years of age, shall have a distinguishing notice in color on the face of the permit indicating the age range of the employee and that the employee may not mix or pour alcoholic beverages nor be employed in any store that sells package malt beverages or wine unless there is also present a manager or person in charge who is at least twenty-one (21) years old.
  - (f) The employee who has been issued an alcoholic beverage permit must present the permit to employer who in turn must keep a copy on file so long as it employs the employee. The permit holder should have the permit available at all times while on duty.
  - (g) The County Clerk shall keep on file copies of all relevant reports and the employees current photo ID or drivers license.
  - (h) An alcoholic beverage permit shall expire on the person's birthday and be renewable annually on or before that time.
  - (i) The fee for the initial permit shall be set by the Governing Authority. Fees shall be paid to the county;
  - (j) Union County shall honor reciprocity with the City of Blairsville, in that a valid alcoholic beverage permit issued by Union County shall have all of the rights, obligations, and responsibilities of an alcoholic beverage permit issued by the City.
- 6-10 Use in any way of false, outdated or invalid documents or identification, or to fail to disclose requested or required information by any employee of a licensed establishment shall be a violation of this article.

**Section 7      Regulations for the Sale of Alcoholic Beverages for Consumption on the Premises**

- 7-1 Except in the case of temporary permits, wine tasting, and golf courses, as addressed separately in this article, alcoholic beverages for consumption on the premises may be sold only in eating establishments regularly serving prepared food, with a full service kitchen which must be approved by the health and fire departments, or on the premises of a hotel or resort or bed and breakfast as defined herein, having a full service kitchen approved by the health and fire departments.

- 7-2 Such eating establishment will regularly serve food every hour they are open and derive at least sixty percent (60%) of its gross receipts annually from the sale of prepared meals or food and derive no more than forty percent (40%) from the sale of alcoholic beverages.
- 7-3 Alcoholic beverages may only be served to those customers who are served food that is consumed within the eating establishment.
- 7-4 Eating establishments licensed to sell alcohol for consumption on the premises are required to have seating for food service of at least thirty (30) seats.
- 7-5 An eating establishment issued a license under this article shall be under a responsibility to demonstrate and provide regular proof that the business location for which the license is issued has gross sales from the sale of prepared meals or food of at least sixty percent (60%) of total gross sales of the business.
- 7-6 A licensed hotel or resort meeting the other requirements of this article may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as there is also a full service eating establishment in the hotel/resort which shall meet all of the requirements of this article. This provision specifically does not allow a “stand alone bar,” but rather allows a snack bar or smaller café on the premises with alcohol service together with food service.
- 7-7 A bed and breakfast meeting the other requirements of this article except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full service eating establishment located in the bed and breakfast. A bed and breakfast will be required to meet the sixty percent requirement for non-alcohol sales which may include revenue from the sale of rooms.
- 7-8 Alcoholic beverages shall not be sold for consumption, or served, on the premises except between the hours of 11:00 a.m. until 11:00 p.m. Monday through Saturday, excluding also Christmas day.
- 7-9 Persons holding a license to sell alcoholic beverages for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or to allow anyone to take alcoholic beverages in any form away from the premises.
- 7-10 The name, brand or type of alcoholic beverage served and the price per serving may be provided to customers on a regular printed food menu.
- 7-11 Exterior lights shall be extinguished within one hour after closing, except for limited lighting necessary for security for employees and clean-up crews remaining on the premises.
- 7-12 A golf course that is open to the public is a special entity with unique operations subject to certain regulations not applicable to other establishments regulated in

this article. It shall be eligible to apply for alcoholic beverage for consumption on the premises licenses under the following special conditions:

- (a) A golf course which is licensed for the sale of alcoholic beverages for consumption on the premises must provide food service on the golf course premises for meals and snacks without necessarily meeting the requirement of a full service kitchen, or percentage of alcohol sales, so long as the health and fire departments approve of the food service operations;
- (b) Alcoholic beverages may be sold for consumption on the premises beginning at 8 AM and may not be sold after 11:00 PM Monday through Saturday.
- (c) In the event there are 2 or more locations on the golf course premises that wish to serve distilled spirits for consumption on the premises, if the locations are not contiguous, each location is required to have a separate license.
- (d) At a golf course, packages of malt beverages and wine may be purchased from the licensed eating establishment and may be opened and consumed on the golf course.

7-13 Any person, including the licensee, who pours or mixes any alcoholic beverages must be at least 21 years old, and any person taking orders for selling or serving but not pouring or mixing any alcoholic beverages in an eating establishment shall be at least 18 years old.

**Section 8 Regulations for the Sale of Malt Beverages and Wine by the Package**

It is the intent of this Ordinance that the sale of malt beverages and wine by the package shall merely be an adjunct to the other legitimate business conducted at any location. Malt beverages and wine may be sold by the package in grocery stores and convenience stores which derive at least sixty percent (60%) of their gross receipts semi-annually from the sale of items other than malt beverages, wine, and fifty-percent (50%) of gross fuel sales. This requirement is to insure conformity with the intent of this section.

- 8-1 An establishment issued a license under this Ordinance shall be under a responsibility to demonstrate and provide regular proof that the business location for which the license is issued derives at least sixty percent (60%) of total gross sales from the sale of items other than malt beverages, wine, and fifty-percent (50%) of gross fuel sales.
- 8-2 Malt beverages and wine shall not be sold by the package except between the hours of 6:00 a.m. until 11:00 p.m. Monday through Saturday, excluding also Christmas Day.
- 8-3 Persons holding a license to sell malt beverages and wine by the package shall be permitted to sell them only at retail, and not for consumption on the premises.
- 8-4 No single serving cans or bottles of malt beverages or single serving size containers of wine shall be sold.

