

**DAWSON COUNTY BOARD OF COMMISSIONERS
VOTING SESSION AGENDA – THURSDAY, MARCH 7, 2024
DAWSON COUNTY GOVERNMENT CENTER ASSEMBLY ROOM
25 JUSTICE WAY, DAWSONVILLE, GEORGIA 30534
TO IMMEDIATELY FOLLOW THE 4:00 PM WORK SESSION**

A. ROLL CALL

B. OPENING PRESENTATION

1. Development Authority of Dawson County (DADC) Update- DADC Chairman Jere Allen

C. INVOCATION AND PLEDGE OF ALLEGIANCE

D. ANNOUNCEMENTS

E. APPROVAL OF MINUTES

1. Minutes of the Work Session held on February 15, 2024
2. Minutes of the Voting Session held on February 15, 2024

F. APPROVAL OF AGENDA

G. PUBLIC COMMENT

H. PUBLIC HEARINGS

1. Proposed Amendment to Chapter 109, Environment and Natural Resources of the County Code to Provide for a Reservoir Protection District (*1st of 1 hearing*)
2. Proposed Ordinance Amendments to Provide for an Entertainment District (Noise, Alcohol, Health/Foodservice, and Land Use)
- Proposed Amendment to Chapter 34, Offenses and Miscellaneous Provisions, Section 34-1 Noise, of the Dawson County Code (*1st of 1 hearing*)
 - Proposed Amendment to Chapter 6, Alcoholic Beverages, of the Dawson County Code (*1st of 1 hearing*)
 - Proposed Amendment to Chapter 26, Health, Article II Food Service Sanitation, of the Dawson County Code (*1st of 1 hearing*)
 - Proposed Amendment to Chapter 121 of the Land Use Chapter to Provide for an Entertainment District (*2nd of 2 hearings; 1st hearing was held at the February 20, 2024, Planning Commission meeting*)

I. PUBLIC COMMENT

J. ADJOURNMENT

****An Executive Session may follow the Voting 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.



Economic Update 1st Quarter

Dawson County



2024 Key Objective

Retreat Goals





Top Private Employers In Dawson County

| | |
|--------------------------|-------|
| North GA Premium Outlets | 1,322 |
| Walmart | 353 |
| BTD | 298 |
| Gold Creek Foods | 292 |
| Kroger | 196 |
| Home Depot | 172 |
| Premier Surplus | 125 |
| MCC Labels | 124 |
| Publix | 124 |
| Chick-fil-A | 87 |
| Ingles | 80 |
| World Wide | 55 |

Valdosta State University & RDI

Retail Strategies Workshop Completed for Retail Marketing



BTD Expansion

- 163,000 Sq. Ft. Building
- \$32,000,000 Investment
- 74 Net New Jobs Created
- \$300,000 Equity Grant for water line Upgrade

GEORGIA
2024

Broadband Grant For ETC



ALL MAJOR CONSTRUCTION
HAS BEEN COMPLETED ON THE
PROJECT



COMPLETED 200 +
INSTALLATIONS IN ALL GRANT-
FUNDED AREAS

**DAWSON COUNTY BOARD OF COMMISSIONERS
WORK SESSION MINUTES – THURSDAY, FEBRUARY 15, 2024
DAWSON COUNTY GOVERNMENT CENTER ASSEMBLY ROOM
25 JUSTICE WAY, DAWSONVILLE, GEORGIA 30534
4:00 PM**

Those present were Chairman Billy Thurmond; Commissioner Seth Stowers, District 1; Commissioner Chris Gaines, District 2; Commissioner Alexa Bruce, District 3; Commissioner Emory Dooley, District 4; County Manager Joey Leverette; County Attorney Angela Davis; County Clerk Kristen Cloud; and interested citizens of Dawson County.

NEW BUSINESS

1. Presentation of FY 2025 Drug Treatment Court Grant Application- Treatment Services Director Heather Herrington
This item will be added to the February 15, 2024, Voting Session Agenda.
2. Presentation of Hazard Mitigation Plan Update- Jeff Stevens, iParametrics
This item will be added to the February 15, 2024, Voting Session Agenda.
3. Presentation of Request to Apply for a 2024 Fireworks Tax Grant- Emergency Services Director Troy Leist
This item will be added to the February 15, 2024, Voting Session Agenda.
4. Presentation of Impact Fee Program Update - Methodology Report Briefing- Bill Ross and Paige Hatley, ROSS+associates
This item was for information only and is expected to appear on a future Work Session Agenda.
5. County Manager Report
This item was for information only.
6. County Attorney Report
County Attorney Davis had no information to report.

