

**DAWSON COUNTY BOARD OF COMMISSIONERS
WORK SESSION AGENDA – THURSDAY, MARCH 4, 2021
DAWSON COUNTY GOVERNMENT CENTER ASSEMBLY ROOM
25 JUSTICE WAY, DAWSONVILLE, GEORGIA 30534
4:00 PM**

NEW BUSINESS

- [1.](#) Presentation of a Broadband Ready Community Ordinance- Public Works Director David McKee
- [2.](#) Presentation of Alcohol Ordinance Update- Planning & Development Director Jameson Kinley
- [3.](#) Presentation of Drug and Alcohol Program Manager Policy Update- Human Resources Director Brad Gould
4. Presentation of Naming the Main Room of the Pauline Stephens Ivey Senior Center for Betty Anne Looper Bagley- Commissioner Sharon Fausett
5. County Manager Report
6. County Attorney Report

****A Voting Session meeting will immediately follow the Work Session meeting.***

Those with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting, should contact the ADA Coordinator at 706-344-3666, extension 44514. The county will make reasonable accommodations for those persons.



DAWSON COUNTY BOARD OF COMMISSIONERS AGENDA FORM

Department: Public Works

Work Session: 3-4-21

Prepared By: David McKee

Voting Session: 3-18-21

Presenter: David McKee

Public Hearing: Yes X No

Agenda Item Title: Broadband Ready Community Ordinance

Background Information:

In 2018 the state of Georgia started the Georgia Broadband Deployment Initiative (GBDI). This is a program that was implemented for the purpose to assist in deploying broadband to all areas of Georgia by the Department of Community Affairs. The program certifies communities as Broadband Ready. The designation allows for funding through grants under GBDI, USDA and others. Eleven cities and counties in the state have received the designation.

Current Information:

The designation of a Broadband Ready Community applies standards and adopts a policy for permitting broadband infrastructure within the county ROW, and assures that broadband is covered in the Comprehensive Plan. It is understood that the no revisions need to be made to the Comprehensive Plan. Dawson County will need to adopt the model ordinance and comply with the policy standards.

Budget Information: Applicable: Not Applicable: ☒ Budgeted: Yes No ☐

Fund	Dept.	Acct No.	Budget	Balance	Requested	Remaining

Recommendation/Motion: Staff recommends approval to hold public hearings on the broadband ready community ordinance

Department Head Authorization: David McKee

Date: 2-23-21

Finance Dept. Authorization: Vickie Neikirk

Date: 2/24/21

County Manager Authorization: David Headley

Date: 2/24/2021

County Attorney Authorization: _____

Date: _____

Comments/Attachments:

Model ordinance

The following EXAMPLE, drafted by Georgia Department of Community Affairs, is available to assist City's and County's in drafting their own ordinance or policy. Cities and counties should consult with their legal counsel concerning the appropriate approach for their respective communities to customize as necessary to comply with any local laws, rules, procedures or policies.

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.

(1) Single Point of Contact.

(City/County Name), Georgia shall appoint a single point of contact for all matters related to a broadband network project:

- a) The single point of contact documentation shall include;
 - i. Position & Title
 - ii. Name (first, last)
 - iii. Organization (municipality, county, or authority with participating entities involved in the (City/County Name) request designation)
 - iv. Phone Number(s) (work and mobile if applicable)
 - v. Email(s) (preferred email alias that can be directed to point of contact or acceptable official work email)
 - vi. Website URL to Contacts Page (required if applicable/available)
- b) 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 right-of-way; and
- c) 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.

(2) Application Completeness Review.

- a) (City/County Name) shall determine whether an application is incomplete and notify the applicant, by email, of the determination by (City/County Name) within 10 calendar days of receiving an application.
- b) If (City/County Name) 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.

(3) Notification of Incomplete Application.

- a) If the (City/County Name) 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’;
- b) The (City/County Name)’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:
 - i. The applicant has up to 40 calendar days from the date of notification of incompleteness to respond back with corrections; and
 - ii. If the applicant does not respond back within 40 calendar days, the application is deemed canceled.
- c) If within 10 calendar days the (City/County Name) 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
- d) The (City/County Name) shall require a new submission and reset the process and application fees, should an application be deemed incomplete a second time.

(4) Approval or Denial Notification.

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

- a) 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:
 - i. Where applicant is going to conduct work,
 - ii. When the work will be conducted,
 - iii. What type of work will be done,
 - iv. Who the (City/County Name) can contact for specific details or related questions, and
 - v. Any permit seeking approval under application.
 - vi. Following a joint meeting between the applicant and the (City/County Name), the (City/County Name) shall deny or approve the application within 10 calendar days.
- b) Upon final approval, any required permit permitted shall be deemed issued.

(5) Related Fees.

- a) Any fee imposed by (City/County Name) 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.
- b) Any application fee that exceeds \$100.00 shall be considered unreasonable unless (City/County Name) can provide documentation justifying such fee based on a specific cost.

(6) Other Information.

- a) **Double Fee:** No City or County shall 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 the City or County prior to access of right-of-way within the City or County jurisdiction.
- b) **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.
- c) **Single Service Drop:** A City or 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.

(7) (City/County Name) acknowledges:

- a) 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
- b) Failure to notify Georgia Department of Community Affairs of changes may result in revocation of (City/County Name)'s Broadband Ready Certification, should the certification be granted.

(8) This ordinance shall take effect immediately upon adoption by the governing body upon final reading.

PASSED AND SO ORDERED, this _____ day of _____, 2019.

(Mayor's Name)

Mayor

(City/County Name)

The following EXAMPLE, drafted by Georgia Department of Community Affairs, is available to assist City's and County's in drafting their own ordinance or policy. Cities and counties should consult with their legal counsel concerning the appropriate approach for their respective communities to customize as necessary to comply with any local laws, rules, procedures or policies.



DAWSON COUNTY BOARD OF COMMISSIONERS AGENDA FORM

Department: Planning & Development

Work Session: 3/4/2021

Prepared By: Harmony Gee

Voting Session 3/18/21

Presenter: Jameson Kinley

Public Hearing: Yes x No

Agenda Item Title: Presentation of Alcohol Ordinance Update

Background Information:

In June 2020 the Planning director presented the Board of Commissioners an update to the alcohol ordinance that would allow alcohol to be served within Residential Agriculture zoning districts at wedding and event venues. When the ordinance was voted upon in July it was asked of the Planning department to review the ordinance for any other updates that may need to be made.

Current Information:

Planning staff has worked at length on an update to the ordinance, looking at surrounding jurisdictions and consulting with legal along the way. Updates to the ordinance will not only allow wedding and event venues within the county to come into compliance if criteria are met, which has been an ongoing issue, but also includes several state-regulated updates.

Budget Information: Applicable: _____ Not Applicable: x Budgeted: Yes _____ No _____

Fund	Dept.	Acct No.	Budget	Balance	Requested	Remaining

Recommendation/Motion: _____

Department Head Authorization: _____

Date:

Finance Dept. Authorization: Vickie Neikirk

Date: 2/24/21

County Manager Authorization: David Headley

Date: 2/24/2021

County Attorney Authorization: _____

Date: _____

Comments/Attachments:

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Chapter 6 - ALCOHOLIC BEVERAGES

Article I General

Article II Malt Beverages and Wines

Article III Distilled Spirits

Article IV Private Clubs

Article V Special Event Permits

Article VI Hotel In-Room Service

Article VII Farm Wineries

Article VIII Catering

Article ~~IX~~^{IV} Agribusiness Sale of Malt Beverages & Wine by the Drink

Article ~~X~~^{IX} Excise Tax

Article ~~XI~~^X Enforcement

Article XII Prohibited Sales, Purchase and Possession

Article ~~XII~~^{III} Variances

Article ~~XIV~~^V Definitions

ARTICLE I. - GENERAL

Sec. 6-1. - Title.

This chapter shall be known as and may be referred to as the Dawson County Alcohol Ordinance or Dawson County Alcoholic Beverage Code.

Sec. 6-2. - Purpose.

The purposes of this chapter include, but are not limited to, the following:

- (1) Compliance with state law.
 - (2) Guarding against monopoly and concentration of the retail sales of alcoholic beverages in one group.
 - (3) Prevention and control of the sale of alcoholic beverages by unfit persons.
 - (4) Promotion of appropriate land use planning and zoning in accordance with the county's comprehensive zoning policies.
 - (5) Protection of schools, homes, churches, parks, and other institutions.
 - (6) Protection of public health, safety, and general welfare.
-
- (a) Alcoholic beverages may be sold in the unincorporated area of the county only after issuance of a license for such and only in the manner permitted by said license, upon the terms and conditions provided in this chapter. Sales are permitted only by licensees who comply with the rules of this chapter and with the licensing, revenue and regulatory requirements of the State of Georgia.
 - (b) All licenses issued pursuant to this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this chapter and state law. Licenses may be abandoned by the licensee, may be suspended or placed under restrictive conditions by the board of commissioners, and are subject to being revoked by the Board of Commissioners. Renewal is subject to the discretion of the Board of Commissioners.
 - (c) All licenses issued pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."
 - (d) Any holder of a license issued in accord with this chapter is required to apply for and obtain all applicable alcoholic beverage licenses from the state before any sales or service commence. Additionally, county licensees and permit holders are required to abide by all applicable State regulations and laws.
 - (e) All licenses issued under this chapter shall:
 - (1) Permit the licensee to sell or distribute the beverage for which the license is issued and for the purpose authorized, within Dawson County, Georgia, but outside municipalities in Dawson County, Georgia, pursuant to the terms of this chapter and not inconsistent with the laws of the State of Georgia and of the United States;
 - (2) Expire on December 31 of each year. Application for renewal shall be made annually on or before November 30th. Any licensee making proper application, with supporting documents

and required fees, for a license to operate during the following calendar year and having filed such application prior to November 30, shall be permitted to continue to operate pending final action (approval or disapproval) of such licensee's application for the following year if final approval or disapproval is not done prior to January 1;

- (3) Not be transferred from one person to another or from one location to another without the prior approval of the county commission upon written application; and
- (4) Be subject to all terms and conditions imposed or provided for by future provisions or amendments to this alcoholic beverage ordinance.
- (f) Any license or permit under this chapter which is issued by administrative error, or due to mistake, or in reliance upon any misrepresentation by the applicant or anyone providing information on behalf of the applicant shall be null and void and shall be subject to seizure by the sheriff or other official charged with enforcement of this chapter. When notified of the invalidity by Dawson County personnel, the licensee or permittee shall immediately cease operation and surrender the license or permit to the county. The licensee/permittee shall be given written notice of the invalidity of the license or permit and the reasons therefor, and shall be advised of the right to appeal the decision to the board of commissioners, which shall consider the asserted grounds for invalidity and the licensee's arguments and/or evidence contesting the assertion of invalidity. Once the licensee has been given notice and an opportunity to be heard the board shall determine the issue and cause written notice of its decision to be provided to the licensee.
- (g) There shall be a separate application, license fee, application fee and license required for each proposed location of a proposed licensee and for each category of operation as provided for herein.

Sec. 6-4. - Types of licenses and permits issued.

- (a) Only the following licenses and/or permits shall be issued under this chapter:
 - (1) Malt beverages ~~and Wine~~, wholesale.
 - (2) Malt beverages ~~and Wine~~, retail package.
 - (3) Malt beverages ~~and Wine~~, by the drink for consumption on the premises.
 - ~~(47)~~ Distilled spirits, wholesale.
 - ~~(58)~~ Distilled spirits, retail package.
 - ~~(69)~~ Distilled spirits, by the drink for consumption on the premises.
 - ~~(740)~~ Caterer [License](#)
 - ~~(811)~~ Farm Winery
 - ~~(912)~~ Special Event [Permits](#)
 - ~~(10)~~ [Event Catering Permit](#)
 - ~~(113)~~ Employee Permit
 - ~~(124)~~ Hotel-motel in-room service permit.
 - ~~(15)~~ [Brewpub/microbrewery](#)
- (b) Licenses relating to wine shall also include mead (honey mead or honey wine). Licenses relating to malt beverages shall also include hard cider.

Sec. 6-5. - Fees.

- (a) There is an annual license fee for each type of license. In addition, there are administrative fees to offset administrative and investigative costs which are charged with the initial, renewal, transfer and reinstatement applications for licenses and permits. The fees applicable to all such licenses, permits, and applications shall be set forth in the Dawson County Alcohol Schedule of Fees. Said fee schedule may be modified by the commission periodically as it deems needed and any changes shall be put in written form. An ordinance or ordinance amendment shall not be necessary to change the fee schedule. The fee schedule shall set forth the amount to be paid as a license (annual) fee and the amount of any administrative fee, investigatory fee or other fee as to each type of license. The administrative, investigatory and other fees may be combined in the schedule. There shall be no waiver of fees or parts of fees except in accordance with written policy approved by the county commission. The director shall be responsible to determine fees and shall have authority to decide upon any dispute, question or objection as to the amount payable as fees with an application in order for the application to be considered complete, subject to review by the board of commissioners.
- (b) Each type of license to be issued requires a separate application. Each application for a license shall be accompanied by a certified check in the full amount of the license fee ~~and additional fees, together with a separate certified check in the amount of the total of administrative fees (application, investigative and any other alcohol fees under this chapter) to defray investigative and administrative costs.~~ In the event a license application is denied, withdrawn or abandoned, the license fee will be refunded, but the administrative fees are nonrefundable. License fee and administrative fee checks shall be delivered to the director or other designee of the board of commissioners with the application and no application shall be deemed complete until all required fees are paid.
- (c) Licenses are valid for not more than one year from date of issue. The normal termination of every license shall be midnight on December 31. If a license is issued prior to July 1 of the year, the full annual license fee shall be payable. If the license is issued July 1 or thereafter, only 50 percent of the license fee shall be payable; the license shall still expire on December 31. All administrative fees are payable regardless of the time of year the application is filed.
- (d) All licenses granted under this chapter shall expire on December 31 of each year unless revoked, surrendered, abandoned or otherwise terminated prior to that normal termination date. Licensees who desire to renew the license shall file applications, with the requisite fee enumerated in the fee schedule, with the designee of the county commission on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to the annual license and administrative fees, a late charge of 20 percent of the total license and administrative fees otherwise payable. If the license application is received after December 31, the late charge/penalty payable shall be increased from 20 percent to 50 percent ~~and such application shall be treated as an initial application; the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held, including criminal background checks. If the license was valid for the existing location on December 31, then it shall not be necessary for a renewal application filed between December 31 and March 31 to meet the location requirements as to churches and other buildings which may have commenced operation subsequent to the date the location was originally licensed for sale of alcoholic beverages.~~
- (e) In the event a license is issued and thereafter abandoned, forfeited, surrendered, revoked, suspended or transferred, no portion of the license fee or administrative fees shall be refunded.

- (f) In the event an application is withdrawn before the license is issued, any sums deposited for license fees will be refunded. Administrative fees will not be refunded.

Sec. 6-6. – Applications and procedures

- (a) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the director, which shall include a diagram illustrating distances to the closest example of each type/class of property for which a minimum distance is prescribed in this chapter, and a diagram/site plan illustrating which portions of the parcel (on which the proposed licensed premise is to be located) shall be usable for sale and/or consumption of alcoholic beverages, such as interior areas, decks, patios, exterior fenced areas, etc. The diagram for on premise consumption licensees shall show the location of each bar, identifying whether it is fixed or mobile, and whether it may include counter service. If the applicant is or will be doing business under a trade name, the application shall include the trade name though the license will be issued to the individual, partnership, Limited Liability Company or corporation in accordance with the provisions of this article.
- (b) If the applicant is an individual, then the application for license shall be in the name of the individual and the license, if issued, shall be issued in that name.
- (c) If the applicant is a partnership or limited partnership, then the application shall be made in the name of the entity; and if a license is issued, then the license shall be issued in the name of the entity or in accord with section 6-9 hereof if section 6-9 applies.
- (d) If the applicant is a limited liability company or a corporation, then the application shall be made in the name of the said limited liability company or corporation; and if a license is issued, then the license shall be issued in the name of the said limited liability company or corporation or in accord with section 6-10 hereof if section 6-10 applies.
- (e) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the county commission or its designee to insure compliance with the provisions of this chapter. The refusal or failure to furnish data, fingerprints, records or information pursuant to such request shall automatically serve to dismiss the application with prejudice.
- (f) The fingerprints provided shall be forwarded to the Sheriff's office and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the two years immediately preceding the date of the application.
- (g) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.
- (h) A notice of each initial application to sell distilled spirits (whether for package sales or for consumption on the premises) shall be advertised in the official legal organ of the county once during each of two weeks during the 30 days preceding consideration of the application. In the event it is determined at or before the time of consideration that there has been a failure as to publication of the required notice, then the appropriate action will be to delay consideration of the application until proper publication is done. The notice shall contain the name of the applicant, the type of license sought, and the location of the proposed licensed premises, as well as the expected date for consideration (including a statement that such date is subject to change).
- (i) An applicant for any type of license under this chapter, including an employee permit, must resolve any pending alcohol related criminal charges before his or her application will be considered.

- (j) If an applicant is notified of a date, time and place to appear before the county commission or its designee in connection with consideration of an initial application, or a renewal application, or a reinstatement request, or a possible disciplinary action such as suspension, probation or revocation, and the applicant fails to so appear, and if the failure to appear is not excused by the county commission or its designee, then the commission or its designee may deny the application, or may consider the proposed disciplinary action unopposed, or may delay further proceedings as the commission or its designee determines to be appropriate.
- (k) (1) Consideration of all initial applications and transfer of location applications under section 6-10 of this Code, shall be done by the county commission at an open meeting of the commission unless the commission by written policy, resolution or amendment to this ordinance designates the director or another person or entity to consider and decide such categories of possible actions.
- (2) The county commission shall consider and decide all proposed suspensions, revocations, or other potential disciplinary matters as to any license in an open meeting of the commission, with the exception of emergency suspensions done on a temporary basis, which may be done by the county manager, fire chief, building official or sheriff for public safety reasons under section 6-~~10479~~ of this Code, until the commission is able to schedule a hearing on the matter for its consideration of the suspension.
- (3) All applicants/licensees shall appear before the commission at the time of its consideration of any of the foregoing matters, either in person, or by the presence of a registered agent who is suitable to answer all questions which may arise concerning the action under consideration. Such appearance by someone other than the agent must be approved in advance by county staff. Failure to appear may result in such action as the county commission or its designee deems appropriate, including delay to allow re-scheduling, or denial of an application or change, or imposition of the proposed disciplinary action.
- (4) Applications for license renewals; special event alcohol permits; transfer of ownership; issuance or disciplinary action as to employee permits; whether a license has been abandoned due to non-use under section 6-11 below; and all other administrative decisions not specifically committed to the discretion of the commission, shall be determined by the director or his or her designee, subject to right of the applicant or licensee or permit holder to appeal an adverse decision to the board of commissioners by filing a notice of appeal stating the grounds for appeal and relevant supporting facts. Notice of appeal must be filed with the director and must be received in the county's planning office within ten business days of the date of the director/designee decision from which complaint/appeal is made. In the event this chapter requires the director to issue a written notice of decision, then the appeal time shall commence on the date when the director's notice is received by the licensee/permittee.
- (5) Notices of all kinds from the director/designee or the commission may be forwarded to licensee/permittee's address of record by hand delivery; or by certified or registered mail, return receipt requested; or by private express delivery with proof of delivery. Notices will be deemed to be received when actually received by licensee/permittee as evidenced by the return receipt signed by licensee/permittee or other person on behalf of licensee/permittee. If hand delivered, the delivery or refusal may be evidenced by the signed statement of the person who delivered or attempted to deliver the notice. If the notice is returned un-delivered because licensee/permittee refused to accept delivery, or failed to pick up a notice despite notice from the U.S. Postal Service or private express carrier as referred to above, or is returned marked "addressee unknown" or "forwarding order expired" then that will be

deemed to constitute delivery to the addressee if the notice was addressed to the most current address of record. Refusal to accept shall be deemed delivery of the notice as of the date of refusal, and failure to pick up shall be deemed delivery as of the date of notice of attempted delivery (or the date of final notice if more than one notice of attempted delivery or notice to pick up is given by the U.S.P.S. or private carrier).

- (l) The commission or its designee may table or delay further consideration of an application, disciplinary action, or other matter in order to obtain further information or for other reason if it or its designee deems such tabling or a delay appropriate.

Sec. 6-7. - Granting applications; provisional licenses; special terms and conditions.

- (a) When licenses in accord with the terms hereof are initially issued, if more than one applicant seeks to obtain a license within an area where only one license can be issued, then the board of commissioners shall determine to whom the license shall be issued and may consider the following provisions in addition to the provisions set forth in section 6-9 hereof:
 - (1) Whether the applicant owns the property where the licensed business will be located;
 - (2) The experience of the applicant operating retail package stores; and
 - (3) The distance from the proposed location to any church building, school building, day care facility or alcohol treatment facility with those locations being a greater distance from a church building, a school building, a day care facility or an alcohol treatment facility being given preference if the commission determines such preference to be appropriate.
- (b) In deciding whether or not an application will be granted or denied, the commission may consider the qualifications of the applicant, the location of the business and its proximity to other enterprises. The commission may also consider:
 - (1) The effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of properties surrounding the site; and
 - (2) The number of alcoholic beverage licenses already granted in the neighborhood.
- (c) Approval of an application for a license, renewal of a license, reinstatement of a license, or allowance to continue operation under a license in conjunction with adverse action such as suspension or probation, or in lieu of immediate revocation of proposed or imposed, may be conditioned upon the licensee's agreement to and compliance with conditions provided for by the commission, which may be modified during the course of the term of the license as the commission deems appropriate. Such conditions may include, but are not limited to: substitution of a different licensee, manager or agent; non-participation of a named individual in the ownership, operation or management of the licensed business; restriction of days or hours of operation; modification of the licensed premises or of the portion of the property upon which alcoholic beverages may be sold, served or consumed; changes as to staffing; posting of a bond with adequate security to guarantee compliance with state law and the provisions of this chapter as well as any conditions placed upon any license; conditions as to reporting or record keeping; conditions requiring licensee to clean up trash in the vicinity of the licensed premises on a regular basis; or other reasonable conditions, requirements or restrictions as may be prescribed by the commission.

- (d) Approval of a license may be provisional, that is, temporary and based upon conditions requiring or related to carrying out construction, renovation, alteration or improvement of the proposed licensed premises. Terms and conditions which are hereby imposed automatically on a provisional license are as follows: submittal of plans as required by the director, the building official, the fire department, the health department and any other such official or authority; obtaining all appropriate inspections; payment of all required fees; and securing of all necessary certifications and approvals. Any of the foregoing authorities may impose further reasonable conditions. The licensee may not keep or store alcoholic beverages on site, and may not commence operations, until all such conditions are met.

Sec. 6-8. - Denial of an application.

- (a) The county commission shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.
- (b) In all instances in which an initial application is denied under the provisions of this chapter, the applicant may not reapply for a license for at least one year from the date of such denial.

Sec. 6-9. - Qualifications of applicants, licensees and resident agents.

