

Baldwin County Commissioners
Public Hearing and Regular Meeting
January 5, 2021
6:00 p.m.

A Public Hearing on amendments to the Baldwin County Ordinances and the Regular Meeting of the Baldwin County Commissioners were held Tuesday, January 5, 2021, at 6:00 p.m., Suite 220, Baldwin County Government Building, Milledgeville, Georgia with Chair Henry Craig presiding.

Members Present: Henry Craig
Emily C. Davis
Kendrick Butts
Sammy Hall
John Westmoreland (Remote)

Also Present: David McRee
Carlos Tobar
Dawn Hudson
Jill Adams
Cindy Cunningham

Call to Order

Chair Henry Craig called the January 5, 2021 Public Hearing and Regular Meeting to order at 6:00 p.m.

Public Hearing on Proposed Amendments to the Baldwin County Code of Ordinances

Chair Henry Craig opened the Public Hearing. He stated notice of the public hearing was published as required, and the purpose of the hearing is to receive public comments and input on proposed amendments to the Code of Ordinances.

County Manager Carlos Tobar presented a proposed Ordinance for A Broadband Ready Community. He reported the Adoption of an ordinance is a requirement for applying to the Department of Community Affairs for a Broadband Ready Community Designation. He stated the purpose of the Broadband Ready Community Designation is for the local government to show that it has taken steps to reduce obstacles to broadband infrastructure investment. The County would already have rules in place for broadband infrastructure investors. This Designation would encourage economic development and attract technology.

Commissioner Sammy Hall recommended that a change in wording be made to Section (a) (2). He recommended that the word "use of" be added to the section to read and "use of" right-of-way.

Chair Craig opened the floor for public comments.

Cindy Humphrey of Simpson Procter Lane stated she lives in an area with no broadband service and she was in favor of expanding broadband.

County Manager Carlos Tobar presented a Timber Harvesting Ordinance. He stated this is a result of State legislation, and the County Ordinance must be updated to include these State provisions. The State requirements outline the process of providing notice of timber harvesting operations. Notice shall not become effective until a valid surety bond in the amount of \$5,000, executed by a surety corporation authorized to transact business in Georgia, has been delivered to the County to protect / reimburse the County against any damage to ditch structures or removing harvesting residue placed on County's rights of way. The harvesting individual / firm may provide a \$5,000

valid irrevocable letter of credit issued by a bank or savings & loan association in lieu of a surety bond. He stated the Ordinance further outlines the process of calling the bond or letter of credit and penalties for not complying with the Notice of requirements of the Ordinance.

There were no public comments on the Timber Harvesting Ordinance.

County Manager Tobar presented an Ordinance for Short-Term Vacation Rentals. He reported there are a number of short-term rental properties in the County, and Commissioners have received calls about disturbances to neighborhoods as a result of these type rentals. There is concern about the effect on neighborhoods due to the number of people / vehicles on the property, sanitation and noise. He stated discussion was held at a Work Session regarding this matter and how to protect our neighborhoods. This ordinance is being presented for the Board's consideration.

Mr. Tobar stated the owner must obtain a short-term vacation rental certificate from the County indicating contact information of owner, address of property to be used as rental, information for a 24-hour contact for the property. The ordinance outlines further regulations such as maximum occupancy for the residence, no interference with rights of neighboring property owners and agreement to abide by County ordinances, state and federal laws. Violation to any specified rules may result in immediate termination of agreement and eviction, as well as potential liability for payment of fines levied. Commissioners stressed their concern about the effect of short-term rentals on neighborhoods, as well as their intent to protect our citizens and also to ensure the County is paid tax that should be collected on these type rentals.

Discussion was held regarding the Certificate obtained from the County being displayed in a conspicuous place near the front door of the property. It was recommended that this be included in the ordinance.

A property owner on Admiralty Way addressed the Board about his situation. He stated his residence is located between two such rentals and it is very disruptive to the neighborhood. He cited examples of many cars parked on the property and along the road, loud noise from so many people being on the property, loud music, obscene language, lack of concern for other residents' safety on the water. He asked for the Board to adopt this ordinance to help with such undesirable situations.

Chair Craig reported a service will be used to monitor short-term vacation rentals; the Chief Building Official will handle complaints and the approved Certificate will be posted in a conspicuous place near the front door of the property.

Commissioner Hall asked if the ordinance has strong enough language for enforcement. County Attorney McRee responded the Certificate will be revoked if the ordinance is not followed. County Manager Tobar stated the Solicitor General has reviewed the ordinance.

Chair Craig stated he felt this is a good start in addressing this issue, and the ordinance can be amended in the future as other issues arise.

Commissioner John Westmoreland stated he felt the Board should activate the ordinance now and not put this off any longer. He stated it is a much-needed policy.

Alcoholic Beverage Ordinance

County Manager Tobar presented information on changes to the Alcoholic Beverage Ordinance that are mandated by the State. He stated new regulations allow salespersons of a manufacturer or wholesaler to provide sampling of an alcoholic beverage product to a retail dealer or its employees for consumption on the licensed premises in areas closed to the public, and the salesperson must remove from the premises any packages brought onto licensed premises in order to provide samples of alcoholic beverage products.

State regulations now the delivery of malt beverages and wine in "unbroken packages" purchased by an individual for personal use and not for resale. Stipulations for the delivery of alcoholic beverages is detailed in the ordinance. He stated all alcoholic beverage licenses will be submitted through the State; Baldwin County will continue to collect the fees as we did before the change.

Chair Craig opened the floor for any further comment on the ordinances presented at the public hearing. There was no further public comment.

Commissioner Emily C. Davis made a motion to close the Public Hearing at 6:35 p.m. The motion was seconded by Commissioner Sammy Hall, and it passed unanimously.

Approval of Minutes

Commissioner Sammy Hall made a motion to approve the minutes of the December 15, 2020 Work Session and the December 15, 2020 Regular Meeting as submitted. Commissioner Emily C. Davis seconded the motion and it passed unanimously.

Ordinance for Broadband Ready Community

Chair Craig stated that during the public hearing an addition was recommended to the proposed Ordinance for Broadband Ready Community. The addition was adding the words "use of" in a (2) to read "use of right-of-way".

Commissioner Sammy Hall made a motion to adopt the Ordinance for A Broadband Ready Community as presented and with the addition as stated. Commissioner Kendrick Butts seconded the motion and it passed unanimously.

A copy of the Ordinance is herewith attached and made an official part of the minutes at pages 4 and 5.

Timber Harvesting Ordinance

Commissioner Sammy Hall made a motion to adopt the Timber Harvesting Ordinance. Commissioner Kendrick Butts seconded the motion and it passed unanimously.

A copy of the Ordinance is herewith attached and made an official part of the minutes at pages 4 and 5.

Ordinance for Short-Term Vacation Rentals

County Manager Tobar presented recommended changes to the proposed Ordinance for Short-Term Vacation Rentals as discussed at the public hearing. He stated an addition of a(3) to require that the Certificate be placed near front door of property in a conspicuous place.

Mr. Tobar discussed section (b) application fee. He reported the ordinance references a fee schedule, and he recommended a fee in the amount of \$110.00 to cover cost to the County.

Commissioner Sammy Hall made a motion to adopt the Short-Term Vacation Rental Ordinance as presented with the addition of a (3) requiring posting of Certificate and to have the County Manager and County Attorney evaluate the Ordinance for further recommendations in 90 days. Commissioner John Westmoreland seconded the motion and it passed unanimously.

A copy of the Ordinance is herewith attached and made an official part of the minutes at pages 4 and 5.

Commissioner Sammy Hall made a motion to approve a Certificate fee of \$110.00. Commissioner John Westmoreland seconded the motion and it passed unanimously.

Alcoholic Beverage Ordinance

Commissioner John Westmoreland made a motion to adopt the Alcoholic Beverage Ordinance as presented. Commissioner Kendrick Butts seconded the motion and it passed unanimously.

A copy of the Ordinance is herewith attached and made an official part of the minutes at pages 4 and 5.

Bids for 2019 Community Development Block Grant (CDBG) Sewer Project

County Manager Carlos Tobar presented a bid tabulation and letter of recommendation from Carter / Sloope Engineers for the 2019 CDBG Sewer Rehab project. He reported six bids were received, and IPR Southeast, LLC was the low bidder for a total base bid of \$777,271.00. Mr. Tobar stated since the bid amount is over budget, engineers have worked with the contractor to revise the quantities to reduce the proposed contract amount to \$719,471.00. He further discussed the specific reductions.

Commissioner Emily C. Davis made a motion to award the bid to IPR Southeast, LLC in the amount of \$719,471.00 as presented. Commissioner Kendrick Butts seconded the motion and it passed unanimously.

Resolution for 2021 CDBG Application

County Manager Tobar presented a Resolution supporting the application for FY 2021 Community Development Block Grant (CDBG) funds for sewer improvements. The Resolution outlines the commitment of the County to provide the required cash match for the project; \$1,000.00 for required audits; and cash and/or in-kind services needed to complete the project over the grant amount. The Resolution also authorizes the Chair to serve as official representative of the County, to enter into an agreement for engineering and grant administration, if grant is funded, and to execute the application and other required documents. Resolution also outlines requirements of compliance for Section 3. Title VIII of Civil Rights Act, ADA and other applicable laws.

Commissioner Emily C. Davis made a motion to adopt the Resolution as presented. Commissioner Kendrick Butts seconded the motion and it passed unanimously.

A copy of the Resolution is herewith attached and made an official part of the minutes at pages 4 and 5.

Employment Agreement for County Manager

Commissioner Sammy Hall made a motion to approve the Employment Agreement for County Manager Carlos Tobar. Commissioner Emily C. Davis seconded the motion and it passed unanimously.

A copy of the Agreement is on file in the Commissioners' Office.

Contract for County Attorney

Chair Henry Craig presented a contract for County Attorney McRee. He stated this is the same contract as last year with an adjustment in the compensation amount.

Commissioner Kendrick Butts made a motion to approve the County Attorney Contract as presented. Commissioner Sammy Hall seconded the motion and it passed unanimously.

A copy of the Contract is on file in the Commissioners' Office.

Amendment to Agenda

Commissioner Sammy Hall made a motion to amend the Agenda to include an application for an alcohol license. Commissioner Emily C. Davis seconded the motion and it passed unanimously.

Alcoholic Beverage License

Commissioner Emily C. Davis made a motion to approve the alcoholic beverage license application for a retail package beer and wine store at 1300 North Columbia Street. Commissioner Sammy Hall seconded the motion and it passed unanimously.

Old Business

Chair Craig stated the COVID virus continues to become worse in Baldwin County. He asked everyone to please remember to take necessary precautions to help stop the spread.

Commissioner Westmoreland requested an update on Nelson Road.

New Business

Commissioner Davis asked County Attorney to provide information on the appropriate use of County letterhead. County Attorney McRee responded that the matter being sent on County letterhead should be related to County business.

County Manager's Report

County Manager Carlos Tobar reported on the following items: Nelson Road culver construction; airport runway pavement rehab project options being reviewed by GDOT; requesting a West Apron Phase II expansion with excess grant funds with no county funds for match required; surveys being done in target area for 2021 CDBG sewer project; requesting state to extend Walter B. Williams lease; discussions with school district about equipment to be re-purposed at fire stations; COVID vaccines for public safety personnel scheduled to begin January 11th.