APPROVE:

ATTEST:

Billy Thurmond, Chairman

Kristen Cloud, County Clerk

**DAWSON COUNTY BOARD OF COMMISSIONERS
VOTING SESSION MINUTES – THURSDAY, FEBRUARY 15, 2024
DAWSON COUNTY GOVERNMENT CENTER ASSEMBLY ROOM
25 JUSTICE WAY, DAWSONVILLE, GEORGIA 30534
IMMEDIATELY FOLLOWING THE 4:00 PM WORK SESSION**

ROLL CALL: Those present were Chairman Billy Thurmond; Commissioner Seth Stowers, District 1; Commissioner Chris Gaines, District 2; Commissioner Alexa Bruce, District 3; Commissioner Emory Dooley, District 4; County Manager Joey Leverette; County Attorney Angela Davis; County Clerk Kristen Cloud; and interested citizens of Dawson County.

INVOCATION AND PLEDGE OF ALLEGIANCE: Chairman Thurmond

ANNOUNCEMENTS:

None

APPROVAL OF MINUTES:

Motion passed 4-0 to approve the Minutes of the Work Session held on February 1, 2024. Stowers/Dooley

Motion passed 4-0 to approve the Minutes of the Voting Session held on February 1, 2024. Dooley/Bruce

APPROVAL OF AGENDA:

Motion passed 4-0 to approve the agenda with the following change:

- Addition of a New Business section following section “H. Zoning” to include Nos. 1-3:
 - FY 2025 Drug Treatment Court Grant Application
 - Hazard Mitigation Plan Update Transmittal to the Georgia Emergency Management and Homeland Security for Review
 - Request to Apply for a 2024 Fireworks Tax Grant

Gaines/Stowers

PUBLIC COMMENT:

None

CONSENT AGENDA:

Renewal of a Statewide Mutual Aid Agreement

COVID Employee Leave Policy Change Recommendation

Board Appointments:

- **EMS Advisory Council**
 - *Justin Mitchell- reappointment (Term: Through June 2025)*
 - *Johnny Irvin- replacing Bridget Rigby (Term: Through June 2024)*

Motion passed 4-0 to approve the Consent Agenda. Gaines/Bruce

ZONING:

ZA 23-10 - Dawson County on behalf of Chestatee Development requests to amend zoning stipulations for the Creekside and the East Harbor portions of the Chestatee on Lanier development, TMP 118-008.

Chairman Thurmond announced that if anyone contributed more than \$250 to the commissioners or chairman in the past two years and wished to speak, they would have to fill out a disclosure form, which would be made available to them. Under the normal program, 10 minutes is given to those who wish to speak in favor of or opposition to with some redirect, time permitting.

Planning & Development Director Sharon Farrell (also speaking on behalf of Dawson County) said the zoning application is county initiated. She said the Chestatee project started many years ago. “In 2009, there was an amendment to the master plan,” she said. “At that time, the Board of Commissioners associated a private agreement, a private HOA covenant, with the approval. So, this year, when things picked up, we had a whole new section under plat review. Basically, there were concerns regarding how the homes look compared to this document from 2009 and, as everyone knows, building materials have changed, desires with the way homes look, lot changes – so much has changed in the last 15, 17 years that it was time to update these covenants and agreements within the county document. So we moved forward with a county-initiated [zoning application with 14 proposed stipulations].”

Chairman Thurmond opened the hearing by asking if there was anyone present who wished to speak either for or against the application.

The following spoke in favor of the application:

- Josh Nason, Dawsonville, Georgia
- Todd Nichols, Cumming, Georgia (with Ashton Woods Homes)
- Olivia Coughlin, Dawsonville, Georgia

None spoke in opposition to the application.

Chairman Thurmond asked if there was anyone else present who wished to speak on the application and, hearing none, closed the hearing.