- 8-5 In convenience stores selling malt beverages and wine by the package, a manager or employee who is in charge on the premises at any given time must be at least twenty-one (21) years of age, and other clerks or employees working at the same time must be at least eighteen
- 8-6 An establishment issued a license under this article may not display malt beverages or wine outside of the building, inside within twenty (20) feet of any entrance door, in any ice-filled open display container or cooler.
- 8-7 There shall be no drive-up or drive-through sales of any malt beverages or wine by the package.
- 8-8 No one purchasing or obtaining malt beverages or wine by the package may open any package or container of malt beverages or wine anywhere on the premises or on any adjacent premises.

**Section 9 Wine-only Package Stores Holding an Ancillary Wine Tasting License**

- 9-1 The holder of a wine-only package store license shall be eligible for an ancillary wine tasting license to provide samples of wine offered for sale to customers under the conditions set forth in this section.
- 9-2 The holder of a wine-only package store license with an ancillary wine tasting license is hereby exempted from the percentage of gross sales requirement and the prohibition of wine displays within twenty (20) feet of the entrance door as otherwise required of package stores.
- 9-3 Wine sampling shall be on limited occasions when a customer requests a sample of a wine offered for sale within the premises, or in conjunction with wine education classes and sampling designed to promote wine appreciation and education.
- 9-4 Wine tasting for customers shall only be conducted at a wine counter area constituting no more than ten (10) percent of the entire floor area of the premises.
- 9-5 Wine sampling for customers shall be limited to two (2) ounces or less.
- 9-6 Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee, who must be twenty-one (21) years of age or over.
- 9-7 No open containers of wine shall be removed from any building on the licensed premises.
- 9-8 Not more than one time per week for a period of not to exceed two (2) consecutive hours, the holder of an ancillary wine tasting license may conduct educational classes and sampling for classes. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- 9-9 Holders of an ancillary wine tasting permit shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.

9-10 Wine sampling and tasting is only permitted within the enclosed portion of the premises.

9-11 All regulations regarding signs and advertising in this article must be adhered to with an exception for one non-lighted informational or business name sign not to exceed ten (10) square feet on the exterior of the premises.

### **Section 10 Temporary Special Event License**

10-1 Non-profit civic organizations desiring to sell, provide, or allow alcoholic beverages at a special event may apply for and submit completed forms furnished by the Commissioner of the Georgia Department of Revenue for a temporary special event license in order to obtain a permit from the Commissioner of the Georgia Department of Revenue authorizing the organization to sell, distribute, or allow alcoholic beverages for consumption only on the premises, or to sell wine in sealed containers, at retail or auction, or a combination thereof, for a period not to exceed two (2) days, which cannot include any Sunday of the year or Christmas Day, and subject to the rules and regulations of the Georgia Department of Revenue.

10-2 The non-profit civic organization must have been established in Union County for one (1) year or more prior to the date of application, or have had a designated agent located within Union County for one (1) year or more prior to the date of application.

10-3 The non-profit civic organization must also file an application with the county, provide verification of the organization's current non-profit status, and pay a required fee, as set by resolution of the Governing Authority, and so long as all state rules and regulations have been complied with, the Governing Authority may issue a temporary special event license to the organization, subject to the applicable provisions of this ordinance and the following:

- (a) The event must comply with the times and days allowed for selling alcoholic beverages for consumption on the premises;
- (b) No more than six (6) permits for a maximum of two (2) days at a time shall be issued to an organization in any one calendar year;
- (c) All events must be associated with and benefit the cause of the non-profit organization;
- (d) The special event must receive approval from the Union County Sheriff's office on crowd control, parking and security measures;
- (e) The location at which the event is to take place must be approved in writing by the owner of the property;
- (f) The temporary license will be considered by the Alcohol Board which may approve of the license at their discretion while considering the worthiness of the

cause, the suitability of the event, and the proposed compliance with all regulations;

- (g) The temporary license may be immediately revoked if it is determined by law enforcement that underage persons are being provided alcohol or if there is a disturbance of the peace or any other danger to the health safety or welfare of the public;
- 10-4 As a condition of the issuance of a temporary special event license, the licensee shall indemnify and hold the county harmless from any claims, demands or causes of action which may arise from activities associated with the special event.
- 10-5 The requirements of an eating establishment, number of seats, and percentage of sales shall not apply to a temporary special events license.

### **Section 11 Prohibited Activities**

- 11-1 No person knowingly and intentionally may sell or offer to sell:
  - (a) Any distilled spirits in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus;
  - (b) Any wine or malt beverages in or within 100 yards of any school building, school grounds, or college campus. This restriction shall not apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such application;
  - (c) Any wine, malt beverages, or distilled spirits within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein;.
  - (d) As used in this subsection, the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in subsection (b) of Code Section 20-2-690 of Georgia law.
- 11-2 For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:
  - (a) From the main entrance of the establishment from which alcoholic beverages are sold or offered for sale;
  - (b) In a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
  - (c) Along such public sidewalk, walkway, street, road or highway by the nearest route;

