

**FORSYTH COUNTY, GEORGIA ORDINANCE NUMBER 68**

**AN ORDINANCE  
BY THE BOARD OF COMMISSIONERS  
OF FORSYTH COUNTY**

**An Ordinance of Forsyth County, Georgia to create and establish Rules and Regulations for Licensing the Sales of Distilled Spirits, Wine and Malt Beverages within Forsyth County, Georgia, and to repeal the heretofore existing Ordinance Number 68 and its amendments.**

**WHEREAS**, the Constitution of the state of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the county may adopt clearly reasonable ordinances, resolutions and regulations; and

**WHEREAS**, the Board of Commissioners of Forsyth County adopted an ordinance establishing rules and regulations for licensing the sale of distilled spirits, wine, and malt beverages within Forsyth County, Georgia, on January 27, 2003; and

**WHEREAS**, the Board of Commissioners of Forsyth County desires to exercise is authority to amend the existing Alcohol Ordinance and adopt the amendment attached hereto as Exhibit A; and

**WHEREAS**, appropriate notice and hearing on the amendments contained herein have been carried out according to general and local law.

**NOW THEREFORE**, the Board of Commissioners of Forsyth County, Georgia, hereby ordains as follows:

1. The text of the Forsyth County Code of Ordinances is hereby replaced in its entirety by the text attached hereto as Exhibit A;
2. It is the express intent of the Forsyth County Board of Commissioners that this Ordinance be consistent with both federal and state law. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not

affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable;

3. All other ordinances shall continue in full force and effect and shall remain unaffected, except where such ordinance, or part thereof, conflicts herewith, in which case such ordinance, or part thereof, is hereby repealed; and,
4. This Ordinance shall become effective immediately upon the date of adoption.

**BE IT RESOLVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**FORSYTH COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Alfred John, Chairman

\_\_\_\_\_  
Laura Semanson, Vice-Chairman

\_\_\_\_\_  
Cindy Jones Mills, Secretary

\_\_\_\_\_  
Kerry Hill, Member

\_\_\_\_\_  
Todd Levent, Member

Attest:

\_\_\_\_\_  
Clerk to the Board

# EXHIBIT A

# ARTICLE I- GENERAL RULES AND REGULATIONS

## Section 1.1 General Policies and Purpose

(a) Alcoholic beverages may be sold in the County of Forsyth only after the issuance of a license for such sale by the County and only in the manner permitted by said license. Alcoholic beverages may be sold in the County only by a licensee who complies with the rules and regulations of this Ordinance, and with the licensing, regulatory and revenue requirements of the State of Georgia.

(b) All licenses granted by the County for the sale of alcoholic beverages are a mere grant or privilege subject to all terms and conditions imposed by the County Ordinance and State law and subject to being revoked by the Board of Commissioners of Forsyth County.

(c) Each licensee of the County shall display the license prominently at all times at the outlet for which the license is issued. A separate license must be issued for each outlet of sale and a separate application must be made for each outlet.

(d) The purposes of this Ordinance include but are not limited to the following:

- (1) Compliance with state law;
- (2) Guarding against monopoly and concentration of the retail sale of alcoholic beverages in one group;
- (3) Prevention and control of the sale of alcoholic beverages by unfit persons;
- (4) Promotion of appropriate land use planning and zoning in accordance with the County's comprehensive zoning policies;
- (5) Protection of schools, homes, churches, parks, and other institutions;
- (6) Protection of the public health, safety, and general welfare.

(e) Notwithstanding any provision to the contrary contained in this Ordinance, whenever any provision of this Ordinance requires or contemplates that notice will be given, such notice may be accomplished by electronic mail transmission.

## Section 1.2 Definitions

As used in this Ordinance, the term:

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

Alcohol Sale Permit means a photographic identification card issued pursuant to Section 1.8. (c)

Alcoholic Beverage(s) means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine as defined in this section.

Applicant means any one or more persons applying for a license in the County or renewal thereof.

Application means those forms required by the County to be completed by persons applying for an original license or a renewal license under this Ordinance.

Art Studio or Art Gallery means a commercial premises properly licensed and operating within the County where instruction is offered to the general public in visual or graphic art techniques including, but not limited to, painting, sculpture, drawing, photography, craft work, or fiber art; or which displays visual or graphic art for viewing by the general public; but specifically excluding tattoo studios or parlors.

Barrel means 31 gallons (for malt beverages) and 53 gallons (for distilled spirits).

Beer and Malt Beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination of such products in water, containing not more than fourteen percent (14%) alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine. The term “beer” is used interchangeable with “malt beverage”.

Brewer means a manufacturer of malt beverages.

Brewery means a premises where beer and malt beverage are manufactured.

Brewpub means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36. Notwithstanding anything contained in this definition, a state licensed brewpub shall not be prohibited from retail growler sales, as defined in Section 6-7(e)(2), provided the brewpub licensee is also licensed for the retail sale of alcohol by the package. As used in this paragraph, the term ‘eating establishment’ means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food; provided, however, that when determining the total annual gross food and beverage sales, barrels of malt beverages sold to licensed wholesale dealers, as authorized pursuant to O.C.G.A. § 3-5-36(2)(D), or the public for consumption off the premises, as authorized pursuant to O.C.G.A. § 3-5-36(2)(D) and (4), shall not be used.

Board of Commissioners shall mean the Board of Commissioners of Forsyth County.

Church means any place of permanent public religious worship and shall exist if a building permit therefore has been obtained and construction of the church building has commenced or substantial materials, or supplies for its construction, have been moved to the site.

Cigar Shop shall mean a commercial establishment that sells full-sized, hand-rolled cigars, and which derives at least sixty percent of its total annual gross sales from the sale of such full-sized, hand-rolled cigars.

Conditional License shall mean the approval granted or issued by the County to a licensee prior to the premises for the sale of alcoholic beverages being issued a certificate of occupancy.

County shall mean County of Forsyth and when used in a geographical sense means the political subdivision of Forsyth County outside the municipal limits of the City of Cumming.

Department Head shall mean the Department Head and/or Director of the Forsyth County Department of Business License.

Distilled Spirits means any alcoholic beverage obtained by distillation or containing more than twenty-one percent alcohol by volume, including but not limited to, all fortified wines.

Distiller means a manufacturer.

Distillery means a premises where distilled spirits are manufactured.

Eating Establishment means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least fifty percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

Employee means any person that acts in the capacity of a server, waiter, waitress, cashier, or clerk at the business of an alcohol license holder wherein the person's job function requires that they engage in sales transactions involving alcohol. The definition of employee shall be broadly construed and shall include those individuals' operation within the establishment of a license holder where, due to the nature of the duties performed, a customer would reasonably believe the individual is an employee of the license holder, irrespective of whether there exists documentation or other evidence of an employee/employer relationship and further irrespective of whether the individual is paid or unpaid. For purposes of this Ordinance, the licensee shall always be deemed an employee of the permitted business.

Farm Winery means a domestic winery that has received the appropriate permit and authorization under the Forsyth County Unified Development Code- 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 Revenue Commissioner of the State of Georgia; and (c) produces less than 100,000 gallons per year.

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

Hotel means every building or structure kept, used, maintained, advertised, and held out to the public to be a place where, sleeping accommodations are offered for adequate pay to travelers and guests, in which fifty or more rooms are used for sleeping accommodations. Motels meeting the qualifications set out herein for hotels, shall be classified as hotels for the purpose of this Ordinance.

Immediate Family shall include the spouses, parents, children, brothers and sisters, related by blood or marriage.

License shall mean the formal approval granted or issued by the County to a licensee for the sale of alcoholic beverages within the County of Forsyth.

Licensee means the individual licensee and in the case of a partnership, corporation, private club, or non-profit tax-exempt organization, includes both the partnership corporation, private clubs, or non-profit tax-exempt organization and the named licensee.

Micro-Brewery means a brewery that manufactures a maximum of 20,000 barrels of beer and malt beverage each calendar year for sale to licensed wholesale dealers, excluding brewpubs.

Micro-Distillery means a distillery with no more than 20,000 square feet of combined production, storage, retail, service and preparation space and in which at least twenty-five (25%) percent of the facility's production of distilled spirits by volume is sold directly to the consumer on site.

Moral Turpitude means, in relation to a criminal offense, a crime that is contrary to justice, honesty, modesty, good morals or a person's duty to other people. Misdemeanors that are crimes of moral turpitude for the purpose of this Chapter include, but are not limited to, theft, bad checks, shoplifting, making terroristic threats, giving a false name to a police officer, false swearing, forgery, fraud, and extortion.

Outlet means the definite structure, whether a room, ship, store, building, restaurant, or club, in which activities permitted by this Ordinance are conducted.

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

Package goods retailer means a person licensed as a retailer to sell alcoholic beverages in unbroken packages for consumption off the premises; excluding a manufacturer.

Person means any individual, firm, partnership, cooperative, non-profit 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.

Premises shall mean not only the structure wherein an outlet for sale of alcoholic beverages is operated under a County license but shall include all of the lot whereon said outlet is located, except where such outlet is located in a hotel or shopping center. A structurally and visibly defined area or areas within a single outlet licensed for the sale of malt beverages and/or wine by the package, which area or areas in the aggregate satisfy the food sales ratio requirements of Section 4.1 and all other requirements of the Forsyth County Alcoholic Beverage Ordinance, shall be considered a separate premise such that a separate consumption on premises license may be issued for such outlet as a means of authorizing the sale of alcohol for consumption on the premise within the structurally and visibly defined area(s).

Retail Consumption Dealer means any person who sells distilled spirits for consumption on the premises at retail, only to consumers and not for resale.

Retailer or Retail Dealer means, except for distilled spirits, any person who sells alcoholic beverages either in unbroken package or for consumption on the premises, at retail only to consumers and not for resale. With respect to distilled spirits, Retailer or Retail Dealer means any person who sells distilled spirits in unbroken packages at retail only to consumers and not for resale.

Sheriff means the Forsyth County Sheriff or his/her designee.

Specialty Wine Shop means an establishment whose primary business is wine by the package and is licensed by the Department of Agriculture as a food sales establishment. A specialty wine shop must also serve cheese and charcuterie plates to be consumed on the premises.

Tasting Room means 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.

Wholesaler or Wholesale Dealer means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

Wine means any alcoholic beverage containing not more than twenty-one percent alcohol by volume, made from fruits, berries, or grapes, either by fermentation, or 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 sale or other ingredients to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

Zoning shall mean the zoning classifications as approved for the unincorporated areas of Forsyth County.



## Section 1.3 Qualifications for Issuance of a License

Any person who desires to obtain a license for the retail sale of alcoholic beverages by the drink or by the package must meet the minimum qualifications set forth in this section. If the applicant is a partnership, each partner must meet the qualifications of any individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a limited liability company (LLC), each member must meet the qualifications of any individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation having as its principal business the sale of alcoholic beverages, the majority stockholder and each principal officer of the corporation must meet the qualifications of any individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation having as ~~it~~ its principal business an activity other than the sale of alcoholic beverages, the officer or employee of the corporation primarily responsible for the operation of the licensed premises must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a nonprofit tax exempt civic, patriotic, or social club or corporation which is organized and operated in the county as a mutual benefit membership group, such club or corporation may be licensed without reference to the financial interest qualifications of this section if no officer, director, trustee, manager, member, or stockholder therein can, in any event, derive any financial gain from the sale of alcoholic beverages by such club or corporation. The individual being primarily responsible for the club or corporation's compliance with this section must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a private club, each member of its governing body must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. The specific qualifications are as follows:

- a) No license shall be issued to an applicant who is under twenty-one years of age.
- b) No license for the sale of distilled spirits by the package shall be issued to any person unless an application is accompanied by a certificate from the Judge of the Probate Court of Forsyth County, Georgia, certifying that the applicant has been a bona fide resident of Forsyth County for at least twelve months immediately preceding the application. Applicant may, in lieu of being a resident of Forsyth County, certify and designate a resident of Forsyth County who shall be responsible for any matters relating to the license. All licenses, other than those issued for the sale of distilled spirits by the package, may be issued to any person who is a citizen of the United States, an alien lawfully admitted to this country as a permanent resident, or a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.
- c) No license for the sale of alcoholic beverages may be issued to an applicant under the following circumstances:
  - (1) An applicant who has been convicted under any federal, state, or local law of a felony.

(2) An applicant who has been convicted under any federal, state, or local law of a misdemeanor, within a five-year period immediately preceding application, involving alcoholic beverages, gambling, tax law violations or violations relating to the Georgia Controlled Substances Act, or a misdemeanor within a ten-year period immediately preceding the application, involving moral turpitude.

For purposes of subparagraphs 1.3(c)(1) and (2) above, a “conviction” under this Ordinance shall include any plea of guilty or admission of guilt and subsequent sentence under the First Offender Act of O.C.G.A. § 42-8-60, or any similar sentencing provision for first time offenders of any other state or of the United States. A plea of nolo contendere for any felony or misdemeanor of any state or of the United States, or any municipal ordinance, except traffic violations, or the forfeiture of a bond (except traffic offenses) when charged with a crime is also considered a conviction under this Ordinance.

(3) An applicant who has been held in civil or criminal contempt by any federal, state, or local court if such citation indicates to the Board of Commissioners that the applicant will not maintain the outlet for which he is seeking a license in conformity with federal, state or local laws, rules, and regulations.

(4) An applicant for a license to sell distilled spirits by the package or an applicant for a consumption on the premises license who has been denied or has had revoked for cause within five years of the date of his/her application any license issued to him/her by Forsyth County and/or any other city, county and/or state to sell alcoholic beverages or an applicant for a package beer and wine license at an outlet in Forsyth County at which the license at that outlet has been revoked for cause within five years of the date of the application where the licensee at the time of license revocation was the full or partial owner of the licensed premises.

Where the licensee at the time of revocation was leasing the licensed premises, the mandatory five year disqualification period described immediately above shall still apply; however, the five year disqualification period may be reduced in the discretion of the Board upon a request by the owner of the premises for a hearing and upon the presentation of evidence demonstrating affirmative steps by the property owner to ensure that the future lease holders are appropriately screened and trained, appropriate ground leases are utilized that will authorize the property owner to terminate a lease holder that violates the county’s alcohol ordinance, and such other evidence or information as will otherwise mitigate, in the discretion of the Board, the five year disqualification period.

(5) An applicant as determined by the Department Head, by reason of such applicant’s business experience, financial standing, trade associations, personal associations, records of arrest, or reputation in any community in which he has resided, who is not likely to maintain the outlet for which he is seeking a license in conformity with federal, state, or local laws.

(6) A location not suitable in the judgement and discretion of the Department Head due to one or more of the following conditions: evidence of detrimental traffic conditions caused by insufficient parking or insufficient means of ingress and egress for vehicles to the establishment; evidence that the location or the type of structure would create difficulty in law enforcement supervision or cause law enforcement to respond to a substantial increase in complaints; or, evidence that a license at the location would be detrimental to the property values in the surrounding area. In addition, ingress and egress shall be provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building or adjoining building, except in hotels, motels, and high-rise office buildings where every public entrance to the outlet shall be from a lobby, hallway, or other interior portions of the primary use structure.