Chairman Thurmond read aloud 14 proposed stipulations.

Motin passed 4-0 to approve ZA 23-10 with the following stipulations:

1. Ashton Woods agrees that all garages will be two-stall/two separate doors. Garage doors shall have the appearance of wood doors from the street – including to have hardware, windows (in some homes elevation specific but not all garage doors require windows), and shall be colonial- or traditional-style garage doors;
2. Ashton Woods agrees to provide round downspouts for all homes. Gutters are not required to be ½ round gutters;
3. Ashton Woods agrees to provide an overhang/trellis over the garages for some portions of the homes in order to provide varying aesthetics to the garages of the homes. These elements should be specific to elevations as to avoid monotony throughout the community. Not every home will be required to have a trellis/shed roof above the garage;

4. Ashton Woods agrees to provide a variety of material/roofing types (including metal as an option) to front porches' roof overhangs in order to provide varying aesthetics of the homes;
5. Ashton Woods shall incorporate a variety of materials on front porches. Acceptable materials are brick, stone, slate, tile or wood; no concrete;
6. Ashton Woods will provide a written copy of monotony code;
7. Ashton Woods agrees to provide front yard underground irrigation to all homes and offer irrigation options for rear/side yard;
8. Ashton Homes shall provide screening to outside A/C compressors/heat pumps with shrubs/bushes at all homes;
9. Front doors, provided by Ashton Homes, cannot be made of metal and cannot be blank;
10. Ashton Woods shall add windows to the sides of homes plan specific. All windows on the fronts of homes to be simulated divided light. For elevations with shutters, shutters will be wood with hardware;
11. Ashton Woods to provide three landscaping plans (for home sites) to avoid monotonous front yards;
12. Ashton Woods agrees to install the same style of street lights as the existing street lights in Chestatee. This additional expense will be absorbed by Ashton Woods. It is understood that there is a long lead time to get the specific streets lights, and temporary street lights of a different style may need to be installed for a period of time during the construction phase;
13. Ashton Woods agrees to install bushes/shrubs around the community mailbox (kiosk) area as a screening. The number of shrubs is to be determined by the space available in this area (near the barricades); and
14. Sidewalk and driveway appearance (colored black dyed) shall be consistent with the broader Chestatee community.

Dooley/Gaines

NEW BUSINESS:

Consideration of FY 2025 Drug Treatment Court Grant Application

Motion passed 4-0 to approve a FY 2025 Drug Treatment Court Grant Application. Gaines/Bruce

Consideration of a Hazard Mitigation Plan Update Transmittal to the Georgia Emergency Management and Homeland Security for Review

Motion passed 4-0 to approve a Hazard Mitigation Plan Update Transmittal to the Georgia Emergency Management and Homeland Security for Review. Stowers/Dooley

Consideration of Request to Apply for a 2024 Fireworks Tax Grant

Motion passed 4-0 to approve a Request to Apply for a 2024 Fireworks Tax Grant. Dooley/Gaines

PUBLIC COMMENT:

Gary Pichon, Marble Hill, Georgia, discussed "The Grand Park Idea."

He said, "Right in the middle of Dawson County there is a 10,000-acre tract, which is owned by the Atlanta Airport Authority and is managed by the DNR under a lease. There are hiking and horse-riding trails on the property. It's a beautiful piece of ground with the Etowah River, Amicalola Creek and Shoal Creek running through it. It is the largest piece of unoccupied land in North Georgia."

“That land is at risk for development because it will be sold at some point to help fund the Atlanta Airport. It could be broken up into several pieces and become a new suburban city or a series of large industrial sites. It will not stay forever like it is.

“Not only is it a place of natural beauty, which should be preserved from development, it was an important federal atomic center of research. That atomic research had a key role in the defense of the U.S.A. during the Cold War. What we learned there was very important and much is still classified. Many of our citizens that live in this county worked there. Today the historic significance is being lost. Today there is not one sign telling the story of what happened on that property.

“Most of the property should be owned by the State of Georgia and managed by the DNR as a state park to be something like Amicalola State Park and connected to it by hiking trail through the existing DNR lands up along the Amicalola River. We already have about 15,000 acres of land held by DNR right now in our county. It is not connected to anything.