- (d) To the nearest portion of the church building or alcoholic treatment center, or to the nearest portion of the school grounds.
- 11-3 As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.
- 11-4 It shall be unlawful for any person to open or to consume all or any part of any type of alcoholic beverage outside in the parking lot or entrance areas or outside of the premises of any establishment selling alcohol, whether by the package or by the drink.
- 11-5 It shall be unlawful to knowingly sell alcoholic beverages to a person who is intoxicated or to allow intoxicated persons to congregate on the premises, either inside, on any patio, or in any outside area or parking lot, and it shall be the responsibility of the owner of the business and the license holder and their agents and employees to strictly enforce this provision.
- 11-6 No person knowingly, directly or through another person, shall sell, cause to be sold, or permit any person in such person's employ to sell, serve, or provide any alcoholic beverage to any person under 21 years of age. Licensees and their agents and employees are responsible for checking identification to ensure that a purchaser is at least 21 years of age, and it shall be a violation of this article to reasonably fail to check such identification. For the purposes of this subsection, proper identification means any document issued by a government agency which has a photograph of the person and indicates the person's date of birth. These documents shall include but not be limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.
- 11-7 No person who is under 21 years of age may pour or mix any alcoholic beverage, and no person who is under 18 years of age may take orders for, sell, or serve any alcoholic beverage, subject to further regulations for package sales.
- 11-8 There shall be no casino style video gambling or gaming devices, no gambling, betting, games of chance, slot machines or the operation of any scheme for hazarding money or any other thing of value, excluding arcade games, in any place of business licensed under this article, or in any room adjoining same, owned, leased or controlled by a licensee, except that this restriction shall not apply to official sales locations of Georgia Lottery games and tickets.
- 11-9 No retail consumption dealer or package store licensed under this ordinance shall keep any malt beverages or wine or other alcoholic beverages at any place except the licensed place of business.

11-10 As to any retail consumption dealer, happy hours or similar promotions shall not be permitted, and no licensee or employee or agent of a licensee, in connection with the sale or service of alcoholic beverages for consumption on the premises shall:

- (a) offer or deliver any free alcoholic beverage to any person or group of persons;
- (b) deliver more than one alcoholic beverage to one person at a time;
- (c) offer or deliver an alcoholic beverage without also serving food;
- (d) sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public;
- (e) sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price;
- (f) sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public;
- (g) increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week;
- (h) encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize, and
- (i) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day, and the schedule shall be effective for not less, than one calendar week.

**Section 12    Manufacturing of Malt beverages and Wine; Farm Winery Tasting Room**

- 12-1 There is hereby created a license for the business of operating a Georgia farm winery, to be in conformance with the farm winery laws of the State of Georgia under O.C.G.A. § 3-6-21.1 and this article.
- 12-2 Under this article, the licensee shall be authorized to carry on the business of operating a farm winery tasting room on the licensed premises.
- 12-3 The farm winery tasting room created by this ordinance is limited to farm wineries licensed by the State of Georgia and allows the licensee to deal in its farm winery products pursuant to state law. No license is created by this article

authorizing any other person to deal in any other alcoholic beverage in a farm winery.

- 12-4 A farm winery licensed in Georgia may apply for and be eligible for a license as a wine package store, with or without wine tasting. If such wine sales and wine tasting are proposed to be located at a publicly owned Farmers Market, in that case, requirements regarding construction, parking, lighting, etc., may be waived as needed, so long as the Building Department certifies the safety and appropriateness of sales location.
- 12-5 The requirements of this article with respect to the sale of food with alcoholic beverages and the display, signs, seating requirements, and percentage of sales requirements shall not apply to farm winery tasting rooms, but all other provisions and requirements shall apply.
- 12-6 There is hereby created a license for the business of manufacturing malt beverages, to be in conformance the laws of the State of Georgia
- 12-7 All appropriate and pertinent parts of this Ordinance shall be applicable to any applicant for or holder of a manufacturing license to sell and/or distribute malt beverages.

**Section 13 Licenses, Application, Investigation**

- 13-1 Any holder of a license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales or manufacturing commence. County licensees are required to be familiar with and to abide by all applicable state regulations and laws.
- 13-2 Application for a retail or manufacturing license shall be made by and the license granted to the individual or partners primarily responsible for personally supervising and conducting the operation of the business at the address specified in the application. Such individual, or, if a partnership, the partners collectively, must be regularly present on the premises during at least one-third of the hours during which the business is open during at least two (2) months of each quarter. Any person applying on behalf of a corporation must disclose the extent of his representative capacity and the names and addresses of the officers of the corporation. The applicant must furnish the names and addresses of the owners of the premises at which the business is to be conducted and the names and addresses of all persons, firms, or corporations who have a financial interest in the ownership of the business to be conducted. An application for a wholesale manufacturing license shall provide the information requested on the form.
- 13-3 There is hereby established an Alcohol Board comprised of five (5) members, to be appointed by the Governing Authority. The Governing Authority shall establish powers, duties, rules and regulations governing the Alcohol Board consistent with the provisions of this article. The members of the Alcohol Board:

- (a) Shall have been residents of the county for at least one (1) year;
  - (b) Shall be at least twenty-one (21) years of age;
  - (c) Shall not have been convicted of any federal, state or local law, whether felony or misdemeanor, with an exception for certain misdemeanor violations which will not automatically disqualify a person; such exceptions include misdemeanors and code enforcement violations not involving alcohol, substance abuse, or firearms, misdemeanors not involving fraud, dishonesty or personal harm of any kind, and routine traffic violations;
  - (d) Shall in no way be connected nor any member of their family be connected with the sale, distribution, storage, or manufacture of alcoholic beverages, nor have been so connected within the past three (3) years, nor may any member or a member of the member's family be a county employee, or appointed or elected official of the county;
  - (e) Shall serve two (2) year terms or until a successor is appointed, subject to removal at any time by the Governing Authority, at whose pleasure they serve;
  - (f) Shall elect a chairperson. A quorum shall be required for all meetings, and decisions shall be decided by a majority of those present;
  - (g) The County Clerk shall serve as secretary, and shall make a full and complete record of all proceedings consistent with the Georgia Open Meetings Law, and shall retain original applications and copies of all relevant documents;
  - (h) Shall meet at such times as may be deemed necessary or appropriate with adequate notice given. All meetings shall be open to the public consistent with the Georgia Open Meetings Law.
- 13-4 No alcoholic beverages shall be sold in the county, except under a license issued pursuant to this article by the Governing Authority after recommendation by the Alcohol Board.
- 13-5 The alcoholic beverage licenses which may be issued under this article are only for those licenses enumerated in Section 5.
- 13-6 In determining whether or not any license applied for under this article shall be granted, in addition to all other provisions of this article, the following shall be considered by the Alcohol Board in the public interest and welfare:
- (a) The applicant's reputation, character, and mental and physical capacity to conduct business;
  - (b) Whether or not applicant has violated any law or regulation relating to any alcoholic beverage business for which he may have previously held a license or in which he may have had an interest within the past 5 years;
  - (c) Any manner in which the applicant conducted the alcoholic beverage business under any prior license;

