

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF DAWSON
COUNTY TO AMEND THE CONSOLIDATED ALCOHOL ORDINANCE; TO PROVIDE
FOR SEVERABILITY; TO REPEAL CONFLICTING
ORDINANCES AND RESOLUTIONS; AND FOR OTHER PURPOSES.**

WHEREAS, Dawson County adopted a Consolidated Alcohol Ordinance most recently on November 19, 2009; and

WHEREAS, Georgia law changed to allow local governments to permit and regulate package sales on Sundays and distilled spirits by the drink on Sundays if approved by the voters; and

WHEREAS, on March 6, 2012, the voters of Dawson County voted in favor of allowing package sales of alcoholic beverages on Sundays; and

WHEREAS, on March 6, 2012, the voters of Dawson County also voted in favor of allowing sales of distilled spirits by the drink on Sundays; and

WHEREAS, the Board of Commissioners seeks to amend the Consolidated Alcohol Ordinance to permit the Sunday sales approved by the voters on March 6, 2012.

NOW THEREFORE, the following sections of the Consolidated Alcohol Ordinance are amended to permit Sunday alcohol sales pursuant to requirements of the Consolidated Alcohol Ordinance:

1. Package Distilled Spirits.

Section 506, Hours of Sale, is hereby repealed and replaced as follows:

Section 506 Hours of Sale

The sale of distilled spirits by the package shall occur only between the hours of:

9:00 a.m. – 11:45 p.m. – Monday – Saturday; and

12:30 p.m. Sunday – 11:30 p.m. on Sunday.

No sale of distilled spirits by the package shall occur on Christmas Day. The sale of distilled spirits by the package is permitted on election days if the outlet is not located within 250 feet of a polling place.

2. Package Beer and Wine.

Section 601, Hours of Operation, is hereby repealed and replaced as follows:

Section 601 Hours of Operation

A) The hours of operation of retail licenses for the sale of malt beverages and wines shall be between the hours of:

9:00 a.m. – 11:45 p.m. – Monday – Saturday; and

12:30 p.m. – 11:30 p.m. on Sunday.

The hours of operation of wholesale licensees for the distribution of malt beverages and wines in Dawson County shall be between the hours of:

8:00 a.m. – 8:00 p.m. Monday – Saturday; and

12:30 p.m. – 8:00 p.m. Sunday.

B) The wholesale and retail sale of wine and malt beverages shall be lawful during the polling hours of any election provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place at such time as the polls are open.

3. Distilled Spirits by the Drink.

Section 801 is hereby repealed and replaced as follows:

Section 801 Hours and Days of Sale

A) Distilled spirits shall not be sold for consumption on the premises except between the hours of:

10:00 a.m. - midnight Monday – Thursday;

10:00 a.m. Friday – 1:00 a.m. Saturday;

10:00 a.m. – midnight Saturday; and

12:30 p.m. – midnight Sunday.

B) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

4. Private Clubs.

Section 1104, Hours and Days of Sale, is hereby repealed and replaced as follows:

A) No alcoholic beverages shall be sold for consumption on the premises except between the hours of:

10:00 a.m. – midnight Monday – Thursday;

10:00 a.m. Friday – 1:00 a.m. Saturday;

10:00 a.m. – midnight Saturday; and

12:30 p.m. – midnight Sunday.

5. Severability.

If any paragraph, sub-paragraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if a provision of any part of this ordinance is applied to any particular situation or set of

circumstances in such a manner as to be declared invalid or unconstitutional, then any such invalidity shall not be construed to affect the portions of this ordinance not so held to be invalid and the application of this ordinance to other circumstances shall not be held to be invalid. The Dawson County Board of Commissioners hereby declares the intent of Dawson County Board of Commissioners is to provide for separable and divisible parts, and the Dawson County Board of Commissioners hereby adopts any and all parts hereof as may not be held invalid for any reason.

6. Repealer.

All resolutions or ordinances or parts thereof in conflict with the terms of this ordinance are hereby repealed.

7. Effective Date.

The effective date of the terms hereof shall be the 22nd day of April, 2012.

This 19th day of April, 2012.

DAWSON COUNTY

ATTEST

By: Mike Berg
Mike Berg, Chairman
Board of Commissioners

By: Danielle Yarbrough
Danielle Yarbrough,
County Clerk

VOTE: Yes 4

No 0

Dates of Public Hearing:

April 5, 2012

April 19, 2012

Dates of Advertising:

March 14, 2012

March 21, 2012

March 28, 2012

CONSOLIDATED ALCOHOL ORDINANCE OF DAWSON COUNTY

ARTICLE I – TITLE, DEFINITIONS

Section 100 Title. This Ordinance shall be known and may be referred to as the Dawson County Alcohol Ordinance.

Section 101 Definitions. As used in this Ordinance, unless context otherwise requires, the following terms are hereby defined:

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

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

Alcohol treatment facility means any alcoholic treatment center owned and operated by the State or the County government.

Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than fourteen percent (14) alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic" beer, which is made by fermentation of any infusion or decoction of barley, malt, hops or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

Church building means the main structure used by any religious organization for worship.

County Commission means the Board of Commissioners of Dawson County, Georgia.

County means Dawson County, Georgia.

County Manager means the County Manager of Dawson County Georgia.

Daycare means any place operated by a person, society, agency, corporation, institution, or group wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, children under 18 years of age, and is not accredited as a public or private school (except that centers offering state funded pre-K programs are still considered day cares).

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

Drug Store means any store which sells primarily health care products and which has a pharmacy that supplies prescription medications.

Eating establishment means any, public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments. An eating establishment shall be prepared to serve food every hour the establishment is open and shall derive at least fifty percent of the gross receipts annually from the sale of prepared meals or food.

Employee permit means an authorization granted by the county to employees of a licensed retail consumption dealer to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer. Additionally this permit authorizes employees of a retail dealer (liquor store, package store) to sell alcoholic beverages in that establishment.

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

Governing authority means the Board of Commissioners of Dawson County, Georgia.

Grocery Store means a store which sells primarily food, and which has a produce department and a meat department.

Hotel means any building or other structure providing sleeping accommodations for hire to the general public transient, permanent or residential. Such businesses shall have one or more public dining rooms with an adequate kitchen. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment described in this ordinance, and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition.

Housing authority means any property containing 300 housing units or fewer owned or operated by a housing authority created under the State Housing Authorities Law.

Indoor commercial recreational establishment means and is limited to an establishment that:

- 1) Regularly serves prepared food with a full service kitchen (a full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments) prepared to serve food every hour the establishment is open and deriving at least fifty percent 50% of its total annual gross sales from the sale of prepared meals or food and recreation activities; and
- 2) Wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning a use that attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted in an outdoor commercial recreational establishment. Bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments.

Licensed Alcoholic Beverage Caterer means any holder of a license issued under this ordinance for the retail sale of beer, wine, and/or distilled spirits by the drink, who is a licensed caterer, who is otherwise qualified under the provisions of O.C.G.A. § 3-11-1 et. seq., and who obtains a license to sell alcoholic beverages at authorized special events.

Licensee means the individual to whom a license for the sale or distribution of distilled spirits, malt beverages, or wine is issued under this ordinance. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi public.

Retail dealer means persons other than brewers, distillers or wholesale dealers who sell distilled spirits, malt beverages, or wines irrespective of the quantities sold.

School building or school grounds 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.

Wholesale Dealer means persons other than brewers who sell malt beverages, wines or distilled spirits to retail dealers for purposes of resale only.

Wine means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

ARTICLE 2 - TYPES OF LICENSES AND FEES

Section 200 License is a Privilege

A) Alcoholic beverages may be sold in the unincorporated area of the county under a license granted by the Board of Commissioners upon the terms and conditions provided in this ordinance.