“That portion of the land that contained the Georgia Nuclear Aircraft Factory, Air Force Project 67, should be a national historic site with a visitor’s center, and it should provide tours to the visiting public to explain Dawson County’s role in our national defense effort. It is a story worth telling.

“The Board of Commissioners can facilitate this idea with the state government and the federal government by passing a resolution of support, expressing specifically that the land be brought under the ownership of the state and a portion under control of the federal government and used permanently as a park for the citizens of the state and the nation. I request that the BOC pass such a resolution this year. My advice is do not tarry. If you don’t get your oar in the water, that ship will leave.”

ADJOURNMENT:

APPROVE:

ATTEST:

Billy Thurmond, Chairman

Kristen Cloud, County Clerk

Chapter 109
ENVIRONMENT AND NATURAL RESOURCES
ARTICLE IV. WATERSHED PROTECTION

Sec. 109-83. Purpose and Intent.

- A. A Watershed is an area of land that drains rain water or snow into one location, such as a stream, lake, or wetland. These water bodies supply our drinking water, water for agriculture and manufacturing, offer opportunities for recreation, and provide habitat to plants and animals.
- B. These regulations aim to establish the protection of drinking water supply watersheds. This protection is necessary for enhancing public health, safety, and welfare and ensuring that surface drinking water sources are of high quality to be treated to meet all State and Federal drinking water standards.
- C. Under O.C.G.A. § 12-2-8, these regulations establish criteria to allow the development of a water supply watershed without contaminating the water source to a point where it cannot be treated to meet drinking water standards. These criteria accomplish this by establishing buffer zones around streams and specifying allowable impervious surface densities within watersheds. The requirements also include the protection of water supply reservoirs by buffer zones and management practices to be established by reservoir owners and approved by the Department of Natural Resources (DNR).
- D. The watershed protection districts intend to protect the environmental quality of Dawson County's drinking water supply watersheds.
- E. The provisions of this article are adopted pursuant to the rules for the Environmental Planning Criteria of the Georgia Department of Natural Resources as adopted by DNR under O.C.G.A. 12-2-8

Sec. 109-84. Definitions.

Aquifer. Any stratum or zone of rock beneath the earth's surface capable of containing or producing water from a well.

Buffer. A natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas.

Buffer, planted. A buffer area that is cleared in the construction process and has specified vegetation purposely replanted for environmental protection and from encroachment of conflicting uses.

Buffer, undisturbed. An undisturbed buffer that is left in a natural state or augmented with plantings to achieve the goal of buffering.

Buffer area, natural vegetative. A river corridor containing the flora native to that area. The natural flora for specific areas is described in Georgia Geologic Survey Bulletin 114, "The Natural Environments of Georgia." Habitats for endangered and threatened species may require river corridor management to maintain those species.

Corridor. All land within the buffer and other setback areas.

DRASTIC. The standardized system for evaluating groundwater pollution potential using the hydrogeologic settings described in U.S. Environmental Protection Agency document EPA-600/287-035.

Governmentally owned. Owned by Dawson County, the Etowah Water and Sewer Authority, or any other similar entity that provides public water or sanitary sewer services.

Hazardous waste. Any solid waste defined as hazardous in regulations promulgated by the United States Environmental Protection Agency administrator under the federal act, which is in force and effect on February 1, 1998, codified as 40 CFR Section 261.3.

Impervious Surface. A manufactured structure or surface that prevents stormwater infiltration into the ground below the structure or surface.

Land disturbing activity. Any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. Land-disturbing shall not include ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions, or minor modifications to a single-family dwelling, and firewood cutting for personal use.

Local government. The governing authority of a political subdivision.

Lot of record. Whenever a lot or plat has been legally and duly recorded with the County Clerk of Superior Court before February 23, 1998, and exists as shown or described, it shall be deemed a lot of record. In addition, lots legally recorded that met zoning standards in place at the time of recordation but do not meet standards currently in place are also considered lots of record. Although said lot may not contain a sufficient land area or lot frontage to meet the minimum lot size requirements of the current zoning, such a lot may be used as a building site provided that all other requirements of the district are met and that building plans are consistent with all state and local health codes.