- (d) The extent of the financial interest of the applicant or any member of his or her family in any wholesale alcoholic beverage business, in that no person or family member who has any financial interest in any wholesale alcoholic beverage business in this or any other state or country shall also have any financial interest in any retail alcoholic beverage business, and no financial aid or assistance to any licensee under this article from any wholesaler, distributor, or manufacturer of alcoholic beverages shall be permitted;
- (e) No county employee or elected or appointed official of the county shall own any interest in any license issued under this chapter; nor shall the family as defined herein of any county employee or elected or appointed official of the county who has any control over or who participates in official action or consideration of the license or any involvement in the approval of any alcoholic beverages licenses in any way shall own any interest in any license issued under this chapter;
- (f) The suitability of the premises for the conduct of an alcoholic beverage business, including its appearance, state of repair, maintenance standards, location, highway traffic problems and the difficulty or absence thereof of policing by law enforcement agencies;
- (g) No license shall be issued, under this article, to any person who is, in fact, a front for any person as an initial applicant or whose license has been revoked or previously denied by the Governing Authority;

13-7 The amount of initial license and administrative fees shall be set initially and from time to time by resolution of the Governing Authority. Each application for a license under this article shall be accompanied by a cashiers or certified check for the full amount of the initial license fee, together with a separate check or cash for the and administrative fees and other fees which are charged to defray investigative and administrative costs.

- (a) If the applicant is denied a state license, the deposit representing the initial license fee shall be refunded, but the cost paid for the application, investigation and administrative costs shall be retained.
- (b) Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay an administrative fee of one-half the regular administrative fee, but shall pay a separate full initial license fee for each license.
- (c) When an applicant is making applications for more than one license at the same time, the applicant shall pay only one administrative fee of 125% of a normal administrative fee but shall pay a separate full license fee for each license.
- (d) There shall be an annual license fee for each license payable in advance for the entire year, beginning January 1 and ending December 31, of each year.
- (e) Licenses shall expire on December 31st of each year and an application for renewal shall be made annually on or before the 31st day of October each year.

Any licensee must annually meet the requirements set forth in this article in order to obtain a renewal of any license. Renewal applications received after November 30<sup>th</sup> shall incur a late fee of 20% of the renewal fee as a late charge penalty.

- (f) The payment of all license fees in full shall be a prerequisite to the issuance of a license unless otherwise provided by resolution of the governing authority.
- (g) The suspension or revocation of any license granted pursuant to this article shall not entitle the licensee to a return of any portion of the license fees.

13-8 As a prerequisite to the issuance of a permit or license, the applicant shall furnish a complete set of fingerprints to be forwarded to the Georgia Bureau of Investigation, which shall search the files of the state crime information center for any instance of criminal activity during the five (5) years immediately preceding the date of the application. The State Bureau of Investigation shall also submit the fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records. The federal record, if any, shall be obtained and returned to the office submitting the fingerprints.

13-9 Any person or entity desiring to obtain an alcoholic beverage license as enumerated in this article, shall file with the initial application an affidavit affirming that prior to any sales or services of alcoholic beverages, all employees, managers, cashiers, and servers, or future employees, managers, cashiers, and servers will be trained in the regulations governing the sale of alcoholic beverages prior to being allowed to sell or serve, and that a copy of the policies and procedures for such sales and services be attached to the affidavit, which policies and procedures the employer shall prepare and promulgate to all employees, and which shall include adherence to this ordinance..

13-10 Upon a license being granted, an affidavit signed by each employee, manager, server, cashier or other person handling the sale or service of alcoholic beverages in any way, including owners who work in any premises selling alcoholic beverages, shall be filed with the Alcohol Board, attesting that the person has received the required training, is familiar with this ordinance, and has read and agrees to follow the written policies and procedures provided to each such person.

13-11 Training shall consist at a minimum either written or video training materials recognized and approved as appropriate training by the Alcohol Board. This is an ongoing requirement.

13-12 Any person as defined herein, or business entity, desiring to obtain an alcoholic beverage license as enumerated in this article, shall advertise his intention to make application to the Alcohol Board for the issuance of a license.

- (a) Such advertisement shall be in such form as the Governing Authority may from time to time prescribe, and shall be published for at least two consecutive weeks in the newspaper which shall be the legal organ of the county.