Public Comment for Non-Agenda Items

Cindy Humphrey asked when the Commission meetings will be streamed. She also requested update on Manufactured Home ordinance.

Election of Chair and Vice Chair

Chair Craig opened the floor for nominations for Chair for 2021.

Commissioner Sammy Hall nominated and made the motion for Henry Craig to serve as Chair for 2021. Commissioner John Westmoreland seconded the nomination and motion.

Commissioner Kendrick Butts nominated and made a motion for Emily Davis to serve as Chair for 2021. Commissioner Emily Davis seconded the nomination and motion.

Chair Craig called for a vote on the first motion; Henry Craig to serve as Chair. The motion passed by the following vote:

Aye: Hall, Westmoreland, Craig

Nay: Butts, Davis

Commissioner Sammy Hall nominated and made a motion for John Westmoreland to serve as Vice Chair for 2021. Commissioner John Westmoreland seconded the nomination and motion.

Commissioner Emily Davis nominated and made a motion for Kendrick Butts to serve as Vice Chair for 2021. Commissioner Kendrick Butts seconded the nomination and motion.

Chair Craig called for a vote on the first motion; John Westmoreland to serve as Vice-Chair. The motion passed by the following vote:


Aye: Hall, Craig, Westmoreland

Nay: Butts, Davis

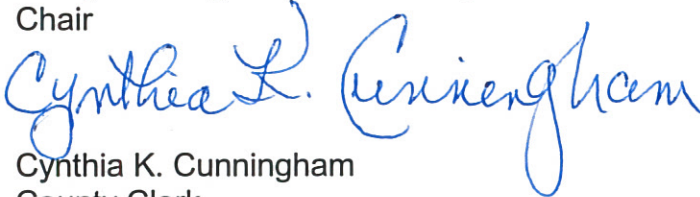
Adjournment

Commissioner Kendrick Butts made a motion to adjourn the Regular Meeting at 7:15 p.m. Commissioner John Westmoreland seconded the motion and it passed unanimously.

Respectfully submitted,



Henry R. Craig
Chair



Cynthia K. Cunningham
County Clerk

Sec. 16.76. - AN ORDINANCE FOR A BROADBAND READY COMMUNITY

As used in this ordinance, "broadband network project" means any deployment of broadband services.

As used in this ordinance, "political subdivision" means a county, municipal corporation, consolidated government, or local authority.

As used in this ordinance, "applicant" means a person applying for a permit for a broadband network project.

As used in this ordinance, "permit" means any local permit, license, certificate approval, registration, or similar form of approval required by policy, administrative rule, regulation, ordinance, or resolution with respect to a broadband network project.

(a) Single Point of Contact.

Baldwin County, Georgia shall appoint a single point of contact for all matters related to a broadband network project:

- (1) The single point of contact documentation shall include;**
 - a. Chief Building Official
 - b. Steve Owens
 - c. Baldwin County
 - d. Office: 478-445-4205; Cellular: 478-456-0433
 - e. sowens@baldwincountyga.com
 - f. <https://www.baldwincountyga.com/business-services/>
- (2) The single point of contact shall be available for matters related to a broadband network project or a related liaison who may direct such inquiry in real time, with general scope and responsibilities to include permitting and use of right-of-way; and**
- (3) The single point of contact information must be current to maintain designation, by updating with such change in contact information on web pages and associated sources, within 15 calendar days of change.**

(b) Application Completeness Review.

- (1) Baldwin County shall determine whether an application is incomplete and notify the applicant, by email, of the determination by Baldwin County within 10 calendar days of receiving an application.**
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- (2) If Baldwin County does not respond to the applicant on whether the application is incomplete, within 10 calendar days, the application shall be assumed to be complete on the 11th day.
- (c) Notification of Incomplete Application.
- (1) If Baldwin County determines that an application is not complete, the notification by email to the applicant shall specify all required components of the submitted application that were considered 'incomplete';
 - (2) Baldwin County's response shall include a checklist of sequenced items that resulted in the application being deemed 'incomplete' and the review timeline shall be as follows:
 - a. The applicant has up to 40 calendar days from the date of notification of incompleteness to respond back with corrections; and
 - b. If the applicant does not respond back within 40 calendar days, the application is deemed canceled.
 - (3) If within 10 calendar days Baldwin County does not respond to the applicant on whether the corrected application is incomplete, the application shall be assumed to be complete on the 11th day; and
 - (4) Baldwin County shall require a new submission and reset the process and application fees, should an application be deemed incomplete a second time.
- (d) Approval or Denial Notification.

If, on or before the 11th day as described in 2 (b), an application is deemed complete, Baldwin County shall approve or deny an application within 10 calendar days unless a joint meeting between the applicant and Baldwin County is deemed as necessary.

- (1) If a joint meeting is deemed necessary, the joint meeting must occur within 15 calendar days of notification of completion and the joint meeting shall include:
 - a. Where applicant is going to conduct work,
 - b. When the work will be conducted,
 - c. What type of work will be done,
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- d. Who Baldwin County can contact for specific details or related questions, and
 - e. Any permit seeking approval under application.
 - f. Following a joint meeting between the applicant and Baldwin County, Baldwin County shall deny or approve the application within 10 calendar days.
- (2) Upon final approval, any required permit permitted shall be deemed issued.
- (e) Related Fees.
- (1) Any fee imposed by Baldwin County to review an application, issue a permit, or perform any other activity related to a broadband network project shall be reasonable, cost based, and nondiscriminatory to all applicants.
 - (2) Any application fee that exceeds \$100.00 shall be considered unreasonable unless Baldwin County can provide documentation justifying such fee based on a specific cost.
- (f) Other Information.
- (1) Double Fee: Baldwin County shall not require an application or permit(s) when already approved by an authorized state or federal jurisdiction. Provider shall notify and provide a copy of the approved permit to the single-point-of-contact at Baldwin County prior to access of right-of-way within Baldwin County's unincorporated area.
 - (2) Application Validity Timeline: Any approved application shall be valid for six months from the date of approval. Should a provider not commence the service request qualified in the approved application within six months, the application shall expire, and it shall require a new permit approval and any associated fees, as applicable.
 - (3) Single Service Drop: Baldwin County shall not require a permit for a broadband service provider to perform an installation of broadband service at an individual customer's service address as long as the facility being utilized only transverses a deminimis portion of the public right-of-way to reach the customer's property. The provider must still comply with the provisions of Chapter 9 of Title 25 of the O.C.G.A.
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- (g) Baldwin County acknowledges:
- (1) A Georgia Certified Broadband Ready Community has an affirmative duty to notify the Georgia Department of Community Affairs of any changes to the information submitted as part of its application; and
 - (2) Failure to notify Georgia Department of Community Affairs of changes may result in revocation of Baldwin County's Broadband Ready Certification, should the certification be granted.
- (h) This ordinance shall take effect immediately upon adoption by the governing body upon final reading.

SO ORDAINED, this 5 day of January, 2021.

BALDWIN COUNTY BOARD OF COMMISSIONERS, GEORGIA



Chairman

ATTEST:



County Clerk

BALDWIN COUNTY TIMBER HARVESTING ORDINANCE

WHEREAS, timber harvesting operations occur in the unincorporated portions of Baldwin County on a recurring basis; and

WHEREAS, timber harvesting is an important component of the local economy in Baldwin County, providing revenue to landowners, business opportunities, and jobs for local residents; it is the intent of the Governing Authority of Baldwin County to facilitate this industry while at the same time protecting county infrastructure and the safety of the community; and

WHEREAS, timber harvesting in many instances requires the use of county-maintained roads in order to transport the product to market; and

WHEREAS, it is in the public interest to protect the county road system from damage caused by timber harvesting operations to the extent allowed by state law; and

WHEREAS, O.C.G.A. §12-6-24 authorizes and establishes the terms and conditions under which this Ordinance may be adopted and enforced; and

WHEREAS, it is the intent of the Governing Authority of Baldwin County to preserve and exercise where appropriate all powers and authority granted to it under state law, including but not limited to O.C.G.A. §32-4-42 and O.C.G.A. §40-6-371, that are not in conflict with O.C.G.A. §12-6-24, in order to protect the health, safety and welfare of the community.

NOW, THEREFORE, it is hereby ORDAINED by the Governing Authority of Baldwin County as follows:

1.

All persons or firms harvesting standing timber in any unincorporated area of Baldwin County for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state shall provide Notice of such harvesting operations to the Baldwin County Governing Authority or the designated agent thereof prior to entering onto the property if possible, but in no event later than 24 hours after entering onto the property. Further, such persons shall give Notice of cessation of cutting within 24 hours after the job is completed.

2.

The Notice of harvesting operations required by this Ordinance shall be provided for each separate tract to be harvested. Such Notice shall be made in such form as prescribed by rule or regulation of the Director of the Georgia Forestry Commission, and shall include the following information:

- a. A map of the area which identifies the location of the tract to be harvested and, as to those tracts which will be traveling to and from such tract for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road. If multiple points of ingress and/or egress will be used, all such points shall be identified;
- b. A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation under O.C.G.A. §48-5-7.5;

- c. The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and
- d. The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber.

3.

Subject to the provisions of Section 5 of this Ordinance, the Notice required by this Ordinance may be submitted in person, by transmission of an electronic record via telefacsimile or e-mail, or by mail.

4.

Subject to the provisions of Section 5 of this Ordinance, upon notification published by the Director of the Georgia Forestry Commission that a state-wide notification website or platform is available for public use, persons or firms wishing to utilize said website or platform to provide the Notice required by this Ordinance may do so at their option, and Baldwin County will accept notifications submitted in this manner.

5.

On and after a date specified and published by the Director of the Georgia Forestry Commission, use of the state-wide notification website or platform shall be mandatory and shall be the sole means of providing the Notice required by this Ordinance; on and after said date submission of the Notice by any of the means listed in Section 3 above shall cease and will no longer be deemed acceptable or in compliance with this Ordinance.

6.

The Notice required by this Ordinance shall not be or remain effective unless and until the person or firm providing such Notice has delivered to the Governing Authority of Baldwin County or its designated agent a valid surety bond, executed by a surety corporation authorized to transact business in this state, protecting Baldwin County against any damage caused by such person or firm in the amount of \$5,000.00; provided, however, that at the option of the person or firm harvesting timber a valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in O.C.G.A. §7-1-4, in the amount of \$5,000.00 may be provided in lieu of a surety bond. Such bonds or letters of credit shall be subject to the conditions set forth in Sections 7 and 8 of this Ordinance. No more than one bond or letter of credit shall be required from each person or firm harvesting timber, regardless of the number of tracts harvested in the county for so long as the bond or letter of credit remains in effect. The bond or letter of credit required herein shall be valid only for the calendar year in which it was delivered.

7.

The bond or letter of credit required by Section 6 of this Ordinance shall protect Baldwin County against any damage requiring re-ditching or repair of existing ditch structures or the removal of any harvesting residue, including tree tops, debris, logs, pulpwood and other materials, placed in or around the county's rights of way caused by such person or firm tendering the bond or letter of credit. The proceeds of such bond or letter of credit shall be available to reimburse the county for any cost incurred to repair such damages or remove such debris in or around the county's rights of way. The proceeds of such bond or letter of credit shall also be available to reimburse the county for any costs

incurred to maintain or repair county roads damaged by the ingress or egress of motor vehicles engaged in the harvest operations located within 500 feet of any point of ingress or egress of the timber harvesting operation. The right of Baldwin County to call such bond or letter of credit in accordance with the provisions of Section 8 of this Ordinance shall be in addition to any other remedies available to the county at law or in equity for damage to county roads or rights of way.