Overlay district. A land use district that encompasses one or more underlying zones and imposes additional requirements above that required by the underlying zone(s). An overlay district can be coterminous with existing zoning districts or contain only parts of one or more such districts.

Perennial river. A river or section of a river that flows continuously throughout the year.

Perennial Stream. A stream with normal stream flow consisting of base flow (discharge that enters the stream channel mainly from groundwater) or both base flow and direct runoff during any period of the year.

Plans or comprehensive plans. Any plan by a county or a municipality covering such county or municipality or any plan by a regional development center covering the center's region proposed or prepared pursuant to the minimum planning standard and procedures for preparation of comprehensive plans and for implementation of comprehensive plans, established by the Department of Community Affairs in accordance with O.C.G.A. 50-8-1 through 50-8-12.

Pollution Susceptibility. The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections, and other human activities in the recharge area.

Pollution Susceptibility Maps. Maps of relative vulnerability to pollution prepared by the Department of Natural Resources, using the DRASTIC methodology. Pollution susceptibility maps categorize the land areas of the State into areas having high, medium, and low groundwater pollution potential.

Protected river. As determined by appropriate U.S. Geological Survey documents, any perennial river or watercourse with an average annual flow of at least 400 cubic feet per second. However, those segments of river covered by the Metropolitan River Protection Act or the Coastal Marshlands Protection Act are specifically excluded from the definition of a protected river.

Public utility or utilities. A service or services provided by a public utility company or a private entity that provides or services and all equipment and structures necessary to provide such services.

Quadrangle map. The most recently published U.S. Geological Survey 7.5-minute topographic map prepared at a scale of 1:24,000

Recharge Area. Any portion of the earth's surface where water infiltrates the ground to replenish an aquifer.

Reservoir Boundary. The edge of a water supply reservoir as defined by its normal pool level.

River bank. The rising ground that borders a river and confines the water to the natural channel during the normal flow. For horizontal measurements, the river bank shall be considered the point of wretched vegetation.

River corridor. All the land, inclusive of islands, not regulated under the Metropolitan River Protection Act (O.C.G.A. 12-5-440 through 12-5-457) or the Coastal Marshlands Protection Act (O.C.G.A. 12-5-280 through 12-5-293), in areas of a protected river and being within 100 feet horizontally on both sides of the river as measured from the river banks. The 100-foot buffer shall be measured horizontally from the uppermost part of the river banks, usually marked by a break in slope. Although not within the measured 100-foot-wide buffer, the area between the top of the bank and the edge of the river shall be treated by the local governments in the same manner as the river corridor and included within the River Corridor Protection Plan. Because stream channels move due to natural processes such as meandering, river bank erosion, and jumping of channels, the river corridor may shift with time. For these standards, the river corridor shall be considered fixed at its position at the beginning of each review period for comprehensive local plans. Any shift in the location of the protected river after the start of the review period will require a revision of the boundaries of the river corridor at the time of the next review by the Department of Community Affairs.

River Corridor Protection Plan. That part of the Dawson County Code addresses the river corridor protection requirements.

Sensitive natural areas. Any area, as identified now or hereafter by the Department of Natural Resources, which contains one or more of the following: Habitat, including nesting sites, occupied by rare or endangered species; rare or exemplary natural communities; significant landforms, hydroforms, or geological features; or other areas designed by the Department of Natural Resources that are sensitive or vulnerable to physical or biological alteration.

Significant Recharge Areas. Areas mapped by the Department of Natural Resources.

Single-family dwelling. A dwelling structure that is designed for the use of one family.

Utility. Public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems, and railroads or other utilities identified by a local government.

Water Supply Reservoir. A water impoundment to provide water to one or more public water systems. This excludes the multipurpose reservoirs owned by the U.S. Army Corps of Engineers.

Water Supply Watersheds. The land area upstream of a public drinking water intake.

Water Supply Watershed Protection Plan. A land use plan adopted by local governments or authorities to protect the quality of drinking water obtained from the watershed.

Wetland protection plan. All wetlands within Dawson County are indicated on the Environmental Sensitive Lands Map as "wetlands providing significant wildlife habitat and/or which may be subjected to extensive mitigation."