- (b) Such advertisement shall contain a statement showing the location and name of the proposed business, and the name of the applicant. The advertisement shall be at least one eighth of a page and of at least an 8 point font size.
  - (c) The advertisement prescribed in this section shall not be required of applicants for licenses where the license sought is a renewal of a prior license issued to the same applicant for the same location.
  - (d) If the same location was previously licensed to do business, but there has been a change of ownership of the business or of other interest therein, the advertisement shall be required.
  - (e) If the location of a license changes, the advertisement shall be required, along with other requirements being met.
- 13-13 A person doing business at more than one establishment shall take out and pay for a separate license for each place of business.
- 13-14 All applications by a corporation, an individual, or other business entity shall name in the application a managing agent who shall be a resident of the county at the time of serving in such capacity, and may not have been convicted of a drug, alcohol, or gambling related offense, or any crime involving moral turpitude, within the past five (5) years, and such persons shall receive all communications, notices, service of process or other papers or documents with respect to any license. Individuals named pursuant to this paragraph will be designated to be responsible for any matters relating to the license and must remain bona fide residents of the county during all the time that such licenses and renewals thereof are in effect. The licensee shall file the name of the managing agent, along with the written consent of such agent, with the Alcohol Board. Residency shall be proved by two (2) of the following three (3) documents: a current utility bill, a current voter registration card, or a valid drivers license.
- 13-15 Any establishment holding a license issued under this article shall at all times during the hours that the establishment is open to the public, be open to inspection by any law enforcement official, any officer of the Sheriff's Department or any license inspector of the County or to any person designated by the Alcohol Board or the Governing Authority.
- 13-16 Alcoholic beverage licenses issued under this article shall not be transferable or assignable to new owners, but where there is a change in the ownership of a business, the new owner or owners shall file an application for a new license within 30 days as provided by this article and shall pay a new initial license fee. Changes of business interests from one party at interest named in the original application to another party at interest named in the original application shall not be deemed a transfer of a license.
- 13-17 The application shall be in such form as shall be from time to time prescribed by the Governing Authority or the Alcohol Board. The application form shall be

obtained from the county administration and filed with the Alcohol Board. It shall be subscribed by the applicant under oath, and shall be fully and completely executed. There shall also be attached to the application all required fees in full.

- 13-18 When the advertisements required by this article have been published, the applicant shall obtain an affidavit of publication and shall attach the affidavit of publication to the written application for an alcoholic beverage license.
- 13-19 When the verified application, with the affidavit of publication and payment of the license fees is submitted, the Alcohol Board shall have up to 45 days to investigate the application and the background of the applicant.
- (a) The Alcohol Board shall refer the application to the Sheriff's Department and the Building Department for such investigations the Board require.
  - (b) The Alcohol Board may seek the advice of the District Attorney or the County Attorney during its consideration of the application.
  - (c) The Alcohol Board shall cause an inquiry to be made into the county records to determine if the applicant, the managing agent, or other parties with an interest in an application for a license under this chapter has any outstanding taxes or special assessments that are delinquent against his property or any other monies owing to the county. No license shall be issued or renewed until such debts are paid in full.
- 13-20 Upon completion of the investigation, the Alcohol Board shall submit its recommendation to the Governing Authority who may act on the recommendation of the Alcohol Board if the Governing Authority finds that the Alcohol Board has determined:
- (a) The required fees have been paid.
  - (b) The application conforms in all respects to the provisions of this article and has been completely and fully executed, and each question on the form provided has been answered accurately.
  - (c) The applicant has not knowingly made a material misrepresentation in this application.
  - (d) The applicant has fully cooperated in the investigation of his application.
  - (e) The applicant has not been convicted in a court of competent jurisdiction of a state or federal offense involving drug-related, alcohol-related, weapons violations, or related felonies within the past five (5) years, or any crime involving moral turpitude within five (5) years, or convicted of an attempt to commit any of the offenses mentioned in this subsection, or convicted in any state of any offense in which if committed or attempted in this state, would have been punishable as one or more of such offenses.
  - (f) The applicant has not had an alcoholic beverage license or other similar license or permit denied or revoked for cause in this county or any other county or county located in or out of this state prior to the date of application.

- (g) The building, structure, equipment, or location of such business, as proposed by applicant, complies with all applicable laws and provisions of this article.
- (h) The applicant is at least 21 years of age and is of good moral character.
- (i) The residency requirement has been met.
- (j) The applicant has not within five years of the date of the application knowingly allowed or permitted any of the specified prohibited activities as defined in this article to be committed or allowed in or upon the premises where such alcohol is to be located.
- (k) That on the date the business for which a license is required in this article commences, and thereafter, there will be a responsible person of at least 21 years of age who meets all of the other requirements of this article on the premises to act as manager at all times during which the business is open.
- (l) That the establishment proposed to be licensed is not to be located within the distances to a church or school as specified in this article. Such distances may be required to be determined and certified as in compliance with this article by a registered land surveyor licensed by the state.
- (m) That the grant of a license will not cause a violation of this article or any other ordinance or regulation of this county, state, or the United States.

13-21 At the time and place that the license is to be considered by the Alcohol Board, all of which meetings shall fully conform with the Georgia Open Meetings Law, the Alcohol Board shall hear relevant evidence concerning the issuance of the license.

13-22 The applicant must appear in person and may be represented by an attorney. The applicant may also have witnesses appear on his behalf. The meeting may be continued for up to 10 days if necessary for further investigation or clarification. At the conclusion of the evidence, the Alcohol Board shall recommend approval or denial of the applicant's license to the governing authority following deliberation in an open meeting. The hearing and subsequent recommendation shall occur as part of the agenda at a regularly scheduled Alcohol Board meeting or any continuances thereof or at a specially set called hearing.

13-23 Any material omission, or untrue or misleading information contained in or left out of an original, or renewal application for any license issued under this article shall be unlawful, shall be just cause for a denial thereof, and shall be punishable as a violation of a county ordinance. If any such license has previously been granted under the above circumstances, such material omission, or untrue or misleading information shall constitute cause for the revocation of the license.

13-24 Whenever there shall be a change in any of the facts reported to the Alcohol Board in the application for a license under this article after such license has been granted, it shall be the duty of the licensee, within 10 days after such change, to report the change to the Alcohol Board in writing.