B) All licenses issued pursuant to this ordinance 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 ordinance and state law.

C) All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."

D) Any holder of a license issued in accord with this ordinance is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, county licensees are required to abide by all applicable state regulations and laws.

Section 201 Licenses, Generally. Expiration and Application Dates. Transferability.

All licenses issued under this Ordinance shall:

A) Permit the licensee to sell or distribute the beverage for which the license is issued outside municipalities in Dawson County, Georgia, pursuant to the terms of this Ordinance and not inconsistent with the laws of the State of Georgia and of the United States;

B) Expire on December 31 of each year. Application for renewal shall be made annually on or before the thirtieth day of November. Any licensee making proper application, with supporting documents, for a license to operate during the following calendar year and having filed such application prior to November 30, shall be permitted to continue to operate pending final approval of such licensee's application for the following year if final approval is not granted prior to January 1; and

C) Not be transferred from one person to another or from one location to another without the prior approval of the County Manager upon written application.

Section 202 Types of Licenses and Permits Issued.

Only the following licenses and or permits shall be issued under this ordinance:

1. Malt Beverages, Wholesale
2. Malt Beverages, Retail Package
3. Malt Beverages, by the drink for consumption on the premises
4. Wine, Wholesale
5. Wine, Retail Package
6. Wine, by the drink for consumption on the premises
7. Distilled Spirits, Wholesale
8. Distilled Spirits, Retail Package
9. Distilled Spirits, by the drink for consumption on the premises
10. Licensed Alcoholic Beverage Caterer
11. Farm Winery Tasting Room
12. Special Event Alcohol Permit
13. Employee Permit
14. Hotel-Motel In Room Service Permit

Section 203 Fees

A) There is an annual license fee for each type of license. In addition, there is an administrative fee to offset administrative and investigative costs which is charged with the initial application. The fees applicable to all license applications and renewal applications are as set forth in the Dawson County Alcohol Ordinances Schedule of Fees. Said fee schedule may be modified by the Commission periodically as needed.

B) Each type of license to be issued requires a separate application. Each application for a license shall be accompanied by a certified check in the full amount of the license fee, together with a separate certified check in the amount of the application fee to defray investigative and administrative costs. In the event a license is denied, the license fee will be refunded, but the application fee is non-refundable.

C) Licenses are valid for one calendar year. If a license is issued prior to July 1 of the year, the full annual license fee shall be payable. If the license is issued July 1 or thereafter, only 50% of the license fee shall be payable.

D) All licenses granted under this ordinance shall expire on December 31 of each year. Licensees who desire to renew the license shall file applications, with the requisite fee enumerated in this section, with the County Commission on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to the annual fee, a late charge of 20%. If the license application is received after January 1, such application shall be treated as an initial application, and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs will be assessed.

E) In the event a license is issued and thereafter surrendered, revoked, suspended or transferred, no portion of the license fee shall be refunded.

F) In the event an application is withdrawn before the license is issued, any sums deposited for license fees will be refunded. Application fees will not be refunded.

ARTICLE 3 - EXCISE TAX

Section 300 Wholesale

A) There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter that shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in Dawson County. Such tax shall be paid to the designee of the Dawson County Board of Commissioners by the wholesale distributors on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in Dawson County as follows: Each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the business license department after the twentieth day of the month shall be charged a ten (10) percent penalty. The twenty-two cents (\$0.22) per liter shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of twenty-two cents (\$0.22) per liter. It shall be unlawful and a violation of this ordinance for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this ordinance for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three (3) percent of the amount of taxes collected as reimbursement for collection of the said tax.

B) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in Dawson County at the rate of twenty-two cents (\$0.22) per liter and six dollars (\$6.00) for each container of tap or draft beer or malt beverage of fifteen and one-half (15 ½) gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

SIZE OF CONTAINER TAX PER CONTAINER

7 ounces	\$ 0.0291
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0666
32 ounces	0.1333
½ barrel (15 ½ gallon)	6.00
1 barrel (31 gallons)	12.00

All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages except the tax rate which is set out in this subsection and the reimbursement of three (3) percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

Section 301 Distilled Spirits by the Drink

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, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the County Commission 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) Excise taxes received in the alcohol licensing department after the 20th day of the month shall be charged a ten percent penalty.

C) If the County Commission deems it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee of the date, time and place of the audit.

D) Any licensee who violates any provision of this article may, upon conviction, be punished by a fine of not less than \$300.00, and the license of such location may be suspended or revoked.

Section 302 Farm Wineries

Farm winery licensees shall pay an excise tax at a rate of twenty two cents per liter according to the process detailed in section 300 above (wine and distilled spirits).

ARTICLE 4 - GENERAL PROVISIONS - ALL LICENSES.

Section 400 Applications

A) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the County Commission.

B) If the applicant is an individual, then the application for license shall be in the name of the individual and the license, if issued, shall be issued in that name.

C) If the applicant is a partnership, then the application shall be made in the name of the partnership; and if a license is issued, then the license shall be issued in the name of the partnership or in accord with Section 403 hereof if Section 403 applies.

D) If the applicant is a corporation, then the application shall be made in the name of the corporation; and if a license is issued, then the license shall be issued in the name of the corporation or in accord with Section 403 hereof if Section 403 applies.

E) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the County Commission to insure compliance with the provisions of this ordinance. The failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.

F) The fingerprints provided shall be forwarded to the Sheriff's Office and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the two (2) years immediately preceding the date of the application.

G) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

H) A notice of each application to sell distilled spirits (whether for package sales or for consumption on the premises) shall be advertised in the official legal organ of the county once per week for two full weeks preceding consideration of the application.

I) An applicant for any type of license under this Ordinance, including an employee permit, must resolve any pending alcohol related criminal charges before his or her application will be considered.

Section 401 Granting Applications

A) When licenses in accord with the terms hereof are initially issued, if more than one applicant seeks to obtain a license within an area where only one license can be issued, then the Board of Commissioners shall determine to whom the license shall be issued by considering the following provisions in addition to the provisions set forth in Section 403 hereof:

- (1) Whether the applicant owns the property where the licensed business will be located;
- (2) The experience of the applicant operating retail package stores; and,
- (3) The distance from the proposed location to any church building, school building, daycare facility or alcohol treatment facility with those locations being a greater distance from a church building, a school building, a daycare facility or an alcohol treatment facility being given preference.

B) In deciding whether or not an application will be granted or denied, the local government may consider the qualifications of the applicant, the location of the business and its proximity to other enterprises. The commission shall be authorized to and shall also consider:

- (1) The effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of properties surrounding the site; and
- (2) The number of alcoholic beverage licenses already granted in the neighborhood.

Section 402 Denial of an Application

A) The County Commission shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this ordinance.

B) In all instances in which an application is denied under the provisions of this chapter, the applicant may not reapply for a license for at least one year from the date of such denial.

Section 403 Qualifications of Licensees

A) **Wholesale:** Wholesale licenses shall be issued only to those persons who are licensed by the State of Georgia to sell and distribute malt beverages, wines, or distilled spirits at wholesale.

B) Retail Package Sales and Consumption by the Drink on the Premises:

In order to qualify for the issuance of a retail license, the following provisions shall apply:

(1) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. The applicant must not be less than 21 years of age. Applicants may choose to employ a registered agent for the administration of the license.

(2) If the applicant is a partnership or corporation, then the provisions of this section shall apply to all its partners, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. If the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this ordinance. In the case of a partnership, the license will be issued to all the partners owning at least 20 percent of the partnership; or if no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership shall be licensed.

(3) If the applicant is a non-profit club, then the managing agent may be an officer of the organization rather than a full-time employee if such managing agent is qualified in accord with this section.

