

ARTICLE III. ALCOHOLIC BEVERAGES

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Sec. 10-71. Purpose.

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, manufacture, and sales of alcoholic beverages:

- (1) To promote the tourism trade, prosperity, economic well-being and the general welfare of the county;
- (2) To protect and preserve the community, including its schools and churches;

- (3) To maintain and promote desirable living conditions, and sustain stability of neighborhoods and property values;
- (4) To prevent undesirable persons from engaging in or having any interest in the manufacture and sale of alcoholic beverages; and
- (5) For the health and welfare of the citizens of Union County.

Sec. 10-72. 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 article.

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, except for certain partially consumed bottles of wine in accordance with O.C.G.A 3-6-4 and this ordinance.

Ancillary wine tasting means samples of wine provided to customers of licensed for wine and craft beer only by the package, with growler sales, under the conditions set forth in Section 10-79 of this article.

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

Beer (see malt beverage)

Church means a tax exempt organization in a building including the main structure together with any auxiliary structures where persons regularly assemble for religious worship.

Class B machine means a bona fide coin operated amusement machine that allows a successful player to accrue points on the machine and carry over points won on one play to a subsequent play or plays in accordance with paragraph (2) of subsection (d) of O.C.G.A. 16-12-35

and: (A) Rewards a successful player in compliance with the provisions of paragraphs (1) and (2) of subsection (d) of O.C.G.A. 16-12-35; and (B) Does not reward a successful player with any item prohibited as a reward in subsection (i) of O.C.G.A. 16-12-35 or any reward redeemable as an item prohibited as a reward in subsection (i) of O.C.G.A. 16-12-35.

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.

County clerk means the official certified county clerk, or other duly designated person appointed by the governing authority to handle certain county clerk duties.

Craft beer means a beer with a distinctive flavor, produced in small quantities and distributed in a particular region by a small independent American craft brewer (or certain European brewers) having an annual production of 6 million barrels of beer or less and less than 25 percent of the craft brewery is owned or controlled (or equivalent economic interest) by a beverage alcohol industry member that is not itself a craft brewer and is a brewer that has a majority of its total beverage alcohol volume in beers whose flavor derives from traditional or innovative brewing ingredients and their fermentation.

Distilled spirits means any alcoholic beverage obtained by distillation or any alcoholic beverage containing more than 24 percent alcohol by volume (or any other such percentage that may be determined by the laws of Georgia).

Eating establishment means any public place, including a place available for rental by the public, with seating for 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 et seq., 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 et seq.

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.

Growler means a large container made of either glass or plastic that may be considered as a bottle not to exceed 2 liters and not less than 12 ounces that is filled with craft beer from a keg by a licensee, or employee of a licensee, holding a wine and craft beer only by the package, with growler sales and ancillary tasting license issued by Union County.

Hard cider means an alcoholic beverage obtained by the fermentation of the juice of apples, containing not more than 6 percent alcohol by volume, (or any other such percentage that may be determined by the laws of Georgia) including, but not limited to flavored or carbonated cider. For purposes of this ordinance, hard cider shall be deemed a malt beverage. The term does not include "sweet cider." Any product manufactured in the manner of hard cider but containing more than 6 percent alcohol shall be considered for purposes of this ordinance as a wine.

Governing authority means the Sole Commissioner of Union County or his duly appointed designee, or any succeeding legally constituted county board or commission.

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.

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 or more rooms used for the sleeping accommodations of such guests, has one or more public dining rooms with kitchen and a seating capacity of at least 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, and strong beer, as well as hard cider containing not more than 6 percent alcohol by volume. The term does not include sake, known as Japanese rice wine. Flavored malt beverages (FMBs) are not considered beers.

Nonprofit organization means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. §§ 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 nonprofit.

Premises means the entire building, including patios, porches and decks. In some instances, where indicated, premises may also include the entrance area, parking lot and the entire lot or parcel wherein the licensed establishment is located.

Registered agent means a resident of the county designated to receive all communications, notices, service of process or other papers or documents with respect to any alcohol license and who will be responsible for any matters relating to the alcohol license.

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.

Single serving generally means 12 ounces of beer or five ounces of wine; however in this article, single servings of beer shall include a container of up to 34 ounces in a single serving factory package and for wine up to nine ounces in a single serving factory package.

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 24 percent alcohol by volume (or any other such percentage that may be determined by the laws of Georgia) 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, flavored malt beverages, and like products.

Sec. 10-73. Applicability of article.

(a)

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.

(b)

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.

(c)

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.

(d)

All federal and state laws and regulations relating to the sale, manufacture, and distribution of alcoholic beverages, malt beverages and wine in Georgia, including all laws which may subsequently be enacted, are incorporated into and made a part of this article as if fully set out herein. Any violation of such state or federal law or regulations shall be grounds for suspension or revocation of any license issued under this article.