- (a) *Wholesale.* Wholesale licenses shall be issued only to those persons who are licensed by the State of Georgia to sell and distribute malt beverages, wines, or distilled spirits at wholesale.
- (b) *Retail package sales and consumption by the drink on the premises.* In order to qualify for the issuance of a retail license, the following provisions shall apply:
 - (1) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. The applicant must submit all electronic and other verification forms and identification determined by the director to be applicable. The applicant must not be less than 21 years of age. Applicants may choose to employ or designate a qualified registered agent for the administration of the license, but the agent is not permitted to make the application in place of the proposed licensee. ~~All individual applicants who do not reside in Dawson County, and all partnerships, limited partnerships, limited liability companies, and corporate applicants must designate a qualified registered agent, residing in Dawson County.~~
 - (2) If the applicant is a partnership, limited partnership, limited liability company, or corporation, then the provisions of this section shall apply to all its partners, members, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. If the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this chapter. In the case of a partnership, the license will be issued to all the partners owning at least 20 percent of the partnership; or if no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership shall be licensed. In the case of a limited partnership the license shall be issued in the name of the general partner(s). In the case of a limited liability company the license shall be issued jointly in the name of the LLC and its managing member(s), or if there are no managing members, then jointly in the name of the LLC and the individual designated as manager by the LLC in current filings with the Secretary of State.

- (3) If the applicant is an unincorporated nonprofit club, then the managing agent may be an officer of the organization rather than a full-time employee if such managing agent is qualified in accord with this section.
- (4) No person shall be granted any alcoholic beverage license if, during the two years immediately preceding the application, the person has either been convicted of, pled guilty to, pled nolo contendere to, or been released from parole or probation for any of the following offences: any crime involving moral turpitude; illegal gambling; illegal possession or sale of controlled substances; illegal possession or sale of alcoholic beverages, including the sale or transfer of alcohol to minors in a manner contrary to law; keeping a place of prostitution; pandering; pimping; public indecency; prostitution; solicitation or sodomy; or any sexually related crime. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant nor any of the owners of the establishment has been so convicted or released in the two years preceding the application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor, or a violation of a county ordinance shall not, alone, make an applicant ineligible for a license. If, after a license has been issued, any applicant, partner or officer used in the sale or dispensing of any alcoholic beverage, is convicted or pleads guilty or nolo contendere to any of the offenses enumerated herein, then the license shall be immediately revoked and cancelled.
- (5) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within two years prior to the filing of application for such license.
- (6) It shall be unlawful for any county employee directly involved in the issuance of alcoholic beverage licenses under this chapter to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the county.
- (7) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the county previously revoked within two years prior to the filing of the application.
- (8) The county commission may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.
- (9) Any registered agent under this chapter must be an individual who resides in Dawson County and qualifies under the same terms as would an individual applicant for license (that is, all qualifications as to character, criminal and other personal history matters); must consent in writing to serve as resident agent; and must be approved as such by the director. In the event a registered agent ceases to qualify under the terms of this chapter, or the agency is revoked by the licensee, or the agent resigns or declines to continue to serve as agent, the licensee shall notify the director promptly in writing that the individual who has been serving will no longer be agent and shall name another qualified individual residing in Dawson County to serve, subject to the director's approval. As to any proposed initial or replacement agent the applicant/licensee shall be responsible for providing all information, records or data requested by the director for consideration in the approval process.
- (10) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.

- (11) A license application may be denied to any applicant for any alcoholic beverage license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to serve as a surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- (12) The county commission may, in its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application, agent or the proposed location of the business. If circumstances are such that granting of the license would not be in the best interest of the public health, safety, welfare, and morals, then such circumstances may be grounds for denying the application.
- (13) For purposes of this chapter, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which the defendant was allowed to avail himself or herself of the Georgia First Offender Act (O.C.G.A. § 42-8-60 et seq.), as amended. Except, however, that any such offense shall not be ignored if the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt.

Sec. 6-10. - Transferability of license/change in ownership.

- (a) *Individuals.* In the event of a change of ownership of a business for which an individual has been issued a license, the new owner, if desiring a license, must meet the qualifications specified in section 6-9 and must file an application as provided in section 6-6 and tender with the application the investigative and administrative fee as provided in section 6-5 and any license fee that may be due.
- (b) *Partnerships or corporations.* In the event of a change of any ownership interest in a business which is owned or operated by a partnership, limited partnership, limited liability company, or corporation and for which a license has been issued, the licensee shall report such change to the county commission in writing within five days. "The term "change of ownership interest" as used herein includes, but is not limited to, any change in:
 - (1) Division of profits and/or losses;
 - (2) Division of net gross or sales;
 - (3) Method of paying or amount of rent paid;
 - (4) Ownership of leased premises, or buildings or land used in the business;
 - (5) Members of a partnership;
 - (6) Stockholders of corporate stock; and
 - (7) Management.
- (c) If, as a result of any change of ownership interest, the licensee would not qualify under other provisions of this chapter for the issuance of a license, then the license issued to the licensee shall be subject to revocation and shall not be subject to renewal.
- (d) All applications for transfer of a license to a new licensee or new location shall be accompanied by the transfer fee, together with an investigative and administrative fee. If the transfer is not approved, then the transfer fee will be refunded, but the investigative and administrative fee will not be refunded. Ownership changes will be decided by the director, subject to right of appeal to

the commission by a dissatisfied applicant, and changes of location shall be decided by the commission.

- (e) Upon the death of a licensee, the executor or administrator of the licensee's estate may continue to operate under the license for the balance of the calendar year without payment of any additional fee or may delegate the operation of the business to another person if the person operating under the license, whether the executor, administrator, or delegate, would otherwise be qualified as a licensee under the provisions of this chapter.
- (f) Any proposed change of location must be approved by the county commission after submission of all required transfer fees, administrative fees and investigative fees, and all information and data required by the director, which shall include, but not be limited to, all location data that would be required on an initial application under this chapter, such as the certified survey showing distances to specified properties, and the floor plan showing the areas designated for storage, preparation, service, display, sales and consumption of alcohol and the location of any bars. The director may also require full current information on the applicant and other persons as for an initial application. The transfer application shall be treated and considered in the same manner as an initial application except there shall be a renewal fee and not a new license fee if the change is to take effect after December 31 of the year the change application is submitted. There will be a transfer fee and no additional license fee if the change is to be effective during the current year. The normal renewal application and fees associated with renewal shall be due notwithstanding pendency of any transfer application under this article. The commission is authorized to consider any factors that might be considered in approving or disapproving an initial application. If the application is for sale of distilled spirits, any notice publication requirements as for new applications shall apply.

Sec. 6-11. - License forfeiture for nonuse.

- (a) A license issued pursuant to this chapter shall be valid only so long as the licensee is actually engaged in the permitted sale of alcoholic beverages. Any holder of any license under this chapter who shall for a period of 30 days after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the 30-day period, automatically forfeit the license without the necessity of any further action by the county. The director shall cause a notice of forfeiture to be mailed or delivered to the address of record of the licensee, which shall notify the licensee of its right to appeal the decision of the director to the board of commissioners by submitting a notice of appeal. The notice of appeal shall be delivered so as to be received by the director within ten business days of the date of the licensee's receipt of the notice of forfeiture. The notice of appeal shall set forth the grounds of appeal including any relevant facts in support of the appeal.
- (b) A license may be conditionally or provisionally issued for a location upon which the licensee intends to build an appropriate building or renovate an existing structure, and due to the construction or renovation, does not anticipate commencing operations within 90 days of issuance of the license. In the event a license is issued subject to such a condition, the licensee will be determined to have ceased doing business and thus forfeited the license if necessary permits are not obtained and substantial work completed within six months after the date the license is approved. If the licensee has not completed building/renovation, and obtained all required inspections and permits for occupancy, and obtained a business license, and commenced operation of the licensed business within one year following the date of issuance of the license, then the licensee will be deemed to have abandoned the license, which is then forfeited automatically by operation of this section. Provided, however, the holder of any license currently issued and existing

as of the adoption of this amendment to the alcohol ordinance, but for which no operations under the license have been commenced, shall have a period of two years from the adoption of the amendment prior to such forfeiture in which to commence operations. ~~A renewal license shall not be granted for a premises that are not currently in operation pursuant to the license other than subject to the terms of this section. Forfeitures under this subsection shall be subject to a right of notice from the director and of appeal to the commission in the same manner and with the same time limitation as set forth in the preceding subsection. Any existing package sales license holder whose license has been renewed prior to adoption of this amended ordinance, but which has not commenced operations as of the adoption of this amendment shall not be considered for purposes of the one mile minimum distance of separation rule set forth in Section 6-108(b).~~

Sec. 6-12. – Licensee requirements.

- (a) Each alcoholic beverage dealer licensed under this chapter shall keep a copy of this chapter upon the licensed premises and shall instruct any person working there with respect to the terms of this chapter; and each licensee, the licensee's agents, and the licensee's employees selling alcoholic beverages shall at all times be familiar with the terms of this chapter. The licensee is responsible for assuring such familiarity and is responsible for any violations committed by any employee or manager due to ignorance of the terms of this chapter or of State law.
- (b) The regulations in this section as to employees and managers shall apply to all establishments seeking and holding a license under this chapter unless specifically provided otherwise:
 - (1) No person shall be employed in an establishment holding a license issued under this chapter unless said person meets the following minimum age requirements for issuance of an employee permit:
 - a. For employment in an establishment serving alcoholic beverages by the drink for consumption on-premises, a person must be at least 18 years of age.
 - b. For employment in an establishment licensed for sale of distilled spirits by the package for off-premises consumption, a person must be at least 21 years of age. This requirement shall not apply to persons employed solely as a busboy, cook, dishwasher or janitor.
 - c. For employment in an establishment licensed for sale of beer, wine or beer and wine by the package for off-premise consumption, a person must be at least 18 years of age. This requirement shall not apply to employees of a grocery store or drug store.
 - (2) No person shall be employed in any capacity at an establishment holding a license issued under this chapter until such person has been issued a permit by the director indicating that the person is eligible for such employment.
 - (3) No permit shall be issued by the director to any person until such time as a signed application has been filed by such person with the director, and the appropriate fees have been paid, and a search of the criminal record of the applicant is completed. The application shall include, but not be limited to, the name, date of birth, address, citizenship status and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order. Applications must be accompanied by a valid government issued I.D. card (for example, a driver's license or state-issued I.D. card).

- (4) The director shall have the search made relative to any criminal record of the person. If there is no record of a disqualifying conviction or of a violation of this chapter, the director shall issue a permit to the person stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the director shall notify the person in writing that the person is not eligible for employment, the cause for such denial, and that such individual has the right to appeal such decision to the board of commissioners.
- (5) No person shall be granted a permit unless it appears to the satisfaction of the director that such person has not been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy or any sexually related crime within a period of two years of the date of application and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not by itself make a person ineligible for a permit required by this chapter. No person shall be granted a permit required by this chapter who has been convicted, pled guilty or entered a plea of nolo contendere to any federal, state or local law for any felony within two years preceding, or any time subsequent to, the date of application and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this chapter, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense where the conviction or plea was entered pursuant to the Georgia First Offender Act (O.C.G.A. § 42-8-60 et seq.), as amended, so long as the first offender status has not been revoked.
- (6) The permit required by this chapter shall be issued for a period of one calendar year from the date of the original application. Employee permits are issued for work for the specific type of licensed establishment as indicated on the employee permit application and may not be used at another category of licensed establishment. The permit must be either on the premises or in the possession of the individual to whom it is issued while that individual is working at the licensed establishment. This permit must be available for inspection by members of the sheriff's office, the director's office or the county code enforcement staff.
- (7) No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the marshal's office for the permit required by this chapter. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from the date of notification per certified mailing before a new application and fee may be resubmitted.
- (8) All permits issued through administrative error can be terminated and seized by the marshal, his designee or by the county commission or its designee.
- (9) Replacement permits may be issued within 30 days of original date upon paying one-half of the fee charged for the original permit. After 30 days of the original application date, a new application and fee must be submitted.
- (10) All permits issued under this chapter remain the property of Dawson County and shall be produced for inspection upon the demand of any deputy or designee of the sheriff's office or employee of the marshal's office, or the county commission's staff.

- (11) No licensee shall allow any person required to hold an employee permit to work on the premises unless that person's current, valid permit is on the premises or the person has it in his or her possession. For new hires, a receipt issued by the Director may be used for a maximum of 30 days from the date of its issue. Licensees are required by this chapter to inspect and verify that each employee required to hold an employee permit by this chapter has a valid current permit at all times while on the premises of the licensed establishment.
- (12) It shall be the duty of all persons holding any license to sell distilled spirits, wine, malt beverage or any other alcoholic beverage as defined by this chapter to file with the marshal or his designee the name of the establishment, the license number and a list of all its employees, with their home addresses and home telephone numbers, twice annually during the months of June and December to be delivered to the marshal or his designee not later than the last day of each such month.
- (13) Any person or entity convicted of any violation of this section shall receive a minimum fine of \$500.00 per violation.

Sec. 6-13. - Display of license.

The county alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee. The certificate evidencing issuance of a license pursuant to this chapter shall remain the property of Dawson County and shall be surrendered by licensee upon demand by the sheriff or other county official charged with enforcement of this chapter.

Sec. 6-14. - Advertising.

- (a) Licensees may use window signs to advertise products for sale within the store, so long as said signs comply with the Dawson County Sign Ordinance.
- (b) Notwithstanding subsection (a) of this section, the licensee may display on the licensed premises one sign not to exceed 24 square feet in size, advertising distilled spirits, malt beverages, or wine. Such sign may be lighted, but in no event will it have any moving parts or flashing lights. The design and location of any such sign must comply with the Dawson County Sign Ordinance.
- (c) Licensees may advertise, including products and prices, in newspapers and on the radio and on the internet.

Secs. 6-15. - Locations and minimum distances.

- (a) No license shall be issued under this chapter for the retail sale of distilled spirits, malt beverages or wine for use at a location which is within 600 feet of a church building, day care, licensed alcohol treatment facility, school, educational building or college. The distance shall be measured in a straight line from the front door of the proposed licensed premise to the front door of the church, day care, or treatment facility, and from the front door of the proposed licensed premise to the nearest property line of the real property used for school, college or educational purposes.
- (b) No license shall be issued for sale of distilled spirits by the package at a location within one mile of any other business licensed to sell packaged liquor (distilled spirits) at retail. This distance shall be measured in a straight line from the front door of the proposed licensed facility to the front door of the other package liquor store. This restriction shall not apply to any location for which a new license is sought if the current licensee has not completed construction of a building or renovation of the licensed premises and is not open for business.

- (c) The minimum distance restrictions set forth in this chapter shall not apply if the retail sale of the same kind of beverage (that is, beer, wine and/or distilled spirits) in the same manner (by the package for off-premises consumption, or by the drink for on-premises consumption) was lawful at any time during the 12 months immediately preceding such application.
- (d) As to any location licensed under this chapter, if the distance requirements in this chapter are or were met at the time of issuance of any license, the subsequent opening and operation of a church building, school building, day care facility, alcohol treatment facility or housing authority property within the minimum distance prescribed in this chapter shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.
- (e) Nothing in this chapter shall authorize the sale of alcoholic beverages within 250 feet of a polling place during any election at such time as the polls are open.
- (f) No license for the sale of alcoholic beverages shall be issued under this chapter unless the proposed location is on a parcel zoned for commercial use in accordance with the Dawson County Land Use Resolution. A ~~§~~Special event alcohol permit is subject to the terms of section 6-6649 as to approval of permit applications for commercial and non-commercial locations.
- (g) For purposes of this section of the chapter, notwithstanding any provision in this section to the contrary, minimum distance measurements shall be done in accordance with the method prescribed by Georgia law, and "straight line" measurement shall have the same meaning as provided for by state regulations, currently located at Department of Revenue Regulations for Alcohol and Tobacco, Rule 560-2-2-.12; provided, that renewal applications shall use the same measurements as required in the initial application.

ARTICLE II. - MALT BEVERAGES AND WINES

Sec. 6-~~2017~~. – General

- (a) Licenses are permitted only for locations which are zoned commercial and in any agricultural district where the specific use and the sale and service of alcohol is expressly permitted in accord with the Land Use Resolution of Dawson County.
- (b) Licensees for package sales of malt beverages or wine may not sell alcoholic beverages for on-premises consumption at the same establishment except for ~~brewpubs and~~ farm wineries validly licensed to allow such on-premise consumption sales.
- ~~(c) Curbside delivery of malt beverages and wine as described in Rule 560-2-3-.3 of the Georgia Department of Revenue Alcohol and Tax Unit Rules, is not permitted in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said rule.~~

10:00 a.m.—12:00 midnight — Monday—Thursday; and

10:00 a.m. – 1:00 a.m. on Saturday through Sunday

12:30 p.m.—12:00 midnight on Sunday.

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

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

12:30 p.m.—8:00 p.m. — Sunday.

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

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

Sec. 6-218. - Type of retail establishment where permitted.

No beer or wine shall be sold for consumption on the premises [pursuant to a malt beverage/wine license](#) where sold except in sites in areas zoned commercial and which are being used as one of the following:

- (a) Are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of the establishment's total annual gross sales from food;
- (b) Are indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of its total annual gross revenue from the sale of prepared meals or food and recreation activities;
- (c) Are an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. The center must be prepared to serve food every hour they are open and derive at least 50 percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels or motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure; or
- (d) At a golf course that derives at least 50 percent of its annual gross revenue from the sale of prepared meals or food and recreation activities (i.e., golf). These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

- (e) Are a brewpub as that term is defined in Article ~~XIV~~^V hereinabove subject to the following provisions:
- (1) A brewpub must be an eating establishment as defined in O.C.G.A. § 3-1-2(3) including compliance with the rule requiring 50 percent of its annual revenue to come from prepared meals or food;
 - (2) A brewpub licensee may sell beer and wine for on-premise consumption according to the rules set forth in O.C.G.A. § 3-5-36;
 - (3) A brewpub licensee may also, by qualifying, paying the appropriate fees and upon approval by the commission, obtain a retail consumption dealer's license for sale of distilled liquor for on-premises consumption, or a retailer license for sale of beer, wine or distilled spirits for off-premises consumption;
 - (4) A brewpub licensee may, if holding a State license for offering free tastings of its draft beer pursuant to O.C.G.A. § 3-5-38, permit free tastings of malt beverages produced by it on site, without any additional tasting license from the county.

Sec. 6-~~22~~¹⁹. - Employment of underage persons as entertainers prohibited; exceptions.

It is unlawful for any person under 18 years of age to work as an entertainer in any establishment licensed under this chapter without the consent of the person's legal guardian.

Sec. 6-2~~30~~³⁰. - Open area and patio sales.

- (a) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the county commission.
- (b) The requirement for approval is that the patio/open area be enclosed by a fence, wall, or some other structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge. A parking lot shall not qualify as such an open area.
- (c) The height of such structure shall be a minimum of three and one-half feet above the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the county's building inspection department and the county's fire department as required by governing regulations or codes.
- (d) The only exit from this area is to be through the licensed establishment's main premises and through an approved fire exit, not for general public use unless an emergency exists. The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.
- (e) If a licensee desires a patio/open sales area at an existing licensed structure, plans will be reviewed and approved on an individual basis by the director with a right of appeal to the commission in the event of a denial. Interior type patio/open sales areas must also meet the requirements of the county's development and fire codes.
- (f) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel, provided such functions are

catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. "Patio areas," as that term is used in this subsection, do not have to conform to the standards in this section.

Sec. 6-241. - No consumption outside premises.

- (a) It is prohibited for customers to leave the approved portion of the premises with open alcoholic beverages except as expressly permitted pursuant to sections 6-23 and 6-24 of this chapter, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers. Customers may not consume alcoholic beverages, or carry open alcoholic beverage containers, in parking lots of the licensed premises.
- (b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.
- (c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

Sec. 6-252. - Partially consumed bottles of wine purchased with a meal.

- (a) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off premises if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises.
- (b) A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises.
- (c) The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.
- (d) If transporting in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

Sec. 6-263. — ~~Bring your own bottle.~~ Brown bagging.

Brown-bagging is generally prohibited except as expressly permitted under Section 6-112.

- ~~(a) Licensed establishments may elect to allow patrons to bring in their own bottles ("brown bagging") of wine. Brown bagging of malt beverages and distilled spirits shall be prohibited. All regulations as to prohibited sales as defined in section 6-102 of this chapter shall apply to this section. Brown bagging shall not be permitted at any eating establishment which is not licensed for on-premises consumption sales. No alcoholic beverage of any kind may be sold or served on any licensed premises during any period of suspension and brown bagging is likewise prohibited during any suspension. Brown bagging is prohibited at any restaurant or other commercial establishment or business not licensed for on-premises alcohol sales under this chapter.~~

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the county, regulations of the state revenue commissioner, and the state. The proposed building shall also be subject to final inspection and approval when completed by the building and fire inspectors. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passage ways and open areas may be clearly seen by the customers and staff therein.

~~Sec. 6-27. - Solicitation prohibited.~~

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

~~Sec. 6-296.~~ - Audits of licenses.

- (a) The director may conduct an audit of the records and books of any licensee under this chapter, after notice to the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit, or, in lieu thereof, shall forfeit any license(s) issued under this chapter.
- (b) All licensed establishments shall maintain the following records for a three-year period and make such records available for audit at the licensed premises:
 - (1) Monthly income or operating statements.
 - (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
 - (3) Daily cash register receipts such as Z tapes or guest tickets.
 - (4) Monthly State sales and use tax reports.
 - (5) Federal income tax return with all Form 1099s.
- (c) The county commission may waive all or some of the requirements of subsection (b) of this section upon a determination that no such records exist and that the licensee cannot practically maintain such records based on the net income of the licensed establishment.

~~Sec. 6-3027.~~ - Retail consumption dealers to store inventory only on premises.

No retail consumption dealer licensed under this chapter shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer

shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler.

Sec. 6-~~3128~~. - Poured alcohol to be transported only by employees.

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

Sec. 6-3~~28~~ - Types of entertainment, attire and conduct prohibited.

(a) *Preamble and purpose.*

- (1) Based upon the experiences of other counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York; Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida, which experiences the board of commissioners believe are relevant to the problems faced by the county and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, as well as the testimony of citizens and experts received by this commission, the board of commissioners takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country.
- (2) Moreover, it is the finding of the board of commissioners that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "erotic entertainment," begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude or semi-nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcohol and also allow and/or encourage nudity or semi-nudity.

(b) *Prohibited activities.* Any establishment licensed under the provisions of this chapter is prohibited from permitting or engaging in the following activities:

- (1) The employment or use of any person in any capacity in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
- (2) Live entertainment that provides or features nude or semi-nude or erotic dancing or the performance of obscene acts that simulate:

- a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;
 - b. The touching, caressing or fondling of the breast, buttock, anus or genitals; or
 - c. The display of the pubic hair, anus, vulva or genitals;
- (3) The showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in subsection (b)(2) of this section which are obscene under state law; or
- (4) The holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.
- (c) *Mainstream activity excluded.* Notwithstanding the prohibitions in subsection (b) of this section, nothing in this article shall be or is intended to apply to theatrical or motion picture performance houses, museums, or to restaurants or places set apart for traditional naturism where the consumption or service of alcohol is not a primary purpose or the mainstream activity of such establishment. The phrase "places set apart for traditional naturism" means places provided or set apart for traditional naturism including nudist parks, clubs, and resorts affiliated with the American Association for Nude Recreation, the Naturists Society or other naturist organization, and has been in operation as a naturist facility for at least 24 months prior to application for a license.