Wetlands, freshwater. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of

vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (33 CFR 32.93). The ecological parameters for designating wetlands have hydric soils, hydrophytic vegetation, and hydrological conditions involving a temporary or permanent water source to cause soil saturation. Freshwater wetlands do not include any areas defined as "coastal marshlands" by the State Coastal Marshlands Protection Act of 1980 (O.C.G.A. § 12-5-280 et seq.).

Sec. 109–85. Overlay District Provisions

- A. *Purpose.* The purpose of this overlay district article is to conserve natural resources and realize development objectives. The current land use provisions may adequately regulate the relevant overlay district. Specific and targeted provisions in an overlay district are needed to accomplish land use objectives related to protecting fragile natural resources. The resources include but are not limited to, groundwater recharge areas, water supply, watersheds, protected river corridors, reservoirs, and wetlands.
- B. *Applicability.* The overlay district provisions of this article apply to those parcels within unincorporated Dawson County that have particular development constraints:
1. The Etowah River Water Supply Watershed Protection Overlay District is designated and shall consist of land areas that drain to the public water supply intake on the Etowah River. The boundaries of this overlay are defined by the ridge lines of the respective watersheds and the boundary of a radius of seven miles upstream of the individual public water supply intake. This overlay shall be further delineated and defined on the Etowah River Water Supply Watershed Protection Overlay District Map of Dawson County, which is hereby incorporated and made a part of this article by reference.
 2. The Protected Groundwater Recharge Area Overlay District is designated and shall consist of all lands within the jurisdiction of Dawson County, Georgia, mapped as significant recharge areas by the Georgia Department of Natural Resources in Hydrologic Atlas 18, 1989 edition. These districts shall be further delineated and represented on the Environmentally Sensitive Areas Map of Dawson County, which is hereby incorporated and made a part of this article by reference.
 3. The Etowah River Corridor Protection Overlay District is designated and shall consist of all areas within 100 feet horizontally on both sides of the Etowah River in Dawson County. These districts shall be further delineated and defined on the Etowah River Corridor on the Environmentally Sensitive Areas Map of Dawson County, which is hereby incorporated and made a part of this article by reference.
 4. The Wetland Protection Overlay District is designated and shall consist of all wetlands within the Wetland Protection District as defined herein and located within the jurisdiction of Dawson County. These districts shall be further delineated and represented on the Environmentally Sensitive Areas Map of Dawson County, which is hereby incorporated and made a part of this article by reference.
 5. The Russell Creek Reservoir Watershed Protection Overlay District is designated and shall consist of the land areas that drain to the Russell Creek public water supply intake and water supply reservoir. The overlay boundaries are further delineated and depicted on the Russell Creek Reservoir Watershed Protection Overlay District Map, which is hereby incorporated and made a part of this article by reference.

109- 86. Delineation of Boundaries.

Dawson County has several watersheds delineated on the Dawson County Watershed Map. All watersheds are different, and not all are a resource for drinking water. All lands within water supply watersheds are designated as watershed protection areas and include all that drains from the stream bank from the ridgeline of each watershed. The boundary of the water supply watershed is defined by the ridgeline of the watershed or by the political boundaries of the county, where those boundaries occur within the watershed. Small water supply watersheds within the County jurisdiction include Etowah River and Russell Creek Reservoir. The City of Dawsonville operates four groundwater wells and a spring. Etowah Water and Sewer Authority has a primary public water intake on the Etowah River and a primary public water intake at the Russell Creek Reservoir.

109 -87. Water Supply Watershed; General.

A. *Protected watershed areas; exemptions.*

1. *Silvicultural.* Notwithstanding other provisions of this article, forestry practices, in accordance with a forest management plan that incorporates best management practices (BMPs) approved by the Georgia Forestry Commission, shall be permissible within watershed protection areas.
2. *Agricultural.* Notwithstanding other provisions of this article, the continued cultivation of crops shall be permissible within watershed protection areas, provided that the best management practices (BMPs) of the Georgia Department of Agriculture are followed.
3. *Lot of record.* Notwithstanding other provisions of this article, on the date of adoption of the lot size standards in the Etowah River Corridor and the Russell Creek Reservoir protection overlay.