Sec. 10-74. Sale in unincorporated area of county; license a privilege.

(a)

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.

(b)

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.

(c)

Alcoholic beverages as defined herein may be manufactured in the unincorporated area of Union County under licenses granted by the alcohol board or the governing authority upon the terms and conditions provided in this article and state and federal law.

(d)

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 and federal law.

(e)

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."

Sec. 10-75. Types of licenses to be issued.

Only the following alcoholic beverage licenses shall be issued under this article:

(1)

Malt beverages for sale by the package;

(2)

Wine for sale by the package;

- (3) Malt beverages for consumption on the premises
- (4) Wine for consumption on the premises;
- (5) Distilled spirits by the drink for consumption on the premises;
- (6) Wine and craft beer only by the package, with growler sales, and with ancillary wine and craft beer tasting
- (7) Manufacturing - farm winery licenses;
- (8) Manufacturing – malt beverages licenses
- (9) Manufacturing – distilled spirits made from perishable fruits grown in Georgia licenses
- (10) Manufacturing – distilled spirits made from agricultural products other than perishable fruits grown in Georgia licenses
- (11) Temporary licenses;
- (12) Wholesale dealer licenses.

Sec. 10-76. General regulations for the sale of alcoholic beverages.

- (a) 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 Georgia law regarding farm wineries and distilleries utilizing only Georgia-grown fruits and other agricultural products, excepting also those signs required in Section 10-89 of this article and except for signs allowed for wine, craft beer, and growler sales as indicated in this ordinance.
- (b) 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, except for signs allowed for wine, craft beer, and growler sales as indicated in this ordinance.

(c)

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.

(d)

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 premises is licensed, including all restrooms and sanitary facilities. In addition:

(1)

Any exterior lighting shall be aimed at and around the premises including the parking lot and other outdoor areas so as to minimize any negative effects on neighboring properties.

(2)

All parking areas must be maintained in good repair in a neat and clean manner.

(3)

Each location at which a business will be located shall front on a public access road, state or county road.

(e)

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.

(f)

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 article.

(g)

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:

(1)

Monthly income or operating statements.

(2)

Daily sales receipts showing liquor, beer, wine, food, fuel and other items sales separately, according to the type of license.

(3)

Daily cash register receipts such as Z tapes or guest tickets.

- (4) Monthly state sales and use tax reports.
 - (5) Federal income tax return, with all Form 1099s.
 - (6) All invoices or other statements reflecting a record of alcohol purchases by the licensee.
 - (7) Electronic equivalents of records may be accepted, if needed, and if the county or alcohol board agrees.
- (h) All licensed establishments shall submit to the county at least semi-annually, on or before January 30 and July 30 of each year, or as at such other times as requested, summaries of financial records showing compliance with the required percentage sales requirements as of January 1 and July 1 respectively, together with copies of back-up documentation, or the electronic equivalent if the county or alcohol board agrees. It shall be the responsibility of the licensed establishments to timely submit the required reports.
- (i) All licensed establishments shall be subject to such inspections as the alcohol board or Union County Code Enforcement deem necessary and appropriate in order to insure compliance with this article.
- (j) Any person, including the licensee, who is engaged in selling, pouring, mixing, serving, handling or stocking alcoholic beverages or providing samples, shall apply to the county clerk or the alcohol board for an alcoholic beverage permit. The county clerk shall require a photo ID and 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.
- (1) The county clerk, alcohol code enforcement, or the alcohol board 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.
 - (2) 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, other person authorized by the governing authority, the alcohol board or the sheriff.
 - (3) Such person shall not have been convicted of any violation of the laws of this state or any other state or any federal laws relating to the sale of alcoholic beverages,

controlled substances, weapons violations, or related offenses, or any offense involving moral turpitude within the past five years; and shall not have had revoked, for cause, such as a violation of regulations or improper operation, within five 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 and the licensee shall promptly notify the county. The county clerk, alcohol code enforcement, or alcohol board may immediately 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.

(4)

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 the requirement of employee permits except to the extent their employers choose to require compliance. Because of the lengthy hours allowed for package sales, in addition to the general manager in the above-described stores, at least one other responsible person over the age of 21 shall be required to have an alcohol permit. There shall always be present a person with a permit during all hours that alcohol can be sold.

(5)

The alcoholic beverage permit issued to any person who is at least 18 years of age but less than 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 21 years old.

(6)

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 display or wear the permit at all times while on duty. The permit is personal to the permit holder who shall have the right to keep it when changing jobs and may use it simultaneously when working two jobs requiring a permit.