8.

When damage results from a person or firm's harvesting activities, the Governing Authority of Baldwin County shall make and provide a written claim to the person or firm causing the damage within 30 business days after the Governing Authority becomes aware of the damage. Such claim may be given in person, by telefacsimile, email or mail. The claim shall describe the damage in detail and, in compliance with Section 9 (a) of this Ordinance, give the person or firm the opportunity to repair such damage within 30 days of the notification; provided, however, the county shall be authorized to repair the damage immediately if the Governing Authority or its designee determines the conditions present a threat to public safety, health or welfare and, upon making such repairs, shall present to the person or firm and the issuer of the applicable bond or letter of credit an itemized list of expenses incurred as a claim against the responsible party and the issuer of its bond or letter of credit. Upon the issuance of a claim as provided in this Section the Governing Authority of Baldwin County or its designee shall notify the issuer of the bond or letter of credit that a claim has been made and will be resolved or adjudicated according to the terms of this Ordinance.

9.

Within 30 days of receipt of the written claim described in Section 8, the person or firm against whom the claim is submitted may:

- a. Repair such damage at his or its own expense with the approval and supervision of the Governing Authority of Baldwin County or its designee. When repairs are completed to the satisfaction of the governing authority or its designee, the governing authority or its designee shall provide a written notification of satisfactory completion within five business days to the responsible person or firm and to the surety issuing the bond or the bank issuing the letter of credit, thereby terminating the claim.
- b. In the event of inclement weather or other factors preventing repair of the damage, request a 30 day extension to repair the damage from the Governing Authority of Baldwin County, provided that no extensions shall exceed 90 days from the date the claim was tendered. Approval of any extension shall be at the discretion of the Governing Authority of Baldwin County or its designee.
- c. Appeal the claim to the Magistrate Court of Baldwin County. Any such appeal must name the issuer of the bond or letter of credit as a party, who shall be served with all pleadings in the action and shall have the right to appear. The Magistrate Court will hear evidence and arguments within 30 days of the written appeal and issue a ruling within ten days of such hearing. Any such appeal shall toll the 30 day period, or any extension thereof, required by Section 8 of this Ordinance. If the Magistrate Court rules in favor of the person or firm against whom the claim was made, the county shall have no right to recover any proceeds of the bond or letter of credit, and judgment shall be entered against the county. If the Magistrate Court rules in favor of the county the court shall determine the amount of damages to which the county is entitled to recover and enter judgment accordingly; the Governing

Authority of Baldwin County shall be authorized to call the bond or letter of credit and recover from the proceeds thereof an amount equal to the judgment entered by the court, up to the total amount of the bond or letter of credit. The portion of any judgment entered in favor of the county that exceeds the amount of the bond or letter of credit shall be subject to collection by any additional remedies at law or equity.

d. In the event the person or firm against whom the claim has been submitted fails to take any of the actions allowed under subsections (a), (b) or (c) of this Section within the time required therein, such person or firm shall be deemed to have waived any and all rights to contest the call of the bond or letter of credit.

10.

If the person or firm tendering a bond or letter of credit pursuant to the requirements of this Ordinance continues its timber harvesting operation beyond the calendar year in which the bond or letter of credit was issued, the person or firm continuing the timber harvesting operation shall tender a new bond or letter of credit within five (5) business days after the first day of the new calendar year.

11.

In the event a bond or letter of credit tendered pursuant to the requirements of this Ordinance is revoked by the surety or bank, then a valid replacement bond or letter of credit must be delivered to the Governing Authority of Baldwin County within five business days after the date of revocation in order for timber harvesting operations to continue. In addition, if the person or firm tendering the bond or letter of credit caused its revocation, the amount of the bond or letter of credit required shall be increased to \$7,500 after the first revocation, and \$10,000 after a second revocation caused by the person or firm tendering the bond or letter of credit. The maximum amount of the bond or letter of credit shall not exceed \$10,000.

12.

Submission of the Notice required by this Ordinance shall authorize the person or firm submitting same to undertake the timber harvesting operation described in the Notice and shall remain in effect until such time as the person or firm gives Notice that the harvesting operation is complete; provided, however, that any change in the facts required to be provided for purposes of such Notice, including but not limited to a change in the scope or extent of the operation, must be reported to the Governing Authority of Baldwin County within three business days after such change.

13.

Any person or firm that engages in a timber harvesting operation in the unincorporated portion of Baldwin County without complying with the Notice requirements of this Ordinance shall be subject to a citation and trial, and upon conviction shall be fined in an amount not to exceed \$1,500.00 for each violation.

14.

This Ordinance applies to activities which qualify as forestry land management practices or agricultural operations under O.C.G.A. §12-7-17 (5) and (6) on land that is zoned for or used for forestry, silvicultural or agricultural purposes. It shall not authorize land disturbing activities incidental to development in conflict with the limitations set forth in O.C.G.A. §12-7-17 (6).

15.

Consistent with O.C.G.A. §12-6-24:

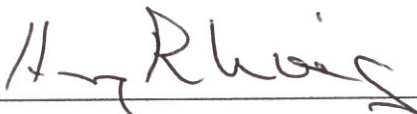
- (a) no fee shall be charged to provide and submit the Notice required by this Ordinance; and
- (b) no permit, including a driveway permit, shall be required of the person or firm engaged in a timber harvesting operation as defined by said Code section. Persons and firms providing the Notice required by this Ordinance may be asked to consult with county officials responsible for roads and public works for the purpose of minimizing damage to the county's roads, rights of way and infrastructure, and are urged to follow recommendations from county officials. Notwithstanding the forgoing, the person or firm conducting the timber harvest operation bears ultimate responsibility for their actions, and nothing in this Ordinance shall preclude the Governing Authority of Baldwin County from taking any and all legal action necessary to protect its property and the health, safety and welfare of its citizens.

16.

The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, section or part of this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

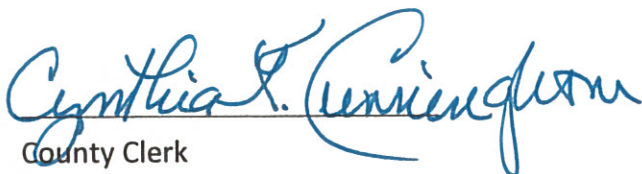
SO ORDAINED, this 5 day of January, 2021.

BALDWIN COUNTY BOARD OF COMMISSIONERS, GEORGIA



 Chairman

ATTEST:



 County Clerk

Sec. 16.75. - AN ORDINANCE FOR SHORT-TERM VACATION RENTAL

As used in this ordinance "short-term vacation rental" means an accommodation for transient guests where, in exchange for compensation, a residential dwelling unit is provided for lodging for a period of time not to exceed 30 consecutive days. Short-term vacation rental shall not include any residential dwelling unit not regularly offered for rental, which shall be defined as any residence offered for rental less than 14 days in any given calendar year. For the purposes of this definition, a residential dwelling shall include all housing types and shall exclude group living or other lodging uses.

(a) Regulations for Short-Term Vacation Rentals.

Short-term vacation rentals may be offered to the public for rental following issuance of a short-term vacation rental certificate, receipt of an occupation tax certificate, and payment of any and all applicable state and county taxes. Any taxes owed to the County as a result of any hotel/motel tax shall be paid to Baldwin County Board of Commissioners at the Business Services Department and any failure to remit the same or to register pursuant to this Ordinance shall be subject to the penalties included in Chapter 50 Article II of these Code of Ordinances. Owners shall also insure occupants do not disrupt or interfere with rights of adjacent property owners to quiet enjoyment of their property and shall adhere to the following requirements:

- (1) Owners shall not allow occupants to violate any federal state, or local law, statute, rule or ordinances, including, but not limited to, Sections 10-51, 25-19 and Chapter 34-31.
- (2) Owners shall not allow overnight occupancy to exceed the maximum capacity specified in the rental certificate.
- (3) Certificate will be placed near front door in a conspicuous place.

(b) Application; fee.

- (1) An application for a short-term vacation rental certificate shall be submitted, under oath, on a form specified by the Chief Building Official, or his/her designee, accompanied by a fee as set forth by the Baldwin County Board of Commissioners fee schedule, which shall include at a minimum the following information or documentation:
 - a. The name, address, telephone and email address of the owner(s) of record of the dwelling unit for which a certificate is sought. If such owner is not a natural person, the application shall identify all partners, officers and/or directors of any such entity, including personal contact information;
 - b. The address of the unit to be used as a short-term vacation rental;
 - c. The name, address, telephone number and email address of the short-term vacation rental agent, which shall constitute his or her 24-hour contact information and who shall:
 1. Be reasonably available to handle any problems arising from use of the short-term vacation rental unit;

2. Appear on the premises within 24 hours following notification from the Chief Building Official, or his/her designee, of issues related to the use or occupancy of the premises.
 3. Receive and accept service of any notice of violation related to the use or occupancy of the premises; and
 4. Monitor the short-term vacation rental unit for compliance with this chapter;
- d. The owner's sworn acknowledgment that he or she has received a copy of this section, has reviewed it and understands its requirements;
 - e. The owner shall state the maximum occupancy for the residence, which shall be the same number as advertised and marketed to potential renters by or on behalf of the owner.
 - f. The owner's agreement to use his or her best efforts to assure that use of the premises by short-term vacation rental occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties;
 - g. A copy of an exemplar agreement between the owner and occupant(s) which obligate the occupant to abide by all of the requirements of the chapter, and other Baldwin County ordinances, state and federal law, and that such a violation of any of these rules may result in the immediate termination of the agreement and eviction from the premises, as well as potential liability for payment of fines levied;
 - h. Proof of the owner's current ownership of the short-term vacation rental unit; and
 - i. Proof of homeowner's insurance;
- (2) Registration under this code section is not transferrable and should ownership of a short-term vacation rental change, a new application is required, including application fee. In the event of any other change in the information or facts provided in the application, the holder of the short-term rental certificate shall amend the filed application without payment of any additional application fee.
- (c) Review of application.

Review of an application shall be conducted by the Chief Building Official, or his/her designee, in accordance with due process principles and shall be granted unless the applicant fails to meet the conditions and requirements of this chapter, or otherwise fails to demonstrate the ability to comply with local, state, or federal laws. Any false statements or information provided in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications. A certificate shall not be issued unless the owner demonstrates compliance with the applicable codes.

(d) Violations; revocation.

- (1) In any instance in which use of the short-term rental by a guest results in a violation of these ordinances, or any other ordinance of Baldwin County, notice of such violation shall be provided to the short-term vacation rental agent. Failure to remedy any notice of violations may result in the issuance of a citation, which shall be prosecuted pursuant to this Code. Upon a conviction of violation, the Chief Building Official may revoke the short-term vacation rental certificate and reject all applications for the subject premises for a period of 12 consecutive months.
- (2) Short-term rentals occurring on or after January 1, 2021 without a valid rental certificate shall constitute a violation of this Chapter and shall be subject to a minimum fine of \$250.00. Each occurrence shall constitute a separate offense.
- (3) Nothing in this Ordinance shall be construed to limit any action by the Baldwin County Health Department to seek the remediation of any dangerous condition at the short-term vacation rental or to take any action seeking to protect and preserve against any threat to public safety.