(7) A location and/or applicant that is not in compliance with any federal, state or local regulation, including but not limited to, a state certificate of occupancy state fire marshal certificate of approval, or payment of county taxes, fees or assessments. Regarding payment of county taxes, fees and assessments, this subsection shall only be applicable when it is within the power and authority of the applicant (either as the person obligated to pay such taxes, fees or assessments, or as an agent for or member, officer or principal of such person, or through contractual obligation with such person) to pay such taxes, fees or assessments.

d) The applicant, whether it be an individual, a partnership, a limited liability company, a corporation, a nonprofit tax exempt civic, patriotic, or social club, or a private club, shall be the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license. If the application is for a license to sell distilled spirits by the package and the premises are leased, a copy of the lease will be furnished to Forsyth County with any application to sell distilled spirits by the package. Applicants for a conditional license to sell distilled spirits by the package are not subject to this requirement; however, such applicants must supply a copy of the lease to the Department ~~head~~ Head prior to selling alcohol on the premises. It shall be unlawful for a licensee selling distilled spirits by the package to enter into any agreement whereby the rental paid for the license premises is based in whole or part on the volume of sales of alcoholic beverages by the licensed business or whereby the lessor otherwise shares in the profits or receipts from the licensed business's sale of alcoholic beverages.

e) The named licensee shall be active in the operation of the outlet and personally present on the premises sufficiently to ensure compliance with the provisions of this Ordinance. If the owner of the outlet is a corporation, the corporation and its principal officers shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the owner of the outlet is a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the owner of the outlet is a limited liability company, each member shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the owner of the outlet is a nonprofit tax exempt civic, patriotic, or social club or a

private club, the entity, and its principal officers and/or governing body shall be responsible for the actions of the named licensee and the conduct of the licensed business.

f) No license for the retail sale of distilled spirits shall be issued to a person if that person, or a member of ~~their~~ ~~his~~ immediate family, has any interest in more than two retail dealer licenses for the sale of distilled spirits, regardless of the degree of such interest. No person shall be issued a license for the retail sale of distilled spirits if that person, or a member of ~~their~~ ~~his~~ immediate family, owns any interest in a liquor distillery, or wholesale distributorship.

g) No license to engage in the retail sale of alcoholic beverages by the drink or in the original package shall be granted or issued unless the location within such unincorporated area of the county is, at the time such application is made, located within one of the following zoning designations as prescribed by the Unified Development Code of the County: Neighborhood Shopping District (NS), Urban Village District (UV), Highway Business District (HB), Commercial Business District (CBD), Heavy Commercial District (HC), Business Park (BP), Office Commercial Multiple Story District (OCMS), Restricted Industrial District (M1), Heavy Industrial District (M2), Agricultural District (A1), Agricultural Residential District (AG-RES), Planned Unit Development District (PUD), ~~or~~ Master Planned District (MPD), ~~or~~ **Mixed-Use Center District (MCD)**. Notwithstanding this, as part of an economic development agreement with the County, the Board of Commissioners may grant an exemption to this zoning requirement for bona fide economic development projects. Private clubs, golf courses and marinas on Lake Sydney Lanier, as defined in Article IV, Section 4.1 of this Ordinance, shall be exempt from the above zoning classification requirements and need not contain such designations in order for a license to issue.

h) Distance Limitations; Measurements of Same

(1) Beer, wine, and distilled spirits consumption on the premises license. In accord with the discretion afforded by O.C.G.A. 3-3-21 (b)(3), no permit for the retail sale of alcoholic beverage for consumption on the premises shall be issued to any business that is within 20 yards of a church, school building, education building, school grounds, or college campus.

(A) For purposes of measuring the distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- 1) In a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale.
- 2) To the front door of the building of a church, government-owned treatment center or a retail package store, or
- 3) To the nearest property line of the real property being used for school or educational purposes.

(2) Package sales license. Wine and Malt Beverage package sales. No license shall be issued for the sale of wine or malt beverages by the package to any business located within the minimum setback distance required by O.C.G.A. 3-3-21 (a)(1)(B) and (C).

(A) For purposes of measuring the distance for wine and malt beverage package sales, distances shall be measured by the most direct route of travel on the ground, and the methodology in subsection (h)(1)(A)(1-3) shall be used.

Distilled spirits package sales. No license shall be issued for the retail sales of distilled spirits by the package to any business that is within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus.

(B) For purposes of measuring the distances for distilled spirits package sales, distances shall be measured by the most direct route of travel on the ground, and the methodology in subsection (h)(1)(A)(1-3) shall be used.

(3) The above setback provisions do not apply to renewal of a license or to applicants seeking a new license if the location was licensed by Forsyth County to sell alcoholic beverages at any time during the 12 months immediately preceding such application.

(4) For the purpose of subsection (h), the schools or colleges referred to herein, shall include only such state, county, city, church, private, or other schools that teach the subjects commonly taught in the common schools and colleges of this state and expressly exclude buildings used by school officials solely for administrative purposes in which school children are not regularly taught. For purposes of subsection (h), and except as otherwise specifically set forth below, childcare centers shall not be deemed school or educational buildings unless the childcare center satisfies the requirements of O.C.G.A. §20-2-690(b), in which event the minimum setback distances required by O.C.G.A. § 3-3-21(a)(1)(A) and (B) shall apply; provided, in no event will a license be issued for the sale of distilled spirits by the package to any outlet located within 100 yards from any childcare center, regardless of whether the childcare center satisfies the requirements of O.C.G.A. § 20-2-690(b), if such child care center receives state or federal funding for educational programming.

i) No license shall be issued to any person who fails to comply with all the rules and regulations regarding the sale of alcoholic beverages contained in this Ordinance.

j) The applicant shall complete an alcohol training course recommended by the county prior to submitting an application and proof of satisfactory completion of said course shall be tendered as part of the application. An application tendered without proof of satisfactory completion of a recommended alcohol training course shall be deemed incomplete. ~~The Department Head, in his or her discretion, may institute another like procedure (i.e. such as testing or a questionnaire) to ensure that applicants for alcohol licenses are familiar with the laws of the State of Georgia and Forsyth County with respect to alcohol sales and handling. If such a procedure is implemented, it shall operate in lieu of the alcohol training course.~~

## Section 1.4 The Application Process

(a) Any person desiring to sell alcoholic beverages by the drink or by the package shall make written application to Forsyth County for the appropriate license on forms required by the county

and filed with Forsyth County. All applications shall be fully completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a partnership, then each partner shall sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a limited liability company, then each member shall sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a corporation having as its principal business the sale of alcoholic beverages, the majority stockholder and each principal officer of the corporation must sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a corporation having as its principal business an activity other than the sale of alcoholic beverages, the officer or employee of the corporation primarily responsible for the operation of the licensed premises who is also the named licensee must sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a nonprofit tax exempt civic, patriotic, or social club or corporation which is organized and operated in the county as a mutual benefit membership group, the individual being primarily responsible for the club or corporation's compliance with this Ordinance must sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a private club, then each member of its governing body must sign the application in the presence of a notary public or other officer authorized to administer oaths.

All applications shall be accompanied by the following:

- (1) If the application is for a license authorizing the sale of distilled spirits by the package, then a certificate of residency demonstrating residency for at least the twelve months immediately preceding the application is required for the licensee or, in the alternative, the licensee must certify and designate a resident of Forsyth County who shall be responsible for any matters relating to the license.
- (2) Unless waived by the Department Head out of recognition of the absence of any school or church building in proximity to the outlet, the application shall have attached a survey (dated no more than 180 days prior to submission of the application to the county), certified by a registered surveyor of this state, showing a scaled drawing of the premises, the location on the premises where the applicant desires to operate an alcoholic beverage outlet, and the distance in yards measured pursuant to Section 1.3(h)(A)(1-3).
- (3) If the license is for the sale of distilled spirits by the package and the outlet is to be located on leased premises, then a copy of the lease must be attached; applicants submitting an application for a conditional license shall submit a copy of the lease or deed to the Department head prior to selling alcohol on the premises.
- (4) If the applicant is a partnership, a copy of the partnership agreement, including amendments, shall accompany the application.
- (5) If the applicant is a limited liability company, a copy of the operating agreement, including amendments, shall accompany the application.

(6) If the applicant is a corporation, a copy of the Articles of Incorporation and by-laws, including amendments, shall accompany the application.

(7) If the applicant is a nonprofit tax exempt civic, patriotic, or social club or corporation which is organized and operated in the county as a mutual benefit membership group, a copy of the charter or Articles of Incorporation, as well as sufficient proof of the organization's tax-exempt status shall accompany the application.

(8) If the applicant is a private club, a copy of the Articles of Incorporation and by-laws, including amendments, shall accompany the application.

(9) As a prerequisite to the issuance of any license, the applicant shall furnish a complete set of fingerprints for all persons required to sign the application to be forwarded to the Georgia Bureau of Investigation and to the Federal Bureau of Investigation, as specified under Georgia law. Each person required to sign the application for an original license and/or renewal license, must authorize the County of Forsyth or its designated representatives to secure from any state, county, municipal or federal court, any police department and/or law enforcement agency ~~their his, her or its~~ criminal history and civil history and further authorize the county, its officers and employees to use such information in determining whether or not an alcoholic beverage license will be issued to the applicant. Further, the applicant must authorize the county, its officers, and employees to use such information in a public hearing, if necessary, to determine whether or not the applicant's license should be denied, voided, cancelled and/or revoked. Each applicant waives any right or rights he, she or it may have under state or federal law, statute and/or court ruling to preclude the county from securing such criminal and/or civil history from any source and waives any right ~~they he, she or it~~ may have to preclude the county from using such information publicly in determining whether the license will be issued to such applicant.

(10) The application shall be accompanied by any payment method deemed acceptable by Forsyth County for the full amount of the license fee combined with \$350.00 for an investigative fee. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded to the applicant. All other fees paid to the county which were submitted as part of the application, including, but not limited to the investigative fee and any employee application permit fee(s) shall be retained by the county.

(11) All applications for licenses shall contain a full and complete statement of all material facts which tend to show whether the applicant or applicants, or any member or members of their immediate families, own a financial interest in any other alcoholic beverage outlets, or any interest in a wholesale alcoholic beverage entity, and/or distillery or brewery, and what interest they and each of them will have in the alcoholic beverage outlet being requested from this county.

(12) The Department Head may require any additional information and records he reasonable deems necessary. Failure to furnish such data shall automatically serve to dismiss the application. Any misstatement or concealment of fact in the application shall be grounds for denying a license or revoking an issued license and shall make the applicant liable to prosecution for perjury under the laws of the State of Georgia.

(13) Each applicant shall certify that applicant has read and understands this Ordinance and if the license is granted, each licensee shall maintain a copy of this Ordinance on the premises and shall require each of the licensee's employees to be familiar with this Ordinance.

(b) Once an application, the accompanying documents described above, and the required investigative and license fees are filed with Forsyth County, the Forsyth County Sheriff's Office shall conduct a criminal investigation of the application and produce a written criminal investigation report concerning all information relating to fingerprinting, criminal history, arrest data, prior alcohol violations, and other matters pertaining to law enforcement. In the event the failure to obtain fingerprinting information from state and federal authorities delays completion of the written report, the Sheriff's Office may later supplement any fingerprinting information. If the fingerprinting information later reveals that the applicant fails to meet the requirements set by this Ordinance, this may be grounds for denying the application or revoking a license, despite an otherwise satisfactory written report. Upon production of the criminal investigation report, Forsyth County shall assemble the application forms and all accompanying documents relating to investigation and processing of the application and deliver such documents to the Department Head for review. If the criminal investigation report shows that the applicant meets the requirements set by this Ordinance and the Department Head believes that the applicant may meet all other qualifications of this Ordinance, the Department Head shall review the application and provide notice of approval, referral to the Board of Commissioners, or denial of the application. If the application is for a premises or building that is not yet completed, or if the Department Head finds that there may be conditions surrounding the application that warrant additional review or conditions, the Department Head shall refer the application to the Board of Commissioners to be scheduled at the next available meeting and shall inform the applicant in writing of such referral and the reasons behind such referral. If the criminal investigation report shows that the applicant fails to meet the requirements set by this Ordinance, or if the Department Head finds that the applicant fails to meet all other qualifications outlined by this Ordinance, then the Department Head shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of ~~their~~ ~~his/her~~ right to appeal; said appeal to be before the Board of Commissioners in accordance with Section 1.12 of this Ordinance. If an applicant desires to appeal a denial by the Department Head, the applicant must file a written request for an appeal hearing with the Department Head within five (5) business days of the date of the written notice informing the applicant of the denial by the Department Head.

(c) Any application which the Department Head determines to satisfy all the qualifications outlined in this Ordinance, including character requirements as contained in the criminal investigation report of the Forsyth County Sheriff's Office, shall be administratively approved by the Department Head. If the application is for a conditional license, or there are conditions surrounding the application that warrant additional review or conditions, as determined by the Department Head, the applicant shall be scheduled for review and a public hearing at the next regularly scheduled meeting of the Board of Commissioners for which a timely legal advertisement may be run. The public hearing shall be advertised in the county legal organ at least once, no less than 15 days prior to the date of said hearing. At that meeting the applicant and any person opposed to said application has the right to present to the Board of Commissioners any information that the



Board of Commissioners determines is relevant to the licensing decision. In making its determination on whether to approve or deny the application, the Board of Commissioners shall look to the qualifications set forth in this Ordinance and consider the public interest and welfare. The Board shall have the sole discretion to grant or deny the application based on the information presented. A decision by the Board of Commissioners shall be made within thirty (30) days from the date of the Board of Commissioners' meeting, unless the decision is postponed for purposes of the Board obtaining additional information deemed necessary for consideration of the application. Notice of the decision by the Board of Commissioners shall be mailed to the applicant. In the event the application is denied, such written notification shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of ~~their~~ ~~his/her~~ right to appeal; said appeal to be in accordance with Section 1.12 of this Ordinance.

(d) At this time the applicant makes application for a license, a sign shall be posted and furnished by Forsyth County and will be painted or printed in black letters one and one-half inches in height, against an orange background, on a two face, back-to-back surface of not less than 24 X 30 inches in space and shall be placed by Forsyth County with the base of the sign not more than three feet from the ground on the most conspicuous part of the premises, facing the most frequently traveled road, street, or highway abutting same, and not more than ten feet therefrom. The sign shall state clearly the nature and purpose of the application, and the name of the person, partnership, Limited Liability Company, organization, corporation or private club making the application.

(e) In all instances in which an application is denied under the provisions of this Ordinance, the applicant may not reapply for the same type of license for at least one year from the final date of such denial.

(f) Upon the issuance of a license, the licensee must have and continuously maintain in Forsyth County, a registered agent upon whom any process, notice, or demand required or permitted by law or under this Ordinance may be served. This person must be an individual and must be a resident of Forsyth County, Georgia. The licensee shall file the name of such agent, along with the written consent of such agent, with the Department Head in such form as he or she may prescribe.

(g) Upon administrative approval by the Department Head, or approval by the Board of Commissioners of the application for a license, the Department Head shall issue a license in accordance with the approved application. If the applicant is an individual, the license shall be issued in the name of the individual. If the applicant is a corporation having as its principal business the sale of alcoholic beverages, the license shall be issued in the name of the corporation and in the name of the majority stockholder or a principal officer of the corporation. If the applicant is a corporation having as its principal business an activity other than the sale of alcoholic beverages, the license shall be issued in the name of the corporation and in the name of the officer or employee of the corporation primarily responsible for the operation of the licensed premises. If the applicant is a partnership, the license shall be issued in the name of the partnership and in the name of one of the partners. If the applicant is a limited liability company, the license shall be issued in the name of the company and in the name of one of the members. If the applicant is a nonprofit tax exempt civic, patriotic, or social club or corporation which is

organized and operated in the county as a mutual benefit membership group, the license shall be issued in the name of the club or corporation and in the name of the individual primarily responsible for the club or corporation's compliance with this chapter. If the applicant is a private club, the license shall be issued in the name of the private club and in the name of one of the members of the private club's governing body who shall be the named licensee. All licenses issued shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant submitting an application on or before May 1<sup>st</sup>, shall pay the full license fee without pro-ration. Any applicant submitting an application after May 1<sup>st</sup>, shall pay one half the annual license fee. License fees are not refundable once the license is granted by the county.

(h) In the event the Department Head or the Board of Commissioners denies the application for a license, the applicant may appeal to the Board of Commissioners for reconsideration of the denial by filing a written request for an appeal hearing with the Department Head within five (5) business days of the date of the written notice informing the applicant of the denial. Any such appeal hearing concerning a denial shall be conducted according to the procedures set forth in Section 1.12.

## Section 1.4.1 Conditional Approval Prior to Completion of Licensed Premise

When an application is for a location where the building, at the time of the application for an alcohol license, has not been issued a certificate of occupancy, the Board of Commissioners may issue a conditional license for such location. The applicant, or conditional licensee, is responsible for ensuring that plans for the proposed building demonstrate compliance with all provisions of this chapter and applicable provisions of this Code. No alcohol sales or consumption shall be allowed in the establishment until it has been completed in accordance with the plans and is in conformity with the requirements of the alcohol and other county ordinances and has been issued a certificate of occupancy. Any license issued under this section shall be subject to the following conditions:

- (a) A site plan must be submitted to the Department of Planning & Community Development and must have an assigned address prior to submittal of the alcohol application.
- (b) The license shall not become operational for purposes of selling alcohol until such time as the proposed outlet receives a certificate of occupancy from Forsyth County.
- (c) The applicant shall be required to submit a new survey, dated no more than 30 days prior to the receipt of the certificate of occupancy, confirming distance measurements to ensure that setbacks from a school, church, childcare center, government alcoholic treatment center, and retail package store are met. The survey shall be tendered to the Business License Department Head for approval.
- (d) Following receipt of a certificate of occupancy and approval of the new survey, the

Business License Department Head will convert the conditional license into an approved license for the sale of alcohol.