~~Sec. 6-207. – Happy hour promotions and sales.~~

- (a) "Online Curbside Pickup" of malt beverages and wine as described in Rule 560-2-3-.3(2) of the Georgia Department of Revenue Alcohol and Tax Unit Rules, is prohibited in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said rule.
- (b) Off-premises delivery of malt beverages and wine as described by O.C.G.A. § 3-3-10 is prohibited in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said statute.

~~Sec. 6-290. – Exceptions.~~

ARTICLE ~~III~~^{IV}. - DISTILLED SPIRITS

Sec. 6-~~403~~⁵. - General.

- ~~(a) Distilled spirits may be sold at retail only in conformance with applicable zoning codes. Allowed where zoning districts are permitted No license shall be issued under this chapter unless the applicant's place of business is located upon a tract or parcel within unincorporated Dawson County which is zoned Highway Business Commercial (C-HB) or Commercial Planned Comprehensive Development (CPCD).~~
- ~~(c)~~^(b) Every licensee shall have legibly posted a copy of the license on the front of the licensed premises the name of the licensee together with the ~~following inscription: "County Retail Package Sales of Distilled Spirits License No. _____."~~business license.

~~Sec. 6-37. Listing of prices.~~

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

Sec. 6-~~4237~~. – Distilled Spirits by the Drink.

No distilled spirits may be sold by ~~the~~ drink for consumption on the premises where sold except in sites zoned commercial and that:

- (a) Are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of the establishment's total annual gross sales from food;
- (b) Are indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of its total annual gross revenue from the sale of prepared meals or food and recreation activities; or
- (c) Are an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the

health and fire departments. The center must be prepared to serve food every hour they are open and derive at least 50 percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels or motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

Sec. 6-~~438~~. - Hours of sale.

- a) The sale of distilled spirits by the package shall occur only between the hours of: 9:00 a.m. — 11:45 p.m. — Monday—Saturday; and 12:30 p.m.: Sunday — 11:30 p.m.: Sunday.
- b) No sale of distilled spirits by the package shall occur on Christmas Day. The sale of distilled spirits by the package is permitted on election days if the outlet is not located within 250 feet of a polling place.
- c) Distilled spirits shall not be sold for consumption on the premises except between the hours of: 10:00 a.m.—midnight Monday—Thursday; 10:00 a.m. Friday — 1:00 a.m. Saturday; 10:00 a.m. — midnight Saturday; and 12:30 p.m. — midnight Sunday.
- d) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

Sec. 6-~~443~~⁹. - Prohibited.

- a) Except as expressly permitted by state law, it shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of distilled spirits by the package, and it shall be unlawful for any licensee authorized to sell distilled spirits by the package to open or break the package for a purchaser and/or permit the consumption of alcoholic beverages on such premises. To the extent permitted by state law and this chapter, farm wineries, brewpubs and distilleries may hold licenses for both on-premises and off-premises consumption at the same location.
- b) Sell or offer to sell any distilled spirits, malt beverages, wine and/or any other alcoholic beverage to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee;
- c) Sell any distilled spirits, malt beverages, wine and/or any other alcoholic beverages upon the licensed premises or permit distilled spirits, malt beverages, wine and/or any other alcoholic beverages to be sold thereon on any day at any time when the sale is prohibited by law; or
- d) Sell any distilled spirits, malt beverages, wine or any other beverage through a drive-through window or door.
- e) Sell or deliver any distilled spirits at any place other than inside the licensed premises.
- f) Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell or distribute any distilled spirit by the package or bottle.

Sec. 6-~~450~~. — Bring your own bottle-Brown bagging.

Brown-bagging is generally prohibited except as expressly permitted under Section 6-112.

(a) “Online Curbside Pickup” of distilled spirits as described in Rule 560-2-3-.3(2) of the Georgia Department of Revenue Alcohol and Tax Unit Rules, is prohibited in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said rule.

(b) Off-premises delivery of distilled spirits as described by O.C.G.A. § 3-3-10 is prohibited in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said statute.

Secs. 6-47—6-55. - Reserved.

ARTICLE ~~XIV~~. - PRIVATE CLUBS

Sec. 6-~~5645~~. - Definitions.

As used in this article:

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

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

- (1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this article;
- (2) Has at least 75 regular dues paying members;
- (3) Owns, hires or leases a building or space within a building for the reasonable use of its members with:
 - a. A suitable kitchen and dining room space and equipment; and
 - b. A sufficient number of employees for cooking, preparing and serving meals for its members and guest;
- (4) Has no member, officer, agent or employee directly or indirectly receiving in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

Sports club means an association or corporation organized and existing under the laws of the State of Georgia, organized and operated primarily to provide a location for the patrons thereof to engage in sporting events. To qualify for an alcoholic beverage consumption dealer's license, a sports club must have been actively in operation within the county at least two years prior to an application for license hereunder; provided, however, the two-year operational requirement shall not apply to golf club associations or golf club corporations where the selling or the serving of alcoholic beverages is to take place on the golf course premises. A sports club organized or operated primarily for serving of alcoholic beverages shall not qualify for licensing under this article, and accordingly shall not be permitted to serve or sell alcoholic beverages at any time. Unless otherwise indicated, a sports club licensee shall comply with all other requirements imposed upon retail consumption dealers.

Sec. 6-~~5746~~. - Regulation or sale of alcoholic beverages.

A private club may seek a license for retail sales of alcoholic beverages for consumption on the premises in accord with this chapter. Licensed private clubs may sell and dispense alcoholic beverages by the drink for consumption on the premises upon compliance with all applicable ordinances and regulations of the county governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the county. A licensed private club must have a kitchen as required under this article but shall not be subject to the requirement that 50 percent of its annual sales come from the sale of food and non-alcoholic beverages. A sports club is not subject to a kitchen or food sales requirement.

Sec. 6-~~5847~~. - Certain organizations exempt from food establishment requirements.

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

Sec. 6-~~5948~~. - Hours and days of sale.

No alcoholic beverages shall be sold by a private club or sports club for consumption on the premises except between the hours of:

10:00 a.m.—midnight Monday—Thursday;

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

10:00 a.m.—midnight Saturday; and

12:30 p.m.—midnight Sunday.

Secs. 6-60—6-65. - Reserved.

ARTICLE ~~VXII~~. - SPECIAL EVENT PERMITS

Sec. 6-~~6649~~. - Eligibility for a temporary special event alcohol permit.

- (a) A temporary special event alcohol permit may be issued to any person, firm or corporation for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by this article and shall be required to comply with all the general provisions of this chapter and the licensing and regulations for consumption on the premises establishment with the exception of the full service kitchen requirement.
- (b) The special event must meet the following criteria before the issuance of a permit to sell or distribute alcoholic beverages:
 - (1) The special event must receive approval from the Dawson County Sheriff's Office on crowd control and security measures.

- (2) The special event must receive approval from the Dawson County Sheriff's Office on traffic control measures.
- (3) The premises at which the special event is to take place must be within a commercial zone and approved by the director; if the proposed location is not within a commercial zone, the approval must be obtained from the board of commissioners.
- (4) The premises where the special event shall occur shall meet the distance from certain uses requirements of this chapter.
- (c) Any employee or volunteer of the special event permit holder working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall be required to obtain an employee permit for the special event. Employees or volunteers dispensing, selling, serving, taking orders or mixing alcoholic beverages must be 18 years of age or older. Employees of caterers must comply with the regulations established in this article of this chapter and must be 21 years of age or older as pursuant to O.C.G.A. § 3-11-4.
- (d) The sheriff or fire chief, director or code enforcement official may immediately revoke any temporary permit for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.
- (e) As a condition on the issuance of a temporary special event permit, the permit holder shall agree in writing to indemnify and hold Dawson County harmless from any claim, demand or cause of action that may arise from activities associated with the special event.
- (f) The director shall issue the temporary special event permit to the applicant upon compliance with the terms hereof.
- (g) In the event that a special event alcohol permit is denied by the director, the applicant may appeal the decision to the county commission.

Sec. 6-~~6750~~. - Bona fide nonprofit civic organizations.

- (a) A bona fide nonprofit civic organization is one which is exempt from federal income tax pursuant to the provisions subsection (c), (d) or (e) of 26 USC section 501.
- (b) Upon the filing of an application and the payment of a special temporary event permit application fee, a bona fide nonprofit civic organization may obtain a permit authorizing the organization to sell or distribute alcoholic beverages for consumption on the premises or to sell wine at retail for off-premises consumption, or both, for a period not to exceed three days, subject to any law regulating the time for selling such beverages.
- (c) No more than 12 permits may be issued to such an organization in any one calendar year.
- (d) Permits are valid only for the location specified in the permit. No permit may be issued unless the sale of alcoholic beverages is lawful in the place for which the permit is issued. Said permit is subject to the restrictions set forth in section 6-~~6649~~.

Secs. 6-68—6-69. - Reserved.

ARTICLE ~~VXIII~~. - HOTEL IN-ROOM SERVICE

Sec. 6-~~7051~~. - License.

- (a) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom that contains beer and/or wine only, which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of the beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.
- (b) Any hotel-motel that acquires this in-room service must also obtain a consumption on the premises license and shall meet the requirements of this chapter.
- (c) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so. A license fee set forth in the Dawson County Alcohol Fees Schedule shall be imposed to provide only beer and/or wine by "in-room service." A license under this article shall not authorize delivery of alcoholic beverages (neither in package nor by the drink) by "room service" style delivery to the room.
- (d) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this chapter.

[Secs. 6-71—6-72. - Reserved.](#)

ARTICLE ~~XIV~~II. - FARM WINERIES

Sec. 6-~~73~~52. - Definitions.

Farm winery means a domestic winery located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery, or domestic winery that:

- (1) Makes at least 40 percent of its annual production from agricultural produce grown in this state;
- (2) Is owned and operated by persons who are engaged in the production of a substantial portion of the Georgia agricultural produce used in its annual production, and for this purpose, such production of a substantial portion of such Georgia agricultural produce shall be determined by the commissioner of Agriculture of the State of Georgia; and
- (3) Produces less than 100,000 gallons per year.

Tasting room means an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine may be given complimentary or for a fee.

Sec. 6-~~74~~53. - Permitted sales.

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

Sec. 6-~~75~~4. - Licensee qualifications.

The qualifications for the license for sale by farm winery tasting room shall be the same as set forth in section ~~6-7756~~.

Sec. 6-~~7655~~. - Applicable provisions.

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

Articles ~~I, II, V, VIII, X through XIV~~. ~~general provisions; all licenses.~~

Sec. 6-~~7756~~. - License fees.

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

Sec. 6-~~7857~~. - Licensing limitations.

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

Sec. 6-~~5879~~. - Sunday sales.

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

Sec. 6-~~8059~~. - Hours of sale.

Wine may be sold or distributed in a tasting room or other licensed farm winery facility between the hours of 10:00 a.m. and 12:00 midnight Monday through Thursday; Friday 10:00 a.m. through 1:00 a.m. on Saturday and on Sundays ~~in accord with section 6-59 herein~~.

~~Secs. 6-81—6-82. - Reserved.~~

ARTICLE VIII – CATERING

Sec. 6-83. – Catering License Requirements.

Requirements for a "licensed alcoholic beverage caterer" license:

- (1) The applicant shall hold a valid state license to sell malt beverages, wine, distilled spirits or some combination thereof by the drink or by the package.
- (2) The applicant shall hold a valid local county license to sell malt beverages, wine, distilled spirits, or some combination thereof by the drink or by the package.

- (3) The applicant must be a licensed alcoholic beverage caterer pursuant to O.C.G.A. § 3-11-1(2).
- (4) The applicant must hold all required food service permits required by the county environmental health office.

Sec. 6-84. – Catering License Application.

- (a) An applicant for a licensed alcoholic beverage caterer license must:
 - (1) Submit a completed application provided by the county.
 - (2) Pay the required application and license fees.
- (b) Alcoholic beverage caterer licenses are valid for up to one calendar year, expiring at midnight on December 31 of each year. They are issued and must be renewed in the same manner as their corresponding retail licenses.

Sec. 6-85. - Catering Permitted activities.

Only a licensed alcoholic beverage caterer is authorized to sell alcoholic beverages off premises. Licensed alcoholic beverage caterers are authorized to engage in, carry on or conduct the sale or distribution of alcoholic beverages off premises under the following conditions:

- (a) An event catering permit is obtained by the licensed caterer from the County in accordance with Section 6-86.
- (b) The distribution of alcoholic beverages is in connection with an authorized special event for which a special event alcohol permit has been granted to the sponsor of the event authorizing said event. The requirements for special event alcohol permits are detailed in Article V of this chapter.
- (c) A licensed alcoholic beverage caterer may sell only that type of alcoholic beverage authorized by the caterer's local alcoholic beverage license.
- (d) The licensed alcoholic beverage caterer shall not employ any person under 21 years of age to dispense, serve, sell or handle alcoholic beverages in accordance with O.C.G.A. § 3-11-4 et seq.
- (e) If the licensed alcoholic beverage caterer desires to provide alcohol on a Sunday, it distributes only those beverages which may be sold on Sundays in the county, at the times when Sunday sales by the drink are permitted.
- (f) The licensed alcoholic beverage caterer complies with the requirements of O.C.G.A. § 3-11-1 et seq.

Sec. 6-86. – Event Catering Permits.

- (a) It shall be prohibited for any licensed caterer to sell alcoholic beverages in connection with a catered event or function without first having obtained an event catering permit as provided herein.
- (b) A licensed alcoholic beverage caterer shall file an application for an event catering permit with County. The application shall include the application fee (if any), the name of the caterer, the name, date, address and time of the event, the caterer's state and local license numbers and expiration dates, the quantity and type of alcoholic beverages to be transported and any other information the County deems necessary to review a request for such approval.

Sec. 6-87. - Restaurants.

Eating establishments which hold an alcohol by the drink license may cater events within the unincorporated areas of Dawson County so long as said establishments comply with this article.

Secs. 6-88-89. - Reserved.

ARTICLE ~~IXVIII~~ – AGRIBUSINESS ~~SALE~~ OF MALT BEVERAGES AND WINE BY THE DRINK

Sec. 6-90~~60~~. - Type of Agribusiness establishment where permitted.

(a) Description: An agribusiness alcohol sales license allows an agribusiness to sell malt beverages and wine for consumption by the drink on the premises. A facility with such a license does not need to obtain a separate consumption on the premises license.

(b) ~~No beer or wine shall be sold or distributed for consumption on the premises where sold or consumed except in areas specifically designated and approved.~~ Definition: For purposes of this article, an “agribusiness” that may qualify for an agribusiness alcohol license is any holder of a Dawson County Business License that:

(1) Is in an area zoned within the R-A zoning class; and

(2) Is a venue that is held out to the public for social, celebratory or entertainment purposes; and

(a) May be rented for a fee for such social, celebratory, or entertainment purposes; or

(b) Ordinarily engages in agricultural activity and sells agricultural products during such social, celebratory, or entertainment activity.

Sec. 6-91. - Restrictions on Sale of Alcohol

(a) Agribusiness licensees shall be subject to all of the general restrictions that apply to holders of licenses for sales by the drink for consumption on the premises (other than the minimum qualifications for applying for such licenses).

~~(b) Agribusiness licensees shall be e~~

(c) All buildings are subject to Building and Fire Department inspections and requirements. Additional site plans or a designated areas map may be required by either the County Planning Department or Fire Department

(d) “Brown Bag” events are allowed in accordance with Section 6-112.

(e) All Caterers must hold a Dawson County Caterers License and Event Catering Permit as defined in this chapter.

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

(g) Any event outside of the normal business location defined on business license for that location must obtain separate special event permit.

~~(b) All kitchen or food service requirements are to be approved by Health Department;~~

- ~~(a) Beer and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m.—12:00 midnight Monday through Thursday; Friday 10:00 a.m. through 1:00 a.m. on Saturday; and Saturday 10:00 a.m. through 1:00 a.m. on Sunday.~~
- ~~(b) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.~~
- ~~(c) Sunday sales. The sale or distribution of beer and/or wine for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment.~~

[Secs. 6-92—6-93. - Reserved.](#)

ARTICLE ~~III~~^X - EXCISE TAX

Sec. 6-~~9460~~⁹⁴⁶⁰. - Wholesale.

- (a) There is hereby levied an excise tax computed at the rate of \$0.22 per liter that shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in Dawson County. Such tax shall be paid to the director by the wholesale distributors on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in Dawson County as follows: Each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following the delivery. Excise taxes received after the 20th day of the month shall be charged a ten percent penalty. The \$0.22 per liter shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of \$0.22 per liter. It shall be unlawful and a violation of this chapter for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this chapter for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three percent of the amount of taxes collected as reimbursement for collection of said tax.
- (b) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in Dawson County at the rate of \$0.22 per liter and \$6.00 for each container of tap or draft beer or malt beverage of 15½ gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

Size Of Container	Tax Per Container
7 ounces	\$0.0291
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0666
32 ounces	0.1333
½ barrel (15½ gallons)	6.00
1 barrel (31 gallons)	12.00

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

Sec. 6-~~9561~~. - Distilled spirits by the drink.

- (a) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this chapter, and such licensee shall remit the same to the director on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the director to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from State tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.
- (b) Excise taxes received in the alcohol licensing department after the 20th day of the month shall be charged a ten percent penalty.
- (c) If the director deems it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee of the date, time and place of the audit.
- (d) Any licensee who violates any provision of this article may, upon conviction, be punished by a fine of not less than \$300.00, and the license of such location may be suspended or revoked.

Sec. 6-~~9662~~. - Farm wineries.

Farm winery licensees shall pay an excise tax at a rate of \$0.22 per liter according to the process detailed in section 6-~~9456~~ (wine and distilled spirits).

[Secs. 6-97—6-98. - Reserved.](#)

ARTICLE ~~XIII~~. - ENFORCEMENT

Sec. 6-99. - Inspections.

Sworn officers of the sheriff's office, or staff of the fire department, or the building official, or employees of the director's office shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the county during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other county officer to conduct inspections authorized by other provisions of this chapter or by state law.

Sec. 6-~~100~~64. - Penalties for violation of chapter.

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

Sec. 6-~~101~~69. - Progressive discipline; acceptance of discipline; final action.

- (a) In addition to the penalties set forth in Section 6-100, there is available to the director and commission a range of potential disciplinary options concerning actions, misconduct, violations of this chapter or other laws, and failures to take required action on the part of licensees, their agents and employees, and permit holders. The range is generally as follows:
- (1) Written reprimand.
 - (2) Probation, or posting a monetary bond, subject to specified conditions.
 - (3) Suspension for period of days.
 - (4) Suspension for period of weeks.
 - (5) Suspension for period of months.
 - (6) Suspension for indefinite period until specified conditions are met.
 - (7) Suspension for remainder of current term of license/permit.
 - (8) Revocation or non-renewal of license or permit.
- (b) The steps outlined above exemplify the steps which may be taken as disciplinary action but the commission retains the authority to vary the severity of the disciplinary action and thus may skip from a lighter discipline to a more severe level as may appear appropriate given the circumstances. The same applies to disciplinary actions which may be taken by the director as to employee permit holders. Factors which may be considered as to licensees or employee permit holders include any factors set forth in this chapter as to mitigating or aggravating violations of this chapter or any other rules, regulations or laws, including, but not limited to, the following: number and severity of offenses, whether there have been other offenses of a similar nature, whether there have been other offenses of any kind within the preceding three years, whether the problem, condition or violation has been remedied or corrected, whether the licensee took appropriate steps prior to the violation to assure that staff and employees were aware of the requirements of the law, whether the violation was committed by the licensee or manager as opposed to by a non-managerial employee, whether the licensee or permit holder recognizes and acknowledges his or her

misconduct or actions leading to disciplinary action, and whether a greater or lesser severity of discipline is likely to prevent future violations.

- (c) A licensee or permit holder under this chapter who is notified of proposed disciplinary action may accept the discipline as proposed by executing a written acceptance which waives any right the licensee/permit holder might otherwise have to a hearing.
- (d) Disciplinary action shall be deemed final under this chapter when a written acceptance and waiver is executed as provided for in this section, or, if none is executed, at the time a written notice of decision is mailed to or hand delivered to the disciplined licensee or permit holder.

Sec. 6-~~10270~~. - Suspension of license.

- (a) The following shall be grounds, in addition to any other grounds set forth in the preceding section, for the suspension of a license issued under this chapter for such period of time as the board of commissioners shall, in its sole discretion, determine appropriate:
 - (1) A violation, as demonstrated by evidence or by any adjudication of guilt as described in subsection 6-~~10368~~(b)(3) ~~above~~ by the licensee (or any officer, owner, manager, agent or employee of licensee) of any state or federal law or regulation, or any provision of this chapter or the regulations promulgated under its authority;
 - (2) The failure of the licensee and employees or agents of the licensee to promptly report to the sheriff's office any violation of law/breach of peace, disturbance, or altercation occurring on or near the licensee's premises;
 - (3) The violation of any law, regulation or ordinance pertaining to alcoholic beverages, distilled spirits, malt beverages and wines, by any employee or agent of the licensee in connection with the operation of the business of the licensee;
 - (4) Operation of the business of the licensee in such a manner as to create a public nuisance, or in a manner contrary to public welfare, safety, health or morals;
 - (5) Failure to furnish the board of commissioners on request any information or records that would be necessary for use in determining the licensee's compliance and qualifications under this chapter;
 - (6) To knowingly sell malt beverages, wines or distilled spirits to any person while such person is in an intoxicated condition; or
 - (7) To knowingly sell or offer to sell malt beverages or wines or distilled spirits to any person under the age of 21 years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain an alcoholic beverage is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said malt beverages or wine to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the trier of fact in determining whether any sale to an underage person was made knowingly. 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. The term "proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a state issued identification card.

- (8) Violation of any provision of the Dawson County Code of Ordinances which deal with non-traditional tobacco paraphernalia, e-cigarettes, and alternative nicotine products.
- (b) Whenever this chapter permits the commission to suspend any license issued under this chapter but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.
- (1) No suspension shall be for a period of time longer than the time remaining on such license;
- (2) The following factors shall be considered on any suspension as set out above:
- a. Consistency of penalties mandated by this chapter and those set by the county commission.
 - b. Likelihood of deterring future wrongdoing.
 - c. Impact of the offense on the community.
 - d. Any mitigating circumstances or remedial or corrective steps taken by licensee.
 - e. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.
 - f. The licensee's history of compliance or noncompliance with applicable alcohol related laws and regulations.
 - g. Whether the licensee established practices and procedures to prevent the violation from occurring and established procedures to properly train and supervise employees to prevent the violation from occurring.
 - h. The board, or director in circumstances where the director may have authority to impose adverse action on a license, permit, licensee or permit holder, may do so upon a progressive discipline basis, such that, for example, first, second and third violations result in successively more severe action. The board or director shall be authorized to utilize a more severe adverse action without intervening violations or intervening steps dependent upon the factors which may otherwise be considered under this section, as provided for in section 6-~~101~~⁶⁹ herein.
- (c) Any license suspension for greater than 30 days shall require the licensee to remove all alcoholic beverages from the licensed premises. For any suspension of 30 days or less the board may in its discretion require removal of all alcohol from the premises; in the absence of such condition being mandated, the licensee shall secure with lock and chain all refrigeration units containing alcoholic beverages, and remove non-refrigerated alcoholic beverages to an on-premise locked storage area out of view of the public. No sales or service of alcoholic beverages (neither for on-premises nor off-premises consumption) is allowed upon any licensed premises during any period of suspension, nor is "bring your own bottle" practice or brown bagging permitted during suspension.
- (d) Whenever this chapter permits the board of commissioners to suspend or revoke a license, then the Sheriff of Dawson County, or the fire chief, the building official or the county manager may, on a temporary emergency basis suspend the license and order the licensee to cease operations until the matter may be scheduled for hearing before the board of commissioners. This may be done only upon a finding by the said official that temporary suspension as in the best interest of the public for safety, health and/or public welfare reasons. If any of the said officials shall exercise this suspension authority the decision to do so, the reasons for the emergency suspension, and the anticipated duration of the suspension, shall be provided to the licensee or its agent in written form

as promptly as practicable. The duration of any such emergency suspension shall not exceed a period of ten days, although the board of commissioners may extend the period of emergency suspension at an open meeting after giving the licensee an opportunity to be heard as to the emergency temporary suspension. The county manager, sheriff, building official, fire chief or board of commissioners may lift an emergency temporary suspension at any time.