(7)

When an employee who has been issued an alcoholic beverage permit and is employed at a licensed location in the city of Blairsville subsequently obtains employment with a licensee in Union County both the licensee (employer) as well as the employee are required to notify the county clerk or alcohol code enforcement of the location in Union County where the permit holder is employed within 5 days.

(8)

The county clerk or alcohol code enforcement shall keep on file copies of all relevant reports and the employees' current photo ID or drivers' license.

(9)

An alcoholic beverage permit shall expire on the person's birthday and be renewable annually on or before that time. It shall be the duty of the license holder to insure that all employees' permits are current. The county clerk or Union County Code Enforcement shall insure that this requirement is adhered to.

(10)

The fee for the initial permit shall be set by the governing authority. Fees shall be paid to the county.

(11)

There is hereby created a temporary permit, effective for up to 30 days, during which a new, probationary employee may work in a licensed establishment while complying with all requirements as to background checks, permit cards and training during that 30 day period. No employee holding a temporary permit may work alone and unsupervised in any licensed establishment. The licensee shall be held strictly accountable for such probationary employee's performance and actions while holding a temporary permit and violation by such employee of any of the requirements of this ordinance shall subject the licensee to fines and other enforcement procedures, including suspension or revocation of a license, as might be the case for any other violation. The county clerk or alcohol code enforcement shall issue the temporary permit which shall carry the expiration date clearly displayed. There shall be no extensions of temporary permits.

(12)

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 that may be issued by the city.

(k)

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.

Sec. 10-77. Regulations for the sale of alcoholic beverages for consumption on the premises.

(a)

Except in the case of temporary permits, wine tasting, farm wineries, distilleries, 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.

(b)

Such eating establishment, unless subject to an exception herein, will regularly serve food every hour it is open and derive at least 60 percent of its gross receipts annually from the sale of prepared meals or food and derive no more than 40 percent from the sale of alcoholic beverages.

(c)

Alcoholic beverages may only be served to those customers who are served food that is consumed within the eating establishment.

(d)

Eating establishments licensed to sell alcohol for consumption on the premises, unless subject to an exception herein, are required to have seating for food service of at least 30 seats.

(e)

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 60 percent of total gross sales of the business.

(f)

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 property 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 cafe on the premises with alcohol service together with food service.

(g)

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 60 percent requirement for nonalcohol sales which may include revenue from the sale of rooms.

(h)

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.

(i)

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 building premises, except in accordance with O.C.G.A 3-6-4 which provides that notwithstanding any other contrary provision of law, any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may

permit a patron 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. A partially consumed bottle of wine that is to be removed from the premises 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. If transported in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

(j)

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.

(k)

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 entire premises including the parking lot and entire parcel of land.

(l)

A privately owned 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:

(1)

A privately owned 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;

(2)

Alcoholic beverages may be sold for consumption on the premises beginning at 8:00 a.m. and may not be sold after 11:00 p.m. Monday through Saturday, excluding also Christmas day.

(3)

In the event there are two or more locations on a privately owned golf course entire 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.

(4)

At a privately owned golf course open to the public, packages of malt beverages and wine may be purchased from the licensed eating establishment and may be opened and consumed on the golf course.

(5)

A publicly owned golf course open to the public may be licensed and operated in accordance with and is subject to Georgia state laws, rules and regulations.

(m)

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.

Sec. 10-78. Regulations for the sale of malt beverages and wine by the package.

It is the intent of this article 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 (except for wine, craft beer and growler sales licensees with ancillary tasting which are addressed separately in this ordinance.). Malt beverages and wine may be sold by the package in grocery stores and convenience stores which derive at least 60 percent of their gross receipts annually from the sale of items other than malt beverages, wine, and 50 percent of gross fuel sales. This requirement is to insure conformity with the intent of this section.

(1)

An 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 derives at least 60 percent of total gross sales from the sale of items other than malt beverages, wine, and 50 percent of gross fuel sales.

(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.

(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.

(4)

No single serving containers of malt beverages (except for craft beers, addressed separately in this ordinance) or single serving size containers of wine shall be sold. No containers may be sold from broken-open factory packaged wine or beer packages.

(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 21 years of age, and other clerks or employees working at the same time must be at least 18.

(6)

An establishment issued a license under this article may not display malt beverages or wine outside of the building, inside within 20 feet of any entrance door, in any ice-filled open display container or cooler.

- (7) There shall be no drive-up or drive-through sales of any malt beverages or wine by the package.
- (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 including the parking lot or the entire parcel of land or on any adjacent premises.

Sec. 10-79. Regulations for stores selling wine and craft beer only by the package, with growler sales, and with ancillary wine and craft beer tasting.