- (e) If the license is for the sale of distilled spirits by the package, a copy of the lease or deed must be submitted to Business License Department Head prior to the issuance of the approved license.
- (f) In the event that conditions (b) and (c) are not met, the conditional license issued shall be deemed null and void.
- (g) Conditional licenses shall only be eligible for renewal one time. In the event that condition (d) is not met prior to the deadline set under the first allowed renewal, the Business License Department Head shall schedule a public hearing at the last regularly scheduled hearing in December.

## Section 1.5 Renewal of License

(a) All licenses granted under this chapter shall expire on December 31<sup>st</sup>, of each year. An investigative fee of \$350.00 shall be required for renewal applications pertaining to licenses that are to be issued for even years in order to complete a criminal history report. In instances where a new named licensee has been designated, a criminal history report and investigative fee shall be required regardless of the year. Persons holding a license for more than any one establishment and desiring to renew the license for such establishments shall pay only one investigative fee charge. Late applications will begin being processed at the time of receipt but are not guaranteed renewal prior to January 1<sup>st</sup>. If a renewal is submitted after January 31<sup>st</sup>, a new application shall be required because renewal eligibility will not be considered past this date.

(b) For applications in which there are no changes of information and data contained in the original application, licensees shall file a renewal application accompanied by the requisite license fee with Forsyth County upon forms prescribed by the county on or before the second Monday in December of each year without penalty. Applications for renewal filed after the second Monday in December shall be subject to a late charge of ten percent of the license fee. These applications shall be processed by county staff and do not require a public hearing.

(c) Applications containing permissible changes as noted below shall be administratively approved by the Department Head. Such applications must be submitted by October 1<sup>st</sup> of each year without penalty. Applications will be subject to a late charge of ten percent of the license fee if received after October 1<sup>st</sup>. Permissible changes to applications are as follows:

- (1) New named licensee
- (2) New license type

(d) Applicants shall be required to file a new application if changes have occurred in the information and data furnished with the original application other than the permissible changes outlined above. Any changes to an applicant's criminal history will be subject to subsection (d)

of Section 1.8 and subsections (k) and (l) of Section 1.10.

(e) Each application for renewal will show the date of the original application and that the applicant or applicants for the renewal are familiar with applicable Georgia laws and regulations and with the rules and ordinances of the county. The applicant will furnish all information required by the renewal application and failure to furnish the information will be grounds for denying the application. A false statement made on the renewal application will void the application.

(f) Each application for renewal of a license shall be approved or denied in accordance with the procedures prescribed in Sections 1.3(c)(7) and 1.4 of this Ordinance.

## Section 1.6 Transfer of License

(a) Except as otherwise provided in Section 1.7, no license for the sale of alcoholic beverages shall be transferable, except upon the death of a licensee, at which time such license may be transferred to the administrator, executor, or lawful adult heir or heirs of such deceased person. If the legal representatives of such deceased licensee cannot meet all the requirements of this Ordinance when the time arrives to renew the license, it shall not be renewed.

(b) Whenever a licensee doing business as a sole proprietorship loses its license as a result of the provision of this Ordinance, the licensee's successor in interest, upon filing an application for a new license, may continue to operate under the terms of the prior license until such time as the new application is approved or denied by the Department Head; provided, however no such continued operation shall be authorized until such time as a new application is approved or denied by the Department Head; provided, however, no such continued operation shall be authorized until such time as a new application for license is made and the required fees paid to Forsyth County to be forwarded to the Department Head. Payment of fees shall not be required of a corporation whose predecessor in interest remains the named licensee under the new license.

## Section 1.7 Restrictions and Prohibitions

(a) It shall be unlawful for any person to manufacture, distribute, sell, or possess for the purpose of sale, any alcoholic beverage when such person does not have a license from the county to sell or possess or manufacture for sale such beverage, provided that this subsection shall not be interpreted to preclude the otherwise legal practice of private production of beer as permitted under O.C.G.A. § 3-5-4 or the private production of wine as permitted under O.C.G.A. § 3-6-3 for private party conducted at a private home, business, or other private establishment for which alcoholic beverages are provided at no charge.

(b) Except as otherwise authorized by law, no licensee, or employee of the licensee, shall sell, or permit to be sold alcoholic beverages to any person under the legal drinking age as prescribed by Georgia law under O.C.G.A. § 3-3-23.

(c) No licensee, or employee of the licensee, shall permit on the licensed premises the sale, barter, exchange, giving, providing, or furnishing of alcoholic beverages to any person who is in a state of noticeable intoxication as prescribed by Georgia law under O.C.G.A. § 3-3-22.

(d) The sale of alcoholic beverages is permitted on election days in outlets not located within

250 feet of a polling place.

(e) Original Consumer Container.

(1) No licensee, or employee of the licensee, authorized to sell alcoholic beverages by the package shall sell or permit to be sold any single beer, wine cooler, or similar alcoholic beverage that is customarily packaged for sale as part of a four-pack, six-pack, 12-pack, or similar package as prescribed by Georgia law under O.C.G.A. § 3-3-26.

(2) The subsection shall not prohibit the sale of single cans or bottles, or other consumer containers of malt beverages originally intended for individual sale. This subsection shall also not prohibit retailers from utilizing a “pick six” format, wherein customers select six individual bottles or cans of malt beverages for sale as a custom six-pack. Any retailer utilizing a “pick six” format must fully comply with State laws and regulations.

(3) The subsection shall not prohibit the sale of growlers, distilled spirits not to exceed 2,250 milliliters per consumer per day, and malt beverages not to exceed 288 ounces per consumer per day, in compliance with this subsection, by a licensee, or employee of the licensee, authorized to sell alcoholic beverages, by the package or by a licensee authorized by the state to operate a brewpub, or employee of the brewpub licensee, by the licensee authorized by the state to operate a distillery, or by the employee of the distillery, or by the licensee authorized by the state to operate a brewery, or by the employee of the brewery. Furthermore, the filling of growlers by means of a tapped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26. For the purposes of this chapter, the term ‘growler’ shall mean a bottle that is filled by a licensee or employee of a licensee with a malt beverage from a keg. Growler bottles may be glass, stainless steel, ceramic, or plastic provided that plastic growlers may not be re-used. Growlers shall only be filled from kegs procured by the licensee from a duly licensed wholesaler or from inventory produced by the brewpub licensees. Customers who return used glass, stainless steel or ceramic growlers and purchase new growlers shall only be provided growlers that have been sanitized prior to filling and subsequently sealed. Every customer who purchases a growler shall, at the time of the purchase, be provided written documentation by the licensee regarding the open container laws of the state and Forsyth County.

(f) No licensee, or employee of the licensee, permitted to sell distilled spirits by the package shall permit any person under the legal drinking age as prescribed by Georgia law to be in, frequent, or loiter about the licensed premises unless this person is accompanied by a parent, legal guardian, or custodian, provided, however, that this section shall not apply to persons who are employees under the terms of this Ordinance.

(g) In any case where a reasonable and prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually twenty-one (21) years of age or older, it shall be the duty of the licensee, or employee of the licensee, to see and to be furnished with proper identification in order to verify the age of such person. Identification in this section shall mean any document issued by a governmental agency containing a description of the person or the person’s photograph, and giving such person’s date of birth, and including, but without being limited to a passport, military identification card, driver’s

license, or State Department public safety identification card as prescribed by Georgia law under O.C.G.A. § 3-3-23. Proper identification shall not include a birth certificate.

(h) Notwithstanding any contrary term or prohibition in this chapter, in any retail package liquor store in which alcoholic beverages are legally sold in unbroken packages, the tasting of alcohol samples by retail dealers and their employees is permitted to the extent allowed by O.C.G.A. § 3-3-26. Consumption of alcoholic beverages on the premises is allowed, if the licensee holds a state brewpub license, is a state licensed distillery or a state licensed brewery, and complies with all requirements in this chapter related to retail growler sales by brewpubs, retail sales of distilled spirits by a distillery or retail sales of malt beverages by a brewery.

(i) Except where specifically authorized herein, no licensee or employee of the licensee, authorized to sell alcoholic beverages by the drink shall permit any person to remove from the licensed premises any alcoholic beverage sold or dispensed for consumption on the premises. This specifically prohibits the use of “to go” cups or any device permitting any person to remove the alcoholic beverages from the licensed premises. This section shall not prohibit the sales of mixed drinks to-go for any food service establishment which is licensed to sell distilled spirits for consumption on the premises to the extent allowed by O.C.G.A. § 3-3-11. Notwithstanding the restrictions contained in this subsection (i), duly licensed brewpubs shall be entitled to sell growlers, as well as a licensed distillery and licensed brewery as defined in Section 6-7(e)(3), in compliance with this chapter.

(j) No person employed or working in any capacity at any licensed outlet shall solicit or encourage patrons to purchase drinks to be consumed by or otherwise disposed of by any such person employed or working as prescribed by Georgia law under O.C.G.A. § 3-3-42.

(k) No licensee, or employee of the licensee, shall add to the contents of a bottle or refill an empty bottle or in any other manner misrepresent the quantity, quality, or brand name of any alcoholic beverage. Notwithstanding the restrictions contained in the subsection (k), duly licensed brewpubs shall be entitled to sell growlers, as defined in Section 6-7(e)(2) in compliance with this chapter. No retail licensee shall purchase alcoholic beverages from any person, firm, or corporation other than a wholesaler licensed under this Ordinance. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this Ordinance.

(l) Delivery and/or the sale of alcohol shall be permissible on the premises of a golf course which is licensed to sell alcoholic beverages or as part of an “online curbside pickup” service. Licensees solely licensed to sell by the package may offer “online curbside pickup.” “Online curbside pickup” shall not be offered by any retailer licensed to sell for consumption on the premises. Online purchased goods must be delivered to the customer’s vehicle and the vehicle must be located within a clearly designated pickup area located within a paved parking area adjacent to the place of business. Any employee delivering alcoholic beverages to a vehicle for “online curbside pickup” must confirm the individual receiving the alcoholic beverages is at least 21 years of age. It shall be unlawful to sell or dispense alcoholic beverages from “drive-in” or service windows. The consumption and/or sale of alcoholic beverages shall be allowed in open areas and patios provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such outlet, including, but not limited to, regulations pertaining to maximum

capacity, ingress and egress.

(m) Home Delivery of alcohol is permitted as set out in O.C.G.A. § 3-3-10, and by regulations promulgated by Georgia Department of Revenue. For all purposes of this section, licensees possessing a retail license for consumption on premises may deliver packaged malt beverages and wine, with a qualifying food entrée. A package goods retailer may sell and deliver malt beverages and wine in unbroken packages to an individual for personal use, but not for resale. Additionally, retail packaged liquor stores that are also package goods retailers, may deliver distilled spirits in unbroken packages if the products are sold to an individual for personal use and not for resale. In addition to any criminal penalties that may be provided by law, the Business License Department Head is authorized to enforce compliance with this section. Upon each violation of ~~an~~ a provision of O.C.G.A. § 3-3-10 a licensee shall be subject to a fine not to exceed five hundred dollars (\$500.00) and a suspension of the authorization to deliver alcohol for up to thirty (30) days.

(n) The licensee shall keep the premises clean, and in proper sanitary condition, and, where applicable, in full compliance with provisions and regulations governing the conditions of the premises used for the storage and sale of food for human consumption.

(o) No licensee shall permit on the premises any gambling, betting, games of chance, punch boards, vending machines, slot machines, pin ball machines, video machines, or similar machines which are in violation of the gambling provision of the State of Georgia, provided, however, that this subsection shall not prohibit the lawful playing of bingo by establishments licensed to operate a bingo game under O.C.G.A. § 16-12-50 through § 16-12-62. No games of any type are allowed in outlets licensed for the sale of distilled spirits by the package. Pool tables, pinball, electronic, or similar machines not in violation of the gambling laws of the State of Georgia are permitted in outlets authorized to sell alcoholic beverages by the drink.

(p) When a change occurs in the relationship of any person, or in the status of any property or license, or any change in payments of rents, ownership of the lease, or buildings or land on which the outlet is located, any change in corporate ownership or management, any loss or damage to goods which result in a claim against an insurance policy and any change in the division of profits, any change in any division of net or gross sales for any purpose whatsoever, and any change in facts stated or claimed in any application or report herein required, a sworn statement of such change in all material facts relating hereto shall be filed with Forsyth County and then forwarded to the Department Head and failure to do so within fourteen (14) days after such change shall, unless such time limit is extended for good cause, be reason for cancellation of a license granted pursuant to the provisions of this Ordinance. In the event that a licensee other than a sole proprietorship seeks to change one, but not both of the following: (a) the named individual licensee: or (b) the partnership, limited liability company, corporation, private club, or non-profit tax exempt organization licensee contemplated by the definition of the term 'licensee' contained in Section 1.2, the application may be administratively amended by submitting a written request to the Department Head and, in case of a named individual licensee, attaching a new Personal Statement along with an investigative fee in the amount of \$350.00. The new named licensee shall satisfy the qualification requirements set forth in (1) and (2) immediately below.

(1) Named individual licensee qualification requirements:

a) No prior arrests or convictions in violation of the requirements set forth in section 1.3(c)(1-3).

b) Not more than one (1) citation issued for a violation of the Forsyth County Alcoholic Beverages Ordinance regarding the licensed outlet within the past two (2) years.

(2) Partnership, Limited Liability Company, corporation, private clubs, or non-profit tax-exempt organization licensee qualification requirements: not more than one (1) citation issued for a violation of the Forsyth County Alcoholic Beverages Ordinance regarding the licensed outlet within the past two (2) years.

(q) Any violation of the provisions contained under this section may result in the suspension or revocation of the license held by the licensee and criminal penalties for the licensee or employee as provided for in Title III of the O.C.G.A. and otherwise provided for in subsection (i) of Section 1.8.

## Section 1.8 Regulations as to Employees- Alcohol Sales Permit

(a) An alcohol sales permit shall be required for those employees who meet any one or more of the following criteria:

(1) Any employee of a package outlet whose primary business is the sale of alcoholic beverages;

(2) Any employee who serves alcoholic beverages at an outlet with a consumption on the premises license, which shall include, but shall not be limited to, taking of order(s), dispensing, or serving alcoholic beverages, and checking identification(s); or

(3) Any employee of a package outlet whose duties include conducting alcohol sales transactions or who will be on duty alone at such establishment.

(b) Any person employed by a licensee under this chapter who is required to obtain an Alcohol Sales Permit in accord with Section 1.8(a) shall secure such a permit prior to beginning work on behalf of the licensee; and an employee attaining the age of 18 (or age 16, if applicable) who is otherwise required to secure an Alcohol Sales Permit shall do so within ten (10) days of ~~their his or her~~ birthday. No alcohol sales permit shall be issued to any individual not satisfying the age requirements of O.C.G.A. 3-3-24.

(c) No alcohol sale permit shall be issued until such time as the employee has completed the forms furnished by the Forsyth County Sheriff's Office and provided all information considered necessary by the county to make a decision in regard to the employee's request for permission to work in an alcoholic beverage outlet. The employee-applicant shall make ~~themselves himself/herself~~ available for photographing and such other investigating as may be required by the county. The employee-applicant shall pay a fee of \$20.00 to the Sheriff's Office for each search and report. The application shall include, but shall not be limited to, an application fee (in addition to the \$20.00 search and report fee) of \$50.00 payable to Forsyth County, Georgia, the name, date of birth, and prior arrest record of the employee, as well as identification of any local or state government wherein they have had an alcohol sales permit application either denied for cause or



their alcohol sales permit revoked for cause and an explanation of the facts giving rise to the denial or revocation. The presence of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt.

(d) The Forsyth County Sheriff's Office shall have a complete and exhaustive search made relative to any criminal record of the employee-applicant. No Alcohol Sale Permit may be issued to an employee-applicant under the following circumstances:

- (1) An employee-applicant who has been convicted within the last (5) five years of any felony under any federal, state, or local law.
- (2) An employee-applicant who has been convicted of any misdemeanor (for a period of one year following conviction), except for those misdemeanors identified in Section 1.8(d)(3).
- (3) An employee-applicant who has two or more convictions of driving under the influence as defined under O.C.G.A. § 40-6-391 within a five-year period immediately preceding application for an Alcohol Sale Permit or an employee-applicant who has three or more alcohol related convictions, including but not limited to, public drunk, underage possession, or consumption of alcohol.