- (e) Whenever a period of suspension is imposed under this chapter, the commission may determine in its discretion that at the end of the suspension the licensee may only renew operations in accordance with reasonable conditions imposed by the commission either permanently or during a probationary period set by the commission.
- (f) Whenever the commission would be authorized in its discretion to revoke or suspend a license, then it may instead impose a period of probation during which the licensee must operate under such conditions, limitations or restrictions, and subject to such monitoring, as the commission deems appropriate.

Sec. 6-103. - Revocation or nonrenewal of license.

- (a) The county commission shall revoke the license or permit of any licensee or permit holder:
 - (1) Whose license or permit has been suspended three or more times in any consecutive 12-month period (which suspensions may take place over two separate calendar years; the date of the decision to suspend is the date which counts in determining whether the suspensions have occurred within a consecutive 12-month period);
 - (2) For any premises where alcoholic beverages have been sold or distributed during a period of suspension;
 - (3) Who is convicted of a felony or any crime involving moral turpitude.
- (b) The county commission may revoke, suspend or otherwise discipline any license or permit issued under this chapter, or refuse to issue or renew the same, if the licensee, or applicant for renewal or any owner, operator, manager, or other agent or employee of the licensee/applicant:
 - (1) Makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the director or county;
 - (2) Fails to timely give written notice of any change of ownership interest as required in section 6-10;
 - (3) Violates, as demonstrated by evidence at a hearing before the commission or by conviction or guilty plea entered in court, or by other adjudication of guilt, any provisions of this chapter or any rules or regulations promulgated by the commission under this chapter, of which the licensee has reasonable notice (licensees are directed to and agree, as a condition of all licenses issued pursuant to this chapter, to be familiar with this chapter and to stay current in their familiarity with any future amendments to this chapter, and thus will be deemed to be familiar with all amendments and changes which are adopted by the commission in a public meeting);
 - (4) Becomes disqualified under this chapter to hold a license;
 - (5) Whenever it can be shown that a licensee under this chapter no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the county;

- (6) Has received a license conditioned upon the construction or renovation of the facility and has not obtained necessary permits and completed construction within the periods specified in this article following the date said license was approved;
 - (7) Violates, as demonstrated by evidence or by any adjudication of guilt in the manner described in subsection (b)(3), above, any state law or regulation related to the sale of beer, wine, or distilled spirits, including but not limited to sales to underage persons or sales to visibly intoxicated persons; or
 - (8) Operates the licensed premises in such a manner as to constitute a public nuisance.
 - (9) Has its vape shop license for the premises revoked or suspended for cause.
- (c) The factors the commission may consider in deciding whether to suspend or revoke a license include, but are not limited to, the nature and severity of the offense, whether the violation has been remediated/corrected, whether there have been other offenses, who committed the violation (an owner, licensee, manager, or lower level employee) and whether imposition of probation, special conditions or restrictions, and/or posting of a monetary bond is sufficient to assure future compliance by the licensee, and any other circumstances or factors listed in this article. The commission may also consider any additional factors that ~~are~~ set forth ~~in~~ subsection 6-~~1027~~ ~~above~~ ~~below~~.

Sec. 6-~~1047~~1. - Hearings

- (a) No adverse action other than an emergency suspension pursuant to the provisions of section 6-~~1027~~9, above, shall be taken against a license or licensee without affording the licensee the opportunity for a hearing as provided in this section.
- (b) The county commission shall provide written notice to the applicant or licensee that it is considering adverse action as to the licensee. Such written notification shall be hand delivered or sent by certified mail to the licensee at the address shown on the application (or updated address of record as provided to the director), and the licensee shall be directed to show cause, if any there be, why the proposed action should not be taken by the county commission. The notice shall:
 - (1) Advise of the time and place specified for the hearing, which hearing shall be held not less than five days (if the notice is mailed) or three days (if the notice is hand delivered), but not more than 30 days from the date of the service of the notice;
 - (2) Set forth in reasonable detail the grounds for such action and the factual basis supporting those grounds;
 - (3) Advise the licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing; and
 - (4) Advise the licensee that failure to appear at the scheduled hearing will result in the intended action being taken by the county commission.
- (c) After the hearing, a written decision shall be entered and provided to the licensee. In the event disciplinary action is taken action against the licensee, notice of the fact that such action was taken shall be transmitted by the director to the state in such a manner as is required by state statutes or administrative regulations; such notification shall be given within 45 days of the action becoming final.

Secs. 6-105—6-111. - Reserved.

ARTICLE XII. – PROHIBITED SALES, PURCHASE, AND POSSESSION

Sec. 6-112. – Brown Bagging

(a) Brown bagging as defined in this chapter means possession of an open glass bottle, can, or other container containing an alcoholic beverage, or consumption of an alcoholic beverage:

1. On premises for which a county business license has been issued; and

2. Which occurs at a location different from where said alcoholic beverage was purchased.

(b) Subject to the exception contained in subsections c of this Section, it shall be unlawful for any owner or person in possession of any business establishment for which a Dawson County Business License has been issued to permit any person to engage in brown bagging on the premises.

(c) The prohibitions and restrictions in subsection b shall not apply to private functions in which attendance is by invitation only and during which alcohol is served if all the following provisions apply:

1.) All alcoholic beverages served at the private function shall be provided by the person renting the venue or otherwise having the right of temporary possession of the venue;

2.) The cost of the alcoholic beverages served at the private function shall be paid by the person renting the venue or otherwise having the right of temporary possession of the venue;

3.) No merchandise shall be bought or sold on the premises during the private function; and

4.) There shall be no cost to attend the private function either by donations or any other means.

5.) Where distilled spirits are being dispensed or consumed, the person renting the venue or otherwise having the right of temporary possession of the venue shall employ a bartender with appropriate training and experience to ensure the safety of all persons attending the private function.

Sec. 6-113. – Prohibited sales.

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

- (1) Knowingly sell or offer to sell distilled spirits, malt beverages or wines to any person under the age of 21 years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain distilled spirits, malt beverages or wines is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said alcoholic beverages to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the trier of fact in determining whether any sale to an underage person was made knowingly. 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. The term "proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a State issued identification card.

- (2) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his employees.
- (3) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.
- (4) Sell any alcoholic beverage to an adult with knowledge or reason to know that the adult is purchasing the alcoholic beverage for a minor.
- (b) Individual employees who violate this section shall be subject to the penalties set forth in section 6-100 as well as to loss of their employee license/permit. Penalties for license holders shall be determined by the county commission in accordance with the provisions of this chapter, including, in addition to any criminal penalties, possible suspension, probation, revocation or non-renewal of the license or imposition or conditions to or restrictions upon operations.
- (c) As to the penalties in subsection (b) of this section, if there is a change in a majority of the licensed establishments' owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

[Sec. 6-114.](#) - Sale or possession for sale of alcoholic beverages without license or beyond boundaries of premises covered by license; penalties.

It shall be unlawful for any person to sell, distribute, or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the county to sell, distribute, or possess for sale the alcoholic beverages. It shall be unlawful for any licensee, manager or employee to sell or to make deliveries of any alcoholic beverage beyond the boundaries of the premises covered by the license. It shall be unlawful for any licensee, manager or employee of an on premise consumption license to knowingly permit any customer to take any alcoholic beverage away from the licensed portion of the premises.

[Sec. 6-115.](#) - Failure to require and properly check identification.

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

[Sec. 6-116.](#) - Purchase or possession of alcoholic beverages by underage persons.

- (a) No person under 21 years of age shall purchase or possess any alcoholic beverage, personally or through a surrogate.

- (b) No person under 21 years of age shall attempt to purchase any alcoholic beverage personally or through a surrogate, nor misrepresent his/her age in any manner whatever for the purpose of obtaining alcoholic beverages.
- (c) No person shall purchase any alcoholic beverage for a minor or otherwise assist a minor in the purchase of any alcoholic beverage.

~~Secs. 6-117—6-118. - Reserved.~~

ARTICLE XIII VARIANCES

~~Sec. 6-119.72. – Purpose~~

~~The purpose of a variance is to provide relief when a strict application of the district requirements would impose unusual practical difficulties or unnecessary physical hardships on~~

~~Sec. 6-120.73 Criteria for Granting Variances~~

~~(a) Variances may be granted for the following categories of te standards and requirements of this Ordinance:-~~

~~(1) Minimum distance requirements.~~

~~(2) Requirements relating to the use of licensed servers to dispense and provide alcohol.~~

~~(3) Requirements relating to the service of food in conjunction with the service of alcohol, or any minimum amounts of revenue produced by food sales as a prerequisite for a license.~~

~~(b) No variance will be granted that is in conflict with state or federal law.~~

~~(c) Variances may be granted in the sole discretion of the Board of Commissioners.~~

~~(d) Criteria that will be considered as part of granting a variance:~~

~~(1) Whether a strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty or unnecessary hardship that outweighs the benefit from allowing alcohol sales at variance with the standard or requirement; and~~

~~(2) Whether there are exceptional or extraordinary circumstances or conditions applicable to the business involved which do not apply generally to other businesses selling alcohol; and~~

~~(3) Whether the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to the community, especially those in the near vicinity; and~~

~~(4) Whether the granting of the variance would support general objectives contained within this Ordinance; and~~

(5) Whether that the granting of the variance would not be in violation of any state or federal laws or requirements.

(a) The applicant shall prepare and submit an application setting forth the basis for its requested variance, along with any fee specified for such submittal.

(b) ~~B.~~—A public hearing shall be held to consider the variance at a regularly scheduled meeting of the Board of Commissioners.

~~—The Board of Commissioners shall review the application and the investigation report recommendations of the Planning Department -at the public hearing. The Board of Commissioners shall determine whether the evidence supports a finding that the required criteria have been met and recommend approval with condition, or denial of the application accordingly. Their recommendations shall be in writing and shall include written findings on each of the applicable criteria.~~

(d) ~~A C.~~—Decision on the variance requests shall be the responsibility of the Board of Commissioners, shall be made at the public hearing, and the decision shall become final after an elapsed period of thirty (30) days from the date of decision.

(e) Variances may be granted with conditions.

(f) If a variance is granted, the Planning Department shall record the exact nature of the variance and the conditions (if any) attached, which variance and conditions shall be included as a written addendum to the applicable license.

ARTICLE ~~XIV~~^{IV}. - Definitions

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

Abandon means to voluntarily give up a license or permit hereunder, or to automatically forfeit a license, permit or application under the terms of this chapter as, for example, by non-use.

Address of record means the address provided by an applicant or licensee or permit holder to the planning department for purposes of administration of this chapter. The applicant, licensee or permittee shall at all times be responsible for keeping the planning department notified in writing of the current address for sending notices or other communications, and delivery or mailing via U.S. Postal Service or private express delivery carrier shall be deemed to be properly addressed if it is sent to the most current address of record.

Administrative fee or *application fee* means the non-refundable fee which is required by the county to accompany an application for a license, permit, or change under this chapter. Such fees may include administrative, investigative, advertising or other components, which may be, but are not required by this chapter to be broken out separately.

Adverse action means disciplinary, regulatory or administrative action taken or proposed with respect to a license, permit, licensee or permit holder due to violation of this chapter or other law or regulation, or due to any other event that would disqualify a licensee or permit holder, or due to other change in status or circumstances that might make such action appropriate in the discretion of the commission. Adverse action as used herein is action under this chapter which is apart from and may be in addition to any applicable criminal penalties. Adverse action encompasses, but is not limited to, disciplinary action.

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

Alcohol treatment facility means any alcoholic treatment center owned and operated by the state or the county government.

Alcoholic beverage means and includes all forms of alcohol that can be used for beverage purposes, including distilled spirits, beer, malt beverages, wine or fortified wine.

Alcoholic beverage caterer means ~~an eating establishment or a~~ licensed caterer pursuant to this ordinance. indoor commercial recreation establishment which holds an alcohol by the drink license issued pursuant to articles VII and VIII, VII and IX, or VII, VIII and IX of this Code, holds valid food service permits from the Dawson County Health Department, and holds an alcoholic beverage catering license issued pursuant to article X of this Code.

Applicant means a person who has completed and submitted an application form, together with all required documents, and information, along with all required fees, seeking a license or permit under this chapter, or a renewal, transfer or modification thereof.

Bar means the station designated for mixing, pouring and dispensing alcoholic beverages within an establishment licensed for by-the-drink consumption on premises. It may have or not have a seating area for counter service to customers. The seating capacity for counter service may not exceed ten percent of the total seating capacity for the entire licensed premises. The licensee must obtain approval for each bar within the establishment and each must be shown on the site plan/floor plan of the

premises at the time of any application, renewal or change. The diagram shall indicate whether the bar is intended to allow counter service. Any bar which is on wheels or similarly equipped so as to render it mobile must be so designated in the application and diagram/floor plan.

Beer (or "*malt beverage*") means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "nonalcoholic" beer, which is made by fermentation of any infusion or decoction of barley, malt, hops or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine. Hard cider, as defined herein, shall be treated as a malt beverage under this chapter.

Beverage ticket means a printed ticket sold to be used for the purpose of exchanging the ticket or tickets for an alcoholic beverage (even if it may also be used for acquiring other beverages or food rather than alcoholic beverages).

Bona fide non-profit civic organization means an organization which is exempt from federal income taxation pursuant to the provisions of 26 USC § 501(c) or (d) or (e).

Bracelet fee means any charge for a bracelet, pass, ink stamp, badge, armband, receipt or other indication that the bearer may be served alcoholic beverages at a venue, event or licensed premises.

Brewpub means an eating establishment within the meaning of that term as defined in O.C.G.A. § 3-1-2 in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation and other limitations prescribed in O.C.G.A. § 3-5-36 as amended for retail consumption on the premises. May be referred to as a "micro-brewery." A brewpub must have Dawson County licenses for sale of the type of beverages it offers and for the manner of sale (for on the premises or off the premises consumption or both).

~~*Brown bag* means the act or practice of bringing an alcoholic beverage to a licensed premises or other business establishment for consumption, or the act of consuming such alcoholic beverage on the licensed, or non-licensed, premises, when the said beverage is not purchased at that premises or location. The term refers to any form of "bring your own bottle" kind of activity, regardless of whether the business or licensee charges for allowing the beverage to be brought in, and regardless of whether the business or licensee charges for some other service or goods, such as providing mixers, other beverages or food, or entertainment. Brown bagging is prohibited in licensed premises during any period of suspension.~~

By-the-drink means sales of alcoholic beverages for consumption on-the-premises, sold and served by the individual drink, either poured or in an opened container.

Chapter means this alcoholic beverage code, that is, the Dawson County Alcoholic Beverage Ordinance, which is Chapter 6 of the Dawson County Code of Ordinances.

Church building means the main structure used by any religious organization as a permanent place for worship.

Code means the Dawson County Alcoholic Beverage Code (Chapter 6 of the Dawson County Code of Ordinances), unless the context makes other usage appropriate.

Code enforcement official means any person authorized by law or designated by the county, the director, or the county manager to exercise licensing, inspection, permitting, taxing, enforcement, regulatory or other powers related in any way to this chapter, or to any related ordinances and

regulations of the county, state or federal governments, including, but not limited to, staff of the planning and development, fire, building, sheriff, health, finance and other departments and offices of Dawson County.

Convenience store means a business carrying on retail sales of groceries, household supplies, over-the-counter medications, soft drinks, tobacco products, packaged or prepared foods, magazines, newspapers, gasoline and other consumer goods. The term convenience store shall not include any business for which an adult entertainment license has been issued or for which one is required.

County means Dawson County, Georgia, or as the context may indicate, its governing authority or designated staff.

County commission means the Board of Commissioners of Dawson County, Georgia, or such person as it may designate from time to time to exercise its authority or otherwise act on its behalf under this chapter. May also be referred to as "board," "board of commissioners," "county," "commission" or "governing authority."

County manager means the County Manager of Dawson County, Georgia, or such person as he or she may designate from time to time to exercise authority or act on his/her behalf under this chapter.

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

Director (may be referred to as "*administrator*") means the county staff member named to administer the rules set forth in this alcoholic beverage ordinance and to develop forms, regulations and policies as may be appropriate to implement and enforce the provisions of this chapter or as the commission may otherwise direct. The director of planning and development shall serve as administrator/director. The staff member to serve as director may be changed by the board of commissioners from time to time by vote in open meeting. The administrator/director may designate another staff member or members to manage the general affairs of alcoholic beverage licensing to the extent the director determines appropriate and is authorized to direct the activities of staff responsible for enforcing the terms of this chapter.

Disciplinary action means adverse action taken or proposed action by the county against a license, permit, licensee or permit holder due to failure to comply with terms or requirements imposed by or pursuant to this chapter, state law or federal law, or for other reasons set forth in this chapter. Examples are suspension, revocation, imposition of special conditions or restrictions (regardless of whether or not termed as a period of probation), posting of bond, denial of renewal or transfer request or other sanctions as imposed by the county.

Distance refers to the minimum distance allowed between an establishment licensed under this ordinance and another licensed premise, or between a proposed licensed premise and some other facility or use, such as a church, a school, a daycare facility, a college, or an alcohol treatment facility. Unless otherwise provided, distance shall be measured as provided for by O.C.G.A. § 3-3-21(c) and Georgia Department of Revenue Regulations [currently found at 560-2-2-.12(1)(b)].

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

Distiller means a manufacturer of distilled spirits. A distiller may engage in on-premises or off-premises sales if qualified and licensed as required by applicable State statutes and regulations provided

that such distiller must qualify for and obtain licenses from Dawson County for such sales in the same manner and according to the same terms as required for other licensees for sale of distilled spirits under this chapter.

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

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments. An eating establishment shall be prepared to serve food every hour the establishment is open and shall derive at least 50 percent of the gross receipts annually from the sale of prepared meals or food.

Establishment means a business or place of business. It may refer to the business entity, its operations or the location thereof as the context makes appropriate.

Employee permit means an authorization granted by the county to employees of a licensed retail consumption dealer to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer, and to employees of a retail package dealer (liquor store, package store, convenience store) to sell alcoholic beverages in that establishment. An employee permit is not required for employees of licensed grocery stores or drug stores, nor for licensees to work in their own business. An employee permit is also required of any employee or volunteer working at a special event in a capacity described in section 6-~~6649340(d)~~ of this Code. A single employee permit shall authorize the employee to sell, serve or dispense alcoholic beverages at retail licensees for on-premises consumption, or at retail package dealer licensees, or at licensed special events or a combination of the foregoing, as may be designated on the permit.

Fee means a charge payable to the county in relation to obtaining, renewing, reinstating, transferring or changing a license or permit under this chapter as well as any other fees and charges, such as occupational, inspection, or zoning fees, which are payable but not a part of the fees charged under this chapter. The fees which are charged under the terms of this chapter shall be as set forth in the alcoholic beverage licensing fee schedule. They may include, but are not limited to, license fees, renewal fees, application fees, investigatory fees, criminal background check fees, advertising/publication fees, license modification fees, and transfer fees.

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

Front door means the primary doorway used by the public (that is, by customers in the case of a business, students in the case of a school or college, members in the case of a church, club or civic organization, or other similar users, and not merely by employees) as an entrance to a structure or building as determined by the director.

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

Grocery store means a store which sells primarily food, and which has a produce department and a meat department; sometimes referred to as a "supermarket."

Growler means a glass, ceramic, or stainless steel jug or container with a capacity of 32 to 64 fluid ounces having a screw-on or hinged cap which can be sealed, and which is used for purchasing and transporting malt beverages.

Hard cider means an alcoholic beverage obtained by the fermentation of the juice of apples, containing not more than six per cent alcohol by volume, including, but not limited to, flavored or carbonated cider. For purposes of this chapter, hard cider shall be deemed a malt beverage.

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

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

Individual means a natural person.

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

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

Investigative fee means the fee established to defray the costs of investigating and examining the qualifications and background of applicants for licenses and permits under this ordinance and for review of the proposed location of any licensed premises. This fee may be included in the administrative fee or charged separately. In addition to the fees for the applicant, there may be charged a separate fee for criminal history checks on individuals such as officers, agents, partners, managers and other employees.

License means any license or permit applied for, required or issued pursuant to this chapter. It may also refer to the document which evidences such license or permit, as the context indicates.

License fee means the initial license fee and the fee for any renewal or reinstatement of a license as may be determined from time to time by the county commission as a prerequisite to the privilege of holding an alcohol license under this chapter. May be referred to as the "annual fee." In the event an application for issuance, renewal or reinstatement is denied, the license fee is refundable but the application fee is not to be refunded.

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

Licensed premises means the area within a parcel of real property where a licensee under this chapter is authorized to operate the licensed business, that is, the portion of the premises where alcoholic beverages may be stored, displayed, sold and, in the case of on-premises consumption licenses, served and consumed. In the case of a special event alcohol permit, the specific area approved for service and consumption of alcoholic beverages.

Licensee means the person to whom a license for the sale or distribution of distilled spirits, malt beverages, or wine is issued under this chapter. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees. In the case of a limited partnership the managing partner is a licensee, and in the case of a limited liability company the manager and the chief executive officer are licensees. The term may be used to refer to a person to whom a license has been issued and whose license is suspended, revoked, abandoned, or declared void and when so used shall not confer or imply that such person holds or is entitled to a valid license.

Mead, honey mead or mead wine means a fermented alcoholic beverage made from honey that may not contain an alcoholic content of more than 14 percent by volume or total solids content that exceeds 35 degrees Brix. For purposes of this chapter the sale, manufacture, distribution and transport of mead shall be treated in the same manner as wine.

O.C.G.A. means the Official Code of Georgia Annotated.

Off-premises sales refers to sale of alcoholic beverages in sealed containers, for consumption off the licensed premises only. This type of operation may sometimes be referred to as package sales.

On-premises sales refers to sale of alcoholic for consumption only on the licensed premises, in unsealed containers or in the form of poured individual drinks, or, in the case of malt beverages, by the pitcher as may be otherwise allowed under this chapter. This type of operation may sometimes be referred to as "by-the-drink" sales.

Ordinance means this alcoholic beverage ordinance, chapter 6 of the Dawson County Code of Ordinances, unless the context clearly refers to a different or additional ordinance or ordinances.

Package means a bottle, can, keg, barrel, growler, or other original consumer container, including a wine "box" type container for consumer use.