(4) No person shall be granted any alcoholic beverage license unless proper information establishes to the satisfaction of County Commission or its designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or pled guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexually related crime within a period of two (2) years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, has been so convicted in the two (2) years preceding the filing of the application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make an applicant ineligible for an alcohol license. If any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, is convicted or pleads guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages, including sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, then the license shall be immediately revoked and canceled.

(5) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within two (2) years prior to the filing of application for such license.

(6) It shall be unlawful for any county employee directly involved in the issuance of alcoholic beverage licenses under this ordinance to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the county.

(7) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the county previously revoked within two (2) years prior to the filing of the application.

(8) The County Commission may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.

(9) Licensed establishments may choose to maintain in Dawson County a registered agent as indicated in sub-section (B.1). The licensee shall file the name of such agent, along with the written consent of such agent, with the County Commission on such forms as the Commission may prescribe. If a licensed establishment changes the Registered Agent during the year for which license is issued, then the Registered Agent assuming such responsibility in accord with the terms hereof shall meet all requirements of this Ordinance.

(10) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.

(11) A license application may be denied to any applicant for any alcoholic beverage license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(12) The County Commission may, in its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If circumstances are such that granting of the license would not be in the best interest of the public health, safety, welfare, and morals, then such circumstances may be grounds for denying the application.

(13) For purposes of this ordinance, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which the defendant was allowed to avail himself or herself of the Georgia First Offender Act (1968 Ga. Laws, page 324), as amended. Except, however, that any such offense shall not be ignored if the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt

Section 404 Transferability of License/ Change in Ownership

A) Individuals - In the event of a change of ownership of a business for which an individual has been issued a license, the new owner, if desiring a license, must meet the qualifications specified in Section 403 and must file an application as provided in Section 400 and tender with the application the investigative and administrative fee as provided in Section 203 and any license fee that may be due.

B) Partnerships or Corporations - In the event of a change of any ownership interest in a business which is owned or operated by a partnership or corporation and for which a license has been issued, the licensee shall report such change to the County Commission in writing within five days. "Change of ownership interest" as used herein includes, but is not limited to, any change in:

- (1) Division of profits and/or losses;
- (2) Division of net gross or sales;
- (3) Method of paying or amount of rent paid;
- (4) Ownership of leased premises, or buildings or land used in the business;
- (5) Members of a partnership;
- (6) Stockholders of corporate stock; and
- (7) Management.

C) If, as a result of any change of ownership interest, the licensee would not qualify under other provisions of this ordinance for the issuance of a license, then the license issued to the licensee shall be subject to revocation and shall not be subject to renewal.

D) All applications for transfer of a license shall be accompanied by the transfer fee, together with an investigative and administrative fee. If the transfer is not approved, then the transfer fee will be refunded, but the investigative and administrative fee will not be refunded.

E) Upon the death of a licensee, the Executor or Administrator of the licensee's estate may continue to operate under the license for the balance of the calendar year without payment of any additional fee or may delegate the operation of the business to another person if the person operating under the license, whether the executor, administrator, or delegate, would otherwise be qualified as a licensee under the provisions of this ordinance.

Section 405 Automatic License Forfeiture for Non-Use

A) A license issued pursuant to this Ordinance shall be valid only so long as the licensee is actually engaged in the permitted sale of alcoholic beverages. Any holder of any license under this ordinance who shall for a period of 30 days after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the 30-day period, automatically forfeit the license without the necessity of any further action.

B) In the event a license is conditionally issued for a location upon which the licensee intends to build an appropriate building or renovate an existing structure, the licensee will be determined to have ceased doing business if necessary permits are not obtained and work completed within two years of the date the license is approved.

Section 406 Licensees to Maintain a copy of this Ordinance; Employees to be Familiar with Terms; Licensee Responsible for Violations

Each alcoholic beverage dealer licensed under this ordinance shall keep a copy of this ordinance upon the licensed premises and shall instruct any person working there with respect to the terms of this ordinance; and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms of this ordinance.

Section 407 Display of License

The county alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee.

Section 408 Advertising

A) Licensees may use window signs to advertise products for sale within the store, so long as said signs comply with the Dawson County Sign Ordinance.

B) Notwithstanding Section 408(A), the licensee may display on the licensed premises one sign not to exceed 4 ft. by 6 ft. in size, advertising distilled spirits, malt beverages, or wine. Such sign may be lighted, but in no event will it have any moving parts or flashing lights. The design and location of any such sign must comply with the Dawson County Sign Ordinance.

C) Licensees may advertise, including products and prices, in newspapers and on the radio and on the internet.

Section 409 Sale or Possession for Sale without License or Beyond Boundaries of Premises Covered by License; Penalties

It shall be unlawful for any person to sell, distribute, or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the county to sell, distribute, or possess for sale the alcoholic beverages or to sell or make deliveries beyond the boundaries of the premises covered by the license.

Section 410 Penalties for Violation of Ordinance

Any person who violates any provision of this ordinance, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20.

Section 411 Failure to Require and Properly Check Identification

In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain alcoholic beverages is *actually* 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said alcoholic beverages or wine to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the *Trier of fact* in determining whether any sale to an underage person was made knowingly. "Proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth. "Proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a state issued identification card.

Section 412 Prohibited Sales

No holder or employee of the holder of a license authorizing the sale of alcoholic beverages shall do any of the following upon the licensed premises:

A) Knowingly sell or offer to sell distilled spirits, malt beverages or wines to any person under the age of twenty one (21) years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain distilled spirits, malt beverages or wines is *actually* 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said malt beverages or wine to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the Trier of fact in determining whether any sale to an underage person was made knowingly. "Proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth. "Proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a state issued identification card.

B) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his employees.

C) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.

D) Individual employees who violate this section shall be subject to the penalties set forth in section 410 of this ordinance. Penalties for license holders shall be determined by the County Commission in accordance with the provisions of this ordinance.

E) As to the penalties in subsection (D), if there is a change in a majority of the licensed establishments' owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

Section 413 Purchase or Possession of Alcoholic Beverages by Underage Persons

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

B) No person under the age of 21 years of age shall attempt to purchase any alcoholic beverage or misrepresent his/her age in any manner whatever for the purpose of obtaining alcoholic beverages.

Section 414 Regulations

The County Commission shall have the authority to supplement any section of this ordinance from time to time and reserves the right to promulgate appropriate regulations for such implementation.

Section 415 Revocation or Non Renewal of License

A) The County Commission shall revoke the license of any licensee:

(1) Whose license has been suspended three or more times in any consecutive 12-month period;

(2) For any premises where alcoholic beverages have been sold or distributed during a period of suspension;

(3) Who is convicted of a felony or any crime involving moral turpitude;

B) The County Commission may revoke any license issued under this Ordinance, or refuse to issue the same, if the licensee or applicant for renewal:

(1) Makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the Board of Commissioners;

(2) Fails to timely give written notice of any change of ownership interest as required in Section 404;

(3) Violates any rules or regulations promulgated by the Board of Commissioners under this Ordinance, of which the licensee has reasonable notice;

(4) Becomes disqualified under this Ordinance to hold a license.

(5) Whenever it can be shown that a licensee under this ordinance no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the county;

(6) Has received a license conditioned upon the construction or renovation of the facility and has not obtained necessary permits and completed construction within two (2) years of the date said license was approved.

(7) Violates any provisions of this Ordinance.

(8) Violates any state law related to the sale of beer, wine, or distilled spirits, including but not limited to sales to underage persons or sales to visibly intoxicated persons.