For purposes of subparagraphs 1.8(d)(1) and (d)(2) or (d)(3) above, a "conviction" under this Ordinance shall include any plea of guilty or admission of guilt and subsequent sentence under the First Offender Act of O.C.G.A. § 42-8-60, or any similar sentencing provisions for first time offenders of any other state or of the United States. A plea of nolo contendere for any felony or misdemeanor of any state or of the United States, or any municipal ordinance, or the forfeiture of a bond when charged with a crime is also considered a conviction under this chapter.

- (4) An employee-applicant who has been denied or has had revoked an alcohol sales permit by any state or local government due to an underage sales infraction shall be prohibited from receiving an alcohol sales permit in Forsyth County for three (3) years from the date of such denial or revocation.
- (5) An employee-applicant who fails to provide truthful and correct responses to questions on the Alcohol Sale Permit application concerning information of past arrests and convictions; such employee-application may reapply for an Alcohol Sale Permit thirty (30) days from date of original application.

If it is found that the employee-applicant is not eligible for an Alcohol Sales Permit, the Forsyth County Sheriff's Office shall notify the employee-applicant that they are not eligible for such employment. In the event the employee-applicant meets the qualifications of this chapter, the Department Head or his or her designee shall issue an Alcohol Sale Permit to the employee stating that the person is eligible for employment.

(e) Any Alcohol Sale Permit issued by the Department Head to an employee may be revoked if said permit is issued through administrative error or through an error in completing the background investigation. The Department Head or his/her designee may revoke an Alcohol Sale Permit and demand its surrender, pending a hearing before the Board of Commissioners conducted consistent

with Section 1.12, if the employee violates the provisions of this chapter or becomes one who adversely affects the public health, safety, and welfare or if it is discovered that the employee no longer satisfies the requirements for issuance of an Alcohol Sale Permit. The county may conduct a new search on any permitted employee when the Department Head or his/her designee receives information in regard to such employee that warrants a recheck. If the search reveals evidence that warrants cancellation of the Alcohol Sale Permit, the employer and employee will be so notified. It shall be unlawful for the holder of an Alcohol Sales Permit to refuse to surrender an Alcohol Sale Permit that has been revoked or cancelled.

(f) No licensee shall retain or hire for employment an employee required to hold an alcohol sale permit to work on the licensed premises unless the employee has confirmed they have been issued and has available for copying a valid alcohol employee sales permit. A licensee shall make a copy of such alcohol sales permit and shall maintain a copy on the licensed premises as evidence that such permit has been duly issued and is valid. A licensee may be subject to a citation for allowing an employee to work on the premises where the employee has never been issued a sales permit or where such sales permit has expired.

(1) A licensee that allows an employee to work with a suspended or revoked sales permit, where the violation that resulted in the suspension or revocation occurred on the licensee's premises shall be subject to a citation.

(2) A licensee, other than the licensee identified in Section (f)(1), that has a copy of a valid employee sales permit on file shall not be subject to a violation for allowing an employee to continue selling and/or handling alcohol where the permit has been suspended or revoked.

(3) An employee that engages in the selling and/or handling of alcoholic beverages when their sales permit is suspended shall be subject to citation and permanent revocation.

(g) An alcohol sales permit shall remain with the employee irrespective of the licensed outlet or licensee for which the employee works. An employee working in multiple license outlets in the unincorporated areas of Forsyth County shall only be required to maintain a single alcohol sales permit.

(h) All Alcohol Sale Permits issued hereunder remain the property of Forsyth County and shall be produced for inspection upon demand by any sworn officer of the Forsyth County Sheriff's Office or the Department Head or his/her designee.

(i) The licensee is responsible for the conduct or actions of his/her employees while in his/her employment. An act or omission of a licensee, owner, or employee of the licensee or licensed establishment that is willingly or knowingly performed, and that constitutes a violation of federal or state law or of any provision of this Ordinance, shall subject the licensee to suspension or revocation of its license in accordance with the provisions of this Ordinance. Criminal penalties may also apply to the licensee or owner when it is determined that the act or omission did occur, and he acts or omissions of the employee were known to or under reasonable circumstances should have been known to the licensee or owner, were condoned by the licensee or owner, or where the licensee or owner has not established practices or procedures to prevent the violation from

occurring as prescribed by Title III of the O.C.G.A. It shall be the duty of the licensee hereunder to maintain a copy of this Ordinance at the outlet and to instruct each and every employee engaged in the sale and/or handling of alcoholic beverages of the terms hereof.

### Section 1.8.1 Alcohol Sales Permits

(a) All alcohol sales permits shall be valid for 24 months from the date of issue. Alcohol sales permits may be issued upon the tendering of an application on forms prepared by the county accompanied by a \$50.00 fee. All permit applications shall be subject to an administrative determination that the application is complete, and the applicant remains qualified to receive a permit.

~~(b) Reserved During the 2014 calendar year, the county shall issue notification letters to those licensed outlets in the county setting forth a date by which their employee's existing alcohol sales permits will expire and a date by which new permits should be obtained to ensure no lapse in permitting. A failure to obtain a new alcohol sales permit on or before the date identified in the county notification letter shall result in the employee becoming unpermitted and unable to engage in alcohol sales transactions. If an employee obtained their alcohol sales permit on or after January 1, 2013, there shall be no fee for the 2014 permit application. Other than during the 2014 calendar year, no further permitting reminder notices will be issued.~~

(c) An alcohol sales permit application should be tendered to the county prior to the expiration date of the existing permit in order to ensure there is no permitting lapse.

(d) Issuance of an alcohol sales permit is an administrative function, but the decision to not issue an alcohol sales permit shall be subject to a hearing before the Board of Commissioners consistent with Section 1.12.

### Section 1.9 Regulations on Premises

(a) A licensee authorized to sell distilled spirits by the package shall affix to each bottle or container or distilled spirits, or to the edge of the shelf whereon such bottles or containers are located directly beneath such bottles or containers, a tag showing the prices of individual bottles or containers. A licensee authorized to sell alcoholic beverages for consumption on the premises shall display inside the place of business their current prices.

(b) The exterior of each building where alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and entrances thereto are clearly visible at all times when the premises are opened for business.

(c) The licensee shall post in a prominent location on the licensed premises, in a manner whereby it may be easily viewed by patrons, an approved sign setting forth or summarizing the laws of Forsyth County and the State of Georgia in regard to the sale of alcoholic beverages to underage, intoxicated, or pregnant persons. Each sign shall be of a size and configuration approved by the Department of Revenue of the State of Georgia. ~~and said sign shall be made available to said licensee by the Department Head at a price to be established by the county.~~

## Section 1.10 Suspension or Revocation of License

Any suspension, revocation, or forfeiture of a license by the Board of Commissioners shall occur only after notice and opportunity for a hearing before the Board of Commissioners consistent with the procedures set forth in Section 1.12, and upon the following occurrences:

(a) Any licensed outlet that is found to be in violation of this Ordinance shall be subject to criminal citation and prosecution as outlined in Section 1.11.

(b) Every license issued by the county for the sale of alcoholic beverages shall be immediately revoked in case of levy of legal process, or failure to promptly account for and pay the excise tax levied on the sale of alcoholic beverages.

(c) Except as provided for transfers under Section 1.6 above, any change in the ownership of any entity owning a licensed outlet shall cause the Board of Commissioners to immediately revoke any license issued under this Ordinance.

(d) Reserved.

(e) Any licensee who shall for a period of three consecutive months cease to operate the business and sale of the product or products authorized in the said license, shall, after said three-month period, cause the Board of Commissioners to immediately revoke the license, and no refund of any fees paid pursuant to this Ordinance shall be made.

(f) A license may be immediately suspended or revoked by the Board of Commissioners upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the application for a license, or fails to pay all fees, taxes, or other charges imposed under the provision of this Ordinance.

(g) Whenever the state shall revoke any permit or license to sell alcoholic beverages, the county license shall thereupon be immediately revoked.

(h) Any licensed outlet for the sale of distilled spirits by the drink and any licensed outlet engaging in sale of alcoholic beverages on Sundays shall be subject to immediate license revocation by the Board of Commissioners if said outlet fails to meet the appropriate percentage requirements regarding the sale of food on the premises for two consecutive months.

(i) The Board of Commissioners shall immediately suspend or revoke the license of any outlet which does not meet the licensing qualifications set forth in this Ordinance at any time such knowledge becomes known to the Board.

(j) The Board of Commissioners shall immediately revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.

(k) It shall be a violation of the Ordinance for any licensee or any employee or agent of the licensee or licensed establishment to permit any person to engage in any activity on the premises for which the license is issued or within the place of business, which is in violation of the laws or regulations of any federal, state, county, or municipal governing authority or regulatory agency. A violation of this subsection shall subject the license to immediate suspension or revocation.

(l) An act or omission of a licensee which constitutes a violation of federal or state law or

regulation, relating to the sale of alcoholic beverages, taxes, gambling, violation of the Georgia Controlled Substances Act, or constitutes a crime of moral turpitude, shall subject the license to immediate suspension or revocation.

(m) Any license shall automatically expire on December 31<sup>st</sup> of each year unless renewed in accordance with this Ordinance.

## Section 1.11 Enforcement of this Ordinance

(a) Any violation of this Ordinance, excluding sales to underage persons, shall subject the licensee to the following progressive actions by the Board of Commissioners, except for those violations and occurrences set forth in Section 1.10 above that provide for immediate suspension or revocation upon notice and hearing;

(1) The first violation shall result in a warning letter.

(2) The second violation within a consecutive twenty-four-month period shall result in license suspension for a period of not less than thirty (30) days nor more than ninety (90) days.

(3) The third violation within a consecutive twenty-four-month period shall result in a license suspension for a period of not less than ninety (90) days nor more than six (6) months.

(b) Sales to underage persons or violations of Section 50-5 related to the sale of unregulated marijuana substitutes or unregulated drug substitutes, violations of Sections 50-6(b),(g),(h) or (i) related to the sale of non-traditional tobacco paraphernalia, or violations of Section 50-7 related to the sale of alternative nicotine products and/or vape juice, shall subject the licensee to the following progressive actions by the Board of Commissioners, except for those violations and occurrences set forth in Section 1.10 above that provide for immediate suspension or revocation upon notice and hearing;

(1) The first violation shall result in a warning letter to be placed in the file, a minimum fine in Magistrate Court of \$500.00, with a mandatory R.A.S.S. (responsible alcohol sales & training) course to be completed by the named licensee. The certificate of course completion must be tendered to Forsyth County within thirty (30) days after finding of guilt either by plea or adjudication at Magistrate Court. Failure to fulfill the mandatory R.A.S.S. training within the thirty (30) days as set forth in this paragraph shall be deemed an independent and distinct violation of this code, a mandatory hearing before the Board will be required and progressive violation (b)(2) shall be considered.

(2) The second violation within a consecutive 24-month period shall result in a mandatory hearing before the Board of Commissioners, a license suspension for a minimum period of between 7 and 60 days, and a minimum fine in Magistrate Court of \$750.00

(3) The third violation within a consecutive 24-month period shall result in a mandatory hearing before the Board of Commissioners, revocation of the license absent a showing

of mitigation circumstances deemed sufficient in the discretion of the Board of Commissioners to allow retention of the license, and a minimum fine in Magistrate Court of \$1,000.00.

For any license suspension of less than 30 days, the licensee will not be required to remove alcoholic beverages from the premises but shall be required to secure with lock and chain all refrigeration units containing alcoholic beverages and remove non-refrigerated alcoholic beverages to an on-premises locked storage area out of view of the public.

Nothing contained in this subsection shall be construed to preclude the Board of Commissioners from suspending or revoking a license or Alcohol Sale Permit for a period exceeding those periods identified in Sections 1.11(a), 1.11(b) or 1.11(d) or from revoking the license or Alcohol Sale Permit if the Board determines in its discretion that such action is necessary and in the best interest of the public health, safety, and welfare of the county.

In all cases except violations identified in Section 1.11(d), the mandatory suspension period may be mitigated by the Board of Commissioners upon presentation of evidence that the licensee established practices and procedures to prevent the violation from occurring and established procedures to properly train and supervise employees to prevent the violation from occurring.

(c) In addition to the available actions to be taken by the Board of Commissioners, individuals who violate this Ordinance shall be subject to criminal citation and prosecution by the Forsyth County Sheriff's Office. Each violation of this Ordinance shall constitute a separate violation subject to separate citation and penalties. The criminal penalties may result in a fine not to exceed \$1,000.00, imprisonment not to exceed sixty (60) days, or both.

(d) Progressive Actions for Violations.

(1) A finding of guilt, either by plea or adjudication, in Magistrate Court of an employee's violation of this Chapter, excluding sales to underage persons, shall subject an employee of a licensed establishment to the following progressive actions;

(A) Regarding a first violation, suspension of the employee's alcohol sale permit for a period of 14 days by the Department Head. The Department Head shall provide written notice to the employee of the administrative sanction imposed pursuant to this subparagraph, with the suspension to begin 30 days after the finding of guilt. The employee shall have 30 days from the date of the finding of guilt to appeal the automatic suspension to the Board of Commissioners pursuant to Section 1.12. The appeal must be filed with the Department Head. In the absence of a timely appeal, the automatic suspension shall commence on the 31<sup>st</sup> day following the finding of guilt. In the event an appeal is timely filed, the appeal will stay imposition of the suspension until the date of the mandatory hearing before the Board of Commissioners, which shall be scheduled by the Department Head for the next available agenda following receipt of the appeal. Following the hearing, the Board of Commissioners may institute the suspension, waive the suspension, or take such other action as is warranted.

(B) Regarding a second violation, and alcohol sale permit suspension for a period

of 180 days by the Department Head. The Department Head shall provide written notice to the employee of the administrative sanction imposed pursuant to this subparagraph, with the suspension to begin 30 days after the finding of guilt. The employee shall have 30 days from the date of the finding of guilt to appeal the automatic suspension to the Board of Commissioners pursuant to Section 1.12. The appeal must be filed with the Department Head. In the absence of a timely appeal, the automatic suspension shall commence on the 31<sup>st</sup> day following the finding of guilt. In the event an appeal is timely filed, the appeal will stay imposition of the suspension until the date of the mandatory hearing before the Board of Commissioners, which shall be scheduled by the Department Head for the next available agenda following receipt of the appeal. Following the hearing, the Board of Commissioners may institute the suspension, waive the suspension, or take such other action as is warranted.

(C) Regarding a third violation, an alcohol sale permit suspension for a period of two (2) years by the Department Head. The Department Head shall provide written notice to the employee of the administrative sanction imposed pursuant to this subparagraph, with the suspension to begin 30 days after the finding of guilt. The employee shall have 30 days from the date of the finding of guilt to appeal the automatic suspension to the Board of Commissioners pursuant to Section 1.12. The appeal must be filed with the Department Head. In the absence of a timely appeal, the automatic suspension shall commence on the 31<sup>st</sup> day following the finding of guilt. In the event an appeal is timely filed, the appeal will stay imposition of the suspension until the date of the mandatory hearing before the Board of Commissioners, which shall be scheduled by the Department Head for the next available agenda following receipt of the appeal. Following the hearing, the Board of Commissioners may institute the suspension, waive the suspension, or take such other action as is warranted.

(D) A fourth violation shall result in the permanent revocation of the employee's alcohol sale permit by the Department Head. The Department Head shall provide written notice to the employee of the administrative sanction imposed pursuant to this subparagraph with the revocation to begin 30 days after the finding of guilt. The employee shall have 30 days from the date of the finding of guilt to appeal the automatic suspension to the Board of Commissioners pursuant to Section 1.12. The appeal must be filed with the Department Head. In the absence of a timely appeal, the automatic revocation shall commence on the 31<sup>st</sup> day following the finding of guilt. In the event an appeal is timely filed, the appeal will stay imposition of the revocation until the date of the mandatory hearing before the Board of Commissioners, which shall be scheduled by the Department Head for the next available agenda following receipt of the appeal. Following the hearing, the Board of Commissioners may institute the revocation, waive the revocation, or take such other action as is warranted.