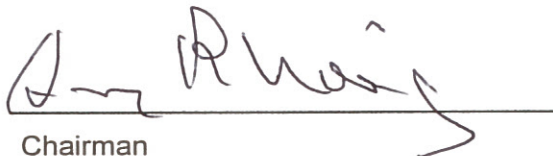
(e) Appeal Rights.

- (1) A person aggrieved by the Chief Building Official's decision to revoke, suspend or deny a short-term vacation rental certificate may appeal the decision to the County Manager.
- (2) The appeal must be filed with the County Manager's office in writing, within 30 calendar days after the adverse action and it shall contain a concise statement of the reasons for the appeal. A decision from the County Manager shall be rendered within 5 business days of receipt of the appeal, and may hold any administrative hearing deemed necessary in consideration of the appeal.

(f) Conflicts.

Any ordinances or resolutions as adopted by this Board which are in conflict with these ordinances are hereby repealed and rendered ineffective.

SOORDAINED, this 5 day of January, 2021
BALDWIN COUNTY BOARD OF COMMISSIONERS, GEORGIA


Chairman

ATTEST:


County Clerk

Sec. 6-31. - Definitions.

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

Air carrier means a person that undertakes by any means, directly or indirectly, to provide air transportation.

Alcoholic beverage means all beverages containing alcohol intended for human consumption, whether produced by distillation or fermentation.

Carrier means any person, including without limitation any motor carrier, freight forwarder, or air carrier, whose business is to transport goods or people while acting in the capacity as common, private, or contract transporter of a product or service using its facilities or those of other carriers.

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

Distilled spirits manufacturer and liquor manufacturer mean any person engaged in manufacturing, distilling, rectifying, or blending any alcoholic beverage, distilled spirits or alcohol.

Electronic means means internet enabled technology and digital media, including, but not limited to, websites and consumer applications accessible through computers, smartphones, or other electronic devices.

Employee means an individual who is:

(a) A full-time or part-time employee of a packaged goods retailer; and (b) Authorized to act as an agent of such packaged goods retailer.

Financial interest includes, but is not limited to, holding any indebtedness or security interest in a business.

Freight forwarder means a person holding itself out to the general public to provide transportation of property for compensation and in the ordinary course of its business:

(a) Assembles and consolidates, or provides for the assembly and consolidation of, shipments and performs or provides for break bulk and distribution operations of the shipments;

(b) Assumes responsibility for such transportation from the place of receipt to the place of destination; and

(c) Uses for any part of such transportation another freight forwarder, an air carrier, a motor carrier, or any other carrier.

Licensed alcoholic beverage caterer means any holder of a class A, B, C, or D alcoholic beverage license issued under this chapter and who otherwise qualifies with the provisions set forth in O.C.G.A. § 3-11-1 et seq.

Malt beverage manufacturer means a brewer who manufactures malt beverages.

Malt beverages mean 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 six percent alcohol by volume and including ale, porter, brown, stout, larger beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

Motor carrier means a person that provides motor vehicle transportation for compensation.

Packaged goods retailer means a person licensed under this title as a retailer to sell alcoholic beverages in unbroken packages for consumption off the premises that is not:

(a) A manufacturer or any other person licensed to manufacture alcoholic beverages;

(b) A carrier;

- (c) A shipper; or
- (d) A person that takes delivery of alcoholic beverages directly from a:
 - (1) Retailer; or
 - (2) Manufacturer or any other person licensed to manufacture alcoholic beverages.

Private club means a corporation organized and existing under the laws of the state, like fraternal or veterans' organizations, having bylaws and being a part of a national organization in existence for at least one year immediately prior to the application for any license in this article, having at least 75 members, regularly paying monthly, quarterly or semiannual dues organized and operated exclusively for fraternal brotherhood, pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any stockholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining space and equipment, and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests; provided that no member or officer, agent or employee of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the sale of distilled spirits or any beverage licensed hereunder to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

Proper identification shall have the same meaning as provided in Code Section 3-3-23.

Public entertainment facility which permits the consumption of alcoholic beverages on its premises means a business which is open to the public and provides entertainment, amusements or dancing, charges an admission fee, and permits alcoholic beverages to be consumed on the premises by the business invitee and which is not licensed under this article.

Retailer means any person engaged in selling at retail any alcoholic beverages in any form, as provided for in this article.

School building or educational building on a college campus shall apply only to governmental or church school buildings and to such buildings at such other schools as teach the subjects commonly taught in the common schools and colleges of this state.

Third party means:

- (a) Any person that:
 - (1) Is registered to do business in this state;
 - (2) Has a contractual relationship with a packaged goods retailer;
 - (3) Is authorized to act as an agent of such packaged goods retailer; and
 - (4) Is not a manufacturer, any other person licensed to manufacture alcoholic beverages, or an affiliate of such manufacturer or such other person; or
- (b) Any full-time or part-time employee or independent contractor of any person that:
 - (1) Is registered to do business in this state;
 - (2) Has a contractual relationship with such third party as defined in subparagraph (a) of this paragraph;
 - (3) Is authorized to act as an agent of such third party as defined in subparagraph (a) of this paragraph; and
 - (4) Is not a manufacturer, any other person licensed to manufacture alcoholic beverages, or an affiliate of such manufacturer or such other person.

Wholesaler means any person engaged in distribution or selling to retailers for the purpose of resale any of the alcoholic beverages as defined in this chapter.

Wine means any alcoholic beverage containing not more than 21 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, all sparkling wines, champagnes, combination of such beverages,

vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

Wine manufacturer means a winery where wines are manufactured.

(Ord. of 11-14-1995, § 1)

Cross reference— Definitions generally, § 1-2.

Sec. 6-32. - License—Required; classes; fees.

- (a) *Generally.* It shall be unlawful for any person to manufacture, sell or offer for sale, at retail or wholesale, within the unincorporated area of the county any alcoholic beverage, including malt beverages or wine, without having a manufacturer's license or retail or wholesale alcohol beverage dealer's license or in violation of the terms of such license or this article.
- (b) *Classes.* The licenses shall be divided into the following classes:
- (1) Class A, retail liquor package store;
 - (2) Class B, retail package beer and/or wine;
 - (3) Class C*, retail beer and/or wine by the drink;
 - (4) Class D*, retail liquor by the drink;
 - (5) Class E, wholesale liquor;
 - (6) Class F, wholesale beer and/or wine;
 - (7) Class G, licensed alcoholic beverage caterer;
 - (8) Class H, license for manufacture of beer.
 - (9) Class I, license for manufacture of wine.
 - (10) Class J, license for distilled spirits.
- (c) *Fees.* The basic fees for each type of license listed in subsection (b) of this section shall be as listed on the alcoholic beverages schedule of fees and penalties as adopted by the board of commissioners:
- * Class D license holders may be issued a class C, license at no additional charge. Class C and D license holders shall not be required to obtain separate Class A and B licenses.
- (d) *Change of business.* If an ongoing business licensed hereunder is sold, the new owner's fee shall be determined at the time of transfer. A new owner or new location shall pay the base fee for his initial license.
- (e) *Payment.* The fees referred to in this section shall be payable annually on a calendar-year basis. If the license is purchased and is not used for the full calendar year, there shall be no refunds for any portion of the fees.

(Ord. of 11-14-1995, § 2; [Ord. No. 6-32. 3-17-2015](#); [Ord. No. 6-32\(2\)](#), 10-21-2016; [Ord. of 12-3-2019\(3\)](#))

Sec. 6-33. - Same—Application procedure.

- (a) *Generally.* The applicant for a license under this article shall make an application as provided by and in conformance with the laws and/or ordinance of the State of Georgia and/or Baldwin County. (b)

Investigation fee. The applicant shall, upon turning in his completed application to the director of finance or his designated representative, at the same time provide a certified check for \$100.00 made payable to the county for the investigation fee.

- (c) *Legal notice.* Applicants whose place of business has not been previously licensed, or not licensed during the preceding two calendar years, or whose place of business has not been licensed for the sale of beer/wine, or not licensed during the preceding year, shall be required to give notice to the public that an application has been made by them for such license by having a legal notice published in the local newspaper designated as the legal organ of the county, the notice to appear once a week for four consecutive weeks.
 - (d) *Consideration at next meeting.* Applications shall be considered at the next regularly scheduled meeting of the board of commissioners after all requirements of this article have been met by the applicant. The commission shall not be required to act on the application at said meeting, but may for good cause continue the matter to a later meeting. Such application shall not be granted without approval of the county commission.
 - (e) *Corporations.*
 - (1) *Stockholders.* All applicants who are corporations having ten or less stockholders shall list the names and addresses of all stockholders and the percentages of stock owned by each. If a named stockholder therein is another corporation, the same information shall be given for the stockholding corporation. If during the life of the license the identity of the stockholders or their percentage of ownership should change, that information shall be sent to the director of finance or his designated representative for processing.
 - (2) *Additional data.* All corporate applicants, without regard to the number of stockholders, shall list the names and addresses of the officers of the corporation. In addition thereto, they shall name an agent whose name shall appear as such on the license issued to the corporation. The corporation shall provide the name and address of the agent, who shall be the individual who does in fact have regular, managerial and supervisory authority over the business conducted on the licensed premises. In addition, the manager shall be an agent for service for the corporation in addition to all other methods allowed by state laws for serving a corporation.
 - (f) *Investigation.* The director of finance or his designated representative shall submit the application within two business days after filing to the sheriff's department. The sheriff's department shall make an arrest and conviction investigation concerning any applicants hereunder. The sheriff's office shall investigate the shareholders, designated manager, and officers of a corporation if the applicant is a corporation. The sheriff's office shall submit the results of the investigation to the director of finance or his designated representative within 90 days of submission.
 - (g) *Offenses.* Any person making a false statement in any application for a license, or statement in connection with renewal thereof, shall be guilty of an offense and punished as provided by state law relating to false swearing; and further, a license, if previously granted or renewed, may be revoked for the violation. It shall also be a violation of this article for any person to give other than the true and correct legal name of the intended licensee, and a conviction for a violation thereof shall be punished as for a misdemeanor; and the judge of the magistrates court of the county or the judge of any court exercising jurisdiction in such case may in the exercise of his discretion revoke, suspend or probate the license for such a violation.
 - (h) *Duration and renewal.* All licenses are issued only on a calendar-year basis and shall come up for renewal each year following issuance. Each licensee shall make a written application for renewal in December of each year following issuance. Each licensee shall make an application for renewal on or before December 31 of each calendar year which shall swear to the truthfulness of such information that is the same as the prior application and shall set forth facts which are different from the prior year's application. The form shall be approved by the director of finance or his designated representative. All fees shall be tendered with the application.
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- (i) *Penalty for filing renewal application and license fee payment after January 15.* There shall be a penalty fee charged for filing the alcoholic beverage renewal application and license fee payment after January 15 as follows:

January 15—January 31	\$ 50.00
February 1—February 15	100.00
After February 15	Ten percent of annual license fee but not less than \$100.00.

Alcoholic beverage license renewal application fees paid to the county Business Services office shall be in a proper form allowed by the State of Georgia and/or Baldwin County.. If an alcoholic beverage license renewal application and license fee has not been filed with the county commission Business Services Office by April 1, the license shall be declared to be abandoned and any relicensing shall require a new application.

(Ord. of 11-14-1995, § 3)

Sec. 6-34. - Same—When issuance prohibited.