Section 416 Suspension of License

A) The following shall be grounds for the suspension of a license issued under this Ordinance for such period of time as the Board of Commissioners shall, in its sole discretion, determine appropriate:

(1) A violation by the licensee of any state or federal law or regulation, or any provision of this ordinance or the regulations promulgated under its authority;

(2) The failure of the licensee and employees or agents of the licensee to promptly report to the Sheriff's Office any violation of law/breach of peace, disturbance, or altercation occurring on or near the licensee's premises;

(3) The violation of any law, regulation or ordinance pertaining to alcoholic beverages, distilled spirits, malt beverages and wines, by any employee or agent of the licensee in connection with the operation of the business of the licensee;

(4) Operation of the business of the licensee in such a manner as to create a public nuisance, or in a manner contrary to public welfare, safety, health or morals;

(5) Failure to furnish the Board of Commissioners on request any information or records that would be necessary for use in determining the licensee's compliance and qualifications under this ordinance; or

(6) To knowingly sell malt beverages, wines or distilled spirits to any person while such person is in an intoxicated condition.

(7) To knowingly sell or offer to sell malt beverages or wines or distilled spirits to any person under the age of twenty one (21) years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain an alcoholic beverage is *actually* 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said malt beverages or wine to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the Trier of fact in determining whether any sale to an underage person was made knowingly. "Proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth. "Proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a state issued identification card.

B) Wherever this ordinance permits the Board of Commissioners to suspend any license issued under this ordinance but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

(1) No suspension shall be for a period of time longer than the time remaining on such license.

(2) The following factors shall be considered on any suspension as set out above:

a) Consistency of penalties mandated by this ordinance and those set by the County Commission.

b) Likelihood of deterring future wrongdoing.

c) Impact of the offense on the community.

d) Any mitigating circumstances or remedial or corrective steps taken by licensee.

e) Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

f) The licensee's history of compliance or non-compliance with applicable alcohol related laws and regulations.

Section 417 Hearings

A) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section.

B) The County Commission shall provide written notice to the applicant or licensee of its intent to deny, suspend or revoke the license. Such written notification shall be hand delivered or sent certified mail to the applicant at the address shown on the application, and the applicant shall be directed to show cause, if any there be, why the proposed action should not be taken by the County Commission. The notice shall:

(1) Advise of the time and place specified for the hearing, which hearing shall be held not less than five (5) days (if the notice is mailed) or three (3) days (if the notice is hand delivered), but not more than thirty (30) days from the date of the service of the notice.

(2) Shall set forth in reasonable detail the grounds for such action and the factual basis supporting those grounds;

(3) Advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing; and

(4) Advise the applicant or licensee that failure to appear at the scheduled hearing will result in the intended action being taken by the County Commission.

C) After the hearing, a written decision shall be entered and provided to the applicant or licensee.

Section 418 Penalties

The County Commission shall set forth all penalties for violations of this article in accordance with the provisions of this ordinance.

ARTICLE 5 - PACKAGE SALES OF DISTILLED SPIRITS

Section 500 Zoning District

No license shall be issued under this ordinance unless the applicant's place of business is located upon a tract or parcel within unincorporated Dawson County which is zoned Highway Business Commercial (C-HB) or Commercial Planned Comprehensive Development (CPCD).

Section 501 Distances From Certain Uses

A) No license shall be issued under this ordinance for use at a location which is within 600 feet of any church building, daycare, alcohol treatment facility, school, educational building or college. This distance shall be measured in a straight line from the front door of the licensed facility to the front door of the church, daycare, or alcohol treatment facility and from the front door of the licensed facility to the nearest property line of the real property being used for school or educational purposes.

B) No license shall be issued under this ordinance for use at a location which is within one mile of any other business licensed to sell packaged liquor (distilled spirits) at retail. This distance shall be measured in a straight line from the front door of the licensed facility to the front door of the other package store. This restriction shall not apply to any location for which a new license is applied if the retail package sale of distilled spirits was lawful at such location at any time during the 12 months immediately preceding such application.

C) As to any licensed location, if the distance requirements in this section are or were met at the time of the issuance of any license, the subsequent opening and operation of a church building, school building, daycare facility or alcohol treatment facility 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.

Section 502 Regulations as to Employees and Managers

The following regulations shall apply to all establishments seeking and holding a license for sale of packaged goods:

A) No person shall be employed in any capacity in an establishment holding a license issued under this ordinance unless said person is at least 18 years of age.

B) No person shall be employed in any capacity at an establishment holding a license issued under this ordinance until such person has been issued a permit by the County Marshal indicating that the person is eligible for such employment.

C) No permit shall be issued by the Marshal designee to any person until such time as a signed application has been filed by such person with the Marshal's Office or such department's designee and upon payment of a fee that shall be established by the Board of Commissioners and a search of the criminal record of the applicant is completed. The application shall include, but not be limited to, the name, date of birth, address, citizenship status and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order. Applications must be accompanied by a valid government issued I.D. Card. (for example, a driver's license or state issued I.D. card)

D) The Marshal or his designee shall have a complete and exhaustive search made relative to any criminal record of the person. If there is no record of a disqualifying conviction or of a violation of this ordinance, the Marshal shall issue a permit to the person stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the Marshal shall notify the person in writing that the person is not eligible for employment, the cause for such denial and that such individual has the right to appeal such decision.

E) No person shall be granted a permit unless it appears to the satisfaction of the Marshal or his designee that such person has not been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy or any sexually related crime within a period of two (2) years of the date of application and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not by itself make a person ineligible for a permit required by this ordinance. No person shall be granted a permit required by this ordinance who has been convicted, pled guilty or entered a plea of nolo contendere to any federal, state or local law for any felony within two (2) years of the date of application and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this ordinance, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense where the conviction or plea was entered pursuant to the Georgia First Offender Act, as amended, so long as the First Offender status has not been revoked.

F) The permit required by this ordinance shall be issued for a period of one calendar year from the date of the original application. Employee permits are issued for work for the specific licensed establishment as indicated on the employee permit application and may not be used at another licensed establishment. As noted in subsection K below, the permit must be either on the premises or in the possession of the individual to whom it is issued while that individual is working at the licensed establishment. This permit must be available for inspection by members of the Sheriff's Office, the Marshal's Office or the County Commission's staff.

G) No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the Marshal's Office for the permit required by this ordinance. If it is determined that a person is in violation of this sub-section and a permit is denied for this reason, then thirty (30) calendar days must elapse from the date of notification per certified mailing before a new application and fee may be resubmitted.

H) All permits issued through administrative error can be terminated and seized by the Marshal, his designee or by the County Commission or its designee.

I) Replacement permits may be issued within thirty (30) days of original date upon paying one-half of the fee charged for the original permit. After thirty (30) days of the original application date, a new application and fee must be submitted.

J) All permits issued under this ordinance remain the property of Dawson County and shall be produced for inspection upon the demand of any deputy or designee of the Sheriff's Office or employee of the Marshal's Office, or the County Commission's staff.

K) No licensee shall allow any person required to hold an employee permit to work on the premises unless that person's current, valid permit is on the premises or the person has in his or her possession. For new hires, a receipt issued by the permit unit of the Marshal's Office may be used for a maximum of thirty (30) days from the date of its issue. Licensees are required by this ordinance to inspect and verify that each employee required to hold an employee permit by this ordinance has a valid current permit at all times while on the premises of the licensed establishment.

L) It shall be the duty of all persons holding any license to sell distilled spirits, wine, malt beverage or any other alcoholic beverage as defined by this ordinance to file with the Marshal or his designee the name of the establishment, the license number and a list of all its employees, with their home addresses and home telephone numbers, twice annually during the months of June and December to be delivered to the Marshal or his designee not later than the last day of each such month.