(2) A finding of guilt, either by plea or adjudication in Magistrate Court of any employee conducting an underage sale or violation of Section 50-5 related to the sale of unregulated

marijuana substitutes or unregulated drug substitutes, violation of Sections 50-6(b), (g), (h), or (i) related to the sale of non-traditional tobacco paraphernalia, or violation of Section 50-7 related to the sale of alternative nicotine products and/or vape juice, shall subject an employee of a licensed establishment to the following progressive actions;

(A) Regarding a first violation, a minimum fine in Magistrate Court of \$500.00 and an automatic 30-day suspension of the alcohol sales permit, with the suspension to begin 30 days after the finding of guilt. The employee shall have 30 days from the date of the finding of guilt to appeal the automatic suspension to the Board of Commissioners pursuant to Section 1.12. The appeal must be filed with the Department Head. In the absence of a timely appeal, the automatic suspension shall commence on the 31<sup>st</sup> day following the finding of guilt. In the event an appeal is timely filed, the appeal will stay imposition of the suspension until the date of the mandatory hearing before the Board of Commissioners, which shall be scheduled by the Department Head for the next available agenda following receipt of the appeal. Following the hearing, the Board of Commissioners may institute the suspension, waive the suspension, or take such other action as is warranted.

(B) Regarding a second finding of guilt, an automatic 24-month suspension of the employee's alcohol sale permit, with the suspension to begin 30 days after the finding of guilty and a minimum fine in Magistrate Court of \$750.00. A reinstatement fee of \$75.00 shall be paid when the employee seeks the reissuance of an alcohol sale permit. The employee shall have 30 days from the date of the finding of guilt to appeal the automatic suspension to the Board of Commissioners pursuant to Section 1.12. The appeal must be filed with the Department Head. In the absence of a timely appeal, the automatic suspension shall commence on the 31<sup>st</sup> day following the finding of guilt. In the event an appeal is timely filed, the appeal will stay imposition of the suspension until the date of the mandatory hearing before the Board of Commissioners, which shall be scheduled by the Department Head for the next available agenda following receipt of the appeal. Following the hearing, the Board of Commissioners may institute the suspension, waive the suspension or take such other action as is warranted.

(C) Regarding a third finding of guilt, the automatic permanent revocation of the employee's alcohol sale permit, with the suspension to begin 30 days after the finding of guilt, and a minimum fine in Magistrate Court of \$1,000.00. The employee shall have 30 days from the date of the finding of guilt to appeal the automatic revocation to the Board of Commissioners pursuant to Section 1.12. The appeal must be filed with the Department Head. In the absence of a timely appeal, the automatic revocation shall commence on the 31<sup>st</sup> day following the finding of guilt. In the event an appeal is timely filed, the appeal will stay imposition of the revocation until the date of the mandatory hearing before the Board of Commissioners, which shall be scheduled by the Department Head for the next available agenda following receipt of the appeal. Following the hearing, the Board of Commissioners may institute the revocation, waive the revocation, or take such



other action as is warranted.

(D) Should the licensee have committed the actual underage sale transaction or violation of Section 50-5 related to the sale of unregulated marijuana substitutes or unregulated drug substitutes, violation of Sections 50-6(b), (g)(h) or (i) related to the sale of non-traditional tobacco paraphernalia, or violation of Section 50-7 related to the sale of alternative nicotine products and/or vape juice, the administrative sanction shall be processed in accord with subsection (B) above.

(E) A person shall be deemed ineligible to apply for or retain any license for the sale of alcoholic beverages so long as that individual's alcohol sales permit is suspended, revoked or the individual is otherwise ineligible for an alcohol sale permit.

(F) The progressive sanctions contemplated in this subsection, as well as the time periods for the identified sanctions, shall remain in full force and effect irrespective of whether an individual works for different alcohol vendors, it being the intent of this subsection that the progressive sanctions and time periods hereunder may not be avoided by merely changing employment.

(3) Employees shall have a right of appeal to the Board of Commissioners pursuant to Section 1.12. A failure of any employee to attend a scheduled hearing, after requesting same, before the Board of Commissioners shall result in the automatic suspension of the employee's permit for the longer of 90 day or the maximum duration otherwise authorized by this subsection.

(e) Sworn officer of the Forsyth County Sheriff's Office, the Department Head, or his/her designee shall have the authority to inspect the outlet and premises licensed under this Ordinance during the hours when the outlet is 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, state, or federal officer to conduct inspections authorized by other provisions of law.

(f) In order to ensure that the licensed premises are kept clean, and are in full compliance with all ordinance and regulations of Forsyth County and the State of Georgia, the additional following representatives are authorized to inspect regularly the licensed premises;

(1) Representatives of the Forsyth County Health Department shall have the authority to inspect regularly the licensed outlet and premises to determine if the licensed outlet is in compliance with all Forsyth County and State of Georgia health rules and regulations and report any violations to the Department Head.

(2) The Forsyth County Fire Department shall have the authority to inspect regularly the licensed outlet and premises to determine if the licensed outlet is in compliance with all Forsyth County and State of Georgia fire regulations and report any violations to the Department Head.

(3) The county has the right to have an inspector inspect regularly the licensed outlet and premises to determine if the licensed outlet is in compliance with all technical codes of the

county and report any violations to the Department Head.

(g) Every licensee shall keep and preserve records of all alcoholic beverages purchased and sold by the licensee. The records shall be kept for a period of three years from the date of purchase and sale and should at all times be open to audit and/or inspection by the Department Head or any designated county employee or any outside agent or agents for the county upon approval of such outside agent or agents by the Department Head. Further, all licenses for the sale of distilled spirits by the drink and for the sale of alcoholic beverages on Sundays shall keep and preserve records of all food and non-alcoholic beverages purchased and sold by said licensees. Such records shall be kept for three years from the date of purchase and sale and shall be at all times open for audit and inspection by the Department Head and the Forsyth County Sheriff, and/or any designated county and Sheriff's Office employee and/or any outside agent or agents of the county upon approval of said outside agent or agents by the Department Head. In the event an audit is called for by the Department Head, the Department Head shall notify the licensee of the date, time and place of the audit.

### Section 1.12 Hearing on Denial, Suspension, or Revocation

(a) Upon receipt of a timely appeal (accompanied by a fee of \$250.00 made payable to Forsyth County, Georgia) of a denial of a license, upon presentation of evidence to the Department Head of a violation of this Ordinance, or upon a showing to the Department Head of any of the other occurrences set forth in Section 1.10 as grounds for suspension or revocation, the Department Head shall schedule a hearing before the Board of Commissioners or their appointee and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The Department Head shall also state in the written notice in reasonable detail basis for the denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the Department Head and the adverse party and/or counsel for the adverse party.

(b) The Board of Commissioners or their appointee shall have the duty of conducting hearing concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the competent evidence presented at the hearing. At its discretion, the Board of Commissioners may appoint a Special Master to conduct said hearing and make Findings of Fact and Conclusions of Law and report such finding and conclusions to the Board of Commissioners and to the Department Head.

(c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present ~~their~~ ~~his/her~~ case, to rebut the allegations made against ~~them~~ ~~him/her~~, and present whatever defenses ~~they have~~ ~~he/she has~~. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses.

(d) At the conclusion of the hearing, the findings and conclusions of the Board of Commissioners shall be forwarded to the Department Head, and it shall be the duty of the Department Head to provide written notification to the adverse party of the actions of the Board of Commissioners, which actions shall comport with Section 1.11 of this Ordinance.

(e) The decision of the Board of Commissioner shall be final unless appealed to the Superior Court of Forsyth County, Georgia, within thirty (30) days of the Department Head providing written notification to the adverse party of the Board's decision.

(f) For purposes of this ordinance, notice shall be deemed delivered when personally served or when served by certified mail postage prepaid within three (3) days after the date of deposit in the United States Mail.

(g) Upon the suspension of a license, the licensee shall be required to prominently post a sign on all entrances to the outlet. Required signs shall be posted prior to the start of the suspension period and shall remain in place throughout the duration of the suspension period. The signs shall be provided by the Department Head and shall state the length of the suspension and the reason for the suspension.

### Section 1.13 Excise Tax Remittance

(a) With the exception of wholesale sales, the monthly excise tax report and payment shall be filed with the Department Head before the twentieth day (20<sup>th</sup>) of the month following the calendar month in which the beverages were sold. For wholesale sales, the monthly excise tax report and payment shall be filed with the Department Head before the tenth (10<sup>th</sup>) of the month following the calendar month in which the beverages were sold.

(b) If the Department Head has cause to believe that the return, or the amount of tax required to be paid to the County by any licensee is not proper, they may compute and determine the amount required to be paid upon the basis of any information that is available to them. Should the County determine that a deficiency exists in the amount of the tax due by the licensee for one or more monthly periods, the amount of the deficiency shall bear interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof from the due date of taxes. The Department Head or a designated representative shall give to the licensee written notice of this deficiency determination, and notice may be served by the Forsyth County Sheriff's Office or by mail; the registered agent, as provided in the alcohol license application, shall receive a letter by email. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 10th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

(c) If any licensee fails to make a return, the Department Head shall make an estimate of the amounts of the gross receipts of the licensee, or as the case may be, the amount of the total sales within the county which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is available to the Department Head. Written notice shall be given in the manner prescribed in the preceding paragraph. For non-wholesale sales, the amount of the determination shall bear interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof, from the twentieth day (20<sup>th</sup>) of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment. For wholesale sales, the amount of the determination shall bear interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof, from the tenth day (10<sup>th</sup>) of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment.

- (d) Any Forsyth County licensee **or out of county wholesaler selling within Forsyth County that** fails to pay the tax herein imposed or fails to pay any amount of tax required to be collected and paid to the county within the time required, shall pay a penalty of twenty percent (20%) of the tax or amount of the tax in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in the preceding section.
- (e) At any time within three years after any tax, or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax, or any amount of tax required to be collected, the county may bring an action in the courts of this state, of any other state, or of the United States to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto. Whenever the amount of any tax, penalty, or interest has been paid more than once, or has been erroneously or illegally collected or received by the county under this Ordinance, it may be offset against any future liability for the tax. If the licensee determines that they have overpaid or paid more than once, which fact has not been determined by the Department Head, they will have three years from the date of payment to file a claim in writing, stating the specific ground upon which their claim is founded. The claim shall be audited. If the claim is approved by the Department Head, the excess amount paid to the county may be credited on any amounts then due and payable from the licensee or may be refunded to the licensee if the licensee is no longer operating a licensed premises in the county.
- (f) The Department Head and/or a designee of Forsyth County shall administer and enforce the provisions of this section for the collection of the tax imposed by this section. Every licensee for the sale of alcoholic beverages by the drink in the county shall keep such records, receipts, invoices, and other pertinent papers in such forms as the Department Head may require. The Department Head or any person authorized in writing by the Board of Commissioners may examine the books, papers, records, financial reports, equipment, and other facilities of any licensee liable for the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. In the administration of the provision of this section, the Department Head may require the filing of the reports by any person or class of persons having in such person's or possession or custody information relating to the purchases which are subject to the tax. The report shall be filed with the Department Head and shall set forth the purchase price for each purchase, the date or dates of purchase and such other information as the Department Head may require. The licensee shall keep a copy of this Ordinance at the outlet at all times. All employees of the licensee will be informed of the contents of this section.
- (g) Any person violating any of the provisions of this section shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine and/or imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this section is committed, continued, or permitted by such person and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made or fails or refuses to furnish a supplemental return or other data required by the Department Head, or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof, shall be punished as aforesaid.

## ARTICLE II- MALT BEVERAGE AND WINE- ORIGINAL PACKAGE

### Section 2.1 License Fees

The license fee for a license to sell malt beverages and wine by the package shall be paid to

Forsyth County in the amount of \$1,500.00 at the time of the filing of the original application or any renewal thereof.

## Section 2.2 Excise Tax on the Sale of Beer and Malt Beverages

The county, in addition to excise taxes levied by the state, does hereby levy a local tax on the sale of beer and malt beverages of five cents (\$.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces sold by wholesalers to retail package outlets in the county. Further, there is also levied by the county an excise tax on tap or draft beer of six dollars (\$6.00) per each container sold by wholesalers to retail package outlets in the County of Forsyth and containing more than fifteen and one-half gallons and a like rate for fractional parts where the draft beer is sold in or from barrel or bulk containers. Said tax is imposed upon wholesalers and is payable on a monthly basis as set out under Section ~~1.136.3~~.

## Section 2.3 Excise Tax on the Sale of Wine

There is hereby levied an excise tax of twenty-two cents (\$.22) per liter on wines sold by a wholesaler to retail outlets in the county and a proportionate tax on the same rate on all fractional parts of a liter. Said tax is imposed upon wholesalers and is payable on a monthly basis as set out under Section ~~1.13 6.3~~.

## Section 2.4 Type of Retail Outlet

Beer and wine may be sold at retail, by the package, only in;

- (1) Outlets duly licensed to sell distilled spirits by the package; or
- (2) Outlets maintaining 75 percent (75%) of the floor space and storage area in a manner which is devoted principally to the retail sale of other foods, groceries, and general merchandise; or
- (3) A state-licensed brewpub solely for malt beverages and only in growlers, or state licensed brewery solely for malt beverages not to exceed a maximum of 288 ounces per consumer per day, in accordance with restrictions contained in this chapter; or
- (4) Hotels maintaining 75 percent (75%) of the floor space of the “hotel pantry” area in a manner which is devoted principally to the retail sale of other foods, groceries, and general merchandise.

## Section 2.5 Hours of Sale

Retail package outlets shall engage in the sale of beer and/or wine only between the hours of 6:00 a.m. and 11:45 p.m. Monday through Saturday, and between the hours of 11:00 a.m. and 12:00 a.m. on Sundays. No package beer and/or wine may be sold on Christmas Day. The sale of beer and wine is allowed on election days provided that the outlet is not located within 250 feet of a polling place. Notwithstanding the foregoing limitations of this Section, a state-licensed

brewpub may sell growlers, as defined in Section 6-7(e)(2), during hours allowed for the sale of malt beverages for consumption on premises.

## Section 2.6 No Consumption on Premises

Other than in a state-licensed brewpub or state licensed brewery, it shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of malt beverages or wine by the package and it shall be unlawful for any licensee by the package to open for, or break the package for, a purchaser and/or permit the consumption of alcoholic beverages on said premises. This Section shall not apply to brewpubs, or an outlet licensed for the sale of malt beverages and/or wine by the package, where such outlet has a structurally and visibly defined area or areas that, in the aggregate, satisfy the food sales ratio requirements of Section 4.1 and all other requirements of the Forsyth County Alcoholic Beverages Ordinance. Such an outlet must be separately licensed for the sale of malt beverages and/or wine for consumption in such structurally and visibly defined area(s), and ~~(2)~~ wine tastings as provided in Section 6-59 or growler tastings as provided in Section 6-60 herein. Notwithstanding any other provision to the contrary, this Section shall not apply to the consumption of alcohol in a registered guest's hotel room or in the hotel lobby where such hotel is licensed to sell beer and wine by the package from the hotel's pantry or which is licensed to sell alcoholic beverages for in-room service.

## Section 2.7 Listing of Prices

Licensees shall indicate plainly by tag or labels on the bottles or containers, or on the shelf immediately below where the containers are placed the prices of all beer and wine offered for sale.

## Section 2.8 Sale by Farm Wineries

(1) A Farm Winery may sell its wine and the wine of any other Georgia Farm Winery licensee at retail in a tasting room 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 that is one of the locations in the State of Georgia authorized by O.C.G.A. § 3-6-21.1(b).

(2) The qualifications for a license to operate a farm winery tasting room shall be the same as set forth in Section 1.3 of the Forsyth County Alcohol Ordinance, except that a farm winery shall be authorized as a conditional use in an A1 zoning district. ~~In addition to the qualifications set forth in Section 1.3 of this Ordinance, an application for a farm winery license shall be required to submit at the time of application a farm winery license issued by the State of Georgia Revenue Commissioner.~~

(3) The applicant for a retail license for the sale of wine and operation of a farm winery tasting room shall pay the annual license fee as follows \$1,500.00.

(4) The license created in accord with this Section shall be limited to farm winery tasting rooms

license 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. In no event shall a farm winery license holder be entitled to receive a special event cash bar license as provided in Section 4.11 of this Ordinance.

(5) This Section 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 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 11:00 a.m. until 12:00 a.m. in the tasting room or other licensed farm winery facility to the same extent as other licenses issued in accord with the terms hereof would otherwise permit. Monday through Saturday, the selling or tasting of wine at a farm winery shall occur during those hours in Section 2.5 of this Ordinance.

(6) A farm winery may apply for a license for on-premises consumption of distilled spirits under the terms as provided under Article 6 of this chapter, retail sales of distilled spirits for consumption on the premises.

(7) A farm winery may apply for a license for on-premises consumption of wine and malt beverages (not produced under the Georgia Farm Winery Act O.C.G.A. § 3-6-21.1 et seq.) under the terms as provided under Article 6, retail sales of malt beverages and wine for consumption on the premises.