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

Premises means the parcel of real property upon which a licensee under this chapter operates the licensed business. It includes both the area authorized for preparation, display, sales, storage, service, possession or consumption of alcoholic beverages ("licensed premises") and the area on the same parcel where such beverages may not be stored, displayed, served, prepared, consumed or possessed. The area outside the designated licensed premises, but on the same parcel, may be referred to in this ordinance as "approaches," which may include parking areas, walkways and any other areas which have not been specifically designated as licensed premises. Use of an address on a license or application is not an indication that the entire parcel or property at such address is approved as licensed premises.

Private club means any club which fits the definition of a private club under the articles ~~s-XI~~ of this Code.

Probation means a period during which a licensee may be monitored for compliance with laws, ordinances and, in addition, any conditions specified by the commission, and during which infraction may lead to immediate disciplinary action against the license up to and including suspension or revocation. It may follow or be imposed in addition to or in lieu of a period of suspension or in lieu of revocation. The length/duration or other terms of a probationary period may be extended or modified by the commission.

Provisional approval or *conditional approval* means approval of a license application subject to financing, zoning status, or other plans or requirement that the licensee construct, renovate, or remodel the licensed premises prior to commencing licensed operations. Such conditional/provisional approval is temporary and not subject to renewal unless the licensee complies with the terms of section 6-~~791~~ and section 6-~~1195~~ of this chapter and all conditions which may be placed upon the license. A provisional license is issued to allow an applicant to ascertain whether a license may be had, subject to the requirements, conditions and qualifications which may apply, but does not allow operations to commence until such conditions are met, including issuance of any necessary state license.

Registered agent or *agent* means a qualified individual residing in Dawson County who has been named as, and has qualified and consented to be, the local registered agent of a licensee pursuant to this chapter.

Retail consumption dealer means a person or entity licensed under this chapter to sell alcoholic beverages by the drink for consumption on the licensed premises. May be licensed for sale of beer/malt beverages, or distilled spirits, or wine, or a combination of the foregoing.

Retail dealer means persons other than wholesale dealers who sell distilled spirits, malt beverages, or wines irrespective of the quantities sold. It is specifically intended to refer to establishments licensed to sell alcoholic beverages directly to the retail consumer and not for resale.

Retail package dealer means a person or entity licensed under this chapter to sell alcoholic beverages in packaged form at retail for consumption other than on the licensed premises. May be licensed for sale of distilled spirits, or beer/malt beverages, or wine, or a combination of the foregoing.

Revocation means the termination, forfeiture or withdrawal by the county of the privileges afforded by this chapter to a licensee or holder of a permit issued under this chapter.

Sale of alcohol means provision of alcohol beverages in exchange for monetary value in the form of cash, credit card, debit card, check or other form of monetary exchange, or in return for all or part of an admission fee, ticket of any kind, cover charge, door charge, token, coin, per drink fee, or other medium of exchange.

School building or *school grounds* shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this State and which are public schools or private schools.

Special event alcohol permit means a temporary permit issued pursuant to articles ~~s-XI~~ of this Code.

Suspension means the temporary (either for a definite or indefinite period) prohibition of operation under an alcoholic beverage license or permit issued by the county pursuant to this chapter.

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

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

Chapter 6 - ALCOHOLIC BEVERAGES

Article I General

Article II Malt Beverages and Wines

Article III Distilled Spirits

Article IV Private Clubs

Article V Special Event Permits

Article VI Hotel In-Room Service

Article VII Farm Wineries

Article VIII Catering

Article IX Agribusiness Sale of Malt Beverages & Wine by the Drink

Article X Excise Tax

Article XI Enforcement

Article XII Prohibited Sales, Purchase and Possession

Article XIII Variances

Article XIV Definitions

ARTICLE I. - GENERAL

Sec. 6-1. - Title.

This chapter shall be known as and may be referred to as the Dawson County Alcohol Ordinance or Dawson County Alcoholic Beverage Code.

Sec. 6-2. - Purpose.

The purposes of this chapter include, but are not limited to, the following:

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

Sec. 6-3. – Licenses generally.

- (a) Alcoholic beverages may be sold in the unincorporated area of the county only after issuance of a license for such and only in the manner permitted by said license, upon the terms and conditions provided in this chapter. Sales are permitted only by licensees who comply with the rules of this chapter and with the licensing, revenue and regulatory requirements of the State of Georgia.
- (b) All licenses issued pursuant to this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this chapter and state law. Licenses may be abandoned by the licensee, may be suspended or placed under restrictive conditions by the board of commissioners, and are subject to being revoked by the Board of Commissioners. Renewal is subject to the discretion of the Board of Commissioners.
- (c) All licenses issued pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."
- (d) Any holder of a license issued in accord with this chapter is required to apply for and obtain all applicable alcoholic beverage licenses from the state before any sales or service commence. Additionally, county licensees and permit holders are required to abide by all applicable State regulations and laws.
- (e) All licenses issued under this chapter shall:
 - (1) Permit the licensee to sell or distribute the beverage for which the license is issued and for the purpose authorized, within Dawson County, Georgia, but outside municipalities in Dawson County, Georgia, pursuant to the terms of this chapter and not inconsistent with the laws of the State of Georgia and of the United States;
 - (2) Expire on December 31 of each year. Application for renewal shall be made annually on or before November 30th. Any licensee making proper application, with supporting documents

and required fees, for a license to operate during the following calendar year and having filed such application prior to November 30, shall be permitted to continue to operate pending final action (approval or disapproval) of such licensee's application for the following year if final approval or disapproval is not done prior to January 1;

- (3) Not be transferred from one person to another or from one location to another without the prior approval of the county commission upon written application; and
 - (4) Be subject to all terms and conditions imposed or provided for by future provisions or amendments to this alcoholic beverage ordinance.
- (f) Any license or permit under this chapter which is issued by administrative error, or due to mistake, or in reliance upon any misrepresentation by the applicant or anyone providing information on behalf of the applicant shall be null and void and shall be subject to seizure by the sheriff or other official charged with enforcement of this chapter. When notified of the invalidity by Dawson County personnel, the licensee or permittee shall immediately cease operation and surrender the license or permit to the county. The licensee/permittee shall be given written notice of the invalidity of the license or permit and the reasons therefor, and shall be advised of the right to appeal the decision to the board of commissioners, which shall consider the asserted grounds for invalidity and the licensee's arguments and/or evidence contesting the assertion of invalidity. Once the licensee has been given notice and an opportunity to be heard the board shall determine the issue and cause written notice of its decision to be provided to the licensee.
- (g) There shall be a separate application, license fee, application fee and license required for each proposed location of a proposed licensee and for each category of operation as provided for herein.

Sec. 6-4. - Types of licenses and permits issued.

- (a) Only the following licenses and/or permits shall be issued under this chapter:
- (1) Malt beverages and Wine, wholesale.
 - (2) Malt beverages and Wine, retail package.
 - (3) Malt beverages and Wine, by the drink for consumption on the premises.
 - (4) Distilled spirits, wholesale.
 - (5) Distilled spirits, retail package.
 - (6) Distilled spirits, by the drink for consumption on the premises.
 - (7) Caterer License
 - (8) Farm Winery
 - (9) Special Event Permits
 - (10) Event Catering Permit
 - (11) Employee Permit
 - (12) Hotel-motel in-room service permit.
 - (13) Agribusiness
- (b) Licenses relating to wine shall also include mead (honey mead or honey wine). Licenses relating to malt beverages shall also include hard cider.

Sec. 6-5. - Fees.

- (a) There is an annual license fee for each type of license. In addition, there are administrative fees to offset administrative and investigative costs which are charged with the initial, renewal, transfer and reinstatement applications for licenses and permits. The fees applicable to all such licenses, permits, and applications shall be set forth in the Dawson County Alcohol Schedule of Fees. Said fee schedule may be modified by the commission periodically as it deems needed and any changes shall be put in written form. An ordinance or ordinance amendment shall not be necessary to change the fee schedule. The fee schedule shall set forth the amount to be paid as a license (annual) fee and the amount of any administrative fee, investigatory fee or other fee as to each type of license. The administrative, investigatory and other fees may be combined in the schedule. There shall be no waiver of fees or parts of fees except in accordance with written policy approved by the county commission. The director shall be responsible to determine fees and shall have authority to decide upon any dispute, question or objection as to the amount payable as fees with an application in order for the application to be considered complete, subject to review by the board of commissioners.
- (b) Each type of license to be issued requires a separate application. Each application for a license shall be accompanied by a certified check in the full amount of the license fee and additional fees. In the event a license application is denied, withdrawn or abandoned, the license fee will be refunded, but the administrative fees are nonrefundable. License fee and administrative fee check shall be delivered to the director or other designee of the board of commissioners with the application and no application shall be deemed complete until all required fees are paid.
- (c) Licenses are valid for not more than one year from date of issue. The normal termination of every license shall be midnight on December 31. If a license is issued prior to July 1 of the year, the full annual license fee shall be payable. If the license is issued July 1 or thereafter, only 50 percent of the license fee shall be payable; the license shall still expire on December 31. All administrative fees are payable regardless of the time of year the application is filed.
- (d) All licenses granted under this chapter shall expire on December 31 of each year unless revoked, surrendered, abandoned or otherwise terminated prior to that normal termination date. Licensees who desire to renew the license shall file applications, with the requisite fee enumerated in the fee schedule, with the designee of the county commission on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to the annual license and administrative fees, a late charge of 20 percent of the total license and administrative fees otherwise payable. If the license application is received after December 31, the late charge/penalty payable shall be increased from 20 percent to 50 percent.
- (e) In the event a license is issued and thereafter abandoned, forfeited, surrendered, revoked, suspended or transferred, no portion of the license fee or administrative fees shall be refunded.
- (f) In the event an application is withdrawn before the license is issued, any sums deposited for license fees will be refunded. Administrative fees will not be refunded.

Sec. 6-6. – Applications and procedures

- (a) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the director, which shall include a diagram illustrating distances to the closest example of each type/class of property for which a minimum distance is prescribed in this chapter, and a diagram/site plan illustrating which portions of the parcel (on which the proposed licensed premise

is to be located) shall be usable for sale and/or consumption of alcoholic beverages, such as interior areas, decks, patios, exterior fenced areas, etc. The diagram for on premise consumption licensees shall show the location of each bar, identifying whether it is fixed or mobile, and whether it may include counter service. If the applicant is or will be doing business under a trade name, the application shall include the trade name though the license will be issued to the individual, partnership, Limited Liability Company or corporation in accordance with the provisions of this article.

- (b) If the applicant is an individual, then the application for license shall be in the name of the individual and the license, if issued, shall be issued in that name.
- (c) If the applicant is a partnership or limited partnership, then the application shall be made in the name of the entity; and if a license is issued, then the license shall be issued in the name of the entity or in accord with section 6-9 hereof if section 6-9 applies.
- (d) If the applicant is a limited liability company or a corporation, then the application shall be made in the name of the said limited liability company or corporation; and if a license is issued, then the license shall be issued in the name of the said limited liability company or corporation or in accord with section 6-10 hereof if section 6-10 applies.
- (e) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the county commission or its designee to insure compliance with the provisions of this chapter. The refusal or failure to furnish data, fingerprints, records or information pursuant to such request shall automatically serve to dismiss the application with prejudice.
- (f) The fingerprints provided shall be forwarded to the Sheriff's office and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the two years immediately preceding the date of the application.
- (g) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.
- (h) A notice of each initial application to sell distilled spirits (whether for package sales or for consumption on the premises) shall be advertised in the official legal organ of the county once during each of two weeks during the 30 days preceding consideration of the application. In the event it is determined at or before the time of consideration that there has been a failure as to publication of the required notice, then the appropriate action will be to delay consideration of the application until proper publication is done. The notice shall contain the name of the applicant, the type of license sought, and the location of the proposed licensed premises, as well as the expected date for consideration (including a statement that such date is subject to change).
- (i) An applicant for any type of license under this chapter, including an employee permit, must resolve any pending alcohol related criminal charges before his or her application will be considered.
- (j) If an applicant is notified of a date, time and place to appear before the county commission or its designee in connection with consideration of an initial application, or a renewal application, or a reinstatement request, or a possible disciplinary action such as suspension, probation or revocation, and the applicant fails to so appear, and if the failure to appear is not excused by the county commission or its designee, then the commission or its designee may deny the application, or may consider the proposed disciplinary action unopposed, or may delay further proceedings as the commission or its designee determines to be appropriate.

- (k) (1) Consideration of all initial applications and transfer of location applications under section 6-10 of this Code, shall be done by the county commission at an open meeting of the commission unless the commission by written policy, resolution or amendment to this ordinance designates the director or another person or entity to consider and decide such categories of possible actions.
- (2) The county commission shall consider and decide all proposed suspensions, revocations, or other potential disciplinary matters as to any license in an open meeting of the commission, with the exception of emergency suspensions done on a temporary basis, which may be done by the county manager, fire chief, building official or sheriff for public safety reasons under section 6-104 of this Code, until the commission is able to schedule a hearing on the matter for its consideration of the suspension.
- (3) All applicants/licensees shall appear before the commission at the time of its consideration of any of the foregoing matters, either in person, or by the presence of a registered agent who is suitable to answer all questions which may arise concerning the action under consideration. Such appearance by someone other than the agent must be approved in advance by county staff. Failure to appear may result in such action as the county commission or its designee deems appropriate, including delay to allow re-scheduling, or denial of an application or change, or imposition of the proposed disciplinary action.
- (4) Applications for license renewals; special event alcohol permits; transfer of ownership; issuance or disciplinary action as to employee permits; whether a license has been abandoned due to non-use under section 6-11 below; and all other administrative decisions not specifically committed to the discretion of the commission, shall be determined by the director or his or her designee, subject to right of the applicant or licensee or permit holder to appeal an adverse decision to the board of commissioners by filing a notice of appeal stating the grounds for appeal and relevant supporting facts. Notice of appeal must be filed with the director and must be received in the county's planning office within ten business days of the date of the director/designee decision from which complaint/appeal is made. In the event this chapter requires the director to issue a written notice of decision, then the appeal time shall commence on the date when the director's notice is received by the licensee/permittee.
- (5) Notices of all kinds from the director/designee or the commission may be forwarded to licensee/permittee's address of record by hand delivery; or by certified or registered mail, return receipt requested; or by private express delivery with proof of delivery. Notices will be deemed to be received when actually received by licensee/permittee as evidenced by the return receipt signed by licensee/permittee or other person on behalf of licensee/permittee. If hand delivered, the delivery or refusal may be evidenced by the signed statement of the person who delivered or attempted to deliver the notice. If the notice is returned un-delivered because licensee/permittee refused to accept delivery, or failed to pick up a notice despite notice from the U.S. Postal Service or private express carrier as referred to above, or is returned marked "addressee unknown" or "forwarding order expired" then that will be deemed to constitute delivery to the addressee if the notice was addressed to the most current address of record. Refusal to accept shall be deemed delivery of the notice as of the date of refusal, and failure to pick up shall be deemed delivery as of the date of notice of attempted delivery (or the date of final notice if more than one notice of attempted delivery or notice to pick up is given by the U.S.P.S. or private carrier).

- (l) The commission or its designee may table or delay further consideration of an application, disciplinary action, or other matter in order to obtain further information or for other reason if it or its designee deems such tabling or a delay appropriate.

Sec. 6-7. - Granting applications; provisional licenses; special terms and conditions.

- (a) When licenses in accord with the terms hereof are initially issued, if more than one applicant seeks to obtain a license within an area where only one license can be issued, then the board of commissioners shall determine to whom the license shall be issued and may consider the following provisions in addition to the provisions set forth in section 6-9 hereof:
 - (1) Whether the applicant owns the property where the licensed business will be located;
 - (2) The experience of the applicant operating retail package stores; and
 - (3) The distance from the proposed location to any church building, school building, day care facility or alcohol treatment facility with those locations being a greater distance from a church building, a school building, a day care facility or an alcohol treatment facility being given preference if the commission determines such preference to be appropriate.
- (b) In deciding whether or not an application will be granted or denied, the commission may consider the qualifications of the applicant, the location of the business and its proximity to other enterprises. The commission may also consider:
 - (1) The effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of properties surrounding the site; and
 - (2) The number of alcoholic beverage licenses already granted in the neighborhood.
- (c) Approval of an application for a license, renewal of a license, reinstatement of a license, or allowance to continue operation under a license in conjunction with adverse action such as suspension or probation, or in lieu of immediate revocation of proposed or imposed, may be conditioned upon the licensee's agreement to and compliance with conditions provided for by the commission, which may be modified during the course of the term of the license as the commission deems appropriate. Such conditions may include, but are not limited to: substitution of a different licensee, manager or agent; non-participation of a named individual in the ownership, operation or management of the licensed business; restriction of days or hours of operation; modification of the licensed premises or of the portion of the property upon which alcoholic beverages may be sold, served or consumed; changes as to staffing; posting of a bond with adequate security to guarantee compliance with state law and the provisions of this chapter as well as any conditions placed upon any license; conditions as to reporting or record keeping; conditions requiring licensee to clean up trash in the vicinity of the licensed premises on a regular basis; or other reasonable conditions, requirements or restrictions as may be prescribed by the commission.
- (d) Approval of a license may be provisional, that is, temporary and based upon conditions requiring or related to carrying out construction, renovation, alteration or improvement of the proposed licensed premises. Terms and conditions which are hereby imposed automatically on a provisional license are as follows: submittal of plans as required by the director, the building official, the fire department, the health department and any other such official or authority; obtaining all appropriate inspections; payment of all required fees; and securing of all necessary certifications and approvals. Any of the foregoing authorities may impose further reasonable conditions. The

licensee may not keep or store alcoholic beverages on site, and may not commence operations, until all such conditions are met.

Sec. 6-8. - Denial of an application.

- (a) The county commission shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.
- (b) In all instances in which an initial application is denied under the provisions of this chapter, the applicant may not reapply for a license for at least one year from the date of such denial.

Sec. 6-9. - Qualifications of applicants, licensees and resident agents.

- (a) *Wholesale.* Wholesale licenses shall be issued only to those persons who are licensed by the State of Georgia to sell and distribute malt beverages, wines, or distilled spirits at wholesale.
- (b) *Retail package sales and consumption by the drink on the premises.* In order to qualify for the issuance of a retail license, the following provisions shall apply:
 - (1) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. The applicant must submit all electronic and other verification forms and identification determined by the director to be applicable. The applicant must not be less than 21 years of age. Applicants may choose to employ or designate a qualified registered agent for the administration of the license, but the agent is not permitted to make the application in place of the proposed licensee.
 - (2) If the applicant is a partnership, limited partnership, limited liability company, or corporation, then the provisions of this section shall apply to all its partners, members, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. If the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this chapter. In the case of a partnership, the license will be issued to all the partners owning at least 20 percent of the partnership; or if no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership shall be licensed. In the case of a limited partnership the license shall be issued in the name of the general partner(s). In the case of a limited liability company the license shall be issued jointly in the name of the LLC and its managing member(s), or if there are no managing members, then jointly in the name of the LLC and the individual designated as manager by the LLC in current filings with the Secretary of State.
 - (3) If the applicant is an unincorporated nonprofit club, then the managing agent may be an officer of the organization rather than a full-time employee if such managing agent is qualified in accord with this section.
 - (4) No person shall be granted any alcoholic beverage license if, during the two years immediately preceding the application, the person has either been convicted of, pled guilty to, pled nolo contendere to, or been released from parole or probation for any of the following offences: any crime involving moral turpitude; illegal gambling; illegal possession or sale of controlled substances; illegal possession or sale of alcoholic beverages, including the sale or

transfer of alcohol to minors in a manner contrary to law; keeping a place of prostitution; pandering; pimping; public indecency; prostitution; solicitation or sodomy; or any sexually related crime. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant nor any of the owners of the establishment has been so convicted or released in the two years preceding the application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor, or a violation of a county ordinance shall not, alone, make an applicant ineligible for a license. If, after a license has been issued, any applicant, partner or officer used in the sale or dispensing of any alcoholic beverage, is convicted or pleads guilty or nolo contendere to any of the offenses enumerated herein, then the license shall be immediately revoked and cancelled.

- (5) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within two years prior to the filing of application for such license.
- (6) It shall be unlawful for any county employee directly involved in the issuance of alcoholic beverage licenses under this chapter to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the county.
- (7) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the county previously revoked within two years prior to the filing of the application.
- (8) The county commission may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.
- (9) Any registered agent under this chapter must be an individual who resides in Dawson County and qualifies under the same terms as would an individual applicant for license (that is, all qualifications as to character, criminal and other personal history matters); must consent in writing to serve as resident agent; and must be approved as such by the director. In the event a registered agent ceases to qualify under the terms of this chapter, or the agency is revoked by the licensee, or the agent resigns or declines to continue to serve as agent, the licensee shall notify the director promptly in writing that the individual who has been serving will no longer be agent and shall name another qualified individual residing in Dawson County to serve, subject to the director's approval. As to any proposed initial or replacement agent the applicant/licensee shall be responsible for providing all information, records or data requested by the director for consideration in the approval process.
- (10) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.
- (11) A license application may be denied to any applicant for any alcoholic beverage license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to serve as a surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- (12) The county commission may, in its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application, agent or the proposed location of the business. If circumstances are such that granting of the license would not be in

the best interest of the public health, safety, welfare, and morals, then such circumstances may be grounds for denying the application.

- (13) For purposes of this chapter, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which the defendant was allowed to avail himself or herself of the Georgia First Offender Act (O.C.G.A. § 42-8-60 et seq.), as amended. Except, however, that any such offense shall not be ignored if the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt.

Sec. 6-10. - Transferability of license/change in ownership.

- (a) *Individuals.* In the event of a change of ownership of a business for which an individual has been issued a license, the new owner, if desiring a license, must meet the qualifications specified in section 6-9 and must file an application as provided in section 6-6 and tender with the application the investigative and administrative fee as provided in section 6-5 and any license fee that may be due.
- (b) *Partnerships or corporations.* In the event of a change of any ownership interest in a business which is owned or operated by a partnership, limited partnership, limited liability company, or corporation and for which a license has been issued, the licensee shall report such change to the county commission in writing within five days. "The term "change of ownership interest" as used herein includes, but is not limited to, any change in:
- (1) Division of profits and/or losses;
 - (2) Division of net gross or sales;
 - (3) Method of paying or amount of rent paid;
 - (4) Ownership of leased premises, or buildings or land used in the business;
 - (5) Members of a partnership;
 - (6) Stockholders of corporate stock; and
 - (7) Management.
- (c) If, as a result of any change of ownership interest, the licensee would not qualify under other provisions of this chapter for the issuance of a license, then the license issued to the licensee shall be subject to revocation and shall not be subject to renewal.
- (d) All applications for transfer of a license to a new licensee or new location shall be accompanied by the transfer fee, together with an investigative and administrative fee. If the transfer is not approved, then the transfer fee will be refunded, but the investigative and administrative fee will not be refunded. Ownership changes will be decided by the director, subject to right of appeal to the commission by a dissatisfied applicant, and changes of location shall be decided by the commission.
- (e) Upon the death of a licensee, the executor or administrator of the licensee's estate may continue to operate under the license for the balance of the calendar year without payment of any additional fee or may delegate the operation of the business to another person if the person operating under the license, whether the executor, administrator, or delegate, would otherwise be qualified as a licensee under the provisions of this chapter.