- (a) Licensees shall be eligible for ancillary wine and craft beer tastings to provide samples of wine and craft beer offered for sale to customers under the conditions set forth in this section.
- (b) Licensees are hereby exempted from the percentage of gross sales requirement and the prohibition of wine and beer displays within 20 feet of the entrance door as otherwise required of package stores except that licensees may not display malt beverages or wine outside of the building.
- (c) Wine and craft beer sampling shall be on limited occasions when a customer requests a sample of a wine or craft beer offered for sale within the premises, or in conjunction with wine or craft beer education classes and sampling designed to promote wine and craft beer appreciation and education.
- (d) Wine and craft beer tasting for customers shall only be conducted at a counter area constituting no more than ten percent of the entire floor area of the premises.
- (e) Wine sampling for customers shall be limited to five, one-ounce samples per customer in any one day.
- (f) Craft beer sampling for customers shall be limited to two ounces and shall be limited to no more than one (1) time per day per customer for a period not to exceed two (2) consecutive hours. No customer shall consume more than eight (8) ounces in any day.
- (g) Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler. Either professionally sanitized and sealed growlers or approved containers brought in by the customer may be filled and made available for retail sale. Except as herein provided, consumption on the premises is strictly prohibited.

(h)

Licensees may fill growlers only with draft beer that is defined as craft beer at the licensee's location from kegs lawfully procured by the licensee; the filled growler must be securely sealed on the premises with a tamper proof plastic cap or tamper proof seal; the licensee shall comply with all State, Federal and local packaging and labeling laws regarding alcoholic beverages. Each filled growler must be removed from the premises in its securely sealed condition. No open growler container shall be removed from the licensed premises.

(i)

Wine and craft beer bottles shall be opened and samples shall be poured only by the licensee or an employee, who must be 21 years of age or over.

(j)

No open containers of wine or beer shall be removed from any building on the licensed premises.

(k)

Not more than one time per week for a period of not to exceed two consecutive hours, the holder of an ancillary wine or craft beer 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.

(l)

Holders of an ancillary wine or craft beer tasting permit shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.

(m)

Wine and craft beer sampling and tasting is only permitted within the enclosed portion of the premises.

(n)

All regulations regarding signs and advertising in this article must be adhered to with an exception for one nonlighted informational or business name sign of a size in accordance with other business signs in adjoining shops in a strip mall, on the exterior of the premises. In the event the wine shop is in a freestanding building, the size of the sign allowed shall be no larger than the largest sign in a strip mall. The design of any sign must be pre-approved by the alcohol board. One additional sign may be placed either in the window or on the exterior of the building of no more than six (6) square feet, and may only contain at most the words *specialty wines, craft beer and growlers* (as they may apply) and any sign must be approved in advance by the alcohol board which shall have complete control over such signs. No signs may have any moving or animated displays, may not use florescent colors, and must be in conformance with community standards.

Sec. 10-80. Temporary special event licenses.

(a)

There are hereby created two types of temporary event licenses: one for non-profit organizations and one for other special events and festivals.

(1)

All special events must receive approval from the Union County Sheriff's Office on crowd control, parking and security measures;

2)

All special events must comply with the times and days allowed for selling alcoholic beverages for consumption on the premises;

(3)

Any 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.

(4)

As a condition of the issuance of either type of 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.

(5)

The requirements of an eating establishment, number of seats, and percentage of sales shall not apply to either type of temporary special event license.

(b)

Nonprofit 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 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.

(1) Any local nonprofit organization (in Union County or contiguous counties) must have been established for one year or more prior to the date of application. If a state-wide or national nonprofit organization, then it must have been established in Georgia for one year or more prior to the date of application.

(2)

The nonprofit civic organization must also file an application with the county, provide verification of the organization's current nonprofit 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 article and the following:

(i)

No more than six permits for a maximum of two days at a time shall be issued to an organization in any one calendar year;

(ii)

All events must be associated with and benefit the cause of the nonprofit organization;

(iii)

The location at which the event is to take place must be approved in writing by the owner of the property;

(iiii)

The non-profit 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;

(c)

A temporary general special event alcohol license (other than non-profit) may be issued to any person, firm or corporation for an approved special event or festival. The person, firm or corporation must make application and pay the fee that may be required by this article and shall be required to comply with all the applicable general provisions of this ordinance and the licensing and regulations for consumption on the premises establishment.

(1)

Temporary general special event alcohol permits may be obtained for events at the Union County Farmers Market, private golf courses, resorts, and any other appropriate venues and as for such purposes as determined appropriate by the governing authority or the alcohol board, keeping in mind the character of the community and the value of the event to the community.

(2)

Temporary general special event alcohol permits may be for a maximum of two days at a time shall be issued to a person, firm or corporation no more than six times in any one calendar year.