(8) A farm winery may apply for a wholesale license for sale and distribution as provided by O.C.G.A. § 3-6-21.1.

(9) An excise tax is hereby levied to be computed at the rate of twenty-two cents (\$0.22) per liter on the first sale or use of the wine by the package that shall be paid to Forsyth County, Georgia. ~~Such tax shall be paid to the designee of the Forsyth County Board of Commissioners by the licensee on wine sold in accord with the terms hereof in Forsyth County. Excise taxes received by Forsyth County after the 20<sup>th</sup> day of the month shall be charged a ten percent (10%) penalty. The~~ twenty-two cents (\$0.22) per liter shall be prorated so that all containers of wine shall be taxed on the basis of \$0.22 per liter. ~~Said tax shall be paid by the licensee to the county and remitted monthly in the manner prescribed under Section 1.13. It shall be unlawful and a violation of this Ordinance for any licensee in accord with the terms hereof to sell or deliver wine in any manner without collection of said tax.~~

## Section 2.9 Wine Tastings

Wine tastings shall be conducted at retail package outlets licensed to sell wine and malt beverages, but not distilled spirits, subject to the following restrictions:

(1) Wine tastings shall be limited to two (2) ounces per glass, with no more than eight (8) ounces to be served per day, per person.

(2) There shall be no charge for admittance into the licensed premises or for the wine samples.

## Section 2.10 Growler Tastings

Growler tastings, limited to malt beverages offered for purchase in growlers (as that term is defined in Section 1.7(e)), may be conducted at retail package outlets licensed to sell growler, but not distilled spirits, subject to the following restrictions:

(1) Growler tastings shall be limited to two (2) ounces per glass, with no more than eight (8) ounces to be served per day, per person.

(2) There shall be no charge for admittance into the licensed premises or for the malt beverage samples.

## ARTICLE III- DISTILLED SPIRITS- ORIGINAL PACKAGE

### Section 3.1 License Fees

A license fee for the sale of distilled spirits in the original package shall be paid in the amount of \$4,000.00 payable at the time of the application for the license or renewal thereof.

### Section 3.2 Excise Tax

The county does hereby levy an excise tax of twenty-two cents (\$.22) per liter on all distilled spirits, except for fortified wines, sold by wholesaler to a retail outlet authorized to sell distilled spirits by the package and a proportionate tax on the same rate on all fractional parts of a liter. Said tax is imposed upon wholesalers and is payable on a monthly basis as set out under Section ~~1.136.3~~.

### Section 3.3 Types of Outlets Where Package Sales are Permitted

(a) Distilled spirits by the package may be sold at retail, only in:

(1) Outlets duly licensed to sell distilled spirits by the package; and state licensed distilleries; and

(2) Outlets which are devoted exclusively to the retail sale of distilled spirits, beer and wine by the package with ingress and egress provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building or adjoining building, except in hotels, motels, and high-rise office buildings where every public entrance to this outlet shall be from a lobby, hallway, or other interior portion of the primary use structure.

(b) Nothing in this section shall prohibit the retail sale within these outlets of liquid commodities and mixes normally used in the preparation and serving of distilled spirits. It is the intention of this section to allow the retail sale of distilled spirits by the package only in outlets devoted exclusively to the sale of distilled spirits, beer, and wine, and to prohibit such sales in outlets that sell groceries, food, gasoline, and other such commodities.



## Section 3.4 Hours of Sale

The sale of distilled spirits by the package shall occur only between the hours on 9:00 a.m. and 11:45p.m. Monday through Saturday, and between the hours of 11:00 a.m. and 12:00 a.m. on Sundays. All customers must be out of the licensee's establishment no later than fifteen (15) minutes after the time at which sales of distilled spirits must cease. No sale of distilled spirits by the package shall occur on Christmas Day. The sale of distilled spirits by the package is allowed on election days provided that the outlet is not located within 250 feet of a polling place.

## Section 3.5 Consumption of the Premises

- (a) Retail package liquor stores may conduct up to fifty-two (52) tasting events per calendar year.
- (b) Prior to holding a tasting event under this section, the licensee shall provide written notice to the Business License Department Head.
- (c) Tasting event as provided for in this section shall only be authorized to take place on the licensed premises and during the hours of operation provided for by Section 3.4 of this chapter.
- (d) Tasting events may last no longer than four (4) hours and are limited to one (1) event per day.
- (e) Only alcoholic beverages that the licensee is licensed to sell on the licensed premises, and which are part of the licensee's inventory may be served during a tasting event under this section.
- (f) During a tasting event under this section, only one (1) type of alcoholic beverage may be offered (i.e., malt beverages, wine or distilled spirits). However, multiple brands of one (1) type of alcohol may be offered so long as not more than four (4) packages are open at any one time.
- (g) Packages opened for the purposes of a tasting event may not be sold and should be kept locked in a secure room, except when in use during the tasting event.
- (h) If the event is for malt beverages, a customer shall not be served more than eight (8) ounces of malt beverage during the event. If the event ~~is for~~ wine, a customer shall not be served more than five (5) ounces of wine during the event. If the event is for distilled spirits, a customer shall not be served more than one and one-half (1 ½ ) ounces of distilled spirits during the event.
- (i) Only food that is lawful to sell on the licensed premises may be offered as part of a tasting event, and such food shall be offered at no cost to the consumer.
- (j) The licensee must comply with any and all provision set out in O.C.G.A. § 3-15-2 and any and all regulations enacted by the Commissioner of the Department of Revenue.

## Section 3.6 Listing of Prices

Licenses 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. The licensee shall not display prices or brand names in such a way as to be

visible from the outside of the establishment.

## ARTICLE IV- ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

### Section 4.1 Locations Where Prohibited

No alcoholic beverages may be sold by the drink for consumption on the premises, except in state licensed brewery, state licensed farm winery, state licensed distillery, hotel, or an 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) prepared to serve food every hour they are open, pursuant to the applicable building, fire and safety codes in effect for the county. When located in hotels, motels, and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall, or other publicly used interior portion of the primary use structure. Outlets not located within hotels shall derive a minimum of fifty percent (50%) of their total annual gross food and beverage sales from the sale of prepared meals or food. Hotels containing such outlets shall derive a minimum of fifty percent (50%) of their total annual gross income from the sale of prepared meals ~~or of~~ food and from the rental rooms for overnight lodging. On or before the 20<sup>th</sup> day of each month, each such outlet shall file a report of the previous calendar month's operations with the ~~county Finance Department~~ verifying compliance with the above provisions. Such report shall be filed on forms designated by the Department Head. Any licensed outlet that fails to meet the appropriate percentage requirements for two consecutive months shall be subject to immediate revocation. An audit may be required at any time to ensure compliance with these provisions. If such outlet provides a bar or counter service for the sale of alcoholic beverages for on premises consumption, the seating for such bar shall not exceed ten percent (10%) of the total seating capacity of the outlet; provided, however, that this limitation of seating capacity shall not apply to hotel bars that are available for the use of hotel guests. Nothing in this section shall be deemed to prohibit hotel room service of alcoholic beverages or to prohibit a hotel from maintaining a bar separate from the restaurant facility, provided access to said bar shall be from a public lobby, hallway, mall, or other publicly used interior portion of the hotel.

For purposes on this section, a golf course is defined as being a par 60 or greater course and being a recognized member to the Georgia State Golf Association and United State Golf Association and may be issued an on-premises consumption license without meeting the requirement that fifty percent (50%) of its gross annual sales be derived from the sale of prepared meals or food. Marinas on Lake Sydney operating pursuant to a duly executed lease and duly issued permit from the United States Army Corps of Engineers may be issued an on-going premises consumption license without meeting the requirement that fifty percent (50%) of its gross annual sales be derived from the sale of prepared meals or food. Bowling alleys consisting of at least four working lanes and being a part of a commercial for-profit business, may be issued an on-premises consumption license without meeting the requirement that fifty percent (50%) of its gross annual sales be derived from the sale of prepared meals or food. Cigar Shops, as specifically defined in this Code, may be issued an on-premises consumption license for sales of beer, malt beverages, and wine but not distilled

spirits, without meeting the requirement that fifty percent (50%) of its gross annual sales be derived from the sale of prepared meals or food, provided that at least sixty percent (60%) of its gross annual sales be derived from the sale of full-sized, hand-rolled cigars, and expressly excluding from the calculation of gross annual sales the sale of cigarettes, bongs, bubblers, glass pipes, water pipes, Turkish pipes, pipe screens, pipe filters, dug-outs, stash boxes, rolling papers, rolling devices, rolling trays, grinders, cutters, lighters, incense, ash trays, pipe cleaners, cases, humidors, humidifying devices, vaporizers, and other smoking paraphernalia. On or before the twentieth day (20<sup>th</sup>) of each calendar month, each Cigar Shop issued an on-premises consumption license shall file a report of the previous calendar month's operations with the ~~county Finance Department~~ verifying compliance with this sales provision. In addition, an on-premises consumption license may be issued to an individual or entity operating an art studio, gallery or performing or cultural arts arena or a performing or cultural arts event, or a luxury elite, or vintage automobile storage facility, without meeting the full kitchen requirement or the requirement that fifty percent (50%) of its gross annual sales be derived from the sale of prepared meals or food, with the exception that no licenses shall be issued in conjunction with performing or cultural arts events held at public school facilities or sponsored by the public schools. For purposes of this paragraph, a luxury, elite, or vintage automobile storage facility shall mean a facility providing either owned or leased space for the storage, viewing, washing, detailing, and related automotive services on automobiles that due to their age or value are owned by either automobile collectors, enthusiasts, or are mainly for viewing and exhibition purposes. A Specialty Wine Shop holding a beer and wine by the package license may also apply for a beer and wine for consumption on premises license upon meeting the following criteria: A Specialty Wine Shop shall have a Georgia Department of Agriculture license for a food sales establishment, sell cheese or charcuterie plates to be consumed on premises; and only serve a maximum of three (3) standard pours of wine (175ml per glass) per person per day. Any outlet with a license to sell distilled spirits by the package is not eligible to be considered a Specialty Wine Shop. Sunday consumption sales are not permitted at a cigar shop, art studio, gallery or performing or cultural arts arena or a performing or cultural arts event, a luxury, elite, or vintage automobile storage facility or a specialty wine shop that does not meet the full kitchen requirement or the requirement that fifty percent (50%) of its gross annual sales be derived from the sale of prepared meals or food

## Section 4.2 License Fees

The licensee shall pay a license fee for the sale of distilled spirits, beer, and wine for consumption on the premises to Forsyth County in the amount of \$4,000.00 to be paid at the time of application for said license or renewal thereof. The licensee shall pay a license fee for the sale of distilled spirits only for consumption on the premises to Forsyth County in the amount of \$2,500.00 to be paid at the time of application for said license or renewal thereof. The licensee shall pay by a license fee for the sale of beer and wine only for consumption on the premises to Forsyth County in the amount of \$1,500.00 to be paid at the time of application for said license or renewal thereof. For United States Veterans Organizations Chartered by Congress and/or recognized by the United States Department of Veterans Affairs, the license fee for any of the licenses referenced in this Section shall be \$1,000.00.

## Section 4.3 Excise Tax on the sale of Distilled Spirits (mixed drinks)

The county hereby imposes an excise tax upon every purchase of a drink containing distilled spirits served for consumption on the premises of three percent (3%) of the purchase price of said beverage. Said tax shall be paid by the licensee to the county and remitted monthly. ~~as set out under Section 1.13 by said licensee. The imposition of this tax shall be administered pursuant to the following rules and regulations.~~

~~(a) Every licensee or his agent is hereby authorized and directed to collect the tax imposed herein from purchasers of alcoholic beverages by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the Department Head to facilitate the collection of the tax.~~

~~(b) If requested by the purchaser, every licensee for the sale of alcoholic beverages by the drink shall at the time of collection for food and drinks served give to the purchaser a receipt on which the purchase price and tax imposed by this article on alcoholic beverages by the drink shall be itemized separately. In all cases where the collection of food and drinks is by deferred payment or credit, the licensee is liable at the time of, and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The Department Head and the Board of Commissioners shall have the authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.~~

~~(c) The taxes imposed by this section shall become due and payable from the purchaser at the time of purchase of any alcoholic beverage by the drink in this county. The full amount of such taxes collected by the licensee shall be due and payable to the county monthly, on or before the 20<sup>th</sup> day of the month following each monthly period a return for the preceding monthly period shall be filed with the Finance Department in such form as the Department Head may prescribe by every licensee liable for the payment of tax hereunder; all returns shall show the gross receipt from the sale of alcoholic beverages by the drink and the amount of the tax collected on such drinks.~~

~~(d) If the Department Head has cause to believe that the return, or the amount of tax required to be paid to the County by any licensee is not proper, he may compute and determine the amount required to be paid upon the basis of any information that is available to him. Should the County determine that a deficiency exists in the amount of the tax due by the licensee for one or more monthly periods, the amount of the deficiency shall bear interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof from the due date of taxes. The Department Head or his designated representative shall give to the licensee written notice of this deficiency determination, and notice may be served by the Forsyth County Sheriff's Office or by mail; if by mail such service shall be addressed to the registered agent of the licensee. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee or by receipt of mailing. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20<sup>th</sup> day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.~~

~~(e) If any licensee fails to make a return, the Department Head shall make an estimate of the~~

~~amounts of the gross receipts of the licensee, or as the case may be, the amount of the total sales within the county which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is available to the Department Head. Written notice shall be given in the manner prescribed in the preceding paragraph. The amount of the determination shall bear interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof, from the 20<sup>th</sup> day of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment.~~

~~(f) Any licensee who fails to pay the tax herein imposed or fails to pay any amount of tax required to be collected and paid to the county within the time required, shall pay a penalty or twenty percent (20%) of the tax or amount of the tax in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in the preceding section.~~

~~(g) At any time within three years after any tax, or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax, or any amount of tax required to be collected, the county may bring an action in the courts of this state, of any other state, or of the United States to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto. Whenever the amount of any tax, penalty, or interest has been paid more than once, or has been erroneously or illegally collected or received by the county under this Ordinance, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the Department Head, he will have three years from the date of payment to file a claim in writing, stating the specific ground upon which his claim is founded. The claim shall be audited. If the claim is approved by the Department Head, the excess amount paid to the county may be credited on any amounts then due and payable from the licensee or may be refunded to the licensee if the licensee is no longer operation a licensed premises in the county.~~

~~(h) The Department Head and/or the Forsyth County Finance Department shall administer and enforce the provisions of this section for the collection of the tax imposed by this section. Every licensee for the sale of alcoholic beverages by the drink in the county shall keep such records, receipts, invoices, and other pertinent papers in such forms as the Department Head may require. The Department Head or any person authorized in writing by the Board of Commissioners may examine the books, papers, records, financial reports, equipment, and other facilities of any licensee liable for the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. In the administration of the provision of this section, the Department Head may require the filing of the reports by any person or class of persons having in such person's or possession or custody information relating to the purchases which are subject to the tax. The report shall be filed with the Department Head and shall set forth the purchase price for each purchase, the date or dates of purchase and such other information as the Department Head may require. The licensee shall keep a copy of this Ordinance at the outlet at all times. All employees of the licensee will be informed of the contents of this section.~~

~~(i) Any person violating any of the provisions of this section shall be deemed guilty of an offense~~

~~and upon conviction thereof shall be punished by a fine and/or imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this section is committed, continued, or permitted by such person and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made or fails or refuses to furnish a supplemental return or other data required by the Department Head, or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof, shall be punished as aforesaid.~~

## Section 4.4 Hours of Sale

(a) Alcoholic beverages shall not be sold for consumption on the premises, except on Monday through Thursday from 9:00 a.m. to 1:00 a.m. on the following day and on Friday and Saturday from 9:00 a.m. to 2:00 a.m. on the following day. All patrons must have exited the licensee's establishment within 30 minutes of the time which alcoholic beverages may no longer be sold. Alcoholic beverages may be sold for consumption on the premises on election days provided the outlet for such sale is not located within 250 feet of a polling place. Alcoholic beverages may be sold on Sunday for consumption on the premises from 11:00 a.m. to 1:00 a.m. on the following day in a licensed establishment deriving at least fifty percent (50%) of total annual gross sales from food or meals in all of the combined retail outlets of the total establishment where food is served and in any licensed establishment deriving fifty percent (50%) of total annual gross income from the rental of rooms for overnight lodging. **Per O.C.G.A. § 3-3-7, Sunday consumption sales are not permitted at establishments not deriving at least fifty (50%) of total gross annual sales from food or meals.**

(b) In an establishment whose primary business is the theatrical exhibition of motion pictures (referred to in this subsection as a "theater"), in lieu of patrons exiting the establishment as is required for those establishments controlled by 6-134(a), all patrons in the theater licensee's establishment must discontinue the consumption of alcoholic beverages no later than 1:30 a.m. Monday through Friday; 2:00 a.m. Saturday and Sunday. Alcoholic beverages shall not be sold for consumption on the theater premises, except on Monday through Thursday between 9:00 a.m. and 11:30 p.m. (two hours prior to consumption cut off time), and on Friday and Saturday from 9:00 a.m. to 12:00 a.m. (two hours prior to consumption cut off time). Alcoholic beverages may be sold for consumption on the premises on election days provided the theater outlet for such sales is not located within 250 feet of a polling place. Alcoholic beverages may be sold on Sunday for consumption on the premises in a licensed theater between 12:30 p.m. and 11:30 p.m. if the theater satisfies the requirement for Sunday sales as set forth in subsection (a) of this code section.