- (f) Any proposed change of location must be approved by the county commission after submission of all required transfer fees, administrative fees and investigative fees, and all information and data required by the director, which shall include, but not be limited to, all location data that would be required on an initial application under this chapter, such as the certified survey showing distances to specified properties, and the floor plan showing the areas designated for storage, preparation, service, display, sales and consumption of alcohol and the location of any bars. The director may also require full current information on the applicant and other persons as for an initial application. The transfer application shall be treated and considered in the same manner as an initial application except there shall be a renewal fee and not a new license fee if the change is to take effect after December 31 of the year the change application is submitted. There will be a transfer fee and no additional license fee if the change is to be effective during the current year. The normal renewal application and fees associated with renewal shall be due notwithstanding pendency of any transfer application under this article. The commission is authorized to consider any factors that might be considered in approving or disapproving an initial application. If the application is for sale of distilled spirits, any notice publication requirements as for new applications shall apply.

Sec. 6-11. - License forfeiture for nonuse.

- (a) A license issued pursuant to this chapter shall be valid only so long as the licensee is actually engaged in the permitted sale of alcoholic beverages. Any holder of any license under this chapter who shall for a period of 30 days after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the 30-day period, automatically forfeit the license without the necessity of any further action by the county. The director shall cause a notice of forfeiture to be mailed or delivered to the address of record of the licensee, which shall notify the licensee of its right to appeal the decision of the director to the board of commissioners by submitting a notice of appeal. The notice of appeal shall be delivered so as to be received by the director within ten business days of the date of the licensee's receipt of the notice of forfeiture. The notice of appeal shall set forth the grounds of appeal including any relevant facts in support of the appeal.
- (b) A license may be conditionally or provisionally issued for a location upon which the licensee intends to build an appropriate building or renovate an existing structure, and due to the construction or renovation, does not anticipate commencing operations within 90 days of issuance of the license. In the event a license is issued subject to such a condition, the licensee will be determined to have ceased doing business and thus forfeited the license if necessary permits are not obtained and substantial work completed within six months after the date the license is approved. If the licensee has not completed building/renovation, and obtained all required inspections and permits for occupancy, and obtained a business license, and commenced operation of the licensed business within one year following the date of issuance of the license, then the licensee will be deemed to have abandoned the license, which is then forfeited automatically by operation of this section. Provided, however, the holder of any license currently issued and existing as of the adoption of this amendment to the alcohol ordinance, but for which no operations under the license have been commenced, shall have a period of two years from the adoption of the amendment prior to such forfeiture in which to commence operations.

Sec. 6-12. – Licensee requirements.

- (a) Each alcoholic beverage dealer licensed under this chapter shall keep a copy of this chapter upon the licensed premises and shall instruct any person working there with respect to the terms of this chapter; and each licensee, the licensee's agents, and the licensee's employees selling alcoholic

beverages shall at all times be familiar with the terms of this chapter. The licensee is responsible for assuring such familiarity and is responsible for any violations committed by any employee or manager due to ignorance of the terms of this chapter or of State law.

- (b) The regulations in this section as to employees and managers shall apply to all establishments seeking and holding a license under this chapter unless specifically provided otherwise:
 - (1) No person shall be employed in an establishment holding a license issued under this chapter unless said person meets the following minimum age requirements for issuance of an employee permit:
 - a. For employment in an establishment serving alcoholic beverages by the drink for consumption on-premises, a person must be at least 18 years of age.
 - b. For employment in an establishment licensed for sale of distilled spirits by the package for off-premises consumption, a person must be at least 21 years of age. This requirement shall not apply to persons employed solely as a busboy, cook, dishwasher or janitor.
 - c. For employment in an establishment licensed for sale of beer, wine or beer and wine by the package for off-premise consumption, a person must be at least 18 years of age. This requirement shall not apply to employees of a grocery store or drug store.
 - (2) No person shall be employed in any capacity at an establishment holding a license issued under this chapter until such person has been issued a permit by the director indicating that the person is eligible for such employment.
 - (3) No permit shall be issued by the director to any person until such time as a signed application has been filed by such person with the director, and the appropriate fees have been paid, and a search of the criminal record of the applicant is completed. The application shall include, but not be limited to, the name, date of birth, address, citizenship status and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order. Applications must be accompanied by a valid government issued I.D. card (for example, a driver's license or state-issued I.D. card).
 - (4) The director shall have the search made relative to any criminal record of the person. If there is no record of a disqualifying conviction or of a violation of this chapter, the director shall issue a permit to the person stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the director shall notify the person in writing that the person is not eligible for employment, the cause for such denial, and that such individual has the right to appeal such decision to the board of commissioners.
 - (5) No person shall be granted a permit unless it appears to the satisfaction of the director that such person has not been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy or any sexually related crime within a period of two years of the date of application and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not by itself make a person ineligible for a permit required by this chapter. No person shall be granted a permit required by this chapter who has been convicted, pled guilty

or entered a plea of nolo contendere to any federal, state or local law for any felony within two years preceding, or any time subsequent to, the date of application and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this chapter, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense where the conviction or plea was entered pursuant to the Georgia First Offender Act (O.C.G.A. § 42-8-60 et seq.), as amended, so long as the first offender status has not been revoked.

- (6) The permit required by this chapter shall be issued for a period of one calendar year from the date of the original application. Employee permits are issued for work for the specific type of licensed establishment as indicated on the employee permit application and may not be used at another category of licensed establishment. The permit must be either on the premises or in the possession of the individual to whom it is issued while that individual is working at the licensed establishment. This permit must be available for inspection by members of the sheriff's office, the director's office or the county code enforcement staff.
- (7) No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the marshal's office for the permit required by this chapter. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from the date of notification per certified mailing before a new application and fee may be resubmitted.
- (8) All permits issued through administrative error can be terminated and seized by the marshal, his designee or by the county commission or its designee.
- (9) Replacement permits may be issued within 30 days of original date upon paying one-half of the fee charged for the original permit. After 30 days of the original application date, a new application and fee must be submitted.
- (10) All permits issued under this chapter remain the property of Dawson County and shall be produced for inspection upon the demand of any deputy or designee of the sheriff's office or employee of the marshal's office, or the county commission's staff.
- (11) No licensee shall allow any person required to hold an employee permit to work on the premises unless that person's current, valid permit is on the premises or the person has it in his or her possession. For new hires, a receipt issued by the Director may be used for a maximum of 30 days from the date of its issue. Licensees are required by this chapter to inspect and verify that each employee required to hold an employee permit by this chapter has a valid current permit at all times while on the premises of the licensed establishment.
- (12) It shall be the duty of all persons holding any license to sell distilled spirits, wine, malt beverage or any other alcoholic beverage as defined by this chapter to file with the marshal or his designee the name of the establishment, the license number and a list of all its employees, with their home addresses and home telephone numbers, twice annually during the months of June and December to be delivered to the marshal or his designee not later than the last day of each such month.
- (13) Any person or entity convicted of any violation of this section shall receive a minimum fine of \$500.00 per violation.

Sec. 6-13. - Display of license.

The county alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee. The certificate evidencing issuance of a license pursuant to this chapter shall remain the property of Dawson County and shall be surrendered by licensee upon demand by the sheriff or other county official charged with enforcement of this chapter.

Sec. 6-14. - Advertising.

- (a) Licensees may use window signs to advertise products for sale within the store, so long as said signs comply with the Dawson County Sign Ordinance.
- (b) Notwithstanding subsection (a) of this section, the licensee may display on the licensed premises one sign not to exceed 24 square feet in size, advertising distilled spirits, malt beverages, or wine. Such sign may be lighted, but in no event will it have any moving parts or flashing lights. The design and location of any such sign must comply with the Dawson County Sign Ordinance.
- (c) Licensees may advertise, including products and prices, in newspapers and on the radio and on the internet.

Secs. 6-15. - Locations and minimum distances.

- (a) No license shall be issued under this chapter for the retail sale of distilled spirits, malt beverages or wine for use at a location which is within 600 feet of a church building, day care, licensed alcohol treatment facility, school, educational building or college. The distance shall be measured in a straight line from the front door of the proposed licensed premise to the front door of the church, day care, or treatment facility, and from the front door of the proposed licensed premise to the nearest property line of the real property used for school, college or educational purposes.
- (b) No license shall be issued for sale of distilled spirits by the package at a location within one mile of any other business licensed to sell packaged liquor (distilled spirits) at retail. This distance shall be measured in a straight line from the front door of the proposed licensed facility to the front door of the other package liquor store. This restriction shall not apply to any location for which a new license is sought if the current licensee has not completed construction of a building or renovation of the licensed premises and is not open for business.
- (c) The minimum distance restrictions set forth in this chapter shall not apply if the retail sale of the same kind of beverage (that is, beer, wine and/or distilled spirits) in the same manner (by the package for off-premises consumption, or by the drink for on-premises consumption) was lawful at any time during the 12 months immediately preceding such application.
- (d) As to any location licensed under this chapter, if the distance requirements in this chapter are or were met at the time of issuance of any license, the subsequent opening and operation of a church building, school building, day care facility, alcohol treatment facility or housing authority property within the minimum distance prescribed in this chapter shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.
- (e) Nothing in this chapter shall authorize the sale of alcoholic beverages within 250 feet of a polling place during any election at such time as the polls are open.
- (f) No license for the sale of alcoholic beverages shall be issued under this chapter unless the proposed location is on a parcel zoned for commercial use in accordance with the Dawson County

Land Use Resolution. A special event alcohol permit is subject to the terms of section 6-66 as to approval of permit applications for commercial and non-commercial locations.

- (g) For purposes of this section of the chapter, notwithstanding any provision in this section to the contrary, minimum distance measurements shall be done in accordance with the method prescribed by Georgia law, and "straight line" measurement shall have the same meaning as provided for by state regulations, currently located at Department of Revenue Regulations for Alcohol and Tobacco, Rule 560-2-2-.12; provided, that renewal applications shall use the same measurements as required in the initial application.

Secs. 6-16—6-19. - Reserved.

ARTICLE II. - MALT BEVERAGES AND WINES

Sec. 6-20. – General

- (a) Licenses are permitted only for locations which are zoned commercial and in any agricultural district where the specific use and the sale and service of alcohol is expressly permitted in accord with the Land Use Resolution of Dawson County.
- (b) Licensees for package sales of malt beverages or wine may not sell alcoholic beverages for on-premises consumption at the same establishment except for farm wineries validly licensed to allow such on-premise consumption sales.
- (c) The hours of operation of retail licenses for the sale of malt beverages and wines shall be between the hours of:
 - 10:00 a.m.—12:00 midnight — Monday—Thursday; and
 - 10:00 a.m. – 1:00 a.m. on Saturday through Sunday
 - 12:30 p.m.—12:00 midnight on Sunday.The hours of operation of wholesale licensees for the distribution of malt beverages and wines in Dawson County shall be between the hours of:
 - 8:00 a.m.—8:00 p.m. — Monday—Saturday; and
 - 12:30 p.m.—8:00 p.m. — Sunday.
- (d) The wholesale and retail sale of wine and malt beverages shall be lawful during the polling hours of any election provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place at such time as the polls are open.
- (e) No licensee shall allow or require a person in his employment who is under the age of 18 years to dispense, serve, sell or take orders for any malt beverages or wines. This restriction does not apply to persons under the age of 18 years employed in grocery stores or drugstores who are selling said beverages.

Sec. 6-21. - Type of retail establishment where permitted.

No beer or wine shall be sold for consumption on the premises pursuant to a malt beverage/wine license where sold except in sites in areas zoned commercial and which are being used as one of the following:

- (a) Are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of the establishment's total annual gross sales from food;
- (b) Are indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of its total annual gross revenue from the sale of prepared meals or food and recreation activities;
- (c) Are an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. The center must be prepared to serve food every hour they are open and derive at least 50 percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels or motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure; or
- (d) At a golf course that derives at least 50 percent of its annual gross revenue from the sale of prepared meals or food and recreation activities (i.e., golf). These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.
- (e) Are a brewpub as that term is defined in Article XIV hereinabove subject to the following provisions:
 - (1) A brewpub must be an eating establishment as defined in O.C.G.A. § 3-1-2(3) including compliance with the rule requiring 50 percent of its annual revenue to come from prepared meals or food;
 - (2) A brewpub licensee may sell beer and wine for on-premise consumption according to the rules set forth in O.C.G.A. § 3-5-36;
 - (3) A brewpub licensee may also, by qualifying, paying the appropriate fees and upon approval by the commission, obtain a retail consumption dealer's license for sale of distilled liquor for on-premises consumption, or a retailer license for sale of beer, wine or distilled spirits for off-premises consumption;
 - (4) A brewpub licensee may, if holding a State license for offering free tastings of its draft beer pursuant to O.C.G.A. § 3-5-38, permit free tastings of malt beverages produced by it on site, without any additional tasting license from the county.

Sec. 6-22. - Employment of underage persons as entertainers prohibited; exceptions.

It is unlawful for any person under 18 years of age to work as an entertainer in any establishment licensed under this chapter without the consent of the person's legal guardian.

Sec. 6-23. - Open area and patio sales.

- (a) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the county commission.
- (b) The requirement for approval is that the patio/open area be enclosed by a fence, wall, or some other structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge. A parking lot shall not qualify as such an open area.
- (c) The height of such structure shall be a minimum of three and one-half feet above the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the county's building inspection department and the county's fire department as required by governing regulations or codes.
- (d) The only exit from this area is to be through the licensed establishment's main premises and through an approved fire exit, not for general public use unless an emergency exists. The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.
- (e) If a licensee desires a patio/open sales area at an existing licensed structure, plans will be reviewed and approved on an individual basis by the director with a right of appeal to the commission in the event of a denial. Interior type patio/open sales areas must also meet the requirements of the county's development and fire codes.
- (f) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel, provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. "Patio areas," as that term is used in this subsection, do not have to conform to the standards in this section.

Sec. 6-24. - No consumption outside premises.

- (a) It is prohibited for customers to leave the approved portion of the premises with open alcoholic beverages except as expressly permitted in this chapter, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers. Customers may not consume alcoholic beverages, or carry open alcoholic beverage containers, in parking lots of the licensed premises.
- (b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.
- (c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

Sec. 6-25. - Partially consumed bottles of wine purchased with a meal.

- (a) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off premises if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises.
- (b) A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises.
- (c) The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.
- (d) If transporting in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

Sec. 6-26. – Brown bagging.

Brown-bagging is generally prohibited except as expressly permitted under Section 6-112.

Sec. 6-27 - Specification of premises.

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the county, regulations of the state revenue commissioner, and the state. The proposed building shall also be subject to final inspection and approval when completed by the building and fire inspectors. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passage ways and open areas may be clearly seen by the customers and staff therein.

Sec. 6-28. - Prohibited noise from establishments.

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

Sec. 6-29. - Audits of licenses.

- (a) The director may conduct an audit of the records and books of any licensee under this chapter, after notice to the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit, or, in lieu thereof, shall forfeit any license(s) issued under this chapter.
- (b) All licensed establishments shall maintain the following records for a three-year period and make such records available for audit at the licensed premises:
 - (1) Monthly income or operating statements.
 - (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
 - (3) Daily cash register receipts such as Z tapes or guest tickets.
 - (4) Monthly State sales and use tax reports.
 - (5) Federal income tax return with all Form 1099s.
- (c) The county commission may waive all or some of the requirements of subsection (b) of this section upon a determination that no such records exist and that the licensee cannot practically maintain such records based on the net income of the licensed establishment.

Sec. 6-30. - Retail consumption dealers to store inventory only on premises.

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

Sec. 6-31. - Poured alcohol to be transported only by employees.

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

Sec. 6-32 - Types of entertainment, attire and conduct prohibited.

(a) *Preamble and purpose.*

- (1) Based upon the experiences of other counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York; Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida, which experiences the board of commissioners believe are relevant to the problems faced by the county and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, as well as the testimony of citizens and experts received by this commission, the board of commissioners takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country.
- (2) Moreover, it is the finding of the board of commissioners that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "erotic entertainment," begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity

and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude or semi-nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcohol and also allow and/or encourage nudity or semi-nudity.

- (b) *Prohibited activities.* Any establishment licensed under the provisions of this chapter is prohibited from permitting or engaging in the following activities:
- (1) The employment or use of any person in any capacity in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
 - (2) Live entertainment that provides or features nude or semi-nude or erotic dancing or the performance of obscene acts that simulate:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;
 - b. The touching, caressing or fondling of the breast, buttock, anus or genitals; or
 - c. The display of the pubic hair, anus, vulva or genitals;
 - (3) The showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in subsection (b)(2) of this section which are obscene under state law; or
 - (4) The holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.
- (c) *Mainstream activity excluded.* Notwithstanding the prohibitions in subsection (b) of this section, nothing in this article shall be or is intended to apply to theatrical or motion picture performance houses, museums, or to restaurants or places set apart for traditional naturism where the consumption or service of alcohol is not a primary purpose or the mainstream activity of such establishment. The phrase "places set apart for traditional naturism" means places provided or set apart for traditional naturism including nudist parks, clubs, and resorts affiliated with the American Association for Nude Recreation, the Naturists Society or other naturist organization, and has been in operation as a naturist facility for at least 24 months prior to application for a license.

Sec. 6-33. – Delivery and Online Curbside Pickup of Malt Beverages and Wine.

- (a) "Online Curbside Pickup" of malt beverages and wine as described in Rule 560-2-3-.3(2) of the Georgia Department of Revenue Alcohol and Tax Unit Rules, is prohibited in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said rule.

- (b) Off-premises delivery of malt beverages and wine as described by O.C.G.A. § 3-3-10 is prohibited in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said statute.

Secs. 6-34—6-39. - Reserved.

ARTICLE III. - DISTILLED SPIRITS

Sec. 6-40. - General.

- (a) Distilled spirits may be sold at retail only in conformance with applicable zoning codes.
- (b) Every licensee shall have legibly posted a copy of the license on the front of the licensed premises the name of the licensee together with the business license.

Sec. 6-41. - Distilled spirits by the package

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

Sec. 6-42. – Distilled Spirits by the Drink.

No distilled spirits may be sold by the drink for consumption on the premises where sold except in sites zoned commercial and that:

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

Sec. 6-43. - Hours of sale.

- a) The sale of distilled spirits by the package shall occur only between the hours of: 9:00 a.m.— 11:45 p.m. — Monday—Saturday; and 12:30 p.m.: Sunday — 11:30 p.m.: Sunday.
- b) No sale of distilled spirits by the package shall occur on Christmas Day. The sale of distilled spirits by the package is permitted on election days if the outlet is not located within 250 feet of a polling place.
- c) Distilled spirits shall not be sold for consumption on the premises except between the hours of: 10:00 a.m.—midnight Monday—Thursday; 10:00 a.m. Friday — 1:00 a.m. Saturday; 10:00 a.m. — midnight Saturday; and 12:30 p.m. — midnight Sunday.
- d) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

Sec. 6-44. - Prohibited.

- a) Except as expressly permitted by state law, it shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of distilled spirits by the package, and it shall be unlawful for any licensee authorized to sell distilled spirits by the package to open or break the package for a purchaser and/or permit the consumption of alcoholic beverages on such premises. To the extent permitted by state law and this chapter, farm wineries, brewpubs and distilleries may hold licenses for both on-premises and off-premises consumption at the same location.
- b) Sell or offer to sell any distilled spirits, malt beverages, wine and/or any other alcoholic beverage to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee;

- c) Sell any distilled spirits, malt beverages, wine and/or any other alcoholic beverages upon the licensed premises or permit distilled spirits, malt beverages, wine and/or any other alcoholic beverages to be sold thereon on any day at any time when the sale is prohibited by law; or
- d) Sell any distilled spirits, malt beverages, wine or any other beverage through a drive-through window or door.
- e) Sell or deliver any distilled spirits at any place other than inside the licensed premises.
- f) Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell or distribute any distilled spirit by the package or bottle.

Sec. 6-45. – Brown bagging.

Brown-bagging is generally prohibited except as expressly permitted under Section 6-112.

Sec. 6-46. – Delivery and Online Curbside Pickup of Distilled Spirits.

- (a) “Online Curbside Pickup” of distilled spirits as described in Rule 560-2-3-.3(2) of the Georgia Department of Revenue Alcohol and Tax Unit Rules, is prohibited in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said rule.
- (b) Off-premises delivery of distilled spirits as described by O.C.G.A. § 3-3-10 is prohibited in Dawson County. The commission has determined in its discretion that the practice is hereby disallowed by this chapter, an option provided for by said statute.

Secs. 6-47—6-55. - Reserved.

ARTICLE IV. - PRIVATE CLUBS

Sec. 6-56. - Definitions.

As used in this article:

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

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

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

- b. A sufficient number of employees for cooking, preparing and serving meals for its members and guest;
- (4) Has no member, officer, agent or employee directly or indirectly receiving in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

Sports club means an association or corporation organized and existing under the laws of the State of Georgia, organized and operated primarily to provide a location for the patrons thereof to engage in sporting events. To qualify for an alcoholic beverage consumption dealer's license, a sports club must have been actively in operation within the county at least two years prior to an application for license hereunder; provided, however, the two-year operational requirement shall not apply to golf club associations or golf club corporations where the selling or the serving of alcoholic beverages is to take place on the golf course premises. A sports club organized or operated primarily for serving of alcoholic beverages shall not qualify for licensing under this article, and accordingly shall not be permitted to serve or sell alcoholic beverages at any time. Unless otherwise indicated, a sports club licensee shall comply with all other requirements imposed upon retail consumption dealers.

Sec. 6-57. - Regulation or sale of alcoholic beverages.

A private club may seek a license for retail sales of alcoholic beverages for consumption on the premises in accord with this chapter. Licensed private clubs may sell and dispense alcoholic beverages by the drink for consumption on the premises upon compliance with all applicable ordinances and regulations of the county governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the county. A licensed private club must have a kitchen as required under this article but shall not be subject to the requirement that 50 percent of its annual sales come from the sale of food and non-alcoholic beverages. A sports club is not subject to a kitchen or food sales requirement.

Sec. 6-58. - Certain organizations exempt from food establishment requirements.

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

Sec. 6-59. - Hours and days of sale.

No alcoholic beverages shall be sold by a private club or sports club for consumption on the premises except between the hours of:

10:00 a.m.—midnight Monday—Thursday;

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

10:00 a.m.—midnight Saturday; and

12:30 p.m.—midnight Sunday.

Secs. 6-60—6-65. - Reserved.

ARTICLE V. - SPECIAL EVENT PERMITS

Sec. 6-66. - Eligibility for a temporary special event alcohol permit.