- 13-25 In addition to the provisions of this article, a licensee is also charged with responsibility for strictly adhering to the Union County Adult Entertainment Ordinance and any other provisions of the Union County Code, as well as the statutes and laws of the state and of the United States relating to the operation of the licensed business.
- 13-26 Where a building in which any person intends to operate under the provisions of this chapter is, at the time of the application for the license, not in existence or not yet completed, a conditional license may be issued for the location provided the plans for the proposed building show clearly a compliance with the other provisions of this chapter. No sales or consumption shall be allowed in the establishment until it has been completed in accordance with the plans and is in conformity with all of the other provisions of the Union County Code and Georgia law.
- 13-27 Any license issued under this chapter shall automatically be null and void where the licensed business has not begun operation or has not operated or been open to the public for four consecutive months.
- 13-28 All applicants for licenses (in the case of pending applications) and all licensees (in the case of issued licenses) shall forthwith report to the Alcohol Board any allegations of a violation of any state law or regulation or local ordinance or regulation when such allegations are made by the State Department of Revenue, a law enforcement officer, tax commissioner or prosecuting attorney in this state which charges the applicant or the licensee, as the case may be, with the violation of any law or regulation which could or would, in the event of a finding of guilt, result in a suspension or revocation of such license or denial or an application for such license. Similarly, an applicant or a licensee shall report to the Alcohol Board all findings of such violation by any administrative agency, the tax commissioner or county which under this article could or would result in revocation or suspension of a license. Failure to make reports required by this section shall itself be grounds for suspension or revocation of or the denial of any application for a license as the Alcohol Board shall determine.
- 13-29 An applicant, by filing an application for an alcoholic beverage license, submits to all of the terms of this article, and agrees that he will furnish such evidence, oral or written, as the Alcohol Board shall find to be reasonably necessary to the determination of the application, and such applicant further agrees by the filing of such application that if a license is issued thereon, he will comply with the terms of this article.
- 13-30 All licenses issued under this article shall be subject to the rules and regulations set forth in an act of the General Assembly known as the Georgia Alcoholic Beverage Laws and Regulations 1986 Edition, as now or hereafter amended, to legalize and control alcoholic beverages, as now or hereafter amended, and those prescribed by the State Department of Revenue. Violation of these statutes shall be violations of this article.

## **Section 14 Special Provisions for Wholesalers**

- 14-1 No person or entity shall sell any alcoholic beverage at wholesale unless the person or entity holds a valid and current wholesale license from the State of Georgia and from the county where the principle place of business of the wholesaler is located.
- 14-2 A person or entity desiring to engage in the wholesale sale of alcoholic beverages in this county shall obtain a wholesaler license from the county and pay the license fees as set by separate resolution of the Governing Authority.
- 14-3 No person or entity that has any financial interest, either direct or indirect, in any license for the retail sale of any alcoholic beverages in the county or in any city within the county shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the state of Georgia.
- 14-4 Farm wineries acting as wholesalers under the provisions of O.C.G.A. 3-6-21.1 are exempt from this provision and may, upon proper application, approval, and permitting, hold licenses as on-premises, bulk, or package sales and wholesale operations at a single location.
- 14-5 No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any alcoholic beverage to any person other than a retailer licensed under this chapter; provided however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.
- 14-6 No alcoholic beverage shall be delivered to any retail sales outlet in the county except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.
- 14-7 Every retailer shall maintain sufficient audit records to attribute all alcoholic beverage items for sale to a purchase from a licensed wholesaler.
- 14-8 Licensed wholesalers shall only engage in the sale of alcoholic beverages during regular business hours of the retailer, Monday through Saturday, excluding Christmas Day.

## **Section 15 Enforcement**

- 15-1 The Alcohol Board shall be responsible for the enforcement of this section.
- 15-2 The Alcohol Board shall be authorized to suspend a license previously granted under this article. If the Alcohol Board seeks to suspend a license, the Alcohol Board shall give written notification to the applicant of such action and such notice shall contain the specifics of the violation or violations and shall be served upon the licensee at least ten (10) days prior to a hearing. The licensee shall be given at least ten (10) days written notice of the time and place of the hearing.
- 15-3 The Alcohol Board, if it finds cause, shall be authorized to suspend a license in the event of any one or more of the following:

- (a) Any licensee gave false or misleading information in the original application process;
- (b) Any licensee has knowingly allowed consumption, use, or sale of controlled substances, as defined under Georgia Law, on the premises to any adult or minor;
- (c) Any licensee has knowingly allowed the violation of a county ordinance or a violation of any criminal law of the state to occur on the premises;
- (d) Violation of any of the provisions of this article by the holder of a license issued under this article or its agents or employees, whether compensated or not;
- (e) Any licensee has been convicted of any drug or alcohol or firearms related, or crime by the state or the county regarding an offense which was committed on the premises or which would otherwise violate the provisions of this article;
- (f) Any licensee fails to pay any fee, tax, fine or other amount of money due to the county under this article or any other ordinance provision of the county;
- (g) The performance of any act prohibited by this article or the failure to perform any act required by this article as well as the violation of any law, state or federal, relating to the business of the licensee. If such act, omission or violation is done by an agent, servant, employee, or officer of the licensee, whether paid or unpaid, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense;
- (h) The entry of a plea of guilty or nolo contendere, or the conviction of any licensee with respect to a charge of violation of any of the laws of the United States or any state relating to alcohol, drugs, firearms, or any crime, whether a felony or not, involving moral turpitude;
- (i) The occurrence on two or more occasions within any 12-month period of fights, disorderly conduct, drunkenness, breach of the peace, and other similar conduct on the premises, whether such conduct is committed by the licensee or by customers or others;
- (j) Sales of alcoholic beverages to any person under 21 years of age; or
- (k) Any other act or omission with respect to the operation of a business licensed under this article which the Alcohol Board shall find to be contrary to the public interest, or which shall render the licensee or the business location unfit for the continued operation of the business.