(c) Alcoholic beverages may be sold on Sunday for consumption on the premises from 12:30 p.m. to 1:00 a.m. on the following day at the bowling alley, provided the establishment has both an on-premises consumption license and that it derives at least 50 percent of its total annual gross revenues from the combination of the rental of bowling lanes and bowling equipment and the sale of prepared meals and other food products.

## Section 4.5 Consumption Sales Only

(a) Except where specifically authorized herein, licensees authorized to sell alcoholic beverages for consumption on the premises shall not permit a purchaser to remove from the premises any alcoholic beverage, except as authorized in O.C.G.A. § 3-6-4 or from outlets authorized by the Forsyth County Alcoholic Beverages Ordinance to sell malt beverages and/or wine both by the package and for consumption. This specifically prohibits the use of “to go” cups or any other device permitting any person to remove alcoholic beverages from the licensed premises, except as allowed in the Planned Unit Development District (PUD), Master Planned District (MPD), **Mixed-Use Center District (MCD)**, or certain commercial properties as provided below. This section shall not prohibit a properly licensed brewpub, brewery or distillery from selling barrels of malt beverages or distilled spirits to licensed wholesale dealers for distribution to retailers and retail consumption off the brewpub premises in growlers, and the brewery in bottles and/or cans and distillery in bottles as defined in Section 6-7(e)(2), in accordance with the requirements of this chapter. Notwithstanding this, as part of an economic development agreement with the County, the Board of Commissioners may grant an exemption to this zoning requirement for a bona fide economic development project.

(b) In Planned Unit Development Districts (PUDs), ~~or~~ Master Planned Districts (MPDs), **or Mixed-Use Center Districts (MCDs)** licensees with valid consumption on the premises licenses within such districts may dispense and/or serve an alcoholic beverage for “carry out” purposes provided all other laws, rules and ordinances are followed, subject to the following restrictions:

(1) One drink per person on-street limit. Within such districts, any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can, bottle, or glass, for removal from the premises; provided, however, that no person shall remove more than one such alcoholic beverage from the licensed premises at a time.

(2) Size limited to a maximum of sixteen (16) ounces. Within such districts, no container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed sixteen (16) fluid ounces in size. No person shall hold in its possession on the streets and sidewalks, in parks and squares, or in other public places within such districts any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.

(3) Drinking from can, bottle, or glass prohibited. It shall be unlawful within such district for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass, or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and/or parking lot, whether public or private.

(4) Consumption limited to certain areas. No alcoholic beverage purchased pursuant to this provision may be consumed outside of such districts, upon any sidewalk adjacent to a church, school or park (unless specifically authorized by the County) or upon any private property without the consent of the property owner or tenant.

(c) Licensees with valid consumption on the premises licenses within developments on certain

commercial properties may dispense and/or serve an alcoholic beverage for “carry-out” purposes provided that all other laws, rules, and ordinances are followed. For purposes of this subsection, this carry-out provision shall be applicable only to licensees whose establishments are located within commercially zoned properties which may include multiple adjacent parcels of land held in common ownership, consisting of a minimum of thirty-five (35) acres and not less than 400,000 square feet of retail, restaurant, and office space, and shall be subject to the following restrictions:

- (1) One drink per person on-street limit. Within such commercial developments, any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can, bottle, or glass, for removal from the premises; provided, however, that no person shall remove more than one such alcoholic beverage from the licensed premises at a time.
- (2) Size limited to a maximum of 16 ounces. Within such commercial developments, no container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 16 fluid ounces in size. No person shall hold in its possession on the streets and sidewalks, in parks and squares, or in other public places within such commercial development any open alcoholic beverage container which exceeds 16 fluid ounces in size.
- (3) Drinking from can, bottle, or glass prohibited. It shall be unlawful within such commercial developments for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass, or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and/or parking lot, whether public or private.
- (4) Consumption limited to certain areas. No alcoholic beverage purchased pursuant to this provision may be consumed outside the limits of the commercial development, upon any sidewalk adjacent to a church, school or park (unless specifically authorized by the county) or upon any private property without the consent of the property owner or tenant.

## Section 4.6 Licensee’s Price List

Licensees of alcoholic beverages for consumption on the premises shall display in prominent places, inside the outlet and/or on menus their current prices of distilled spirits, wine, champagne, or malt beverage by the drink and the quantity of such beverage to be served. The licensee shall furnish to any customer who desires or requests an itemized bill of charges which shall not exceed the price list displayed. Provided, however, all licensees will keep a record of all sales of alcoholic beverages sold on which the excise tax is required to be paid under this ordinance. No display of prices or brand names of alcoholic beverages to be served shall be displayed in such a manner as to be visible from outside of the licensed outlet.



## Section 4.7 Patios and Open Areas

(a) Generally. The consumption of alcoholic beverages on the premises shall be allowed in open areas and outdoor patios as provided in this Section. In all cases, such outdoor patios and open areas shall conform to the following requirements:

(1) Such outdoor patios or open areas shall be directly adjacent to the pertinent licensed structure;

(2) Such outdoor patios or open areas shall be in compliance with the Unified Development Code, all applicable building, fire and safety codes, and all other appropriate regulations as to the safe and orderly operation of the establishment, including, but not limited to regulations pertaining to maximum capacity, ingress, and egress; and

(3) The sale or consumption of alcoholic beverages shall be prohibited on sidewalks or parking lots.

(b) Patios and Open Areas Not Visible from Public Roads. A licensee selling alcoholic beverages for consumption on the premises may serve alcoholic beverages to patrons on outdoor patios or open areas; however, if any portion of such patio or open area is visible from any public street, road or highway, then the licensee shall be required to satisfy the fencing and/or railing restrictions described in Subsection (c) below.

(c) Outdoor Patios and Open Areas Visible from Public Roads. Where any portion of an outdoor patio or open area is visible from any public street, road or highway, a licensee selling alcoholic beverages for consumption on the premises may serve alcoholic beverages to patrons on an outdoor patio or open area only if such outdoor patio or open area is completely enclosed and attached to the licensed structure by fencing, railing, gating, a wall, or some other physical barrier with a minimum height of 3 feet and maximum openings of 4 inches between slats, except for any required emergency exits. In the event there exists a conflict between the ‘maximum opening of 4 inches between slats’ requirement, and any similar rule or requirement pertaining to ‘slat openings’ promulgated by the Occupational Safety and Health Administration (“OSHA”), and the OSHA rule or regulation shall control.

(d) Notwithstanding anything to the contrary, the provisions of this section requiring the enclosure of patios and the open spaces shall not apply to establishments within a Planned Unit Development District (PUD), Master Planned District (MPD), **Mixed-Use Center District (MCD)**, or certain commercial properties, where the use of “to go” cups is permitted as provided in Section 4.5 of this ordinance.

## Section 4.8 Reduced Price Drinks Prohibited Except in Limited Circumstances

(a) Except as otherwise authorized by Subsection (b) below, no licensee may serve discounted drinks, or increase the volume of alcoholic beverage contained in a drink, without proportionately increasing the price customarily charged for such beverage. As used in this

Section, the phrase ‘customarily charged’ means the price regularly charged for such alcoholic beverage in the same calendar week. However, this prohibition shall in no way affect benefits provided to customers pursuant to a bona fide loyalty-based program or membership-based program where, as part of such program, individuals are authorized to receive an increase in the volume of alcohol served without paying a proportionately higher price. A licensee offering a loyalty-based or membership-based program, as contemplated by this paragraph, shall be required to provide documentation confirming the existence of such program, and a particular customer’s participation in such program, upon request by duly authorized enforcement personnel.

(b) A licensee may offer one (1) category of discounted price alcoholic beverages (i.e. selecting either beer, wine, or distilled spirits) subject to the following requirements:

(1) The discount may only be offered for a single business day (a ‘Discount Day’) during which time the discount shall apply uniformly to the selected category of beverage at all times that the licensed establishment may legally sell alcoholic beverages that Discount Day.

(2) The category of alcoholic beverage and the discount applied to such beverage shall be prominently displayed at the licensee’s establishment such that enforcement personnel can identify what category of beverage is being discounted, the discount provided, and the specific Discount Day;

(3) The licensee shall not be entitled to alternate between categories of alcoholic beverage within a specific category of beverage;

(4) The licensee shall be entitled to limit a discount to a particular brand of alcoholic beverage within a specific category of beverage:

(5) Licensees shall be authorized to offer and advertise regularly occurring Discount Days so long as all other requirements of this Subsection receive compliance.

(6) This Subsection shall not authorize any increase in the volume of alcoholic beverage contained in a drink without proportionately increasing the price customarily charged for such beverage, except as provided by subsection (a) above.

## Section 4.9 Lighting

The exterior of each building where alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and all entrances thereto are clearly visible at all times when the outlet is opened for business. Also, the lounge and restaurant areas, including all tables, booths, and other areas where customer are served, and all passageways shall be sufficiently well illuminated so that customers may be viewed by others inside and out.

## Section 4.10 Bringing Your Own Bottle “Brown Bagging” Prohibited

No person may bring alcoholic beverages (brown bag) into any establishment, whether that establishment is licensed or is not licensed to serve alcoholic beverages, for the purpose of

consuming alcohol on the premises during regular business hours of the establishment and/or while the establishment is open to the public.

## Section 4.11 Special Event Permits

(a) Nationally recognized and chartered organizations such as veterans' 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 in order to sell alcoholic beverages. Such organization, however, dispensing or selling alcoholic beverages shall be subject to all county ordinance regulations and general licensing application requirements for licensees, provided, however, any applicants for temporary licenses may be exempted from certain ordinance regulations and application requirements if the Department Head, after consultation with the County Sheriff's Office, determines that such exemption will not violate the purposes of this chapter as set forth in Subsection 6-1 (d) herein. Any applicant requesting a Nonprofit Special Event Permit must qualify for said license by submitting an application ~~to on a form provided by~~ the Department Head ~~to the County Sheriff's Office~~ and by tendering payment ~~to the Sheriff's Office~~ in the amount of \$50.00 per each day alcoholic beverages are sold. Said Nonprofit Special Event Permit will be granted to the same applicant a maximum of twelve (12) days per year.

(b) For profit businesses that possess a valid local government-issued alcohol license to sell alcohol for consumption on the premises, may make application with the Department Head for a For Profit Special Event Permit to operate a cash bar at a location (inside or outside) within Forsyth County other than the licensed premises on a special event basis. Applicants for a For Profit Special Event Permits may be exempted from certain ordinance regulations and application requirements if the Department Head, after consultation with the County Sheriff's Office, determines that such exemption will not violate the purposes of this chapter as set forth in Subsection 6-1(d) herein. Any licensee requesting a For Profit Special Event Permit under this subsection must qualify for said license by submitting an application on a form provided by the Department Head of Forsyth County and by tendering a payment to Forsyth County in the amount of \$250.00 for each For Profit Special Event Permit. Said For Profit Special Event Permit will be granted to the same licensee a maximum of twenty-four (24) days per calendar year. For purposes of this subsection, the phrase "cash bar" is limited to and shall only include the provision of alcoholic beverages for consumption at a banquet, function, luncheon, reception, festival or other similar event, where guest pay for alcoholic drinks on a per drink basis. The entrances and exits to the event must be through controlled entry points which allow for easy monitoring of patrons entering and leaving the event. Applications regarding outside events anticipating more than twenty-five (25) patrons must include site plan, a crowd control plan and a security plan, though these requirements may be waived in whole or part by the Department Head. For any location that is not owned by the applicant, such applications must include a signed and notarized letter from the property owner authorizing use of the property for the event. The rules and regulations regarding outdoor consumption pursuant to subsection 4.5(b) 1-4 shall apply.

(c) For profit businesses that possess a valid local government-issued alcohol license to sell alcohol for consumption on the premises, may make application with the Department Head for a Forsyth Conference Center Special Event Permit to serve alcoholic beverages at the Lanier

Technical College Forsyth Conference Center on a special event basis. Applicants for Forsyth Conference Center Special Event Permits may be exempted from certain ordinance regulations and application requirements if the Department Head, after consultation with the County Sheriff's Office, determines that such exemption will not violate the purposes of this chapter as set forth in Subsection 6-1(d) herein. Any licensee requesting a Forsyth Conference Center Special Event Permit under this subsection must qualify for said Forsyth Conference Center Special Event Permit by submitting an application on a form provided by the Department Head to Forsyth County and by tendering payment to Forsyth County in the amount of \$50.00 for each Forsyth Conference Center Special Event Permit. Licensees must abide by all rules and policies of Lanier Technical College.

## Section 4.12 Hotels

- (a) In order to be eligible for a consumption on the premises license, a hotel must:
  - 1) Be used and held out to the public as a place where food is served and consumed and sleeping accommodations are offered to guests;
  - 2) Contain 50 or more rooms used for sleeping accommodations of guests; and
  - 3) Contain one or more public dining rooms, with adequate and sanitary kitchen and with a seating capacity for at least forty (40) guests.
- (b) Notwithstanding any other provisions of this article to the contrary, any hotel may provide "in-room service" of alcoholic beverages if such establishment:
  - 1) Holds a valid county package license or a valid county consumption on the premises license or both; and
  - 2) Has been authorized to provide in-room service by the state.
- (c) For the purposes of this section, the term "in-room service" consists of:
  - 1) The delivery of alcoholic beverages in unbroken packages by an employee of the hotel to a registered guest's room when such alcoholic beverages have been ordered by the guest and when the guest shall be billed for the cost of such alcoholic beverages at the time of delivery and when the sale of such alcoholic beverages is completed at the time of delivery; or
  - 2) The provisions of a cabinet or other facility located in a hotel's guest room which contains alcoholic beverages, and which is provided upon request of the guest and which is accessible by lock and key only to the guest and for which the sale of alcoholic beverages contained therein is final at the time requested.
- (d) Except as otherwise provided in this section, in-room service of alcoholic beverages shall be subject to all restrictions and limitations in this Ordinance relative to the sale of alcoholic beverages. In-room service sales shall be authorized only on such days and only during such hours as the sale of alcoholic beverages is otherwise authorized.
- (e) Distilled spirits sold pursuant to this section shall not be sold in packages containing less than 50 milliliters each.
- (f) All alcoholic beverages sold pursuant to this section shall be purchased from a licensed wholesale dealer and shall be subject to all taxes imposed under this Ordinance.
- (g) No license shall be issued to an applicant that does not meet the requirements set in Section 1.3.

## Section 4.13 Nude Dancing; Findings; Public Purpose

Based on the experience of other urban counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; and Ft. Lauderdale and Palm Beach, Florida, which experiences we believe are relevant to the problems faced by Forsyth County, Georgia, we take 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. Moreover, it is the finding of the Board of Commissioners that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in so-called “nude bars” or establishments offering so-called “nude entertainment” or “adult 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 neighborhood, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increase burden on the judicial system as a consequence of the criminal behavior hereinabove described and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and it is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments which serve alcohol and also allow and/or encourage nudity. To that end, this Section 4.13 is hereby adopted.

(a) Enactment. The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or dispense alcohol beverages for consumption on such premises within the unincorporated area of Forsyth County:

(1) The employment or use of any person, in any capacity, in the sale or service of alcohol 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 of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.

(2) Live entertainment where any person appears in the manner described in paragraph one (1) of this section or where such persons (or person) perform(s) acts of or acts which simulate any of the following:

(A) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.

(B) The caressing or fondling of the breasts, buttocks, anus or genitals.

(C) The displaying of the male or female pubic hair, anus, vulva or genitals.