- (a) A temporary special event alcohol permit may be issued to any person, firm or corporation for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by this article and shall be required to comply with all the general provisions of this chapter and the licensing and regulations for consumption on the premises establishment with the exception of the full service kitchen requirement.
- (b) The special event must meet the following criteria before the issuance of a permit to sell or distribute alcoholic beverages:
 - (1) The special event must receive approval from the Dawson County Sheriff's Office on crowd control and security measures.
 - (2) The special event must receive approval from the Dawson County Sheriff's Office on traffic control measures.
 - (3) The premises at which the special event is to take place must be within a commercial zone and approved by the director; if the proposed location is not within a commercial zone, the approval must be obtained from the board of commissioners.
 - (4) The premises where the special event shall occur shall meet the distance from certain uses requirements of this chapter.
- (c) Any employee or volunteer of the special event permit holder working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall be required to obtain an employee permit for the special event. Employees or volunteers dispensing, selling, serving, taking orders or mixing alcoholic beverages must be 18 years of age or older. Employees of caterers must comply with the regulations established in this article of this chapter and must be 21 years of age or older as pursuant to O.C.G.A. § 3-11-4.
- (d) The sheriff or fire chief, director or code enforcement official may immediately revoke any temporary permit for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.
- (e) As a condition on the issuance of a temporary special event permit, the permit holder shall agree in writing to indemnify and hold Dawson County harmless from any claim, demand or cause of action that may arise from activities associated with the special event.
- (f) The director shall issue the temporary special event permit to the applicant upon compliance with the terms hereof.
- (g) In the event that a special event alcohol permit is denied by the director, the applicant may appeal the decision to the county commission.

Sec. 6-67. - Bona fide nonprofit civic organizations.

- (a) A bona fide nonprofit civic organization is one which is exempt from federal income tax pursuant to the provisions subsection (c), (d) or (e) of 26 USC section 501.
- (b) Upon the filing of an application and the payment of a special temporary event permit application fee, a bona fide nonprofit civic organization may obtain a permit authorizing the organization to sell or distribute alcoholic beverages for consumption on the premises or to sell wine at retail for off-

premises consumption, or both, for a period not to exceed three days, subject to any law regulating the time for selling such beverages.

- (c) No more than 12 permits may be issued to such an organization in any one calendar year.
- (d) Permits are valid only for the location specified in the permit. No permit may be issued unless the sale of alcoholic beverages is lawful in the place for which the permit is issued. Said permit is subject to the restrictions set forth in section 6-66.

Secs. 6-68—6-69. - Reserved.

ARTICLE VI. - HOTEL IN-ROOM SERVICE

Sec. 6-70. - License.

- (a) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom that contains beer and/or wine only, which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of the beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.
- (b) Any hotel-motel that acquires this in-room service must also obtain a consumption on the premises license and shall meet the requirements of this chapter.
- (c) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so. A license fee set forth in the Dawson County Alcohol Fees Schedule shall be imposed to provide only beer and/or wine by "in-room service." A license under this article shall not authorize delivery of alcoholic beverages (neither in package nor by the drink) by "room service" style delivery to the room.
- (d) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this chapter.

Secs. 6-71—6-72. - Reserved.

ARTICLE VII. - FARM WINERIES

Sec. 6-73. - Definitions.

Farm winery means a domestic winery located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery, or domestic winery that:

- (1) Makes at least 40 percent of its annual production from agricultural produce grown in this state;
- (2) Is owned and operated by persons who are engaged in the production of a substantial portion of the Georgia agricultural produce used in its annual production, and for this purpose, such production of a substantial portion of such Georgia agricultural produce shall be determined by the commissioner of Agriculture of the State of Georgia; and
- (3) Produces less than 100,000 gallons per year.

Tasting room means an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine may be given complimentary or for a fee.

Sec. 6-74. - Permitted sales.

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

Sec. 6-75. - Licensee qualifications.

The qualifications for the license for sale by farm winery tasting room shall be the same as set forth in section 6-77.

Sec. 6-76. - Applicable provisions.

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

Articles I, II, V, VIII, X through XIV.

Sec. 6-77. - License fees.

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

Sec. 6-78. - Licensing limitations.

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

Sec. 6-79. - Sunday sales.

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

Sec. 6-80. - Hours of sale.

Wine may be sold or distributed in a tasting room or other licensed farm winery facility between the hours of 10:00 a.m. and 12:00 midnight Monday through Thursday; Friday 10:00 a.m. through 1:00 a.m. on Saturday and on Sundays.

Secs. 6-81—6-82. - Reserved.

ARTICLE VIII – CATERING

Sec. 6-83. – Catering License Requirements.

Requirements for a "licensed alcoholic beverage caterer" license:

- (1) The applicant shall hold a valid state license to sell malt beverages, wine, distilled spirits or some combination thereof by the drink or by the package.
- (2) The applicant shall hold a valid local county license to sell malt beverages, wine, distilled spirits, or some combination thereof by the drink or by the package.
- (3) The applicant must be a licensed alcoholic beverage caterer pursuant to O.C.G.A. § 3-11-1(2).
- (4) The applicant must hold all required food service permits required by the county environmental health office.

Sec. 6-84. – Catering License Application.

- (a) An applicant for a licensed alcoholic beverage caterer license must:
 - (1) Submit a completed application provided by the county.
 - (2) Pay the required application and license fees.
- (b) Alcoholic beverage caterer licenses are valid for up to one calendar year, expiring at midnight on December 31 of each year. They are issued and must be renewed in the same manner as their corresponding retail licenses.

Sec. 6-85. - Catering Permitted activities.

Only a licensed alcoholic beverage caterer is authorized to sell alcoholic beverages off premises. Licensed alcoholic beverage caterers are authorized to engage in, carry on or conduct the sale or distribution of alcoholic beverages off premises under the following conditions:

- (a) An event catering permit is obtained by the licensed caterer from the County in accordance with Section 6-86.
- (b) The distribution of alcoholic beverages is in connection with an authorized special event for which a special event alcohol permit has been granted to the sponsor of the event authorizing said event. The requirements for special event alcohol permits are detailed in Article V of this chapter.
- (c) A licensed alcoholic beverage caterer may sell only that type of alcoholic beverage authorized by the caterer's local alcoholic beverage license.
- (d) The licensed alcoholic beverage caterer shall not employ any person under 21 years of age to dispense, serve, sell or handle alcoholic beverages in accordance with O.C.G.A. § 3-11-4 et seq.

- (e) If the licensed alcoholic beverage caterer desires to provide alcohol on a Sunday, it distributes only those beverages which may be sold on Sundays in the county, at the times when Sunday sales by the drink are permitted.
- (f) The licensed alcoholic beverage caterer complies with the requirements of O.C.G.A. § 3-11-1 et seq.

Sec. 6-86. – Event Catering Permits.

- (a) It shall be prohibited for any licensed caterer to sell alcoholic beverages in connection with a catered event or function without first having obtained an event catering permit as provided herein.
- (b) A licensed alcoholic beverage caterer shall file an application for an event catering permit with County. The application shall include the application fee (if any), the name of the caterer, the name, date, address and time of the event, the caterer's state and local license numbers and expiration dates, the quantity and type of alcoholic beverages to be transported and any other information the County deems necessary to review a request for such approval.

Sec. 6-87. - Restaurants.

Eating establishments which hold an alcohol by the drink license may cater events within the unincorporated areas of Dawson County so long as said establishments comply with this article.

Secs. 6-88-89. - Reserved.

ARTICLE IX – AGRIBUSINESS SALE OF MALT BEVERAGES AND WINE BY THE DRINK

Sec. 6-90. - Type of Agribusiness establishment where permitted.

- (a) Description: An agribusiness alcohol sales license allows an agribusiness to sell malt beverages and wine for consumption by the drink on the premises. A facility with such a license does not need to obtain a separate consumption on the premises license.
- (b) Definition: For purposes of this article, an “agribusiness” that may qualify for an agribusiness alcohol license is any holder of a Dawson County Business License that:
 - (1) Is in an area zoned within the R-A zoning class; and
 - (2) Is a venue that is held out to the public for social, celebratory or entertainment purposes; and
 - (a) May be rented for a fee for such social, celebratory, or entertainment purposes; or
 - (b) Ordinarily engages in agricultural activity and sells agricultural products during such social, celebratory, or entertainment activity.

Sec. 6-91. - Restrictions on Sale of Alcohol

- (a) Agribusiness licensees shall be subject to all of the general restrictions that apply to holders of licenses for sales by the drink for consumption on the premises (other than the minimum qualifications for applying for such licenses).

- (b) Agribusiness licensees shall be exempt from any requirement to derive at least 50 percent of the establishment's total annual gross sales from food.
- (c) All buildings are subject to Building and Fire Department inspections and requirements. Additional site plans or a designated areas map may be required by either the County Planning Department or Fire Department
- (d) "Brown Bag" events are allowed in accordance with Section 6-112.
- (e) All Caterers must hold a Dawson County Caterers License and Event Catering Permit as defined in this chapter.
- (f) Poured alcoholic beverages shall be transported from point of dispensing to the consumer by permitted employees only. Permitted employees are those who have applied for and received an employee pouring license authorizing such employees to take orders and transport alcoholic beverages to customers.
- (g) Any event outside of the normal business location defined on business license for that location must obtain separate special event permit.

Sec. 6-91. - Hours and days of sale.

- (a) Beer and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m.—12:00 midnight Monday through Thursday; Friday 10:00 a.m. through 1:00 a.m. on Saturday; and Saturday 10:00 a.m. through 1:00 a.m. on Sunday.
- (b) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- (c) Sunday sales. The sale or distribution of beer and/or wine for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment.

Secs. 6-92—6-93. - Reserved.

ARTICLE X. - EXCISE TAX

Sec. 6-94. - Wholesale.

- (a) There is hereby levied an excise tax computed at the rate of \$0.22 per liter that shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in Dawson County. Such tax shall be paid to the director by the wholesale distributors on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in Dawson County as follows: Each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following the delivery. Excise taxes received after the 20th day of the month shall be charged a ten percent penalty. The \$0.22 per liter shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of \$0.22 per liter. It shall be unlawful and a violation of this chapter for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this chapter for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three percent of the amount of taxes collected as reimbursement for collection of said tax.

- (b) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in Dawson County at the rate of \$0.22 per liter and \$6.00 for each container of tap or draft beer or malt beverage of 15½ gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

Size Of Container	Tax Per Container
7 ounces	\$0.0291
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0666
32 ounces	0.1333
½ barrel (15½ gallons)	6.00
1 barrel (31 gallons)	12.00

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

Sec. 6-95. - Distilled spirits by the drink.

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

to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.

- (b) Excise taxes received in the alcohol licensing department after the 20th day of the month shall be charged a ten percent penalty.
- (c) If the director deems it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee of the date, time and place of the audit.
- (d) Any licensee who violates any provision of this article may, upon conviction, be punished by a fine of not less than \$300.00, and the license of such location may be suspended or revoked.

Sec. 6-96. - Farm wineries.

Farm winery licensees shall pay an excise tax at a rate of \$0.22 per liter according to the process detailed in section 6-94 (wine and distilled spirits).

Secs. 6-97—6-98. - Reserved.

ARTICLE XI. - ENFORCEMENT

Sec. 6-99. - Inspections.

Sworn officers of the sheriff's office, or staff of the fire department, or the building official, or employees of the director's office shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the county during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other county officer to conduct inspections authorized by other provisions of this chapter or by state law.

Sec. 6-100. - Penalties for violation of chapter.

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

Sec. 6-101. - Progressive discipline; acceptance of discipline; final action.

- (a) In addition to the penalties set forth in Section 6-100, there is available to the director and commission a range of potential disciplinary options concerning actions, misconduct, violations of this chapter or other laws, and failures to take required action on the part of licensees, their agents and employees, and permit holders. The range is generally as follows:
- (1) Written reprimand.
 - (2) Probation, or posting a monetary bond, subject to specified conditions.
 - (3) Suspension for period of days.
 - (4) Suspension for period of weeks.
 - (5) Suspension for period of months.
 - (6) Suspension for indefinite period until specified conditions are met.
 - (7) Suspension for remainder of current term of license/permit.
 - (8) Revocation or non-renewal of license or permit.
- (b) The steps outlined above exemplify the steps which may be taken as disciplinary action but the commission retains the authority to vary the severity of the disciplinary action and thus may skip from a lighter discipline to a more severe level as may appear appropriate given the circumstances. The same applies to disciplinary actions which may be taken by the director as to employee permit holders. Factors which may be considered as to licensees or employee permit holders include any factors set forth in this chapter as to mitigating or aggravating violations of this chapter or any other rules, regulations or laws, including, but not limited to, the following: number and severity of offenses, whether there have been other offenses of a similar nature, whether there have been other offenses of any kind within the preceding three years, whether the problem, condition or violation has been remedied or corrected, whether the licensee took appropriate steps prior to the violation to assure that staff and employees were aware of the requirements of the law, whether the violation was committed by the licensee or manager as opposed to by a non-managerial employee, whether the licensee or permit holder recognizes and acknowledges his or her

misconduct or actions leading to disciplinary action, and whether a greater or lesser severity of discipline is likely to prevent future violations.

- (c) A licensee or permit holder under this chapter who is notified of proposed disciplinary action may accept the discipline as proposed by executing a written acceptance which waives any right the licensee/permit holder might otherwise have to a hearing.
- (d) Disciplinary action shall be deemed final under this chapter when a written acceptance and waiver is executed as provided for in this section, or, if none is executed, at the time a written notice of decision is mailed to or hand delivered to the disciplined licensee or permit holder.

Sec. 6-102. - Suspension of license.

- (a) The following shall be grounds, in addition to any other grounds set forth in the preceding section, for the suspension of a license issued under this chapter for such period of time as the board of commissioners shall, in its sole discretion, determine appropriate:
 - (1) A violation, as demonstrated by evidence or by any adjudication of guilt as described in subsection 6-103(b)(3) by the licensee (or any officer, owner, manager, agent or employee of licensee) of any state or federal law or regulation, or any provision of this chapter or the regulations promulgated under its authority;
 - (2) The failure of the licensee and employees or agents of the licensee to promptly report to the sheriff's office any violation of law/breach of peace, disturbance, or altercation occurring on or near the licensee's premises;
 - (3) The violation of any law, regulation or ordinance pertaining to alcoholic beverages, distilled spirits, malt beverages and wines, by any employee or agent of the licensee in connection with the operation of the business of the licensee;
 - (4) Operation of the business of the licensee in such a manner as to create a public nuisance, or in a manner contrary to public welfare, safety, health or morals;
 - (5) Failure to furnish the board of commissioners on request any information or records that would be necessary for use in determining the licensee's compliance and qualifications under this chapter;
 - (6) To knowingly sell malt beverages, wines or distilled spirits to any person while such person is in an intoxicated condition; or
 - (7) To knowingly sell or offer to sell malt beverages or wines or distilled spirits to any person under the age of 21 years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain an alcoholic beverage is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said malt beverages or wine to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the trier of fact in determining whether any sale to an underage person was made knowingly. 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. The term "proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a state issued identification card.

- (8) Violation of any provision of the Dawson County Code of Ordinances which deal with non-traditional tobacco paraphernalia, e-cigarettes, and alternative nicotine products.
- (b) Whenever this chapter permits the commission to suspend any license issued under this chapter but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.
- (1) No suspension shall be for a period of time longer than the time remaining on such license;
- (2) The following factors shall be considered on any suspension as set out above:
- a. Consistency of penalties mandated by this chapter and those set by the county commission.
 - b. Likelihood of deterring future wrongdoing.
 - c. Impact of the offense on the community.
 - d. Any mitigating circumstances or remedial or corrective steps taken by licensee.
 - e. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.
 - f. The licensee's history of compliance or noncompliance with applicable alcohol related laws and regulations.
 - g. Whether the licensee established practices and procedures to prevent the violation from occurring and established procedures to properly train and supervise employees to prevent the violation from occurring.
 - h. The board, or director in circumstances where the director may have authority to impose adverse action on a license, permit, licensee or permit holder, may do so upon a progressive discipline basis, such that, for example, first, second and third violations result in successively more severe action. The board or director shall be authorized to utilize a more severe adverse action without intervening violations or intervening steps dependent upon the factors which may otherwise be considered under this section, as provided for in section 6-101 herein.
- (c) Any license suspension for greater than 30 days shall require the licensee to remove all alcoholic beverages from the licensed premises. For any suspension of 30 days or less the board may in its discretion require removal of all alcohol from the premises; in the absence of such condition being mandated, the licensee shall secure with lock and chain all refrigeration units containing alcoholic beverages, and remove non-refrigerated alcoholic beverages to an on-premise locked storage area out of view of the public. No sales or service of alcoholic beverages (neither for on-premises nor off-premises consumption) is allowed upon any licensed premises during any period of suspension, nor is "bring your own bottle" practice or brown bagging permitted during suspension.
- (d) Whenever this chapter permits the board of commissioners to suspend or revoke a license, then the Sheriff of Dawson County, or the fire chief, the building official or the county manager may, on a temporary emergency basis suspend the license and order the licensee to cease operations until the matter may be scheduled for hearing before the board of commissioners. This may be done only upon a finding by the said official that temporary suspension as in the best interest of the public for safety, health and/or public welfare reasons. If any of the said officials shall exercise this suspension authority the decision to do so, the reasons for the emergency suspension, and the anticipated duration of the suspension, shall be provided to the licensee or its agent in written form

as promptly as practicable. The duration of any such emergency suspension shall not exceed a period of ten days, although the board of commissioners may extend the period of emergency suspension at an open meeting after giving the licensee an opportunity to be heard as to the emergency temporary suspension. The county manager, sheriff, building official, fire chief or board of commissioners may lift an emergency temporary suspension at any time.

- (e) Whenever a period of suspension is imposed under this chapter, the commission may determine in its discretion that at the end of the suspension the licensee may only renew operations in accordance with reasonable conditions imposed by the commission either permanently or during a probationary period set by the commission.
- (f) Whenever the commission would be authorized in its discretion to revoke or suspend a license, then it may instead impose a period of probation during which the licensee must operate under such conditions, limitations or restrictions, and subject to such monitoring, as the commission deems appropriate.

Sec. 6-103. - Revocation or nonrenewal of license.

- (a) The county commission shall revoke the license or permit of any licensee or permit holder:
 - (1) Whose license or permit has been suspended three or more times in any consecutive 12-month period (which suspensions may take place over two separate calendar years; the date of the decision to suspend is the date which counts in determining whether the suspensions have occurred within a consecutive 12-month period);
 - (2) For any premises where alcoholic beverages have been sold or distributed during a period of suspension;
 - (3) Who is convicted of a felony or any crime involving moral turpitude.
- (b) The county commission may revoke, suspend or otherwise discipline any license or permit issued under this chapter, or refuse to issue or renew the same, if the licensee, or applicant for renewal or any owner, operator, manager, or other agent or employee of the licensee/applicant:
 - (1) Makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the director or county;
 - (2) Fails to timely give written notice of any change of ownership interest as required in section 6-10;
 - (3) Violates, as demonstrated by evidence at a hearing before the commission or by conviction or guilty plea entered in court, or by other adjudication of guilt, any provisions of this chapter or any rules or regulations promulgated by the commission under this chapter, of which the licensee has reasonable notice (licensees are directed to and agree, as a condition of all licenses issued pursuant to this chapter, to be familiar with this chapter and to stay current in their familiarity with any future amendments to this chapter, and thus will be deemed to be familiar with all amendments and changes which are adopted by the commission in a public meeting);
 - (4) Becomes disqualified under this chapter to hold a license;
 - (5) Whenever it can be shown that a licensee under this chapter no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the county;

- (6) Has received a license conditioned upon the construction or renovation of the facility and has not obtained necessary permits and completed construction within the periods specified in this article following the date said license was approved;
 - (7) Violates, as demonstrated by evidence or by any adjudication of guilt in the manner described in subsection (b)(3), above, any state law or regulation related to the sale of beer, wine, or distilled spirits, including but not limited to sales to underage persons or sales to visibly intoxicated persons; or
 - (8) Operates the licensed premises in such a manner as to constitute a public nuisance.
 - (9) Has its vape shop license for the premises revoked or suspended for cause.
- (c) The factors the commission may consider in deciding whether to suspend or revoke a license include, but are not limited to, the nature and severity of the offense, whether the violation has been remediated/corrected, whether there have been other offenses, who committed the violation (an owner, licensee, manager, or lower level employee) and whether imposition of probation, special conditions or restrictions, and/or posting of a monetary bond is sufficient to assure future compliance by the licensee, and any other circumstances or factors listed in this article. The commission may also consider any additional factors that are set forth in subsection 6-102 above.

Sec. 6-104. - Hearings

- (a) No adverse action other than an emergency suspension pursuant to the provisions of section 6-102, above, shall be taken against a license or licensee without affording the licensee the opportunity for a hearing as provided in this section.
- (b) The county commission shall provide written notice to the applicant or licensee that it is considering adverse action as to the licensee. Such written notification shall be hand delivered or sent by certified mail to the licensee at the address shown on the application (or updated address of record as provided to the director), and the licensee shall be directed to show cause, if any there be, why the proposed action should not be taken by the county commission. The notice shall:
 - (1) Advise of the time and place specified for the hearing, which hearing shall be held not less than five days (if the notice is mailed) or three days (if the notice is hand delivered), but not more than 30 days from the date of the service of the notice;
 - (2) Set forth in reasonable detail the grounds for such action and the factual basis supporting those grounds;
 - (3) Advise the licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing; and
 - (4) Advise the licensee that failure to appear at the scheduled hearing will result in the intended action being taken by the county commission.
- (c) After the hearing, a written decision shall be entered and provided to the licensee. In the event disciplinary action is taken action against the licensee, notice of the fact that such action was taken shall be transmitted by the director to the state in such a manner as is required by state statutes or administrative regulations; such notification shall be given within 45 days of the action becoming final.

Secs. 6-105—6-111. - Reserved.

ARTICLE XII. – PROHIBITED SALES, PURCHASE, AND POSSESSION

Sec. 6-112. – Brown Bagging

(a) *Brown bagging* as defined in this chapter means possession of an open glass bottle, can, or other container containing an alcoholic beverage, or consumption of an alcoholic beverage:

1. On premises for which a county business license has been issued; and
2. Which occurs at a location different from where said alcoholic beverage was purchased.

(b) Subject to the exception contained in subsection c of this Section, it shall be unlawful for any owner or person in possession of any business establishment for which a Dawson County Business License has been issued to permit any person to engage in brown bagging on the premises.

(c) The prohibitions and restrictions in subsection b shall not apply to private functions in which attendance is by invitation only and during which alcohol is served if all the following provisions apply:

1.) All alcoholic beverages served at the private function shall be provided by the person renting the venue or otherwise having the right of temporary possession of the venue;

2.) The cost of the alcoholic beverages served at the private function shall be paid by the person renting the venue or otherwise having the right of temporary possession of the venue;

3.) No merchandise shall be bought or sold on the premises during the private function; and

4.) There shall be no cost to attend the private function either by donations or any other means.

5.) Where distilled spirits are being dispensed or consumed, the person renting the venue or otherwise having the right of temporary possession of the venue shall employ a bartender with appropriate training and experience to ensure the safety of all persons attending the private function.

Sec. 6-113. - Prohibited sales.

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

- (1) Knowingly sell or offer to sell distilled spirits, malt beverages or wines to any person under the age of 21 years. In any case where a reasonable person could reasonably be in doubt as to whether or not the person seeking to obtain distilled spirits, malt beverages or wines is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing said alcoholic beverages to request and be furnished with proper identification in order to verify the age of such person. Failure to make such a request and to verify the purchaser's age may be considered by the trier of fact in determining whether any sale to an underage person was made knowingly. 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. The term "proper identification" includes, but is not limited to, a passport, military identification card, driver's license, or a State issued identification card.
- (2) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his employees.