M) Any person or entity convicted of any violation of this section shall receive a minimum fine of \$500.00 per violation.

Section 503 Posting of License Number

Every licensee shall have legibly posted on the front of the licensed premises the name of the licensee together with the following inscription: "County Retail Package Sales of Distilled Spirits License No. _____."

Section 504 Listing of Prices

Licenseses shall indicate plainly by tag or labels on the bottles or containers or on the shelf immediately below where the bottles or containers are placed the prices of all distilled spirits exposed for sale.

Section 505 Types of Outlets Where Package Sales Are Permitted

A) Distilled Spirits by the package may be sold at retail only in the following outlets:

- (1) Outlets duly licensed to sell distilled spirits by the package; and,
- (2) Outlets that are devoted exclusively to the retail sale of distilled spirits, malt beverages and/or wine by the package with ingress and egress provided directly to and only to the exterior of the building and not to any other enclosed part of the building or adjoining building.
- (3) Other items which may be sold at said outlets are:
 - (a) Mixers and other beverages which do not contain alcohol which are commonly used in the preparation and serving of distilled spirits.
 - (b) Tobacco products, lighters and matches, chewing gum and breath mints, single serve snacks, ice chests, cozies, packaged ice, gift bags for wine and lottery tickets issued by the Georgia Lottery Commission.
 - (c) Bar supplies, limited to corkscrews, openers, straws, swizzle stirrers, and bar-related containers and wares made of glass, plastic, metal or ceramic materials; cocktail olives, onions, cherries, lemons, limes, and sugars or salts produced and marketed specifically for preparation of alcohol beverage drinks; and alcohol drink recipe books, bar guides, and consumer-oriented beverage alcohol publications.
 - (d) Outlets may also provide check cashing and ATM service.
 - (e) The intention of this section is to allow the retail sale of distilled spirits by the package only in outlets devoted exclusively to the sale of distilled spirits, malt beverages and/or wine and to prohibit such sales in outlets that sell groceries, food, gasoline and other similar products.

Section 506 Hours of Sale

The sale of distilled spirits by the package shall occur only between the hours of 9:00 a.m. and 11:45 p.m. on Mondays through Saturday; and 12:30 p.m. Sunday until 11:30 p.m. on Sunday. No sale of distilled spirits by the package shall occur on Christmas Day. The sale of distilled spirits by the package is permitted on election days if the outlet is not located within 250 feet of a polling place.

Section 507 Consumption on the Premises Prohibited

It shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of distilled spirits by the package, and it shall be unlawful for any licensee authorized to sell distilled spirits by the package to open or break the package for a purchaser and/or permit the consumption of alcoholic beverages on such premises.

Section 508 Prohibited Sales

No licensee shall do any of the following acts upon the licensed premises:

A) Knowingly sell or offer to sell distilled spirits, malt beverages or wines to any person under the age of twenty one (21) years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain distilled spirits, malt beverages or wines is *actually* 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said distilled spirits, malt beverages or wine to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser’s age may be considered by the Trier of fact in determining whether any sale to an underage person was made knowingly. “Proper identification” means any document issued by a governmental agency containing a description of the person, such person’s photograph, or both, and giving such person’s date of birth. “Proper identification” includes, but is not limited to, a passport, military identification card, driver’s license, or a state issued identification card.

B) Sell or offer to sell any distilled spirits, malt beverages, wine and/or any other alcoholic beverage to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee;

C) Sell any distilled spirits, malt beverages, wine and/or any other alcoholic beverages upon the licensed premises or permit distilled spirits, malt beverages, wine and/or any other alcoholic beverages to be sold thereon on any day at any time when the sale is prohibited by law; or,

D) Sell any distilled spirits, malt beverages, wine or any other beverage through a drive-through window or door.

ARTICLE 6 - PACKAGE SALES OF MALT BEVERAGES AND WINES

Section 600 Location

A) Licenses are permitted only for locations which are zoned Commercial in accord with the Land Use Resolution of Dawson County.

B) No license shall be issued under this ordinance for use at a location which is within 600 feet of any church building, daycare, alcohol treatment facility, school, educational building or college. This distance shall be measured in a straight line from the front door of the licensed facility to the front door of the church, daycare, or alcohol treatment facility and from the front

door of the licensed facility to the nearest property line of the real property being used for school or educational purposes.

C) As to any licensed location, if the distance requirements in this section are or were met at the time of the issuance of any license, the subsequent opening and operation of a church building, school building, daycare facility or alcohol treatment facility 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.

Section 601 Hours of Operation

A) The hours of operation of retail licenses for the sale of malt beverages and wines shall be between the hours of 9:00 a.m. and 11:45 p.m. on Mondays through Saturday; and 12:30 p.m. until 11:30 p.m. on Sunday. The hours of operation of wholesale licensees for the distribution of malt beverages and wines in Dawson County shall be between the hours of 8:00 a.m. and 8:00 p.m. Monday through Saturday; and 12:30 p.m. and 8:00 p.m. Sunday.

B) The wholesale and retail sale of wine and malt beverages shall be lawful during the polling hours of any election provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place at such time as the polls are open.

Section 602 Age of Employees

No licensee shall allow or require a person in his employment who is under the age of 18 years to dispense, serve, sell or take orders for any malt beverages or wines. This restriction does not apply to persons under the age of 18 years employed in grocery stores or drugstores who are selling said beverages.

ARTICLE 7 - ALCOHOL BY THE DRINK - GENERAL PROVISIONS

Section 700 Distance from Certain Uses

A) Licenses shall be issued only for locations in areas zoned Commercial.

B) No license shall be issued under this ordinance for use at a location which is within 600 feet of any church building, daycare, or alcohol treatment facility, school, educational building, college, or any housing authority property. This distance shall be measured in a straight line from the front door of the licensed facility to the front door of the church, daycare, or alcohol treatment facility and from the front door of the licensed facility to the nearest property line of the real property being used for school or educational purposes, or any housing authority property.

C) As to any licensed location, if the distance requirements in this section are or were met at the time of the issuance of any license, the subsequent opening and operation of a church building, school building, daycare facility, alcohol treatment facility, or housing authority property 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.

Section 701 Employment of Underage Persons Prohibited; Exceptions

- A) No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.
- B) It is unlawful for any person under the age of 18 years of age to work as an entertainer in any establishment licensed under this ordinance without the consent of the person's legal guardian.

Section 702 Regulations as to Employees and Managers

The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises:

- A) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or serve in any managerial position by an establishment holding a license under this ordinance until such person has been cleared by the County Marshal or designee indicating that the person is eligible for such employment.
- B) This section shall not be construed to include employees whose duties are limited solely to those of busboy(s), cook(s), or dishwasher(s).
- C) No permit shall be issued until such time as a signed application has been filed with the Marshal's Office or such department's designee and upon payment of a fee that shall be established by the County Commission and a search of the criminal record of the applicant completed. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order. Applications must be accompanied by a valid government issued identification card. (for example a driver's license or state issued I.D. card)
- D) The Marshal or his designee shall have a complete and exhaustive search made relative to any criminal record of the applicant. If there is no record of a disqualifying charge or of violation of this ordinance, the Marshal or his designee shall issue a permit to the person stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the Marshal or his designee shall notify the person, in writing, that they are not eligible for employment, the cause of such denial and their right to appeal.
- E) No person shall be granted an employee permit unless it appears to the satisfaction of the Marshal or his designee that such person has not been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy, or any sexually related crime within a period of two (2)

years of the date of application and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make a person ineligible for an employee permit. No person shall be granted an employee permit who has been convicted, pled guilty or entered a plea of nolo contendere to any federal, state, or local law for any felony within two (2) years of the date of application and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this ordinance, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense where the conviction or plea was entered pursuant to the Georgia First Offender Act, as amended, so long as the First Offender status has not been revoked.