(3) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the license establishment are encouraged or allowed to engage in any of the conduct described in paragraphs (1) and (2) above; provided, however, that nothing shall apply to the premises of any mainstream performance house, museum or theater

which derives less than twenty (20) percent of its gross annual income from the sale of alcoholic beverages.

## Section 4.14 Regulation of Brewpubs

- (a) Brewpubs must comply with all applicable state and county license requirements.
- (b) Brewpubs may manufacture no more than 10,000 barrels of malt beverages in a calendar year solely for retail sale.
- (c) Brewpubs must offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.
- (d) Brewpubs may sell up to a maximum of 5,000 barrels of malt beverages annually to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brewpub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale.
- (e) Brewpubs must pay all applicable county taxes.
- (f) Brewpubs shall be required to obtain an on-premises consumption license for those sales of malt beverages for consumption on premises. Brewpubs shall be required to obtain a package sales license to authorize the retail sale of growlers.
- (g) Brewpubs may offer tastings as set for the in Section 6-60.
- (h) The county levies an excise tax on all malt beverages produced by a brewpub and brewery at the rate of six dollars (\$6.00) per each container containing 15 ½ gallons and less. Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, the levied tax shall be \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces. Said tax is payable on a monthly basis as set out under Section 1.13.

## ARTICLE V- PRIVATE CLUBS

### Section 5.1 Definitions

“Private Club” as used in this section means any nonprofit association organized under the laws of this state which:

- (a) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this chapter;
- (b) Has at least 75 regular dues-paying members;
- (c) Owns, hires, or leases a building or space within a building for the reasonable use of its members and guests with:
  - (1) Suitable kitchen and dining room space and equipment; and

(2) A sufficient number of staff employees for cooking, preparing, and serving meals for its members and guests; and

(3) 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.

For purposes of paragraph (c)(3), “a fixed salary” means the amount of compensation paid any member, officer, agent, or employee of a 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 or any profits from the sale of alcoholic beverages. Tips or gratuities, which are added to the bills under club regulations, shall not be considered as profits from the sale of alcoholic beverages.

## Section 5.2 License Fees

A license fee authorizing a private club to sell and dispense alcoholic beverages shall be paid to the county by the licensee in the amount of \$4,000.00, payable at the time of the application for the license or renewal thereof.

## Section 5.3 Excise Tax **related to Private Clubs**

In addition to the excise taxes levied by the state, the county does hereby levy an excise tax of twenty-two cents (\$.22) per liter on all distilled spirits sold by a wholesaler to a private club. Said tax is imposed upon wholesalers and is payable on a monthly basis as set out under Section 1.13 6.3. ~~Accordingly, the county also imposes an excise tax on every purchase of a mixed drink in the amount of three percent (3%) of the purchase price of said beverage. Said tax shall be paid by the licensee to the county and remitted monthly in the manner prescribed under Section 6.3.~~

~~Private clubs are also responsible for remitting any excise taxes for the sale of drinks containing distilled spirits, as outlined in Sections 4.3 and 1.13.~~

## Section 5.4 Regulation

Private clubs may sell and dispense alcoholic beverages 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. The county, however, will grant no alcoholic beverage license to a private club organized or operated primarily for the selling or serving of alcoholic beverages.

# ARTICLE VI- WHOLESALERS

## Section 6.1 License Required

Any wholesale dealer in alcoholic beverages licensed by the State of Georgia or the agent of such

wholesale dealer, may be granted a license to distribute such beverages to licensed retailers or dealers in the unincorporated areas of the county upon application for such license to the Department Head and the presentation of satisfactory evidence ~~they or she that he~~ understands the alcoholic beverage rules and regulations of this county and the conditions under which retail licenses are issued. The applicant shall be the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license. If the application is for a license for wholesale distilled spirits by the package and the premises are leased, a copy of the lease will be furnished to Forsyth County. It shall be unlawful for a licensee for the wholesale sale of distilled spirits to enter into any agreement whereby the rental paid for the license premises is based on whole or part on the volume of sales of alcoholic beverages by the licensed business or whereby the lessor otherwise shares in the profits or receipts ~~from form~~ the licensed business's sale of alcoholic beverages. No wholesale license shall be issued to any person convicted of a felony under federal, state, or local law who has served any part of a criminal sentence, including probation, within the ten (10) years immediately preceding the date of receipt of submission of the application.

## Section 6.2 License Fees

A wholesale of alcoholic beverages sold in the county whose principal place of business is in the county shall pay to Forsyth County the following annual license fees:

- (1) Distilled spirits \$100.00
- (2) Beer \$100.00
- (3) Wine \$100.00

## Section 6.3 Excise Tax **on Wholesalers**

All wholesale dealers engaged in the wholesale distributions of alcoholic beverages to retail package outlets in this county shall pay to Forsyth County an excise tax of twenty-two cents (\$.22) per liter of wine for each liter of wine sold to retail package licensees and proportionate tax at the same rate on all fractional parts of a liter. Further, all wholesale dealers will pay to the county an excise tax for malted beverages sold to retail package outlets in this county, equal to five cents (\$.05) per twelve ounces and a proportionate tax at the same rate on all fractional parts of twelve ounces. Further, the wholesale dealers will pay to the county an excise tax on tap or draft beer in the sum of six dollars (\$6.00) for each container sold containing not more than fifteen and one-half gallons and a like rate for fractional parts where the draught beer is sold in or from a barrel or bulk container. Further, all wholesale dealers will pay to the county an excise tax of twenty-two cents (\$.22) per liter for all distilled spirits, except for fortified wine, sold to a licensee authorized to sell distilled spirits by the package and a proportionate tax at the same rate on all fractional parts of a liter. Each licensee responsible for the payment of the excise tax shall file a report itemizing for the preceding calendar month the exact quantities of malt beverages, **wine, and distilled spirits** by size and type of container, sold during the month within the county. Said report and payment shall be filed with the Department Head before the tenth (10<sup>th</sup>) day of the month following the calendar month in which the beverages were sold. ~~Failure to file such report and payment within the time required shall result in a payment penalty of 10% of the excise tax amount due or \$100.00 whichever is greater. Payment of this excise tax shall be made before the tenth day of each month for all sales~~



~~made during the previous month.~~

## Section 6.4 Hours of Sale

The business hours of wholesale dealers shall be from sunup to sundown only on days the outlets for sale of the alcoholic beverages in the original package and by the drink are authorized to sell alcoholic beverages, excluding Sundays.

## Section 6.5 Special Provisions Applicable to Wholesale License

(a) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this chapter. No wholesaler shall sell any alcoholic beverages to any person other than a retailer licensed under this chapter. No wholesaler shall sell any alcoholic beverages to a retailer licensed under this chapter without first obtaining from said retailer a copy of said retailer's current and valid Forsyth County alcohol license. No alcoholic beverages shall be delivered to any outlet in the county except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

(b) Licensed wholesalers or their employees shall follow all traffic rules in effect for the county and shall not in any way conduct their business so as to interfere with the flow of traffic in the county.

(c) This section shall not prohibit a properly licensed brewpub from selling barrels of beer to licensed wholesale dealers for distribution to retailers and retail consumption dealers in accordance with the requirements of this Ordinance.

## ARTICLE VI-A- BREWERS

### Section 6A.1 License Required

Any brewer licensed by the State of Georgia or the agent of such brewer may be granted a license to manufacture malt beverages in the county for sale to wholesalers or as part of a state-licensed brewpub upon application for such license to the Department Head or his/her designee and the presentation of satisfactory evidence that the license applicant understand the alcoholic beverage rules and regulations of the State of Georgia and the county and the conditions under which such licenses are issued. The applicant shall be the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license. No license shall be issued to an applicant that does not meet the requirements set in Section 1.3(c).

### Section 6A.2 License Fees

Brewer's manufacturing malt beverages in the county shall pay to Forsyth County an annual license fee of \$3,000.00.

## Section 6A.3 Special Provisions Applicable to Brewer License

(a) Brewers must comply with all applicable county ordinances and regulations.

(b) Brewers may sell malt beverages to wholesalers and end consumers and shall not sell malt beverages directly to retailers, other than in compliance with the restrictions on brewpubs contained in this chapter.

(c) A brewer licensed to manufacture malt beverages in the State of Georgia shall include the right to sell of malt beverages to individuals on the brewer's licensed for personal use and not for resale, subject to the following terms and conditions:

- (1) For consumption on the premises, the brewer may only make sales of its malt beverages to an individual while the individual is physically on the brewer's licensed premises where the brewer produces malt beverages;
- (2) For consumption off the premises, the brewer may make sales of the malt beverages that the brewer produces at the brewer's licensed premises where the individual is purchasing the malt beverages;
- (3) As long as the brewer and all of the brewer's licensed premises are under common ownership, the brewer may make sales of malt beverages the brewer produces at any licensed premises of the brewer, and subsequently transfer in compliance with the limitation and reporting obligations of subsection (c) of this Code section, to the brewer's licensed premises for sale where the individual is purchasing the malt beverages;
- (4) The brewer may only make sales of malt beverages for which the brewer is the sole owner of the brand and brand label;
- (5) Sales for consumption on the premises are not subject to a daily maximum amount;
- (6) Sales for consumption off the premises shall not exceed a maximum of 288 ounces of malt beverages per individual per day; and
- (7) The maximum amount of malt beverages the brewer may sell pursuant to subsection (b) of this Code section in each calendar year shall be 6,000 barrels in the aggregate, among all of the brewer's licensed premises making such sales.
- (8) Nothing in this Code section shall be interpreted to prohibit a brewer from transferring any liquid, regardless of whether such liquid would be deemed to be malt beverages or not, to or from any of the brewer's licensed premises; provided, however, with respect on any malt beverages a brewer produces at one of the brewer's license premises and transfers to be sold to individuals pursuant to subsection (b) of this Code section at another of the brewer's licensed premises, the maximum number of barrels of malt beverages permitted to be transferred from on licensed premises of the brewer to another licensed premises of the brewer shall not exceed the number of barrels of malt beverages the brewer produces under brands and brand labels for which the brewer is the sole owner at the licensed premises receiving the transferred malt beverages.

(d) A brewer may sell malt beverages on all days and at all times that the sales of malt beverages by retailers are lawful within Forsyth County, including but not limited to, Sundays.

(e) The county levies an excise tax on all malt beverages produced by a brewpub and brewery at

the rate of six dollars (\$6.00) per each container containing 15 ½ gallons and less. Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, the levied tax shall be \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces. Said tax is payable on a monthly basis as set out under Section 1.13.

~~(f)(e)~~ Any brewer engaging in sales of malt beverages shall remit all state and local sales, use, and excise taxes to the proper tax collecting authority.

## ARTICLE VI-B- DISTILLERS

### Section 6B.1 License Required

Any distiller licensed by the State of Georgia, or the agent of such distiller may be granted a license to manufacture distilled spirits in the county for sale to wholesalers and end consumers upon application for such license to the Department Head or his/her designee and the presentation of satisfactory evidence that the license applicant understands the alcoholic beverage rules and regulations of the State of Georgia and the county and the conditions under which such licenses are issued. The applicant shall be the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license. If the premises are leased, a copy of the lease will be furnished to Forsyth County. It shall be unlawful for a licensee for the sale of distilled spirits to enter into any agreement whereby the rental paid for the licensed premises is based in whole or part on the volume of sales of alcoholic beverages by the licensed business or whereby the lessor otherwise shares in the profits or receipts from the licensed business's sale of alcoholic beverages. No license shall be issued to an applicant that does not meet the requirements set in Section 1.3(c).

### Section 6B.2 License Fees

Distillers manufacturing distilled spirits in the county shall pay to Forsyth County an annual license fee of \$3,000.00.

### Section 6B.3 Special Provisions Applicable to Distiller License

- (a) Distillers must comply with all applicable county ordinances and regulations.
- (b) Distillers shall only sell distilled spirits to wholesalers and shall not sell distilled spirits directly to retailers.
- (c) A limited exception to the provisions of a three-tier system for the distribution and sale of distilled spirits shall exist to the extent that the license to manufacture distilled spirits in the State of Georgia and the county shall include the right to sell up to 750 barrels of distilled spirits per calendar year to individuals on such distiller's licensed premises for personal use and not for resale, subject to the following terms and conditions:
  - (1) Such retail sales of distilled spirits shall only be made to an individual who is physically on such

distiller's licensed premises and is of the age required by Code Section 3-3-23;

(2) A maximum of three of such distiller's licensed premises shall be permitted to make such retail sales. If such distiller has more than one licensed premises, such distiller shall annually designate the specific licensed premises, up to a maximum of three, from which such distiller has elected to exercise its limited right to sell distilled spirits pursuant to this subsection and shall provide notification of such designation to the department for each calendar year;

(3) Such retail sales made for consumption on the premises shall not be subject to a daily maximum amount;

(4) Such retail sales made for consumption off the premises shall not exceed a maximum of 4,500 milliliters of distilled spirits per individual per day;

(5) The distiller shall only make such retail sales of distilled spirits that such distiller has distilled, rectified, blended, aged, or bottled at one or more of its licensed premises;

(6) The distiller shall only make such retail sales of distilled spirits for which such distiller is the sole owner of the brand and brand label;

(7) Beginning on April 1, 2022, and continuing thereafter, such distiller shall only make such retail sales of distilled spirits at a licensed premises at which such distiller reports on-site production volume, unless such licensed premises:

(a) Operates under the same federal distilled spirits permit of a licensed premises of such distiller at which such distiller reports on-site production volume;

(b) Is designated under paragraph (2) of this subsection as one of such distiller's licensed premises for retail sales;

(c) Is used for aging distilled spirits transferred from such distiller's on-site production volume in wooden containers for a period exceeding one year at such licensed premises; provided, however, that such licensed premises may also be used for aging distilled spirits transferred to such licensed premises as permitted under subsection (d) of this Code section; and

(d) Has physically located at such licensed premises at all times during such calendar year not less than 500 barrels of distilled spirits owned by such distiller that are being aged in wooden containers.

(8) Beginning on April 1, 2022, and continuing thereafter, the maximum volume of distilled spirits that such distiller may sell from each specific licensed premises permitted to make such retail sales under this subsection during any calendar quarter shall be limited as follows:

(a) From a licensed premises at which such distiller reports on-site production volume, the maximum volume shall be the on-site production volume at such licensed premises during such calendar quarter; and;

(b) From a licensed premises that meets all of the qualifications described in subparagraphs (a) through (d) of paragraph (7) of this subsection, the maximum volume shall be the difference between:

(i) The total aggregate on-site production volume of such distiller in the state among all of such distiller's licensed premises during such calendar quarter; and

(ii) The total aggregate retail sales made by such distiller under this subsection at all other licensed premises at which such distiller makes retail sales under this subsection during such calendar quarter.

(c) Nothing in this Code section shall prohibit a distiller from transferring any liquid, regardless of whether such liquid would be deemed to be a finished product of distilled spirits or was distilled by such distiller, to or from any of such distiller's licensed premises or from selling such transferred liquid to individuals present at such distiller's licensed premises, subject to the terms and limitation of subsection (b) of this Code section.

(d) A distiller may sell distilled spirits all days and times that the sales of distilled spirits by retailers and retail consumption dealers are lawful within Forsyth County, including, but not limited to, Sundays.

(e) A distiller shall not sell any distilled spirits for consumption off the premises at a price less than the price at which a person licensed to sell distilled spirits by the package is permitted to sell distilled spirits.

(f) ~~Any distiller engaging in sales of distilled spirits shall remit all state and local sales, use, and excise taxes to the proper collecting authority.~~ The county levies an excise tax on all distilled spirits produced monthly by a distillery at the rate of \$0.22 per liter. Said tax is payable on a monthly basis as set out under Section 1.13.

(g) Any distiller engaging in sales of distilled spirits shall remit all state and local sales, use, and excise taxes to the proper collecting authority.

## ARTICLE VII- LEGAL STATUS PROVISIONS

### Section 7.1 Severability

Should any section, subsection, clause, sentence, phrase, or part of this Ordinance for any reason be held, deemed, or construed to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions thereof and the Board of Commissioners hereby declares that it would have passed this ordinance, each section, subsection, clause, sentence, phrase, and part thereof irrespective to the fact that one or more sections, subsections, clauses, sentences, phrases, or parts thereof, be declared unconstitutional or invalid.

## Section 7.2 Effective Date and Repealer Provision

This ordinance shall become effective immediately upon its adoption and any and all existing or pre-existing Forsyth County alcohol ordinances, amendments and resolutions are thereby repealed.