Issuance of licenses required under sections 6-32 and 6-33 is limited as follows:

- (1) No license defined shall be issued to a person who is not a legal resident of the United States and at least 21 years of age.
- (2) No license defined herein shall be issued to a person who has been convicted of a felony or a crime involving moral turpitude, or convicted of three violations of the ordinances of any city or county governing alcoholic beverages licensed hereunder within a five-year period, or the violation of any state laws or federal laws pertaining to the manufacture, possession, transportation or sale of malt beverages, wine or intoxicating liquors, or the taxability thereof, all within the last five years immediately prior to the filing of the licensee's application with the director of finance or his designated representative.
- (3) Any person having two convictions for selling alcohol to underage persons within a three-year period shall not be eligible for a license for 12 months immediately succeeding the last conviction. For purposes of this section a plea of nolo contendere shall be considered a conviction.
- (4) No person shall hold a license in any retail category hereunder and a license under any wholesale category at the same time.
- (5) In the case of corporations, partnerships, joint ventures, and similar business entities, each person holding ten percent or more of any class of stock in the corporation or a ten-percent or more interest in such business, venture, partnership or entity must meet all criteria for licensing contained in this article in order for such business to be eligible for licensing.
- (6) All new licenses issued shall be probationary for a period of 90 days and may be revoked if issued in error of a county officer employee, even if the error is unmixed with the negligence or intentional misrepresentation of the applicant. Licenses wrongly issued as a result of misrepresentation, negligence or wrongful conduct of an applicant are subject to revocation at any time. Revocation of a license shall be complete upon three days after the postmark date of the mailing of a notice of revocation by a representative of the county.
- (7) No license shall issue for a business to be conducted at a location which is prohibited by this article or by state law.

Sec. 6-35. - Same—General regulations.

- (a) *Individual's requirements applicable to clubs.* In the case of a private club, fraternal or veterans order, its chief officer and general manager shall meet the same requirements that any individual applicant must meet and maintain.
 - (b) *Separation of package stores.*
 - (1) All package stores holding a class A license shall be within a building or room totally physically separate from any other business activities. The only ingress and egress for customers and their purchases shall be through a door opening to the outside or to an area for public pedestrian traffic and not from or into any other business establishment. This outside door shall open facing a public street or public pedestrian area.
 - (2) Any opening of any type shall be prohibited between any area licensed as class A and any other business area. The only means of ingress and egress for both customer and employee shall be through a door open to the outside and facing a public street or public pedestrian area.
 - (3) In a class A establishment, the total commercial transactions shall take place within the area licensed for retail alcoholic package sales.
 - (4) Retail beer and wine by the package (class B) shall be permitted in food stores, grocery stores, supermarkets, convenience food stores and discount/general merchandise stores as an item incidental to the sale of foodstuffs and groceries.
 - (c) *Persons under legal age.*
 - (1) *Sales, etc., to persons under legal age.* It shall be unlawful to provide alcoholic beverages to any persons under the age permitted by law. See O.C.G.A. § 3-3-23.
 - (2) *Purchasing alcoholic beverages for persons under legal age.* No person shall give alcoholic beverages to any person under legal age, and no person shall purchase any alcoholic beverage for the purpose of giving all or any part of the beverage to any person under legal age. No person shall accept money from any person for the purpose of buying alcoholic beverages for any person under legal age.
 - (3) *Presence in establishment.* No minor, unless accompanied by parent, guardian or custodian shall be present in nor shall be permitted in any establishment which derives 50 percent or more of its total annual gross revenues from the sale of alcoholic beverages.
 - (4) *Penalty.* Any person violating subsections (c)(1)—(3) of this section shall be punished as for a misdemeanor and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. This penalty shall be cumulative with and in addition to the effect such violation shall have on a violator's business or alcohol license.
 - (d) *False representation of age.*
 - (1) It shall be unlawful for any person to falsely misrepresent his age in any manner whatsoever for the purposes of purchasing or otherwise acquiring any beverage licensed pursuant to this article.
 - (2) It shall be unlawful for any person to sell or offer to sell any alcoholic beverages for consumption on the premises and for a retail establishment to sell or for any person to purchase alcoholic beverages of any kind whatsoever not for consumption on premises in the county unless the purchaser exhibits proper identification to the seller so that the seller may verify the age of such person. For purposes of this chapter, the term proper identification means any document issued by a governmental agency containing a description of the person, such person's photograph, or both and giving such person's date of birth and includes without being limited to a passport, military identification card, driver's license, or an identification card authorized by O.C.G.A. §§ 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate, or any traffic citation or complaint form. This section applies to all persons regardless of age, and regardless of whether or not such person appears to be of proper age to purchase alcoholic beverages.
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- (3) Penalty. Any person violating subsections (d)(1)—(d)(2) of this section shall be punished as for a misdemeanor and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. This penalty shall be cumulative with and in addition to the effect such violation shall have on a violator's business or alcohol license.
- (e) *Prohibitions relating to by-the-drink retailers.* It shall be unlawful for any licensee engaged in the retail sale of alcoholic beverages by the drink to:
- (1) Knowingly allow gambling of any kind or character to be carried on in his place of business;
 - (2) Knowingly allow any person to frequent his place of business for the purpose of soliciting for prostitution;
 - (3) Knowingly allow any criminal act to be perpetrated on the premises, such as the sale of drugs, sale of nontax paid alcoholic beverages, sale of stolen property or other offenses;
 - (4) Fail to report to the sheriff's department at the earliest possible time known incidents of a criminal nature that happened on his premises;
 - (5) Willfully withhold from any law enforcement agency any information pertaining to any crime that may have happened on his premises and to which he was a witness;
 - (6) Use, operate or permit to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in any area in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto;
 - (7) Operate any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of 150 feet beyond the property limits on which the business is located, between the hours of 11:00 p.m. and 7:00 a. m. Sunday through Thursday and between 12:00 midnight and 7:00 a.m. on Saturday and Sunday mornings;
 - (8) Permit employees or patrons to yell, shout, hoot, whistle or sing on the premises where the business is conducted, between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between 12:00 midnight and 7:00 a.m. Saturday and Sunday mornings so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity of the licensee's place of business;
 - (9) Give, sell or offer to sell any liquor to any person who is noticeably intoxicated, nor to any person whom the licensee or his employees know or should know not to be of unsound mind, or to a habitual drunkard whose intemperate habits are known to the licensee;
 - (10) All holders of a license permitting consumption on the premises shall keep a copy of this article on the licensed premises and shall instruct any person working there with respect to the terms hereof, and each licensee or his agents selling alcoholic beverages shall at all times be familiar with the terms hereof. The licensee shall be held responsible for any acts of his employees in any violation of this article or of the laws of the state or the rules and regulations of the state revenue commissioner.
- (f) *Adding to, refilling bottles, misrepresentation as to quantity, etc.* It shall be unlawful for a licensee pursuant to this article or his agents to add to the contents of a bottle or to refill an empty bottle or in any manner to misrepresent the quantity, quality or brand name of any beverage licensed pursuant to this article.
- (g) *Hours of operation.* The following hours of operation shall apply to the sale of alcoholic beverages licensed pursuant to this article:
- (1) Class A, retail liquor package store—8:00 a.m. until 11:55 p.m.; Monday through Saturday. Sunday sales from 12:30 pm until 11:30 p.m.

- (2) Class B, retail package beer and/or wine—As provided by state law, including but not limited to, Sunday sales from 12:30 pm until 11:30 p.m.
 - (3) Class C, retail beer and/or wine—Monday through Friday beginning at 8:00 a.m. until 2:00 a.m. the next day; Saturday from 8:00 a.m. until 11:55 p.m.
 - (4) Class D, retail liquor by the drink—Monday through Friday beginning at 8:00 a.m. until 2:00 a.m. the next day; Saturday from 8:00 a.m. until 11:55 p.m.
 - (5) Public entertainment facilities—Hours of operation. It shall be unlawful to keep any public entertainment facility which permits the consumption of alcoholic beverages on its premises open for business or to permit the same to be used or patronized at any time except during the hours provided in subsections (g)(3) and (4) of this section.
- (h) *Clearing service areas following hours of operation.* All licensees for the sale of malt beverages and/or wine for consumption on the premises or distilled spirits by the drink shall remove or cause to be removed from the area of the premises utilized by the customers or patrons all alcoholic beverages within one half hour after the times specified in subsection (g) of this section as the hours of operation.
 - (i) *Sales prohibited, limited on certain days.* All alcoholic beverages licensed pursuant to this article shall not be sold on the following days: Christmas Day. See O.C.G.A. § 3-3-20.
 - (j) *Sales on election days.* The sale of alcoholic beverages, to wit: distilled spirits, wine and spirits malt beverages for consumption both on and off premises shall be lawful during the polling hours of any election; provided, however, nothing in this section shall authorize the sale of alcoholic beverages within 250 feet of any polling place during such time as the polls are open. See O.C.G.A. § 3-3-20(b)(2)(B).
 - (k) *Suspension of sales during civil emergency.* The county commission may, upon determining that there is an immediate danger of civil disorder or natural disaster or any other immediate threat to the public peace and order, by executive order, suspend the sales of all beverages licensed under this article until such danger or threat has passed and for a reasonable period of time thereafter.
 - (l) *On-premises signs.* No sign of any kind, painted or electric, advertising any price of distilled spirits shall be permitted on the exterior or in the window of any licensed premises pursuant to this article. No plaque or sign of any kind which is visible from the exterior of the licensed premises shall make reference to the price of any liquor sold therein, provided that a tag showing the price of individual bottles or containers or to the edge of the shelf wherein such bottles or containers are located is permitted.
 - (m) *Open retail containers, sale of draft beer at retail package stores.* The original retail containers of any alcoholic beverage sold by a package store retail licensee pursuant to this article shall not be opened on the lot or premises of location licensed for the sale thereof. The sale of draft beer from a tap in a retail malt beverage package store shall not be sold in less than one-half-gallon quantities.
 - (n) *Display of license number.* Each licensee for the sale of beverages by the package at retail licensed pursuant to this article shall have printed on the front window of the licensed premises the name of the license together with the inscription, "Baldwin County License Retail Number ____," in uniform letters, not less than four inches in height, except private clubs and hotels; provided, however, that if a licensee so desires, he may have his name displayed on the inside of the window in neon or other electric light.
 - (o) *Bringing beverages purchased elsewhere or deadly weapons onto premises.* No licensee for the sale of malt beverages, wine or distilled spirits shall authorize or permit any patron or customer to bring onto the premises malt beverages, wine or distilled spirits purchased elsewhere; nor shall any such licensee authorize or permit any patron or customer to bring or carry any deadly weapon or firearm on the premises except a law enforcement officer on duty or other person authorized by federal or state law; nor shall the licensee act as a keeper, bailee or custodian of any kind of deadly weapon or firearm for any customer or patron thereof.
 - (p) *Casual, incidental sales by certain vendors.* A holder of a retail license for the sale of malt beverages or wine to be consumed on the premises may make casual or incidental sales of malt beverages or wine to be carried away from the premises by the purchases, but the casual or incidental sales shall
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not be advertised nor shall the licensee make any price differential between the sales of malt beverages or wine to be consumed on the premises and casual or incidental sales of malt beverages or wine to be carried away from the premises.