(3)

At a special event or festival any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can, bottle, or glass, for consumption only on the premises of the special event or festival; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time, or any alcoholic beverage for removal from the premises. No container in which an alcoholic beverage is dispensed shall exceed sixteen (16) fluid ounces in size.

- (4) At a temporary special event or festival, more than one licensed consumption dealer may dispense alcoholic beverages at the option of the event sponsor and with the approval of the alcohol board. Vendors may include City of Blairsville licensed consumption dealers.
- (5) The application for the event shall include the names of all licensees; the date, address, time and name of the event; If multiple licensees participate in the event or festival, then multiple copies of a permit shall be issued by Union County, and it shall be so noted on each copy, signed by the alcohol board chair or the county clerk.
- (6) An original event permit, or copy as described above, if multiple licensees, shall be kept in the vehicle transporting alcoholic beverages to the event or festival, and shall be available for inspection at the event or festival during the duration of such event or festival.
- (7) Alcoholic beverages consumed pursuant to this section must be purchased from a licensed consumption dealer. No alcoholic beverages may be given away or sold for any less than the price charged to all event attendees for that particular beverage from any individual vendor.
- (8) At any special event or festival (excluding non-profit special events) food must be available for purchase or may be given away, without regard for any percentage requirements.
- (9) Applications for special event and festival licenses (excluding non-profits) must be made at least 45 days prior to the first date of the event.
- (10) The general design and proposed locations of any proposed signs for special events should be cleared in advance with the alcohol code enforcement officer or the alcohol board and must be removed within 24 hours of the end of the event.
- (11) The provisions for special events and festivals may also apply to state licensed caterers upon approval by the alcohol board which shall impose special requirements unique to caterers which may or may not hold consumption licenses.

Sec. 10-81. Prohibited activities.

(a)

No person knowingly and intentionally may sell or offer to sell:

(1)

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;

(2)

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;

(3)

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;

(4)

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 O.C.G.A. § 20-2-690(b).

(b)

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:

(1)

From the main entrance of the establishment from which alcoholic beverages are sold or offered for sale;

(2)

In a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route;

(3)

Along such public sidewalk, walkway, street, road or highway by the nearest route;

(4)

To the nearest portion of the church building or alcoholic treatment center, or to the nearest portion of the school grounds.

(c)

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.

- (d) 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.
- (e) 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 or anywhere on the owned parcel, 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.
- (f) 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.
- (g) 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.
- (h) There shall be no class B coin operated amusement machines, 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, with an exception only for the licensed sale of Georgia Lottery games and tickets.
- (i) No retail consumption dealer or package store licensed under this article shall keep any malt beverages or wine or other alcoholic beverages at any place except the licensed place of business.
- (j) As to any retail consumption dealer, happy hours or similar promotions designed to promote alcohol sales during special days or hours, 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:

- (1) Offer or deliver any free alcoholic beverage to any person or group of persons;
 - (2) Deliver more than one alcoholic beverage to one person at a time;
 - (3) Offer or deliver an alcoholic beverage without also serving food;
 - (4) 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;
 - (5) 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;
 - (6) 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;
 - (7) 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;
 - (8) 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
 - (9) 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.
- (k) Brown-bagging of alcoholic beverages, that is; to allow anyone to take any alcoholic beverage into any public establishment, such as a restaurant, or to any licensed special, event, is hereby forbidden at any time and on any days in any establishment or special event where anyone holds an alcohol license under this ordinance.

Sec. 10-82. Manufacturing of Malt beverages, Wine and Distilled Spirits; Tastings.

- (a) Any manufacturing licensed by the state of the following products:
 - 1) wine at farm wineries,

- 2) malt beverages
- 3) distilled spirits made from perishable fruits grown in Georgia
- 4) distilled spirits made from agricultural products other than perishable fruits grown in Georgia

may be granted a license to manufacture such beverages in the county upon application for such license to the Alcohol Board.

(b)

All appropriate and pertinent parts of this ordinance shall be applicable to any applicant or holder of a manufacturing license to sell and/or distribute malt beverages, wine and distilled spirits under this article. State laws as to hours, signs and any provisions specific to these state licenses shall be applicable.

(c)

The application shall require the applicant to provide the information requested on the application form including, but not limited to, name, address, business name and address, interested persons in the business, and other information as listed on the form.

(d)

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 et seq., and the applicable parts of this article as well as conforming with applicable federal laws, rules and regulations.

(e)

Under this ordinance, the licensee shall be authorized to carry on the business of operating a farm winery tasting room on the licensed premises to include the entire owned parcel or parcels.

(f)

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, located at 148 Old Smokey Road, Blairsville, GA, 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.