B. *Development permit required.* Within a water supply watershed, no land-disturbing activity, construction, or other development, other than certain exempted activities identified in this article, may be conducted without a permit from Dawson County, and any development or activities must be in full compliance with the terms of this article and other applicable regulations. All activities not permissible as of right or as special use permit shall be prohibited.

C. *Site plan required.* Applications for a development permit within a water supply watershed shall include a site plan and a lot grading plan in accordance with the permits and procedures section of the Land Use Code. Except for the exemptions listed in this section, all forms of development within the water supply watershed shall be required to prepare a site plan, and a lot grading plan before any building permits or other development-related permits may be issued, or any land-disturbing activity may occur.

D. Restrictions in stream corridors; all watersheds.

1. *Street runoff and drainage.* New streets that cross perennial streams within the water supply watershed areas shall be designed in such a way as to prevent direct runoff from the paved surface into the streams they cross. The site and lot grading plans will show such design features.
2. *Septic tanks and drain fields.* Septic tanks and septic tank drain fields are prohibited in all stream corridors' setback and buffer areas within water supply watershed areas.
3. *Utilities.* Utilities, including sanitary sewers that cannot be practicably located outside the stream buffer or setback area, must be as far from the stream bank as reasonably possible. Such utilities must be installed and maintained to protect the integrity of the stream buffer and setback areas as best as reasonably practicable and must not impair the quality of the drinking water in the stream.

109-88. Etowah River Water Supply Watershed Protection Overlay District; Restrictions

A. Small water supply watersheds; restrictions.

1. *Stream buffer; small water supply watersheds.*

The perennial stream corridors within seven (7) mile radius upstream of a governmentally-owned public drinking water supply intake are protected by the following criteria:

- a. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks for all perennial streams unless a greater distance is required specifically by the Dawson County Code.
 - b. For all perennial streams within the limited development area, no impervious surface shall be constructed within a 100-foot buffer area on both sides of the stream as measured from the stream banks unless a greater distance is required specifically by the Dawson County Code
 - c. Septic tanks and septic tank drain fields are prohibited in the setback area of a. above.
2. The perennial stream corridors outside a seven (7) miles radius upstream of a governmentally owned public drinking water supply intake are protected by the following criteria:
- a. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream banks for all perennial streams unless a greater distance is required specifically by the Dawson County Code.
 - b. For all perennial streams within the limited development area, no impervious surface shall be constructed within a 50-foot buffer area on both sides of the stream as measured from the stream banks unless a greater distance is required specifically by the Dawson County Code.
 - c. Septic tanks and septic tank drain fields are prohibited in the setback area of a. above.
3. Land use restrictions; small water supply watersheds.
- a. New hazardous waste treatment or disposal facilities are prohibited.
 - b. New sanitary landfills are prohibited.
 - c. Any new facility that handles hazardous materials listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) is prohibited.
 - d. Impervious surface area restricted. The impervious surface area, including all public and private structures, utilities, or facilities, of the entire watershed protection area shall be limited to 25 percent. The Board of Commissioners must approve any individual development resulting in more impervious surface than 25 percent of the property's total area.

109-89. Protected Groundwater Recharge Area Overlay.

- A. *Permitted uses.* All uses allowed in the underlying zoning districts as established by the article, except those listed in prohibited uses below, are permitted in a Protected Groundwater Recharge Area Overlay, subject to the following conditions and standards.
1. No permits shall be issued for new sanitary landfills.
 2. No permits shall be issued for land disposal of hazardous wastes.
 3. No permit for new facilities to treat, store, or dispose of hazardous waste.
 4. No new above-ground chemical or petroleum storage tanks.
 5. No new agricultural waste impoundment sites.
 6. New homes served by septic tank/drain field systems shall be on lots having the following minimum size limitations as identified in Table MT-1 of the Georgia Department of Health manual for on-site sewage management systems ("DPH Table MT-1"), as amended.
 7. New mobile home parks served by septic tank/drain field systems shall have lots or spaces having the following size limitation as identified in Table MT-2 of the Georgia Department of Health manual for on-site sewage management systems (hereinafter DPH Table MT-2), as amended.
 8. Dawson County requires a larger lot size than that required by subsection (a)(6) of this section for homes or by subsection (7) of this section for mobile homes; the larger lot size shall be used.
 9. No construction may proceed on a building or mobile home to be served by a septic tank unless the Dawson County Health Department first approves the proposed septic tank installation as meeting the requirements of the DHR Manual, as amended and subsections (6), (7), and (8) of this section.
 10. New facilities that handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds on any one day or more shall perform their operations on impervious surfaces in conformance with applicable federal spill prevention requirements and the requirements of the International Fire Code.
 11. The Department of Natural Resources shall require conservation design in any new permits for wastewater spray irrigation or the land spreading of wastewater sludges in areas with high pollution susceptibility. This shall be accomplished by comparing the department's Criteria for Slow Rate Land Treatment (February 1986 or latest edition) with amendments and other technical publications to site-specific information submitted by a registered professional engineer for each project.
 12. Permanent stormwater infiltration basins shall not be constructed in areas having high pollution susceptibility.
 13. Exclusive of mining settling basins, new wastewater treatment basins shall have an impermeable liner in areas with high pollution susceptibility.