- (q) *Visibility of premises from public street.* No licensee for the sale of alcoholic beverages by the package shall operate under the license, unless the front entrance to the licensed premises is clearly visible from the public street; provided, however, that this restriction shall not apply where the licensee is a motel, hotel, private club or is located in a shopping center or multiple-story business building.
 - (r) *Visibility into interior, lighting of retail package store.* No screens, blinds, curtains, partitions, articles or things which shall prevent a clear view into the interior shall be permitted in the window or from the doors of any retail store for the sale of alcoholic beverages by the package and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each store shall be so lighted that the interior of the store is visible day and night.
 - (s) *Disturbance of the peace, obscenity or public indecency.* It shall be unlawful to permit any disturbance of the peace, obscenity or public indecency on the premises licensed to sell alcohol by the drink or otherwise licensed to sell alcoholic beverages.
 - (t) *Sales areas; activities..* No package store licensee shall permit the consumption of alcohol sold by him by the package on the lot or premises where the licensed establishment is located, nor shall any individual consume the contents of such packages on the lots or premises where the licensed establishment is holding a class A or B license. Provided, however, that such licensee may sell package malt beverages or wines by means of a drive-in window, provided any such drive-in window shall be well lighted and clearly visible from the street or sidewalk and shall not be located at the rear of any licensed premises. Nothing in this code shall be construed to prohibit a representative or salesperson of a manufacturer or wholesaler from opening a package of alcoholic beverages on the premises of a retail package liquor store or other retail dealer for the purpose of providing samples of such alcoholic beverage product to a retail dealer or its employees for consumption on the licensed premises, provided that:
 - (1) All samples are provided and consumed in the presence of a representative or salesperson of the manufacturer or wholesaler in an office, storage room, or other area of the licensed premises of the retail dealer that is closed to the public; and
 - (2) Such representative or salesperson of the manufacturer or wholesaler removes from the licensed premises any packages he or she brought onto such licensed premises in order to provide samples of alcoholic beverage products. For purposes of this subsection, the term 'sample' means a small amount of any malt beverage, wine, or distilled spirits.
 - (u) *Extensions of sales areas; curb sales.* Any licensee for the sale of malt beverages and/or wine for the consumption on the premises or distilled spirits by the drink shall be authorized to extend the area utilized by such licensee to an adjoining building, addition, patio or deck area, or expansion on the same piece of property or an adjoining lot, so long as the business operation is under the same business management and licensed area under the same ownership; provided, however, the sale of alcoholic beverages shall be prohibited in parking lots or areas designated "at curb."
 - (v) *Possession of unlicensed beverages.* All licensees hereunder are forbidden to possess, keep, maintain or otherwise store or keep any alcoholic beverages for which the licensee does not hold a license on the premises so licensed.
 - (w) *Storage.* No licensee shall keep any alcoholic beverages stored in any bonded or other type warehouse in the county nor shall he enter into any agreement or type of arrangement whereby alcoholic beverages ordered by him are stored for him by any licensed wholesaler. A licensee shall keep no inventory or stock of alcoholic beverages at any place except his licensed place of business, and within his licensed place of business, his storage space for liquor shall be immediately adjacent to the room in which he is licensed to do business.
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(x) *Packaged Goods Retailer Delivery of Malt Beverages and Wine in Unbroken Packages.*

Notwithstanding any other provision of law, and except where prohibited by local ordinance or resolution, a packaged goods retailer may deliver malt beverages and wine in unbroken packages lawfully sold to and purchased by an individual for personal use and not for resale to an address designated by such individual, subject to the following terms and conditions:

- (1) The individual making the purchase shall, prior to ordering and purchasing malt beverages and wine for delivery, establish an account maintained by the packaged goods retailer that shall be available for inspection by the department;
- (2) The packaged goods retailer or employee shall process all payments made by the individual who is transacting the purchase with the packaged goods retailer prior to the malt beverages and wine leaving such packaged goods retailer's licensed premises for delivery;
- (3) The packaged goods retailer, employee, or third party shall assemble, package, and fulfill each order at the licensed premises of the packaged goods retailer from inventory located at such licensed premises and shall not pull from the inventory of any other person, including another retailer or licensed premises;
- (4) All malt beverages and wine that leave the licensed premises of the packaged goods retailer for delivery shall:
 - a. Remain in the possession of the individual, either the packaged goods retailer, the employee, or the third party, that removed it from the licensed premises for delivery and shall not be transferred to any other person until the time of delivery in compliance with the requirements of this subsection or until the time of the return to the packaged goods retailer if delivery is not made;
 - b. Only be transported in a vehicle or other transportation device containing products or goods traveling in intrastate commerce for delivery in the local licensing jurisdiction of the licensed premises of such packaged goods retailer; and
 - c. Not be carried, commingled, or stored with, or transported in any vehicle or other transportation device containing, products or goods traveling in interstate commerce for delivery;
- (5) Delivery shall be made by the packaged goods retailer, employee, or third party who:
 - a. Is at least 21 years of age;
 - b. Has a valid Georgia driver's license;
 - c. Has undergone within the last 12 months a background check that includes a local and national criminal history and driving records and:
 1. Has not had more than three moving violations in the prior three-year period;
 2. Has not had a major traffic violation, as such term is defined in Code Section 40-5-142, in the prior three-year period;
 3. Has not been convicted within the past seven years of driving under the influence of drugs or alcohol;
 4. Has not been convicted at any time of fraud, a sexual offense, the use of a motor vehicle to commit a felony, a crime involving property damage, a crime involving theft, a crime involving an act of violence, or a crime involving an act of terror; and
 5. Does not have a match on the National Sex Offender Registry data base;

- d. Has undergone training approved by the department on sales and delivery of malt beverages and wine in this state;
 - e. Shall not possess or handle as part of or during the delivery forms of compensation that are used to purchase or transact the sale of malt beverages and wine;
 - f. Does not receive compensation based upon whether an attempted delivery results in a completed transaction; and
 - g. At all times during which the malt beverages and wine to be delivered are in the vehicle, transportation device, possession, or care of such packaged goods retailer, employee, or third party, shall not also have in his or her vehicle, transportation device, possession, or care any products or goods traveling in interstate commerce;
- (6) Delivery shall be made by the packaged goods retailer, employee, or third party to an individual who is at least 21 years of age and presents proper identification verifying the age of such individual;
- (7) At the time of delivery, the packaged goods retailer, employee, or third party shall verify the identity and age of the individual accepting delivery by validating the proper identification of the individual accepting delivery in person and obtaining his or her signature on a written or electronic acknowledgment of receipt of the order and certification of legal age to purchase malt beverages and wine. The packaged goods retailer, employee, or third party shall scan or otherwise verify the proper identification of the individual accepting delivery at the time of delivery and shall retain a record of such individual's name and date of birth that shall be available for inspection upon request for a minimum of three years;
- (8) The packaged goods retailer, employee, or third party conducting the delivery shall refuse to make the delivery if:
- a. No individual is visibly present and available at the address to accept delivery; or
 - b. The individual visibly present and available attempting to accept the delivery:
 - 1. Is less than 21 years of age;
 - 2. Fails to produce proper identification verifying his or her age;
 - 3. Fails to provide a signature that matches such proper identification; or
 - 4. Is noticeably intoxicated;
- (9) All deliveries shall be inspected at the time of delivery by the individual accepting such delivery. The transaction shall be deemed complete upon acceptance of delivery of the malt beverages and wine, and all sales shall be final;
- (10) The delivery address shall be located within the local licensing jurisdiction of the packaged goods retailer;
- (11) The delivery shall take place only during the lawful times when malt beverages and wine can be sold by the packaged goods retailer for consumption off the premises;
- (12) The delivery shall be made only within the same calendar day on which the malt beverages and wine leave the licensed premises of the packaged goods retailer for delivery; and
- (13) No delivery shall knowingly be made to any address or to any property that is part of:
- a. Any public or private elementary or secondary educational school, including without limitation any dormitory, housing, or common space located on the campus of any elementary or secondary educational school;
 - b. Any prison, reformatory, and other correctional facilities;
 - c. Any addiction or substance abuse facilities;
 - d. Any locker, mailbox, package shipping location, or similar service or storage facility business; or
 - e. Any retailer.
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(14) A packaged goods retailer may use electronic means to market, receive, and process orders for malt beverages and wine it is licensed to sell placed by individuals who are at least 21 years of age, provided that any such orders shall be delivered in accordance with subsection (x) of this Code section.

(15) A packaged goods retailer may market, receive, and process orders for malt beverages and wine it is licensed to sell placed by individuals who are at least 21 years of age using electronic means owned, operated, or maintained by a third party, provided that any such orders shall be delivered in accordance with subsection (x) of this Code section and:

- (1) The packaged goods retailer maintains control and responsibility over the sales transaction and the transfer of the physical possession of the malt beverages and wine from the inventory of such packaged goods retailer to the individual conducting the delivery in accordance with subsection (b) of this Code section;
- (2) The packaged goods retailer shall retain sole discretion to determine whether to accept and complete an order or to reject an order;
- (3) The purchase transaction takes place between the individual placing the order and the packaged goods retailer and the packaged goods retailer appears as the merchant of record at all times, including at the time of purchase and at the time of receipt of the delivery;
- (4) Any credit or debit card information provided by the individual placing the order to a third party for the purpose of transacting the purchase with the packaged goods retailer is automatically directed to the packaged goods retailer;
- (5) The packaged goods retailer that accepts the order receives the payment that is made by the individual who is transacting the purchase with such packaged goods retailer; and
- (6) The delivery of malt beverages and wine to the individual who placed the order is made by the packaged goods retailer, employee, or third party in compliance with the requirements of subsection (b) of this Code section.

(16) Notwithstanding any other provision of law, and except where prohibited by local ordinance or resolution, a licensed retail package liquor store that is also a packaged goods retailer may deliver distilled spirits in unbroken packages lawfully sold to and purchased by an individual for personal use and not for resale in the same manner and under the same terms and conditions as provided in this Code section for the delivery of malt beverages and wine.

(17) The penalties provided for in this Code section shall be in addition to any criminal penalties that may otherwise be provided by law.

(Ord. of 11-14-1995, § 5; Ord. No. 6-35, 10-19-2010; Ord. No. 6-35A, 11-20-2012)

Sec. 6-36. - Same—Revocation.