(g)

There is hereby created a license for the business of manufacturing malt beverages, to be in conformance the laws of the State of Georgia as well as conforming with applicable federal laws, rules and regulations.

(h)

There is hereby created a license for the business of manufacturing distilled spirits made from perishable fruits grown in Georgia, to be in conformance the laws of the State of Georgia under O.C.G.A. § 3- 4- 24, as well as conforming with applicable federal laws, rules and regulations.

(i)

There is hereby created a license for the business of manufacturing distilled spirits made from agricultural products other than perishable fruits grown in Georgia, to be in conformance the laws of the State of Georgia under O.C.G.A. §3-4-24.1, as well as conforming with applicable federal laws, rules and regulations

(j)

Any tasting rooms are limited to those licensed by the State of Georgia and allows the licensee to deal in its products, including any limited package sales, strictly in accordance with and pursuant to state law. No license is created by this ordinance authorizing any other person to deal in any other alcoholic beverage in a licensed malt beverage manufacturing facility, a farm winery or a distillery licensed under this ordinance.

Sec. 10-83. Licenses, application, investigation.

(a)

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.

(b)

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 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 manufacturing license shall provide the information requested on the form.

(c)

There is hereby established an alcohol board comprised of five 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:

(1)

Shall have been residents of the county for at least one year;

(2)

Shall be at least 21 years of age;

(3) Shall undergo a background check to ensure that the person has not 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;

(4) 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 years, nor may any member or a member of the member's family be a county employee, or appointed or elected county official; keeping in mind that school employees and members of the Union County School Board are neither county employees nor elected county officials;

(5) Shall serve two-year terms or until a successor is appointed, subject to removal at any time by the governing authority, at whose pleasure they serve. The terms may be two-year staggered terms, and the governing authority may designate which terms shall be one year and which two-year terms in order effect staggered terms after which the terms shall not be changed;

(6) Shall elect a chairperson. A quorum shall be required for all meetings, and decisions shall be decided by a majority of those present;

(7) 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;

(8) 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.

(d) 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.

(e) The alcoholic beverage licenses which may be issued under this article are only for those licenses enumerated in Section 10-75

(f) 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:

- (1) The applicant's reputation in the community, character, and known capacity to conduct business;
- (2) 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 five years;
- (3) Any manner in which the applicant conducted the alcoholic beverage business under any prior license;
- (4) 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;
- (5) No person, including county employees or any elected or appointed officials, 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 license issued under this article in any way may own any interest in any license issued under this article; nor shall the family as defined herein of any county employee or elected or appointed official 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 may own any interest in any license issued under this article;
- (6) 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;
- (7) 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 for a period of at least two years, at the discretion of the alcohol board. However, if the revocation or denial was the result of a criminal offense and conviction thereof, then no license shall be issued for a period of at least five years. Convictions for code enforcement violations shall not necessarily result in a five-year denial, at the discretion of the alcohol board.

(g)

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 license application and administrative fees and other fees which are charged to defray investigative and administrative costs.

(1)

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 by the county.

(2)

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.

(3)

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 percent of a normal administrative fee but shall pay a separate full license fee for each license.

(4)

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.

(5)

Licenses shall expire on December 31st of each year and an application for renewal shall be made annually on or before the 15th day of October each year. Any licensee must continue to annually meet the requirements set forth in this article in order to obtain a renewal of any license. There shall be a grace period of 45 days in submitting and paying for a renewal application. Renewal applications received after November 30th shall incur a late fee of 20 percent of the renewal fee as a late charge penalty with no exceptions.

(6)

The payment of all license fees in full shall be a prerequisite to the issuance of a license or a renewal unless otherwise provided by resolution of the governing authority.

(7)

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.

(h)

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 years immediately preceding the date of the application. The Georgia 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. Fingerprints records which meet the requirements which were taken within one year of the application shall be deemed acceptable unless the alcohol board requires more current fingerprints for any reason.

(i)

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 article.

(j)

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 article, and has read and agrees to follow the written policies and procedures provided to each such person. Details of the training program must be provided in the affidavit and a copy of the certificate of training must be submitted with and attached to the affidavit.

(k)

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 for all new employees.

(l)

An employee holding a permit to sell alcohol and who has received and attested to the required training within the past three (3) years will not be required to repeat the training upon transferring to a new employer, subject always to such requirements as may be imposed by an employer,

(m)

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.

(1)

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.

(2)

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.

(3)

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.

(4)

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.

(5)

If the location of a license changes, the advertisement shall be required, along with all other requirements being met, including a new application, building inspection, etc..

(6)

If the business ownership and location have not changed but the individual licensee has changed the advertisement prescribed in this section shall not be required again.