F) An employee permit shall be issued for a period of one (1) calendar year from the date of the original application. Employee permits are issued for work at the specific licensed establishment as indicated on the employee permit application and may not be used at another licensed establishment. As noted in subsection (K) below, the employee permit must be in the possession of the employee or the employer while the employee is working at the licensed establishment. This permit must be available for inspection by members of the Sheriff's Office, Marshal's Office, or the County Commission's staff.

G) No person shall be issued an employee permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the Marshal's Office for an employee permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then thirty (30) calendar days must elapse from the date of notification per certified mailing before a new application and fee may be resubmitted.

H) All permits issued through administrative error can be terminated and seized by the Marshal or his designee or the County Commission or their designee.

I) Replacement permits will be issued within thirty (30) days of original date, upon paying one-half of the fee charged for employee permits. After thirty (30) days of original application date, a new application and fee must be submitted.

J) All permits issued under this ordinance remain the property of Dawson County and shall be produced for inspection upon the demand by the Sheriff, the Marshal or the County Commission's staff or their designee.

K) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless the employee or manager has in their possession a current valid county employee permit. Employee permits may be kept on the premises, or on the person of the employee. For new employees, a receipt issued by the permit unit of the Marshal's Office may be used for a maximum of thirty (30) days from the date of its issue.

L) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Marshal or his designee the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers, twice annually during the

months of June and December. List shall be delivered to the Marshal or his designee no later than the last day of each said month.

M) Any person convicted of any violation of this section shall receive a minimum fine of \$500.00 per violation.

Section 703 Open Area and Patio Sales

A) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the County Commission.

B) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.

C) The height of such structure shall be a minimum of three-and-one-half feet above the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the county's building inspection department and the county's fire department as required by governing regulations or codes.

D) The only exit from this area is to be through the licensed establishment's main premises and through an approved fire exit, not for general public use unless an emergency exists. The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.

E) If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the County Commission. Interior type patio/open sales areas must also meet the requirements of the county's development and fire codes.

F) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel, provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. "Patio areas", as that term is used in this subsection, do not have to conform to the standards in this section.

Section 704 No Consumption Outside Premises

A) It is prohibited for customers to leave the premises with open alcoholic beverages except as permitted pursuant to sections 705 and 706 of this ordinance, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers.

B) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

C) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

Section 705 Partially Consumed Bottles of Wine Purchased with a Meal

A) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one (1) 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.

B) 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.

C) 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.

D) If transporting 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.

Section 706 Bring Your Own Bottle

A) Licensed establishments may elect to allow patrons to bring in their own bottles (“brown bagging”) of wine. Brown bagging of malt beverages and distilled spirits shall be prohibited. All regulations as to prohibited sales as defined in Section 412 of this ordinance shall apply to this section.

B) Licensed establishments may charge a “corking” fee for bottles brought in by patrons. Fee amounts shall be the discretion of the establishment.

Section 707 Specification of Premises

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the county, regulations of the state revenue commissioner, and the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is

located so as to reveal all of the outside premises of such building. 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. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passage ways and open areas may be clearly seen by the customers therein.

Section 708 Solicitation Prohibited

No retail consumption dealers licensed under this ordinance shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting the establishment or to an agent or manager to solicit for herself/himself or for the others, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage.

Section 709 Prohibited Noise from Establishments

It shall be unlawful for any establishment licensed under this ordinance to make or cause to be made any loud, unnecessary or unusual sound or noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the county and that is audible to a person of normal hearing ability from the nearest property line of the business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this ordinance after the hours of 10:00 p.m.

Section 710 Audits of Licenses

A) The County Manager may conduct an audit of the records and books of the licensee, after notice to the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license(s) issued under this ordinance.

B) All licensed establishments shall maintain the following records for a three-year period and make such records available for audit at the licensed premises:

- (1) Monthly income or operating statements.
- (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
- (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 1099's.

The County Commission may waive all or some of the requirements of subsection (B) upon a determination that no such records exist and that the licensee cannot practically maintain such records based on the net income of the licensed establishment.

Section 711 Retail Consumption Dealers to Store Inventory only on Premises

No retail consumption dealer licensed under this ordinance shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler.

Section 712 Poured Alcohol to be Transported only by Employees

Poured alcoholic beverages shall be transported from point of dispensing to the customer by permitted employees only. Permitted employees are those who have applied for and received an employee pouring license authorizing such employees to take orders and transport alcoholic beverages to customers.

Section 713 Inspections

Sworn officers of the Sheriff's Office or Marshal's Office shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the county during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this ordinance and state law. This section is not intended to limit the authority of any other county officer to conduct inspections authorized by other provisions of this ordinance.

Section 714 Establishment May be Closed in Cases of Emergency

The Sheriff or Marshal or his designee may immediately close an establishment licensed under this ordinance in case of emergency for the safety of the public or to investigate a crime for a period of time not to exceed 24 hours.

Section 715 Types of Entertainment, Attire and Conduct Prohibited

A) Preamble and purpose:

(1) Based upon the experiences of other counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York; Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida, which experiences the Board of Commissioners believe are relevant to the problems faced by the county and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, as well as the testimony of citizens and experts received by this commission, the Board of Commissioners takes note of the notorious and self-

evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country.

(2) Moreover, it is the finding of the Board of Commissioners that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "erotic entertainment", begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude or semi-nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcohol and also allow and/or encourage nudity or semi-nudity.

B) Prohibited activities.

Any establishment licensed under the provisions of this ordinance is prohibited from permitting or engaging in the following activities:

(1) The employment or use of any person in any capacity in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;

(2) Live entertainment that provides or features nude or semi-nude or erotic dancing or the performance of obscene acts that simulate:

(a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;

(b) The touching, caressing or fondling of the breast, buttock, anus or genitals; or

(c) The displaying of the pubic hair, anus, vulva or genitals.

(3) The showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in subsection (2), above, which are obscene under state law; or

(4) The holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.

C) Mainstream activity excluded:

Notwithstanding the prohibitions in subsection (B), nothing in this ordinance shall be or is intended to apply to theatrical or motion picture performance houses, museums, or to restaurants or places set apart for traditional family-oriented naturism where the consumption or service of alcohol is not a primary purpose or the mainstream activity of such establishment. The phrase “places provided or set apart for nudity” means as follows: places provided or set apart for traditional family oriented naturism including nudist parks, clubs, and resorts chartered by the American Association for Nude Recreation or affiliated with the Naturists Society or by traditional family oriented naturists groups.

Section 716 Happy Hour - Promotions and Sales

A) No licensee or employee or agent of a licensee, in connection with the sale or other disposition 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) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at 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;
- (4) 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, except at private functions not open to the public;
- (5) 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;
- (6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (.947 liters), except to two or more persons at any one time;
- (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; or
- (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.

B) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The

schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less than one calendar week.

C) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (A) of this section.

D) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.

E) It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.

F) The Sheriff's Office or Marshal's Office shall have responsibility for the enforcement of this article.

G) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately, and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.

H) Any person deemed guilty of violating this section may be punished by a fine not to exceed \$1,000.00 and/or by imprisonment not to exceed thirty (30) days in the common jail of the county. Licensees may further be subject to revocation proceedings.