15-4 In the event the Alcohol Board shall suspend any license under this article, the suspension shall be for a period of not less than one day nor more than 45 days, within the discretion of the Alcohol Board. The Alcohol Board shall forward to the County Clerk the establishment's license which shall be retained as revoked by the Clerk until final adjudication of the suspension of the license by the Alcohol Board.

- 15-5 Except for sales to persons under 21 years of age, the licensee shall be authorized to continue its business operations until the date of the hearing scheduled in accordance with this article.
- 15-6 Law enforcement may immediately revoke a license if it is determined by law enforcement that underage persons are being provided alcohol or if there is a disturbance of the peace or any other danger to the health safety or welfare of the public, and the license shall be retrieved by the law enforcement officials or the county marshal and the alcoholic beverages on the premises inventoried and secured by the law enforcement officials to prevent their sale until a hearing is conducted by the Alcohol Board and all state, federal, and county court charges, if any, have been resolved. The secured alcoholic beverages shall be dealt with in accordance with Georgia law.
- 15-7 No applicant may apply for a license during any period of suspension or revocation.
- 15-8 The Alcohol Board shall have the power to assess civil penalties for any violation of this article. For a first violation, a civil fine shall be at least in the amount of \$1000.00 and no more than \$5000.00. For a second and any subsequent violation the civil fine shall be at least in the amount of \$2500.00 and no more than \$10,000.00. Such civil fines shall be in addition to any suspension or revocation of a license as provided in this chapter.
- 15-9 Notwithstanding the foregoing provisions of this section, in the event of a first violation of this article and the issuance of a citation requiring an appearance in Magistrate's Court, any person, if convicted, shall be guilty of a misdemeanor and be punishable by a fine of at least \$500.00, not to exceed \$1,000.00, per violation or by imprisonment for a period not to exceed 90 days, or both, and by a suspension of the license to sell alcoholic beverages for a period of time not to exceed 60 days. In the event of a second violation, the person shall be punishable by a fine of at least \$750.00, not to exceed \$1,000.00, per violation or by imprisonment for a period not to exceed 90 days, or both, and by a permanent suspension of the license. Every day a violation continues may constitute a separate violation. An establishment which has served underage drinkers shall receive a separate citation for each underage patron served, and, if convicted, shall be fined and punished separately for each citation.
- 15-10 The Alcohol Board shall have the right to make such inquiry or investigation as it may find to be reasonably necessary to determine compliance with this article. Such investigation may consist, among other actions, of calling licensees for examination under oath, obtaining evidence under oath from other persons; their procurement of documents and records including records of the licensee, and inspection and examination of records and documents from whatever source obtainable.

**Section 16 Hearing; Basis of Determination**

- 16-1 Whenever any alcoholic beverage license issued under this article has been revoked or suspended for cause shown, there shall be a hearing before the Alcohol Board on the matter of which at least ten days' written notice shall be given to the licensee in person, by certified mail or by Sheriff's service.
- 16-2 Such notice shall specify the time, place and purpose of the hearing, and a statement of the charges upon which such hearing shall be held. At such hearing, the licensee shall have the right to appear in person and by attorney, and both the County Attorney or his designee and the licensee shall have the right to present evidence under oath, introduce documentary evidence, cross examine witnesses and generally present evidence of violation of this article or absence thereof. The hearing shall be conducted before the Alcohol Board.
- 16-3 Whether a license shall be suspended or revoked, and if suspended, for what period of time, shall be determined by the Alcohol Board after consideration of the evidence in the case and in accordance with the Alcohol Board's finding as to the severity of the offense. Upon a determination of violation of this article by the Alcohol Board, the Alcohol Board may in its discretion recommend (i) suspension of the license for a period of time up to one year, and/or (ii) revocation of the license and/or (iii) prosecution in Magistrate's Court of the violator for an offense under this article, to be punished as provided in this article, and/or assessment of civil fines as provided in this article. The decision of the Alcohol Board shall be conclusive unless modified by the Governing Authority in writing on or before the tenth day following the decision by the Alcohol Board.
- 16-4 Any person aggrieved by act or omission of the Alcohol Board or the Governing Authority with respect to its proceedings under this article including the suspension or revocation of a license shall have the right to appeal from the decision of the Alcohol Board or the Governing Authority. Appeals shall be to the Superior Court of the County filed within 30 days from the final action of the Alcohol Board or Governing Authority. If the applicant/licensee does not file an appeal from any decision of the Alcohol Board or Governing Authority, as provided in this section, the decision of the Alcohol Board or Governing Authority shall be final.

**Section 17 No New License to be Issued After Revocation**

When a license has been revoked under the provisions of this article, no application for a new alcoholic beverage license for the same location will be received for a period of twelve (12) months and no application for a new license from the licensee involved shall be received for a period of twenty-four (24) months.

**Section 18 Unlawful Operation Declared Nuisance**

Any licensed establishment operated, conducted or maintained contrary to the provisions of this article shall be declared to be unlawful and a public nuisance. In addition to or in lieu of any other remedy, or in lieu of prosecuting a criminal action, the County may seek injunctive, mandamus or other appropriate relief in Superior Court or any courts as may

have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a place for the sale of alcoholic beverages contrary to the provisions of this article, to enjoin, or prevent a violation of any provision of this chapter. Such action may also seek civil fines at the mandatory rates specified in this article for violations, and may additionally seek the costs of restitution, and any other costs associated with the action to enjoin or prevent any violation of any provision of this chapter. The County shall be entitled to its reasonable attorneys' fees and costs for bringing an action in Superior Court or any other Court wherein any relief is granted or fine assessed.