(n)

A person doing business at more than one establishment shall take out and pay for a separate license for each place of business.

(o)

All applications by a corporation, an individual, or other business entity shall name in the application a registered agent who shall be an individual, a resident of the county at the time of serving in such capacity, and must undergo a background check to ensure that the person has not been convicted of a drug, alcohol, or gambling related offense, or any crime involving moral turpitude, within the past five years, and such persons shall be available during generally accepted regular business hours to receive all communications, notices, service of process or other papers or documents with respect to any license. Individuals named pursuant to this subsection 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 registered agent, along with the written consent of such agent, with the alcohol board. Residency shall be proved by two of the following three documents: a current utility bill; a current voter registration card; or a valid driver's license. The registered agent is not required to be an employee of the licensed business but if the registered agent is also an employee, then, as for all employees, the registered agent must have a valid employee alcohol permit and meet all other employee requirements, such as training.

(p)

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.

(q)

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.

(r)

In an ongoing licensed business, when there is a withdrawal, abandonment or transfer of the holder of the alcoholic beverage license, the business shall notify the county in advance if possible or at the latest immediately at the time of the change in circumstances. The new proposed individual licensee must immediately complete an application and meet all of the requirements for a license including undergoing a background check. An administrative fee shall be required for processing this change. In the event a business fails to timely notify the county as required, or if a new licensee applicant fails to qualify in any way for a license, the previous alcohol license, if issued to an individual who is no longer employed by the business, shall be immediately revoked and the business shall not be eligible to sell any alcoholic beverages until it meets all of the requirements of this ordinance and Georgia law.

(s)

In the case of the sudden withdrawal, abandonment or transfer of the holder of the alcoholic beverage license and upon proper and timely notification of this fact to the county, the alcoholic board may issue a temporary license to the successor in interest if such successor in interest has properly completed an application form and paid the appropriate fee. The alcohol board must verify that the successor in interest meets the qualifications for licensure and that no ordinance violations exist. Such temporary license shall be valid for sixty (60) days or until the application for a permanent license is granted or denied by the alcohol board. A temporary license may be issued if the denial of such would create an undue hardship or cause an existing business to close. The fee for a temporary license shall be set by the governing authority and is in addition to the regular application fee.

(t)

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.

(u)

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.

(v)

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.

(1)

The alcohol board shall refer the application to the sheriff's department and the building department for such investigations as the board requires.

(2)

The alcohol board may seek the advice of the district attorney or the county attorney during its consideration of the application.

(3)

The alcohol board shall cause an inquiry to be made into the county records to determine if the applicant, 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, or if any taxes or assessments are owing on the property where the licensed establishment will be located. No license shall be issued or renewed until such debts are paid in full.

(w)

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:

(1)

The required fees have been paid.

(2)

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.

(3)

The applicant has not knowingly made a material misrepresentation in this application.

(4)

The applicant has fully cooperated in the investigation of his application.

(5)

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 years, or any crime involving moral turpitude within five 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.

- (6) 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 municipality in Georgia or county or municipality located in or out of this state prior to the date of application.
- (7) The building, structure, equipment, or location of such business, as proposed by applicant, complies with all applicable laws and provisions of this article.
- (8) The applicant is at least 21 years of age and is of good moral character.
- (9) The applicant is a legal resident of the United States.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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.
- (x) 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.
- (y) 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 ten 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.

(z)

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 may be punishable as a violation of a county ordinance or may be brought before the alcohol board as a civil violation. 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.

(aa)

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 ten days after such change, to report the change to the alcohol board in writing, except that if the change of facts is a substantial change that might affect the eligibility for an alcohol license, then such change in facts shall be reported within 24 hours by phone and immediately thereafter in person to Union County.

(bb)

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.

(cc)

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.

(dd)

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.

(ee)

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.

(ff)

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.

(gg)

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.

Sec. 10-84. Special provisions for wholesalers.

(a)

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.

(b)

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.

(c)

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.

(d)

Farm wineries and distilleries acting as wholesalers under the provisions of Georgia law., 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 .in strict accordance with Georgia law.

(e)

No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler other than licensed farm wineries 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.

(f)

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.

(g)

Every retailer shall maintain sufficient audit records to attribute all alcoholic beverage items for sale to a purchase from a licensed wholesaler.

(h)

Licensed wholesalers shall only engage in the sale of alcoholic beverages during regular business hours of the retailer, Monday through Saturday, excluding Christmas day.

Sec. 10-85. Enforcement.

(a)

This article shall be enforced by the alcohol board, Union County Code Enforcement, and state and county law enforcement. Enforcement by the alcohol board may result in additional civil fines and penalties beyond those assessed by any court.

(b)

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.