ARTICLE 8 - DISTILLED SPIRITS BY THE DRINK

Section 800 Locations where Permitted

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

A) In sites zoned commercial and that:

(1) Are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of the establishment's total annual gross sales from food;

(2) Are indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such establishment will regularly serve food every hour the eating

establishment is open and shall derive at least 50% of its total annual gross revenue from the sale of prepared meals or food and recreation activities; or

(3) Are an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments); prepared to serve food every hour they are open and deriving at least 50% percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels or motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

Section 801 Hours and Days of Sale

A) Distilled spirits shall not be sold for consumption on the premises except between the hours of 10:00 a.m. and midnight Monday through Thursday; 10:00 a.m. Friday through 1:00 a.m. Saturday; 10:00 a.m. through midnight Saturday; and 12:30 p.m. through midnight Sunday.

B) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

Section 802 Consumption Sales Only

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell or distribute any distilled spirit by the package or bottle.

ARTICLE 9 - MALT BEVERAGES AND WINE BY THE DRINK

Section 900 Type of Retail Establishment Where Permitted

No beer or wine shall be sold for consumption on the premises where sold except:

In sites in areas zoned commercial and which are being used as one of the following:

(1) Are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of the establishment's total annual gross sales from food;

(2) Are indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of its total annual gross revenue from the sale

of prepared meals or food and recreation activities;

(3) Are an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments); prepared to serve food every hour they are open and deriving at least 50% percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels or motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure; or

(4) At a golf course that derives at least 50% of its annual gross revenue from the sale of prepared meals or food and recreation activities, i.e. golf. These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

Section 901 Hours and Days of Sale

A) Beer and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m. - midnight Monday through Thursday; and Friday 10:00 a.m. through 1:00 a.m. on Saturday; and Saturday 10:00 a.m. through 1:00 a.m. on Sunday.

B) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

C) SUNDAY SALES - The sale or distribution of beer and/or wine for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment.

ARTICLE 10 - CATERING

Section 1000 Requirements

Requirements for a “Licensed Alcoholic Beverage Caterer” license:

(1) Eating establishments and indoor commercial recreation establishments located in unincorporated Dawson County and that hold an alcohol by the drink license in accordance with Article 7, 8, and 9 of this ordinance are the only establishments authorized to cater in the unincorporated areas of Dawson County. Such restaurants and indoor commercial recreation establishments must also comply with all provisions of this article.

(2) The applicant shall hold a valid state license to sell malt beverages, wine, distilled spirits or some combination thereof by the drink for consumption on the premises.

(3) The applicant shall hold a valid local county license to sell malt beverages, wine, distilled

spirits, or some combination thereof, by the drink for consumption on the premises.

(4) The applicant must be a licensed alcoholic beverage caterer pursuant to O.C.G.A. § 3-11-1 et seq.

(5) The applicant must hold all required food service permits required by the County Environmental Health Office.

Section 1001 Application

An applicant for a Licensed Alcoholic Beverage Caterer license must:

(1) Submit a completed application provided by the county

(2) Pay the required application and license fees.

Alcoholic Beverage Caterer licenses are valid for one calendar year. They are issued and must be renewed in the same manner as their corresponding retail licenses.

Section 1002 Permitted Activities

Only a Licensed Alcoholic Beverage Caterer is authorized to sell alcoholic beverages off premises. Licensed Alcoholic Beverage Caterers are authorized to engage in, carry on or conduct the sale or distribution of alcoholic beverages off premises under the following conditions:

(1) The distribution of alcoholic beverages is in connection with an “authorized catered event” for which a “Special Event Alcohol Permit” has been granted authorizing said event. The requirements for “Special Event Alcohol Permits” are detailed in Article 12 of this Ordinance.

(2) A licensed alcoholic beverage caterer may sell only that type of alcoholic beverage authorized by the caterer’s local alcoholic beverage license.

(3) The licensed alcoholic beverage caterer shall not employ any person under 21 years of age to dispense, serve, sell or handle alcoholic beverages in accordance with O.C.G.A. §3-11-4 et seq.

(4) If the licensed alcoholic beverage caterer desires to provide alcohol on a Sunday, it distributes only those beverages which may be sold on Sundays in the County.

(5) The licensed alcoholic beverage caterer complies with the requirements of O.C.G.A. §3-11-1 et seq.

(6) The licensed alcoholic beverage caterer complies with the requirements contained in Articles 2 through 4 and Section 700 and 702 of Article 7 of this Ordinance.

Section 1003 Restaurants

Eating establishments which hold an alcohol by the drink license in accordance with Articles 7, 8 and or 9 of this ordinance may cater events within the unincorporated areas of Dawson County so long as said establishments comply with this article.

Section 1004 Exceptions

For events where alcoholic beverages are furnished by the host, which are not open to the public and at which no admittance fee, cup fee, or by the drink fee is required, the event holder shall be exempt from the requirements of this Ordinance. However, if alcoholic beverages are to be provided at such an event by a licensed alcoholic beverage caterer, then the requirements of this Ordinance must be met.

ARTICLE 11 - PRIVATE CLUBS

Section 1100 Definitions

As used in this article:

A) "Private club" means any nonprofit association organized under the laws of this state which:

(1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this article;

(2) Has at least seventy-five (75) regular dues paying members;

(3) Owns, hires or leases a building or space within a building for the reasonable use of its members with:

(a) A suitable kitchen and dining room space and equipment; and

(b) A sufficient number of employees for cooking, preparing and serving meals for its members and guest; and

(c) Has no member, officer, agent or employee directly or indirectly receiving in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

B) "Sports Club" means an association or corporation organized and existing under the laws of the State of Georgia, organized and operated primarily to provide a location for the patrons thereof to engage in sporting events. To qualify for an alcoholic beverage consumption dealer's license, a sports club must have been actively in operation within the county at least two (2) years prior to an application for license hereunder. Provided, however, the two-year operational requirement shall not apply to golf club associations or golf club corporations where the selling or the serving of alcoholic beverages is to take place on the golf course premises. A sports club organized or operated primarily for serving of alcoholic beverages shall not qualify for licensing

under this article, and accordingly shall not be permitted to serve alcoholic beverages at any time. Unless otherwise indicated, a sports club licensee shall comply with all other requirements imposed upon retail consumption dealers.

C) "Fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages.

Section 1101 Regulation or Sale of Alcoholic Beverages

A private club may seek a license for retail sales of alcoholic beverages for consumption on the premises in accord with this ordinance. Licensed private clubs may sell and dispense alcoholic beverages by the drink for consumption on the premises upon compliance with all applicable ordinances and regulations of the county governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the county.

Section 1102 Certain Organization Exempt from Food Establishment Requirements

Veteran's organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the Georgia Income Tax Law shall not be required to operate a food establishment serving prepared food. However, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and consumption on the premises establishments.

Section 1103 Investigative and Administrative Costs

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check in the amount of the investigative/administrative costs. If the application is denied and the license refused, or if the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the cost paid for investigative and administrative cost shall be retained. However, any person applying for more than one (1) license shall pay only one (1) fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. 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 no investigative and administrative costs.

Section 1104 Hours and Days of Sale

A) No alcoholic beverages shall be sold for consumption on the premises except between the hours of 10:00 a.m. and midnight Monday through Thursday; 10:00 a.m. Friday through 1:00

a.m. Saturday; 10:00 a.m. through midnight Saturday; and 12:30 p.m. through midnight Sunday.

ARTICLE 12 - SPECIAL EVENT PERMITS

Section 1200 Eligibility for a Temporary Special Event Alcohol Permit

A) A temporary special event alcohol permit may be issued to any person, firm or corporation for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by this ordinance and shall be required to comply with all the general provisions of this ordinance and the licensing and regulations for consumption on the premises establishment with the exception of the full service kitchen requirement.

Special Event Alcohol Permits shall be obtained for the following:

(1) Events catered pursuant to the regulations established in Article 10 of this ordinance.

B) The special event must meet the following criteria before the issuance of a permit to sell or distribute alcoholic beverages:

(1) The special event must receive approval from the Dawson County Sheriff's Office on crowd control and security measures.