**Section 19    Signage Required**

- 19-1    At any establishment subject to this article there shall be posted conspicuously at or near each entrance of the establishment, a sign which shall state the following:  
UNION COUNTY AND THE STATE OF GEORGIA REQUIRE YOU TO BE 21 YEARS OF AGE IN ORDER TO PURCHASE AND CONSUME ALCOHOLIC BEVERAGES, AND TO PROVIDE PROPER PROOF OF AGE PRIOR TO PURCHASE. PLEASE HAVE YOUR IDENTIFICATION READY TO PRESENT TO THE SERVER, MANAGER OR CASHIER. PERSONS PROVIDING FALSE IDENTIFICATION WILL BE PROSECUTED.
- 19-2    Further, retail consumption dealers and retail dealers who sell at retail any alcoholic beverages for consumption on the premises shall post, in a conspicuous place, a sign which clearly reads: "WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS."
- 19-3    Each person holding a license issued pursuant to this article shall display the license prominently at all times on the premises for which the license is issued.

**Section 20    Excise Taxes**

- 20-1    Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this article, and such licensee shall remit the same to the County on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the County to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. 48-8-50, as now written or hereafter amended provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the

duty of every licensee to keep and preserve such records for a period of three years.

20-2 In addition to all other taxes or license fees imposed upon wholesale dealers selling malt beverages or wine to retail dealers in the unincorporated areas of the county, there is hereby levied and imposed upon each such wholesale dealer the following excise taxes:

(a) Upon the sale of any beer or malt beverages there is imposed an excise tax of \$0.05 per 12-ounce container and \$6.00 for each container of tap or draft beer or malt beverage of 15 1/2 gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

Size of container	Tax per container
7 ounces	\$ 0.0292
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0667
32 ounces	0.1333
1/2 barrel (15 1/2 gallons)	6.00
1 barrel (31 gallons)	12.00

(b) Upon the sale of any wine there is imposed an excise tax of \$.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

20-3 No county excise tax shall be imposed, levied, or collected in any portion of a county in which a municipality within the county is imposing the same tax.

20-4 The excise taxes imposed shall be paid by the wholesale dealers to the County by the tenth of each month, based upon the units of beer and wine sold during the previous month. The wholesale dealers shall keep true and correct records of all sales and shipments and shall render a sworn statement of the records accompanying the monthly report to the County. Any tax remaining unpaid at the expiration of 15 days from the due date shall be delinquent.

20-5 Wholesalers collecting excise taxes shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under O.C.G.A. 48-8-50.

20-6 Determination of deficiencies.

- (a) If the County has cause to believe that the return or returns of the tax or the amount of the tax required to be paid to the County by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One or more deficiency determinations may be made of the amount due for one or more monthly period.
- (b) The amount of the determination shall bear interest at the rate of 0.75 percent per month, or fraction thereof, from the due date of taxes.
- (c) The County shall give to the licensee or wholesaler written notice of its determination regarding a deficiency. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his address as it appears in the records of the county. Service by mail is complete when mailed with a certificate of service stamped thereon and a copy retained in county files or when delivered by certified mail with a receipt signed by the addressee.
- (d) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within thirty (30) days after the 10th day of the month following the calendar month for which the amount is proposed to be determined, or within thirty (30) days after the return is filed, whichever period should last expire.

20-7 Determination if no return made.

- (a) If any licensee or wholesaler fails to make a return, the County shall make an estimate of the amount of the gross receipts of the licensee, or as the case may be, of the amount of the total sales in this county which are subject to the tax. 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 in possession of or may come into the possession of the county official. Written notice shall be given in the manner prescribed above.
- (b) The amount of the determination shall bear interest at the rate of 0.75 percent per month, or fraction thereof, from the 20th day of the month following the calendar month for which the amount or any portion thereof would have been returned, until the date of payment.

20-8 Any licensee or wholesaler which fails to pay the tax herein imposed or fails to pay any amount of the tax required to be collected and paid to the county within the time required shall pay a penalty of 25 percent of the tax owed in addition to interest as set forth above.

20-9 The tax levied by this section may be enforced by execution in the same manner as other taxes of the county, and in addition, any failure of payment of such tax shall be grounds for revocation or refusal of the license of the delinquent taxpayer. The Governing Authority shall administer and enforce the provisions of

this section for the collection of the tax herein imposed, and in so doing shall have the power to:

- (a) Examine, or authorize the examination of, books, papers, records, financial reports, equipment, and other facilities of any person subject to the tax, in order to verify the accuracy of any report made, or if no report is made by the operator, to ascertain and determine the amount required to be paid;
- (b) Require the filing of reports by any person or persons having possession or custody of information relating to the tax herein levied; and
- (c) Allow a credit on any amount due and payable from persons who paid the tax herein levied but who were erroneously or illegally subjected thereto.

**Section 21    General Provisions**

- 21-1    If any of the provisions of this ordinance, or the application of this ordinance to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions or application of such other provisions of this ordinance. To this end the provisions of this ordinance are hereby declared to be severable.
- 21-2    All laws and ordinances, or parts thereof, which conflict with this ordinance, are repealed.
- 21-3    Nothing in this ordinance shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of any federal or state law.
- 21-4    This ordinance shall take effect and shall be enforced from and after the date of its adoption.

ADOPTED and APPROVED by the Sole Commissioner of Union County, Georgia, this \_\_\_\_ day of \_\_\_\_\_, 2010.

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Lamar Paris  
Union County Sole Commissioner

SEAL