- (a) *Grounds for termination or suspension.* Except as otherwise provided in this subsection, any license may be terminated or suspended for the following reasons:
- (1) Violation of any provision of this article;
 - (2) Violation of any provision of the regulations of the state department of revenue relating to sale and/or taxation of alcoholic beverages;

- (3) Violation of any provision of the regulations of the laws of the state relating to sale and/or taxation of alcoholic beverages;
 - (4) Commission of a felony violation of the criminal laws by the licensee of the state on the premises or use of the premises by the licensee for purposes of committing a felony;
 - (5) Any other good and sufficient cause.
- (b) *Notice.* Before the termination or suspension of a license, written notice of the charges shall be given at least ten days before the date set for hearing and shall state:
- (1) The causes for the suspension or revocation in sufficient detail to enable him fairly to show any error that may exist therein;
 - (2) The names of the known witnesses and a concise summary of the evidence to be used against him. The names of new witnesses shall be given as soon as practicable;
 - (3) The time and place where the hearing thereon will be held; and
 - (4) That the licensee may present witnesses and documents and other papers as provided by law.
- (c) *Service.* All notices required by this section relating to suspension or termination of licenses shall be served either personally or by certified mail. Service by certified mail shall be deemed to be perfected on the date of the postmark when the notice is deposited in the United States mail correctly addressed to the last known address of the addressee with sufficient postage affixed to the envelope. Service by hand delivery shall be deemed perfected when actually delivered to the licensee.
- (d) *Counsel; testimony.* Any licensee against whom such charges listed in subsection (a) of this section have been brought shall be entitled to be represented by counsel.
- (e) *Hearing.*
- (1) The hearing shall be conducted before the board of commissioners, or the board of commissioners in its discretion may designate a tribunal to consist of not less than three nor more than five impartial persons possessing expertise to conduct the hearing and submit its findings and recommendations to the board of commissioners for its decision thereon; or the board in its discretion may refer the matter for hearing to a hearing officer who shall be an attorney licensed to practice law in this state who shall conduct the hearing and submit findings and recommendations to the board of commissioners for its decision thereon.
 - (2) The hearing shall be reported at the board's expense. If the matter is heard by a tribunal or hearing officer, the transcript shall be prepared at the expense of the board and an original and two copies shall be filed in the office of the county commission. If the hearing is before the board, the transcript need not be typed unless an appeal is taken to superior court, in which event typing of the transcript shall be paid for by the appellant. In the event of an appeal to superior court, the original shall be transmitted to the superior court as required by its rules.
 - (3) Oath or affirmation shall be administered to all witnesses by the chairman, any member of the local board, hearing officer, any certified court reporter or by the county attorney. Such oath shall be as follows:

"You do solemnly swear (or affirm) that the evidence shall be the truth, the whole truth, and nothing but the truth. So help you God."
 - (4) All questions relating to admissibility of evidence or other legal matters shall be decided by the chairman or other presiding officer, subject to the right of either party to appeal to the full local board or hearing tribunal, as the case may be; provided, however, the parties by agreement may stipulate that some disinterested member of the state bar shall decide all questions of evidence and other legal issues arising before the local board or tribunal. In all hearings, the burden of proof shall be on the county, and it shall have the right to open and to conclude. Except as otherwise provided in this subsection, the same rules governing nonjury trials in the superior court shall prevail.
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- (f) *Decision; appeals.* The board shall render its decision at the hearing or within five days thereafter. Where the hearing is before a tribunal or hearing officer, the tribunal shall file its findings and recommendations with the local board within five days of the conclusion of the hearing, and the local board shall render its decision thereon within ten days after the receipt of the transcript. Appeals may be taken to superior court as provided by law.
- (g) *County manager's power to suspend license temporarily.* The county manager may temporarily suspend a license pending hearing by the board of commissioners in those cases where the charges are of such seriousness or other circumstances exist which indicate that such licensee should not be permitted to continue to do business pending hearing without danger of serious harm to the community or the public. In any such case, the county manager shall notify the licensee in writing of such action, which notice shall state the grounds thereof and shall otherwise comply with the requirements of the notice set forth in subsection (b) of this section. Such action by the county manager shall not extend for a period in excess of ten working days, and during such period it shall be the duty of the board of commissioners to conduct a hearing on the charges in the same manner provided for in subsections (e) and (f) of this section, except that notice of the time and place of hearing shall be given at least three days prior to the hearing. If the hearing is delayed after the ten-day period as set out in this subsection at the request of the licensee, then the licensee shall not be permitted to reopen until action is taken by the board of commissioners. If the hearing is delayed beyond the period required in this article through no fault of the licensee, the licensee shall be permitted to reopen after the ten-day period, but may still be subject to having his license revoked or suspended by the board of commissioners.
- (h) *Court findings.* Revocation or suspension of licenses under this section shall be cumulative with and in addition to revocation or suspension by any court as provided elsewhere in this article. Action by any court finding a licensee not guilty of any violation or upon a finding of guilt or plea of guilty or of nolo contendere and declining to suspend or revoke an alcohol license shall not be binding on the board of commissioners who may still take adverse action against a licensee under this section.

(Ord. of 11-14-1995, § 11)

Sec. 6-37. - Same—Transfers.

- (a) *License not transferable to another location.* Each license is issued for a specific location only and may not be transferred to another location. New application must be made for any change of location.
- (b) *Transfer of license to another person.* No alcoholic beverage license shall be transferred from one person or one license holder to another during the year in which the license was obtained, except in the case of the death of a person holding a license, in which event his executor or administrator may continue to operate under the license for six months from the date of his qualifications. After such period a new application for a new license shall be required and must be approved for operations to continue. The new applicant must meet all requirements which must be met by a new business.
- (c) *Operation by new owner under prior license.* Upon the sale of any licensed business hereunder, the new owner may operate the business under the old license under this article, but in no event for longer than 60 days or until his application is granted or refused under this article, whichever shall first occur. The new license shall be required to meet all requirements of law and of this article as to his personal qualifications to hold a license.

(Ord. of 11-14-1995, § 5(b), (d), (e))

Sec. 6-38. - Same—Location regulations.

- (a) *Class B licenses.* Class B licenses shall not be issued for a location in which the nearest wall of the building proposed as the licensed premises is within 300 feet of any school building, educational
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building on a college campus, or an alcoholic treatment center owned and operated by this state or any county or municipality.

- (b) *Class A, class C and class D licenses.* Class A, Class C and Class D alcoholic beverage licenses shall not be issued for a location in which the nearest wall of the building proposed as the licensed premises is closer than 600 feet in a straight line measurement to the nearest wall of a school building, educational building, college campus, or within 300 feet of an alcoholic treatment center owned and operated by this state or any county or municipality, or within 300 feet of church building or within 300 feet of the property line of a private dwelling which is in existence at the time of the issuance of the original license. Excluded under this article is a private dwelling that has been unoccupied for at least 12 months immediately prior to the application being filed. Nor shall any such license be issued for a location within 2,600 feet of any building of the Central State Hospital or Youth Development Center. The restrictions in subsection (a), this subsection and subsection (d) shall not apply to hotels of 50 rooms or more which have been in continuous operation for a period of at least five years preceding July 1, 1981, and bona fide private clubs, owning their own homes or buildings.
- (c) *Proximity of other businesses owned by licensee.* A retailer licensed under this article shall not operate a business within one fourth mile of the location licensed under this article, including, and limited to a lunchroom, dining room, restaurant, dancehall, tourist camp, billiard parlor, any business featuring live entertainment or any business in which clothing or lingerie is modeled by employees of the business. This includes businesses owned directly or indirectly or in part by the licensee.
- (d) *Distances to schools, churches, private homes, etc.* At the time of application, a drawing of the location showing distances to all relevant locations (i. e., schools churches, private homes, etc.) shall be provided which shall certify that all state and local distance requirements for the proposed location and proposed building have been met. The applicant shall attach a certificate to the drawing swearing that the distances shown are correct. An inaccurate statement on the drawings shall be grounds for revoking a license which has been granted in reliance on these representations if the representation was that the distances made the location acceptable under this article when it was not.
- (e) *Renewal.* All licenses which are in existence and valid as of the date of passage of the ordinance from which this article is derived may continue to be renewed pursuant to this article even though they may be in violation of this section; furthermore, that location may continue to be licensed pursuant to this article so long as the premises are continuously used for the sale of alcoholic beverages pursuant to this article, even though not under the same owner. At such time as the license for this premises is revoked, not renewed or is allowed to lapse, or a new license is not applied for and granted for the location within one year of the expiration or termination of the previous license, this subsection and the prohibitions in this article shall apply to any new application for that location. See O.C.G.A. § 3-3-21 and *Powell v. Board of Commissioners of Roads and Revenues*, 234 Ga. Laws page 183 (1975).

(Ord. of 11-14-1995, § 5(f))

Sec. 6-39. - Same—Granting to public employees prohibited.

No license shall be granted to any county, state or federal employee whose duties include the regulation or policing of alcoholic beverages or licenses or any tax collecting activity.

(Ord. of 11-14-1995, § 5(g))

Sec. 6-40. - Licensee responsibilities—Employees.

It shall be unlawful for any person to allow or require a person in his employment under the minimum age designated by law to dispense, serve, sell or take orders for any alcoholic beverages. It shall be unlawful for a retailer knowingly to employ a person who has been convicted of violating the provisions of this article within a two-year period measured from the date of conviction. See O.C.G.A. § 3-3-24.

(Ord. of 11-14-1995, § 5(a))

Sec. 6-41. - Same—Compliance with regulations; suspension; revocation, etc. of license.

Each license shall be subject to and comply with all ordinances and laws of Baldwin County, the State of Georgia or unit thereof and the federal government. Upon the violation thereof by a licensee, any license may, after a hearing before the judge of magistrates court, be revoked, suspended or put on probation under conditions in addition to the punishment as for a misdemeanor. Notwithstanding the above, any license holder convicted of selling alcoholic beverages to underage persons shall have his license suspended by such judge for a minimum of 30 days. For purposes of this section, a plea of nolo contendere shall be deemed a conviction.

(Ord. of 11-14-1995, § 5(c))

Sec. 6-42. - Same—Duty to maintain books and accounts.

Upon demand by the director of finance, the sheriff or their designated representatives, any person holding a license from the county shall open to the director of finance or his designated representative, his place of business and records for the purpose of enabling the director or his representative to ascertain and gain such information as may be necessary for determination of the proper classification of such license holder for license fee purposes and determination of the correct amount of license fee to which such person is subject. Upon demand by the director of finance or his designated representative, any person holding a license from the county shall furnish the director or his representative, during normal business hours at such person's place of business, all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information, ascertained and from which the correct amount of the fee to which he is subject may be determined, including exhibition of bank deposit books, bank statements, and copies of sales tax reports, and any other such documents as the county may deem necessary. Any person holding a license from the county shall secure, preserve, maintain and keep for a period of three years the records and documents enumerated and referred to in this section.

(Ord. of 11-14-1995, § 5(h))

Sec. 6-43. - Same—Failure to open establishment.

All holders of licenses issued pursuant to this article must, within six months after the issuance of a license, open for business the establishment referred to in the license. Failure to open the licensed establishment as referred to within such period shall serve as a forfeiture and cancellation of the unused license and no refund of the license fee shall be made to the license holder.

(Ord. of 11-14-1995, § 5(i))

Sec. 6-44. - Dive defined; prohibited; penalty for violation.

- (a) *Term defined.* As used in this section, the term "dive" shall mean any place or establishment where illegal drugs are found, possessed, kept or sold; or where any person possesses or consumes any illegal or unlicensed alcoholic beverage; or where any person possesses or uses any illegal drug; or where any person commits any illegal sexual act; or where any person engages in gambling activities.
 - (b) *Prohibition.* It shall be unlawful for any person or organization or group of persons to have, operate or maintain any place or establishment defined as a dive.
 - (c) *Penalty for violation.* There shall be a fine of not less than \$500.00 and revocation of business license for the violation of any of the provisions of this section.
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(Ord. of 11-14-1995, § 6)

Cross reference— Definitions generally, § 1-2.

Sec. 6-45. - Alcohol promotions.

No licensee or employee or agent of a licensee shall engage in any of the following practices in connection with the sale or other disposition of alcoholic beverages:

- (1) The giving away of any ticket, token or any other item that can be exchanged for any alcoholic beverages with the sale of any other alcoholic beverage;
- (2) The sale of two or more alcoholic beverages for a single price, or the sale of one alcoholic beverage with a ticket, token or any other item redeemable for a subsequent alcoholic beverage. Also prohibited under this article is the sale of all such beverages a customer can or desires to drink at a single price.