- (3) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.
- (4) Sell any alcoholic beverage to an adult with knowledge or reason to know that the adult is purchasing the alcoholic beverage for a minor.
- (b) Individual employees who violate this section shall be subject to the penalties set forth in section 6-100 as well as to loss of their employee license/permit. Penalties for license holders shall be determined by the county commission in accordance with the provisions of this chapter, including, in addition to any criminal penalties, possible suspension, probation, revocation or non-renewal of the license or imposition or conditions to or restrictions upon operations.
- (c) As to the penalties in subsection (b) of this section, if there is a change in a majority of the licensed establishments' owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

Sec. 6-114. - Sale or possession for sale of alcoholic beverages without license or beyond boundaries of premises covered by license; penalties.

It shall be unlawful for any person to sell, distribute, or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the county to sell, distribute, or possess for sale the alcoholic beverages. It shall be unlawful for any licensee, manager or employee to sell or to make deliveries of any alcoholic beverage beyond the boundaries of the premises covered by the license. It shall be unlawful for any licensee, manager or employee of an on premise consumption license to knowingly permit any customer to take any alcoholic beverage away from the licensed portion of the premises.

Sec. 6-115. - Failure to require and properly check identification.

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

Sec. 6-116. - Purchase or possession of alcoholic beverages by underage persons.

- (a) No person under 21 years of age shall purchase or possess any alcoholic beverage, personally or through a surrogate.
- (b) No person under 21 years of age shall attempt to purchase any alcoholic beverage personally or through a surrogate, nor misrepresent his/her age in any manner whatever for the purpose of obtaining alcoholic beverages.

(c) No person shall purchase any alcoholic beverage for a minor or otherwise assist a minor in the purchase of any alcoholic beverage.

Secs. 6-117—6-118. - Reserved.

ARTICLE XIII VARIANCES

Sec. 6-119. – Purpose

The purpose of a variance is to provide relief when a strict application of the district requirements would impose unusual practical difficulties or unnecessary hardships on the applicant, and the benefits of allowing the variance would outweigh the negative impact on the community.

Sec. 6-120. Criteria for Granting Variances

(a) Variances may be granted for the following categories of standards and requirements of this Ordinance:

(1) Minimum distance requirements.

(2) Requirements relating to the use of licensed servers to dispense and provide alcohol.

(3) Requirements relating to the service of food in conjunction with the service of alcohol, or any minimum amounts of revenue produced by food sales as a prerequisite for a license.

(b) No variance will be granted that is in conflict with state or federal law.

(c) Variances may be granted in the sole discretion of the Board of Commissioners.

(d) Criteria that will be considered as part of granting a variance:

(1) Whether a strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty or unnecessary hardship that outweighs the benefit from allowing alcohol sales at variance with the standard or requirement; and

(2) Whether there are exceptional or extraordinary circumstances or conditions applicable to the business involved which do not apply generally to other businesses selling alcohol; and

(3) Whether the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to the community, especially those in the near vicinity; and

(4) Whether the granting of the variance would support general objectives contained within this Ordinance; and

(5) Whether that the granting of the variance would not be in violation of any state or federal laws or requirements.

Sec. 6-121 Variance Procedures

- (a) The applicant shall prepare and submit an application setting forth the basis for its requested variance, along with any fee specified for such submittal.
- (b) A public hearing shall be held to consider the variance at a regularly scheduled meeting of the Board of Commissioners.
- (c) The Board of Commissioners shall review the application and the recommendations of the Planning Department at the public hearing.
- (d) A decision on the variance request shall be the responsibility of the Board of Commissioners, shall be made at the public hearing, and the decision shall be final.
- (e) Variances may be granted with conditions.
- (f) If a variance is granted, the Planning Department shall record the exact nature of the variance and the conditions (if any) attached, which variance and conditions shall be included as a written addendum to the applicable license.

ARTICLE XIV. - Definitions

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

Abandon means to voluntarily give up a license or permit hereunder, or to automatically forfeit a license, permit or application under the terms of this chapter as, for example, by non-use.

Address of record means the address provided by an applicant or licensee or permit holder to the planning department for purposes of administration of this chapter. The applicant, licensee or permittee shall at all times be responsible for keeping the planning department notified in writing of the current address for sending notices or other communications, and delivery or mailing via U.S. Postal Service or private express delivery carrier shall be deemed to be properly addressed if it is sent to the most current address of record.

Administrative fee or application fee means the non-refundable fee which is required by the county to accompany an application for a license, permit, or change under this chapter. Such fees may include administrative, investigative, advertising or other components, which may be, but are not required by this chapter to be broken out separately.

Adverse action means disciplinary, regulatory or administrative action taken or proposed with respect to a license, permit, licensee or permit holder due to violation of this chapter or other law or regulation, or due to any other event that would disqualify a licensee or permit holder, or due to other change in status or circumstances that might make such action appropriate in the discretion of the commission. Adverse action as used herein is action under this chapter which is apart from and may be in addition to any applicable criminal penalties. Adverse action encompasses, but is not limited to, disciplinary action.

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

Alcohol treatment facility means any alcoholic treatment center owned and operated by the state or the county government.

Alcoholic beverage means and includes all forms of alcohol that can be used for beverage purposes, including distilled spirits, beer, malt beverages, wine or fortified wine.

Alcoholic beverage caterer means a licensed caterer pursuant to this ordinance.

Applicant means a person who has completed and submitted an application form, together with all required documents, and information, along with all required fees, seeking a license or permit under this chapter, or a renewal, transfer or modification thereof.

Bar means the station designated for mixing, pouring and dispensing alcoholic beverages within an establishment licensed for by-the-drink consumption on premises. It may have or not have a seating area for counter service to customers. The seating capacity for counter service may not exceed ten percent of the total seating capacity for the entire licensed premises. The licensee must obtain approval for each bar within the establishment and each must be shown on the site plan/floor plan of the premises at the time of any application, renewal or change. The diagram shall indicate whether the bar is intended to allow counter service. Any bar which is on wheels or similarly equipped so as to render it mobile must be so designated in the application and diagram/floor plan.

Beer (or "*malt beverage*") means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "nonalcoholic" beer, which is made by fermentation of any infusion or decoction of barley, malt, hops or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine. Hard cider, as defined herein, shall be treated as a malt beverage under this chapter.

Beverage ticket means a printed ticket sold to be used for the purpose of exchanging the ticket or tickets for an alcoholic beverage (even if it may also be used for acquiring other beverages or food rather than alcoholic beverages).

Bona fide non-profit civic organization means an organization which is exempt from federal income taxation pursuant to the provisions of 26 USC § 501(c) or (d) or (e).

Bracelet fee means any charge for a bracelet, pass, ink stamp, badge, armband, receipt or other indication that the bearer may be served alcoholic beverages at a venue, event or licensed premises.

Brewpub means an eating establishment within the meaning of that term as defined in O.C.G.A. § 3-1-2 in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation and other limitations prescribed in O.C.G.A. § 3-5-36 as amended for retail consumption on the premises. May be referred to as a "micro-brewery." A brewpub must have Dawson County licenses for sale of the type of beverages it offers and for the manner of sale (for on the premises or off the premises consumption or both).

Building official means the person designated as such by the director of planning and development, by the county manager or by the board of commissioners, or other person authorized by the county to exercise the powers and duties of building plan review, building inspection, building code enforcement or related duties. The term may include, but is not limited to, the director, county marshal, building inspector, or other acting in any of the foregoing capacities on an interim, acting or temporary basis.

By-the-drink means sales of alcoholic beverages for consumption on-the-premises, sold and served by the individual drink, either poured or in an opened container.

Chapter means this alcoholic beverage code, that is, the Dawson County Alcoholic Beverage Ordinance, which is Chapter 6 of the Dawson County Code of Ordinances.

Church building means the main structure used by any religious organization as a permanent place for worship.

Code means the Dawson County Alcoholic Beverage Code (Chapter 6 of the Dawson County Code of Ordinances), unless the context makes other usage appropriate.

Code enforcement official means any person authorized by law or designated by the county, the director, or the county manager to exercise licensing, inspection, permitting, taxing, enforcement, regulatory or other powers related in any way to this chapter, or to any related ordinances and regulations of the county, state or federal governments, including, but not limited to, staff of the planning and development, fire, building, sheriff, health, finance and other departments and offices of Dawson County.

Convenience store means a business carrying on retail sales of groceries, household supplies, over-the-counter medications, soft drinks, tobacco products, packaged or prepared foods, magazines,

newspapers, gasoline and other consumer goods. The term convenience store shall not include any business for which an adult entertainment license has been issued or for which one is required.

County means Dawson County, Georgia, or as the context may indicate, its governing authority or designated staff.

County commission means the Board of Commissioners of Dawson County, Georgia, or such person as it may designate from time to time to exercise its authority or otherwise act on its behalf under this chapter. May also be referred to as "board," "board of commissioners," "county," "commission" or "governing authority."

County manager means the County Manager of Dawson County, Georgia, or such person as he or she may designate from time to time to exercise authority or act on his/her behalf under this chapter.

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

Director (may be referred to as "administrator") means the county staff member named to administer the rules set forth in this alcoholic beverage ordinance and to develop forms, regulations and policies as may be appropriate to implement and enforce the provisions of this chapter or as the commission may otherwise direct. The director of planning and development shall serve as administrator/director. The staff member to serve as director may be changed by the board of commissioners from time to time by vote in open meeting. The administrator/director may designate another staff member or members to manage the general affairs of alcoholic beverage licensing to the extent the director determines appropriate and is authorized to direct the activities of staff responsible for enforcing the terms of this chapter.

Disciplinary action means adverse action taken or proposed action by the county against a license, permit, licensee or permit holder due to failure to comply with terms or requirements imposed by or pursuant to this chapter, state law or federal law, or for other reasons set forth in this chapter. Examples are suspension, revocation, imposition of special conditions or restrictions (regardless of whether or not termed as a period of probation), posting of bond, denial of renewal or transfer request or other sanctions as imposed by the county.

Distance refers to the minimum distance allowed between an establishment licensed under this ordinance and another licensed premise, or between a proposed licensed premise and some other facility or use, such as a church, a school, a daycare facility, a college, or an alcohol treatment facility. Unless otherwise provided, distance shall be measured as provided for by O.C.G.A. § 3-3-21(c) and Georgia Department of Revenue Regulations [currently found at 560-2-2-.12(1)(b)].

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

Distiller means a manufacturer of distilled spirits. A distiller may engage in on-premises or off-premises sales if qualified and licensed as required by applicable State statutes and regulations provided that such distiller must qualify for and obtain licenses from Dawson County for such sales in the same manner and according to the same terms as required for other licensees for sale of distilled spirits under this chapter.

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

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments. An eating establishment shall be prepared to serve food every hour the establishment is open and shall derive at least 50 percent of the gross receipts annually from the sale of prepared meals or food.

Establishment means a business or place of business. It may refer to the business entity, its operations or the location thereof as the context makes appropriate.

Employee permit means an authorization granted by the county to employees of a licensed retail consumption dealer to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer, and to employees of a retail package dealer (liquor store, package store, convenience store) to sell alcoholic beverages in that establishment. An employee permit is not required for employees of licensed grocery stores or drug stores, nor for licensees to work in their own business. An employee permit is also required of any employee or volunteer working at a special event in a capacity described in section 6-66 of this Code. A single employee permit shall authorize the employee to sell, serve or dispense alcoholic beverages at retail licensees for on-premises consumption, or at retail package dealer licensees, or at licensed special events or a combination of the foregoing, as may be designated on the permit.

Fee means a charge payable to the county in relation to obtaining, renewing, reinstating, transferring or changing a license or permit under this chapter as well as any other fees and charges, such as occupational, inspection, or zoning fees, which are payable but not a part of the fees charged under this chapter. The fees which are charged under the terms of this chapter shall be as set forth in the alcoholic beverage licensing fee schedule. They may include, but are not limited to, license fees, renewal fees, application fees, investigatory fees, criminal background check fees, advertising/publication fees, license modification fees, and transfer fees.

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

Front door means the primary doorway used by the public (that is, by customers in the case of a business, students in the case of a school or college, members in the case of a church, club or civic organization, or other similar users, and not merely by employees) as an entrance to a structure or building as determined by the director.

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

Grocery store means a store which sells primarily food, and which has a produce department and a meat department; sometimes referred to as a "supermarket."

Growler means a glass, ceramic, or stainless steel jug or container with a capacity of 32 to 64 fluid ounces having a screw-on or hinged cap which can be sealed, and which is used for purchasing and transporting malt beverages.

Hard cider means an alcoholic beverage obtained by the fermentation of the juice of apples, containing not more than six per cent alcohol by volume, including, but not limited to, flavored or carbonated cider. For purposes of this chapter, hard cider shall be deemed a malt beverage.

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

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

Individual means a natural person.

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

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

Investigative fee means the fee established to defray the costs of investigating and examining the qualifications and background of applicants for licenses and permits under this ordinance and for review of the proposed location of any licensed premises. This fee may be included in the administrative fee or charged separately. In addition to the fees for the applicant, there may be charged a separate fee for criminal history checks on individuals such as officers, agents, partners, managers and other employees.

License means any license or permit applied for, required or issued pursuant to this chapter. It may also refer to the document which evidences such license or permit, as the context indicates.

License fee means the initial license fee and the fee for any renewal or reinstatement of a license as may be determined from time to time by the county commission as a prerequisite to the privilege of holding an alcohol license under this chapter. May be referred to as the "annual fee." In the event an application for issuance, renewal or reinstatement is denied, the license fee is refundable but the application fee is not to be refunded.

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

Licensed premises means the area within a parcel of real property where a licensee under this chapter is authorized to operate the licensed business, that is, the portion of the premises where

alcoholic beverages may be stored, displayed, sold and, in the case of on-premises consumption licenses, served and consumed. In the case of a special event alcohol permit, the specific area approved for service and consumption of alcoholic beverages.

Licensee means the person to whom a license for the sale or distribution of distilled spirits, malt beverages, or wine is issued under this chapter. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees. In the case of a limited partnership the managing partner is a licensee, and in the case of a limited liability company the manager and the chief executive officer are licensees. The term may be used to refer to a person to whom a license has been issued and whose license is suspended, revoked, abandoned, or declared void and when so used shall not confer or imply that such person holds or is entitled to a valid license.

Mead, honey mead or mead wine means a fermented alcoholic beverage made from honey that may not contain an alcoholic content of more than 14 percent by volume or total solids content that exceeds 35 degrees Brix. For purposes of this chapter the sale, manufacture, distribution and transport of mead shall be treated in the same manner as wine.

O.C.G.A. means the Official Code of Georgia Annotated.

Off-premises sales refers to sale of alcoholic beverages in sealed containers, for consumption off the licensed premises only. This type of operation may sometimes be referred to as package sales.

On-premises sales refers to sale of alcoholic for consumption only on the licensed premises, in unsealed containers or in the form of poured individual drinks, or, in the case of malt beverages, by the pitcher as may be otherwise allowed under this chapter. This type of operation may sometimes be referred to as "by-the-drink" sales.

Ordinance means this alcoholic beverage ordinance, chapter 6 of the Dawson County Code of Ordinances, unless the context clearly refers to a different or additional ordinance or ordinances.

Package means a bottle, can, keg, barrel, growler, or other original consumer container, including a wine "box" type container for consumer use.

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

Premises means the parcel of real property upon which a licensee under this chapter operates the licensed business. It includes both the area authorized for preparation, display, sales, storage, service, possession or consumption of alcoholic beverages ("licensed premises") and the area on the same parcel where such beverages may not be stored, displayed, served, prepared, consumed or possessed. The area outside the designated licensed premises, but on the same parcel, may be referred to in this ordinance as "approaches," which may include parking areas, walkways and any other areas which have not been specifically designated as licensed premises. Use of an address on a license or application is not an indication that the entire parcel or property at such address is approved as licensed premises.

Private club means any club which fits the definition of a private club under the articles of this Code.

Probation means a period during which a licensee may be monitored for compliance with laws, ordinances and, in addition, any conditions specified by the commission, and during which infraction may lead to immediate disciplinary action against the license up to and including suspension or revocation. It may follow or be imposed in addition to or in lieu of a period of suspension or in lieu of

revocation. The length/duration or other terms of a probationary period may be extended or modified by the commission.

Provisional approval or conditional approval means approval of a license application subject to financing, zoning status, or other plans or requirement that the licensee construct, renovate, or remodel the licensed premises prior to commencing licensed operations. Such conditional/provisional approval is temporary and not subject to renewal unless the licensee complies with the terms of section 6-7 and section 6-11 of this chapter and all conditions which may be placed upon the license. A provisional license is issued to allow an applicant to ascertain whether a license may be had, subject to the requirements, conditions and qualifications which may apply, but does not allow operations to commence until such conditions are met, including issuance of any necessary state license.

Registered agent or agent means a qualified individual residing in Dawson County who has been named as, and has qualified and consented to be, the local registered agent of a licensee pursuant to this chapter.

Retail consumption dealer means a person or entity licensed under this chapter to sell alcoholic beverages by the drink for consumption on the licensed premises. May be licensed for sale of beer/malt beverages, or distilled spirits, or wine, or a combination of the foregoing.

Retail dealer means persons other than wholesale dealers who sell distilled spirits, malt beverages, or wines irrespective of the quantities sold. It is specifically intended to refer to establishments licensed to sell alcoholic beverages directly to the retail consumer and not for resale.

Retail package dealer means a person or entity licensed under this chapter to sell alcoholic beverages in packaged form at retail for consumption other than on the licensed premises. May be licensed for sale of distilled spirits, or beer/malt beverages, or wine, or a combination of the foregoing.

Revocation means the termination, forfeiture or withdrawal by the county of the privileges afforded by this chapter to a licensee or holder of a permit issued under this chapter.

Sale of alcohol means provision of alcohol beverages in exchange for monetary value in the form of cash, credit card, debit card, check or other form of monetary exchange, or in return for all or part of an admission fee, ticket of any kind, cover charge, door charge, token, coin, per drink fee, or other medium of exchange.

School building or school grounds shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this State and which are public schools or private schools.

Special event alcohol permit means a temporary permit issued pursuant to articles of this Code.

Suspension means the temporary (either for a definite or indefinite period) prohibition of operation under an alcoholic beverage license or permit issued by the county pursuant to this chapter.

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

Wine means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, grapes, or honey (mead wine is subject to the alcohol content and solids content limits set forth elsewhere in this chapter) either by natural fermentation or by natural fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, honey mead wine and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human

consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

DAWSON COUNTY BOARD OF COMMISSIONERS AGENDA FORM

**DRUG AND ALCOHOL TESTING POLICY
DAWSON COUNTY TRANSIT
Adopted as of [February 04, 2021]**

A. PURPOSE

- 1) Dawson County Transit provides public transit and paratransit services for the residents of Dawson County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Dawson County Transit declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of Dawson County Transit and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of Dawson County Transit will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

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A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and any transit employee who operates a vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above-mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. Death of an individual;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

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Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Aliquot: A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

Canceled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DOT, The Department, DOT Agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated

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but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

Initial Drug Test: (Screening Drug Test) The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD): The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation: For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

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Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative test result: A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Prohibited drug: Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.

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- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

Split Specimen Collection: A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

Test Refusal: The following are considered a refusal to test if the employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.

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- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators

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of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

1) Prohibited substances addressed by this policy include the following.

- a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Dawson County Transit supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- c. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited.

F. PROHIBITED CONDUCT

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
 - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
 - i. The employee's alcohol concentration measures less than 0.02; or
 - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

- 7) Dawson County Transit, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all Dawson County Transit employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Dawson County Transit management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy.

H. TESTING REQUIREMENTS

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion or random alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Dawson County Transit authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
- 3) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Dawson County Transit. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy. The number of employees randomly selected for drug/alcohol testing during the calendar year shall not be less than the percentage rates set each year by the FTA Administrator. The

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current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to

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Dawson County Transit. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Dawson County Transit will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Dawson County Transit will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.
- 8) Observed collections
 - a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Dawson County Transit that there was not an adequate medical explanation for the result;
- ii. The MRO reports to Dawson County Transit that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- v. The temperature on the original specimen was out of range;
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- vii. All follow-up-tests; or
- viii. All return-to-duty tests

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial

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- test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
 - 3) Dawson County Transit affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
 - 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
 - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.

- b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
- c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
- e. If a pre-employment test is canceled, Dawson County Transit will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide *Dawson County Transit* with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. *Dawson County Transit* is required to ask all applicants

(even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Dawson County Transit proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All Dawson County Transit FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Dawson County Transit's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) Dawson County Transit shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to Dawson County transit.

- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. Dawson County Transit shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of Dawson County Transit. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

- 1) **FATAL ACCIDENTS** – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) **NON-FATAL ACCIDENTS** - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
 - a. The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident.
 - b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, and the covered employee may have contributed to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

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As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that Dawson County Transit is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Dawson County Transit may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of

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safety-sensitive employees. Employees who may be covered under company authority will be selected from a pool of non-DOT-covered employees.

- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Dawson County Transit authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Dawson County Transit's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

Dawson County Transit will terminate the employment of any employee that tests positive or refuses a test as specified in section Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered

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employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety.

P. FOLLOW-UP TESTING

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the

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test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal includes the following circumstances:
- a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
 - b. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
 - c. Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
 - d. In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
 - e. Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
 - f. Fail or decline to take a second test as directed by the collector or the employer for drug testing.
 - g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
 - h. Fail to cooperate with any part of the testing process.
 - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
 - j. Possess or wear a prosthetic or other device used to tamper with the collection process.
 - k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
 - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
 - m. Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

- 4) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-

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sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.

- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
 - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Dawson County Transit employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q of this policy is under the sole authority of Dawson County Transit and will be performed using non-DOT testing forms.
 - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**
 - d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.**
 - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
 - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Dawson County Transit.
 - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

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- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

Dawson County Transit is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the Dawson County Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on

behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.

- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Dawson County Transit or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the *Dawson County Board of Commissioners* on *[March 18, 2021]*.

APPROVE:

ATTEST:

Billy Thurmond, Chairman

Kristen Cloud, County Clerk

Attachment A

<u>Job Title</u>	<u>Job Duties</u>	<u>Testing Authority</u>
Director	Director of Transit	FTA
Coordinator	Supervision of Drivers	FTA
Driver	Operation of Transit Vehicle	FTA
DAPM	Drug & Alcohol Program Mgr	FTA
Maintenance	Fleet Maintenance	FTA

Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

Dawson County Transit Drug and Alcohol Program Manager

Name: Brad Gould

Title: HR Director

Address: 25 Justice Way, Suite 2233, Dawsonville, GA 30534

Telephone Number: 706-344-3500

Medical Review Officer

Name: Donald Freedman, M.D.

Title: Medical Review Officer

Address: P.O. Box 551051

4237 Salisbury #312, Jacksonville, FL 32255

Telephone Number: 904-332-0472

Substance Abuse Professional

Name: Robert Haynes

Title: Substance Abuse Professional

Address: 432 Canton Hwy, Suite G&M, Cumming, GA 30040

Telephone Number: 770-889-1023

HHS Certified Laboratory Primary Specimen

Name: Keating Family Medicine

Address: 1080 Lumpkin Camp Ground Road S. Dawsonville, GA 30534

Telephone Number: 706-265-4100

Breath Alcohol Test

Name: Keating Family Medicine

Address: 1080 Lumpkin Camp Ground Road S. Dawsonville, GA 30534

Telephone Number: 706-265-4100