(c)

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 days prior to a hearing. The licensee shall be given at least ten days' written notice of the time and place of the hearing.

(d)

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:

(1)

Any licensee gave false or misleading information in the original application process;

(2)

Any licensee has knowingly allowed consumption, use, or sale of controlled substances, as defined under Georgia law, or contraband, or other illegal items on the premises, to include the entire owned parcel, by any adult or minor;

- (3) 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, to include the entire owned parcel;
- (4) 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;
- (5) Any licensee has been convicted of any drug or alcohol, tobacco, or firearms related, or crime by the state or the county regarding an offense which was committed on the premises, to include the entire owned parcel, or which would otherwise violate the provisions of this article;
- (6) 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;
- (7) 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;
- (8) 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, tobacco, or any crime, whether a felony or not, involving moral turpitude;
- (9) 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, to include the entire owned parcel, whether such conduct is committed by the licensee or by customers or others;
- (10) Sales of alcoholic beverages to any person under 21 years of age; or
- (11) 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, health or welfare, or which shall render the licensee or the business location unfit for the continued operation of the business.

(e)

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 or more than one year, 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 any license suspended for more than one year shall be considered revoked.

(f)

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.

(g)

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 Marshall 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.

(h)

Code enforcement, the alcohol board, or law enforcement shall revoke and retrieve an alcohol license in the case of there being no licensed individual available, employed or any longer connected with the business; in that case law enforcement shall ensure that no alcohol sales are made unless and until code enforcement or the alcohol board informs law enforcement that the establishment is properly licensed.

(i)

No applicant may apply for a license during any period of suspension or revocation.

(j)

The alcohol board shall have the power to assess civil penalties for any violation of this article after a hearing. For a first violation of any provision of this ordinance, a civil fine shall be at least in the amount of \$150.00 for each violation and no more than \$1000.00. For a second and any subsequent violation of any provision of this ordinance the civil fine shall be at least in the amount of \$500.00 and no more than \$5000.00. Such civil fines shall be in addition to any suspension or revocation of a license as provided in this article and in addition to any fines imposed by the magistrate's court.

(k)

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 \$250.00, not to exceed \$1,000.00, per violation or by imprisonment for a period not to exceed 90 days, or both, and possibly 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 \$500.00, not to exceed \$1,000.00, per violation or by imprisonment for a period not to exceed 90 days, or both, and possibly a permanent suspension or revocation 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.

Sec. 10-86. Hearing; basis of determination.

- (a) Whenever the alcohol board finds preliminary cause to suspend or revoke any alcoholic beverage license issued under this article, 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 a Union County Code Enforcement Officer, by certified mail or by sheriff's service.
- (b) 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, subpoena and cross examine witnesses and generally present evidence of violation of this article or absence thereof. The hearing shall be conducted before the alcohol board.
- (c) 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 suspension of the license for a period of time up to one year and/or revocation of the license 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.
- (d) 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.

Sec. 10-87. 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 by a different and unrelated owner following the sale of the business will be received for a period of 30 days and no application for a new license from the licensee involved shall be received for a period of either two or five years in accordance with the provisions of subsection 10-83(f)(7).

Sec. 10-88. 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 article. 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 article. 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.

Sec. 10-89. Signage required.

(a)

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.

(b)

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."

(c)

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.

Sec. 10-90. Excise taxes.

(a)

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.

(b)

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:

(1)

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 15½ 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
½ barrel (15½ gallons)	6.00
1 barrel (31 gallons)	12.00

(2)

Upon the sale of any wine there is imposed an excise tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

- (c) 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.
- (d) The excise taxes imposed shall be paid by the wholesale dealers to the county by the tenth day 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.
- (e) 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.
- (f) Determination of deficiencies.
- (1) 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(s).
- (2) 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.
- (3) 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.
- (4) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within 30 days after the tenth day of the month following the calendar month for which the amount is proposed to be determined, or within 30 days after the return is filed, whichever period should last expire.
- (g) Determination if no return made.

(1)

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.

(2)

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.

(h)

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.

(i)

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:

(1)

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;

(2)

Require the filing of reports by any person or persons having possession or custody of information relating to the tax herein levied; and

(3)

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.

Sec. 10-91. General provisions.

(a)

If any of the provisions of this article, or the application of this article 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 article. To this end the provisions of this article are hereby declared to be severable.

- (b) Any modification of Georgia laws and regulations which would effect a change in the provisions of this article are hereby incorporated herein by reference made a part hereof.
- (c) All laws and ordinances, or parts thereof, which conflict with this article, are repealed.
- (d) Nothing in this article 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.
- (e) The ordinance from which this article derives shall take effect and shall be enforced from and after the date of its adoption.

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