(Ord. of 11-14-1995, § 8)

Sec. 6-46. - Excise taxes—Malt beverages and wine.

(a) *Generally.* There is hereby imposed and levied a specific excise tax upon all wholesale dealers in malt beverages and/or wine selling, transferring or dispensing malt beverages and/or wine within the county, as follows:

- (1) *Tap and draft beer in barrel or bulk container.* Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons.
- (2) *Malt beverages in bottles, cans, or other containers.* Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces (i.e., \$0.4155 per ounce), computed as follows:

Size of Container	Tax per Container
7 ounces	\$ 0.0292
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0667
32 ounces	0.1333

½ barrel (15½ gallons)	8.27
1 barrel (31 gallons)	16.53

(3) *Wine by the package.*

- a. *Per liter.* Upon the sale of wine by the package of \$0.22 per liter, and a proportionate tax at the same rate on all fractional parts of a liter upon all such beverages sold in the unincorporated area of the county. See O.C.G.A. § 3-6-60.
- b. *Exception.* The tax imposed upon wine shall not be levied with respect to:
 1. Wine sold to and used by established and recognized churches and synagogues for use in sacramental services only;
 2. Any sale of wine which is exempt from taxation by the state under the Constitution of the United States;
 3. Wine sold to persons outside this state for resale or consumption outside of this state; or
 4. Wines which contain less than one-half of one percent alcohol by volume, which shall not be subject to any tax levied under this article.

(4) *Liquor by the drink.* There is imposed an excise tax upon the sale of the distilled spirits by the drink of three percent of the charge to the public for the beverages. The tax authorized by this section shall not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage. See O.C.G.A. § 3-4-131.

(5) Sales by private clubs (O.C.G.A. § 3-7-61). Reserved.

- (b) *Cumulative.* The taxes shall be in addition to all other taxes and/or license fees imposed in this article and to be paid and collected as provided by this article.
 - (c) *Payment.* The excise tax provided for in this article shall be imposed upon and shall be paid by the wholesale dealer (duly licensed by proper authorities under state laws) in malt beverages and/or wine selling, transferring or dispensing such malt beverages and/or wine within the unincorporated area of the county. The taxes shall be paid by such wholesale dealer on or before the tenth day of the month following the calendar month in which the beverages are sold, transferred or dispensed within the county. Each wholesaler responsible for the payment of the excise tax shall file a report on or before the tenth day of each month with the clerk of the county commission showing for the preceding calendar month the exact quantities of malt beverages and/or wine, by size and type of container, constituting a beginning and ending inventory for the month, sold, transferred or dispensed within the unincorporated area of the county. The wholesaler shall remit the tax imposed under this article to the clerk of the county commission on or before the tenth day of the month next succeeding the calendar month in which such sales or transfers were made, less five percent discount to be retained by the wholesalers.
 - (d) *Untaxed beverages.* No wholesale or retail dealer in malt beverages and/or wine in the unincorporated area of Baldwin County shall offer for sale or transfer for gift any malt beverages and/or wine unless the excise tax levied in this article has been paid on the items sold, dispensed or otherwise transferred. No retailer in malt beverages or wine shall purchase any such items except from a wholesale dealer duly licensed by proper authority of the state laws.
 - (e) *Wholesale sales.* No wholesale malt beverage or wine dealer shall sell malt beverages or wine at retail at the same location where a malt beverage or wine is sold at wholesale.
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- (f) *Inspection.* The director of finance, sheriff, or their designated representatives, shall be authorized to enter upon the premises of any wholesale or retail malt beverage or wine dealer at responsible hours to make any inspection of books, records or inventory as he deems necessary to ensure compliance with this section.
- (g) *Violations.* If any wholesaler or retail dealer subject to the provisions of this section shall wilfully violate the same, or fail or refuse to comply with the provisions thereof, such dealer shall be punished as provided in this article and shall be subject to such license being revoked, suspended, put upon probation, if issued by the county, or other penalty imposed.
- (h) *Penalties.* The code enforcement office, or its designated representative, may issue execution against the responsible party for failure to pay any excise tax when due. As a penalty for failure to pay any tax imposed under this article on time and as provided hereby, there shall be added thereto a penalty of ten percent of the amount of such tax, plus interest at the legal rate. After three months there shall be added an additional penalty of ten percent of the amount of such tax thereto.

(Ord. of 11-14-1995, § 8)

Cross reference— Taxation, ch. 50.

Sec. 6-47. - Same—Distilled spirits.

- (a) In addition to licenses and taxes levied upon dealers at retail of distilled spirits as defined in O.C.G.A. § 3-1-2, the following excise tax shall be levied and collected and is hereby levied by authority of O.C.G.A. § 3-4-80 (1980 Ga. Laws, page 1573): upon every retail dealer of distilled spirits as defined in O.C.G.A. § 3-1-2, an excise tax on the sale of distilled spirits by the package of \$0.22 per liter of distilled spirits, excluding fortified wine, and a proportionate tax at like rates on all fractional parts of a liter on all such spirits sold or distributed in the unincorporated area of the county shall be paid.
 - (b) The tax levied pursuant to this article shall be paid by retailers to wholesalers at the time of delivery of the beverages to the retailer. It shall be the duty of each such retailer to pay, and it shall be the duty of each wholesaler of such beverages to receive, the proper amount of the tax hereby levied upon such beverages or cases thereof delivered by a wholesaler to a retailer. All persons selling such beverages at wholesale or making delivery of the same in the unincorporated areas of the county shall remit by the tenth of each calendar month, less than three percent collection fee, all sums collected by such wholesaler during the preceding calendar month. Such remittance shall be made to the director of finance.
 - (c) It shall be unlawful for any retailer of such beverages or distilled spirits to receive and retain any such beverages unless he shall have paid the excise tax thereon. It shall be unlawful for any wholesaler of such beverage to sell or deliver any such beverage to any retailer thereof unless he shall, concurrently with such delivery, collect the tax imposed hereby. It shall be unlawful for any wholesaler of such beverages to fail or omit to remit to the county promptly, when due, the taxes levied hereby and collected by such wholesaler. It shall be unlawful for any person engaged as a retailer of such beverages to receive any such beverages from another retailer of such beverages unless the tax imposed in this article shall have been paid. It shall be unlawful for any retailer of such beverages to receive and retain such beverages from another retail store, whether such other store shall be owned by the receiving retailer or not, or whether such other store is located within the unincorporated area of county or not, unless the tax imposed in this article shall have been paid and remitted to the director of finance. No retail dealer in distilled spirits in the unincorporated area of the county shall offer for sale any distilled spirits unless the excise tax levied in this article has been paid as provided hereby. Any distilled spirits found on the premises of any retail dealer on which the excise tax has not been paid as provided herein shall be confiscated. All retail and wholesale dealers shall keep a correct record of all purchases, transfers or distribution of distilled spirits within the unincorporated area of the county, and all retail dealers shall require the wholesale dealer to furnish an invoice of each purchase, which shall be kept and preserved by the retail dealer at his or her place of business for a period of six months from the date of purchase and shall be open and subject to inspection by the authorized
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representatives of the county commission at all reasonable times. The books and records of all wholesalers selling or delivering such beverages and of all retailers thereof in the county shall be subject to inspection and audit by the agents of the county to ensure compliance herewith. It shall be unlawful for any person affected hereby to deny any authorized agent of the county reasonable access to its books and records, and it shall be the duty of each such person to keep accurate and complete records of payments and collections of such excise tax and remittances to the county. Any wholesale or retail dealer or other person who violates this article or who aids and abets another in the violation of same or in the evasion of collection of the tax due pursuant to this article shall be punished as for a misdemeanor.

(Ord. of 11-14-1995, § 9)

Cross reference— Taxation, ch. 50.

Secs. 6-48—6-70. - Reserved.

This 5 day of January, 2021


Chairman


Cynthia K. Cunningham, County Clerk



**BALDWIN COUNTY
FY2021 CDBG APPLICATION
RESOLUTION**

WHEREAS, the Georgia Department of Community Affairs has established the Community Development Block Grant program to assist cities and counties with improvements to public facilities, economic development, and housing in Georgia, and

WHEREAS, there exists in Baldwin County a need to provide sewer infrastructure improvements to the County's FY2021 CDBG Target Area,

NOW THEREFORE, BE IT RESOLVED by the Chairman and Board of Commissioners that the County supports the application for FY2021 CDBG funds and that the County will apply for these funds for sewer infrastructure improvements in the County's FY2021 CDBG Target Area. The County commits to the required cash match for the project, \$1,000 cash for the required audits and all additional cash and/or in-kind services needed to complete the project over the grant amount.

BE IT FURTHER RESOLVED that the Chairman is authorized and directed to act as the official representative of the County, to act in connection with the application, to be responsible for compliance with the applicable state and federal requirements of the program, and to provide such additional information as may be required;

BE IT FURTHER RESOLVED that the Chairman is authorized to enter into an agreement for Engineering and Grant Administration services relating to the application and subsequent grant (if funded) and to execute the application and other required documents on behalf of the County including the grant award package (if funded);

BE IT FURTHER RESOLVED that the County commits to own, operate, and maintain all proposed improvements;

BE IT FURTHER RESOLVED that the County hereby adopts the Citizen Participation Plan of the Georgia Department of Community Affairs to ensure public involvement in the CDBG process;

BE IT FURTHER RESOLVED that the County hereby acknowledges that the proposed project is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3) and in accordance with the Georgia Department of Community Affairs' Section 3 Compliance Plan will to the greatest extent feasible, comply with all Section 3 requirements;

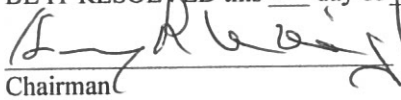
BE IT FURTHER RESOLVED that the County hereby acknowledges that the proposed project is subject to the requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, Section 104(b)(2) of the Housing and Community Development Act of 1974, as amended, and Section 105(b)(3) of the National Affordable Housing Act of 1990 (NAHA). The County hereby commits to Affirmatively Furthering Fair Housing to the greatest extent feasible.

BE IT FURTHER RESOLVED that the County hereby acknowledges that the proposed project is subject to the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, Title II of the Americans with Disabilities Act of 1990 (ADA), and the Architectural Barriers Act of 1968. The County hereby commits to comply with all Section 504 requirements to the greatest extent feasible.

BE IT FURTHER RESOLVED that the proposed sewer infrastructure improvements are in conformance with the County's Comprehensive Plan and are not inconsistent with the County's Service Delivery Strategy;

BE IT FURTHER RESOLVED that a true and dedicated commitment has been made to the project for the successful completion of the above improvements for the citizens, especially the County's low-to-moderate income citizens;

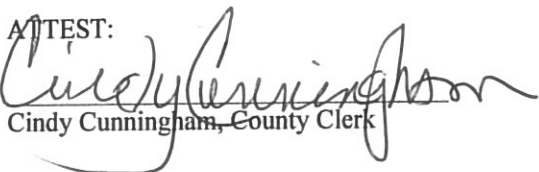
BE IT RESOLVED this 5 day of January, 2021.


Chairman

CERTIFICATION

I do hereby certify that the foregoing is a true and correct copy of the Resolution duly adopted by the County the date so stated in said Resolution. I further certify that I am the County Clerk and that said Resolution has full force and effect the 5 day of January, 2021.

ATTEST:


Cindy Cunningham, County Clerk

(SEAL)