(2) The special event must receive approval from the Dawson County Sheriff's Office, on traffic control measures.

(3) The premises at which the special event is to take place must be within a commercial zone and approved by the County Manager; if the proposed location is not within a commercial zone, the approval must be obtained from the Board of Commissioners.

(4) The premises where the special event shall occur shall meet the distance from certain uses requirements of this Ordinance.

C) Any employee or volunteer of the special event permit holder, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall be required to obtain an employee permit for the special event. Employees or volunteers dispensing, selling, serving, taking orders or mixing alcoholic beverages must be eighteen (18) years of age or older. Employees of caterers must comply with the regulations established in Article 10 of this ordinance and must be twenty-one (21) years of age or older as pursuant to O.C.G.A. §3-11-4.

D) The Sheriff, Marshal or his designee may immediately revoke any temporary permit for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.

E) As a condition on the issuance of a temporary special event permit, the permit holder shall indemnify and hold Dawson County harmless from claims, demand or cause of action that may arise from activities associated with the special event.

F) The County Manager shall issue the temporary special event permit to the applicant upon compliance with the terms hereof.

G) In the event that a special event alcohol permit is denied by the County Manager, the applicant may appeal the decision to the County Commission.

Section 1201 BONA FIDE NON PROFIT CIVIC ORGANIZATIONS

A) A bona fide non-profit civic organization is one which is exempt from federal income tax pursuant to the provisions subsections (c),(d) or (e) of 26 U.S.C. Section 501.

B) Upon the filing of an application and the payment of a special temporary event permit application fee, a bona fide non-profit civic organization may obtain a permit authorizing the organization to sell or distribute alcoholic beverages for consumption on the premises or to sell wine at retail for off-premises consumption, or both, for a period not to exceed three (3) days, subject to any law regulating the time for selling such beverages.

C) No more than twelve (12) permits may be issued to an organization in any one calendar year.

D) Permits are valid only for the location specified in the permit. No permit may be issued unless the sale of alcoholic beverages is lawful in the place for which the permit is issued. Said permit is subject to the restrictions set forth in section 1200 of this ordinance.

ARTICLE 13 - HOTEL IN-ROOM SERVICE

Section 1300 License

A) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom that contains beer and/or wine only, which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of the beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.

B) Any hotel-motel that acquires this in-room service must also obtain consumption on the premises license and shall meet requirements of this ordinance.

C) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so. A license fee set forth in the Dawson County Alcohol Fees Schedule shall be imposed to provide only beer and/or wine by "in-room service."

D) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.

ARTICLE 14 - FARM WINERIES

Section 1400 Definitions

A) **“Farm Winery.”** As used in this ordinance, the term "farm winery" means a domestic winery located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery, or domestic winery that (a) makes at least 40% of its annual production from agricultural produce grown in this state; (b) is owned and operated by persons who are engaged in the production of a substantial portion of the Georgia agricultural produce used in its annual production, and for this purpose, such production of a substantial portion of such Georgia agricultural produce shall be determined by the Commissioner of Agriculture of the State of Georgia, and (c) produces less than 100,000 gallons per year.

B) **“Tasting Room.”** The term "tasting room" shall mean an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine may be given complimentary or for a fee.

Section 1401 Permitted Sales

A farm winery may sell its wine and the wine of any other Georgia farm winery licensee at retail in a tasting room or other facility on the premises of the winery for consumption on the premises and in closed packages for consumption off the premises and to sell its wine and the wine of any other Georgia farm winery licensee at retail for consumption on the premises and in closed packages for consumption off the premises in tasting rooms at a location within Dawson County that is one of the five additional locations in the State of Georgia authorized by OCGA § 3-6-21.1(b).

Section 1402 Licensee Qualifications

The qualifications for the license for sale by farm winery tasting room shall be the same as set forth in Section 1403 of this Ordinance.

Section 1403 Applicable Provisions

The following provisions of this Ordinance regarding qualifications of the licensee and other matters shall apply to the issuance of the license for sale by a farm winery tasting room and the operation thereof:

- Article 1 - Section 101 Definitions,
- Article 4 - General Provisions- All Licenses,
- Article 6 - Package Sales of Malt Beverages and Wines
- Article 7 - Alcohol by the Drink - General Provisions

Section 1404 License Fees

The applicant for a retail license for the sale of wine and operation of a farm winery tasting room shall pay the license fee as set forth in the Fee Schedule.

Section 1405 Licensing Limitations

The license created in accord with this Article shall be limited to farm winery tasting rooms licensed by the State of Georgia in accord with O.C.G.A. §3-6-21.1, et seq., and the licensee shall be permitted to perform only acts allowed in accord with such statutes. No license is hereby created authorizing any other use.

Section 1406 Sunday Sales

This Article shall not be construed so as to authorize a farm winery to sell wine on Sunday on premises that are not located on the property where such farm wine is produced. A farm winery located on the premises where the farm wine is produced that is licensed to sell wine in a tasting room or other licensed farm winery facility within Dawson County for consumption on the premises or in closed packages for consumption off the premises shall be authorized in accord with the terms hereof to sell its wine on Sundays from 12:30 p.m. until 12:00 midnight in the tasting room or other licensed farm winery facility to the same extent as any other license issued in accord with the terms hereof would otherwise permit.

Section 1407 Hours of Sale

Wine may be sold or distributed in a tasting room or other licensed farm winery facility between the hours of 10:00 a.m. and midnight Monday through Thursday; and Friday 10:00 a.m. through 1:00 a.m. on Saturday and on Sundays in accord with Section 1406 herein.

ARTICLE 15 - INCORPORATION OF STATE STATUTES, SEVERABILITY, REPEALER, ETC.

Section 1500 Incorporation of other Statues

The Board of Commissioners of Dawson County hereby adopts and incorporates within this ordinance the following provisions of the Official Code of Georgia, which provisions are hereby made a part of this ordinance by reference thereto:

- 1) O.C.G.A. §3-3-40. Definitions.
- 2) O.C.G.A. §3-3-41. Performance of actual or simulated sexual acts.
- 3) O.C.G.A. §3-3-42. Employee solicitation of patrons of drinks on premises.
- 4) O.C.G.A. §3-3-43. Permitting persons to view sexually related acts or conduct performed on other premises.
- 5) O.C.G.A. §3-3-44. Permitting persons to remove alcoholic beverages to other premises to view sexually related conduct or activities.
- 6) O.C.G.A. §3-3-45. Employment of or assistance to persons engaged in sexually related conduct or activity or nudity.

7) O.C.G.A. §3-3-46. Grounds for suspension and revocation of alcoholic beverage license.

Section 1501 Severability

If any paragraph, sub-paragraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if a provision of any part of this ordinance is applied to any particular situation or set of circumstances in such a manner as to be declared invalid or unconstitutional, then any such invalidity shall not be construed to affect the portions of this ordinance not so held to be invalid and the application of this ordinance to other circumstances shall not be held to be invalid. The Dawson County Board of Commissioners hereby declares the intent of Dawson County Board of Commissioners is to provide for separable and divisible parts, and the Dawson County Board of Commissioners hereby adopts any and all parts hereof as may not be held invalid for any reason.

Section 1502 Repealer.

All resolutions or ordinances or parts thereof in conflict with the terms of this ordinance are hereby repealed.

Approved, this 22nd day of April, 2012.

ATTEST:

Dawson County
Board of Commissioners

Danielle Yarbrough, County Clerk

By: _____
Mike Berg, Chairman

Dates of Advertisement: March 14, 21 & 28, 2012

Dates of Public Hearings: April 5 & 19, 2012

Vote: Yes 4
 No 0