109-90. The Etowah River Corridor Protection Overlay District.

- A. *Applicability.* These provisions shall apply to all areas of land in unincorporated Dawson County within 100 feet horizontally from the river bank of the Etowah River, downstream from the confluence of the Etowah River and Shoal Creek to the Forsyth County line as found in the Etowah River Corridor Protection Plan.
- B. *Permitted use.* All uses allowed in the underlying zoning districts as established by the article, except those uses listed in Prohibited Uses below, are permitted in the Etowah River Corridor Protection Overlay District, subject to the following conditions and standards:
- C. Protected criteria.
 - 1. The Etowah River Corridor Protection Plan shall provide for maintaining a natural vegetative buffer, except as otherwise provided herein.
 - 2. The Etowah River Corridor Protection Plan shall not prohibit the construction of a single-family dwelling, including the usual appurtenances, within the buffer area, subject to the following conditions:
 - a. The dwelling shall comply with all Dawson County zoning regulations;
 - b. The dwelling shall be located on a tract of land containing at least two acres.
 - c. The size of the tract of land shall not include any area that lies within the protected river; that is, for tracts of land that contain portions of a protected river, the area between the river banks cannot be counted towards the two-acre minimum size);
 - d. Only one dwelling on each two-acre or larger tract of land;
 - e. A septic tank or tanks serving such a dwelling may be located within the buffer area and
 - f. Septic tank drain fields shall not be in the buffer area.
 - 3. Within the river corridor, industrial and commercial land uses existing prior to the promulgation of these provisions are exempt from these criteria provided that:
 - a. Industrial and commercial uses of river corridors shall not impair the drinking quality of the river and
 - b. Industrial and commercial activity within the river corridor shall meet all state and federal environmental rules and regulations.
- D. Except as expressly provided for in the provisions of these criteria (dealing with single-family dwellings within the river corridor), septic tanks and drain fields are prohibited within river corridors.
- E. The Etowah River Corridor Protection Plan shall provide for the construction of road crossings and utility crossings of the river corridor, provided that construction of such road and utility crossings shall meet all requirements of the Erosion and Sedimentation Control Act of 1975 (O.C.G.A. § 12-7-1 et seq.), and the Dawson County Soil Erosion and Sedimentation Control Ordinance and any other applicable local ordinances on soil erosion and sedimentation control.
 - 1. The Etowah River Corridor Protection Plan shall provide the following acceptable uses of river corridors, provided that such uses do not impair the long-term functions of the protected river or river corridor:

-
- a. Timber production and harvesting, subject to the following conditions:
 - i. Forestry activity shall be consistent with best management practices established by the Georgia Forestry Commission and
 - ii. Forestry activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
 2. Wildlife and fisheries management activities consistent with the purposes of O.C.G.A. § 12-2-8.
 3. Recreational usage is consistent with maintaining a natural vegetative buffer or river-dependent recreation. For example, a boat ramp would be consistent with this criterion, but a hard surface tennis court would not. Parking lots are not compatible with this criterion.
 4. Paths and walkways within the river corridor are consistent with this criterion.
 5. Natural water quality treatment or purification.
 6. Agricultural production and management, subject to the following conditions:
 - a. Agricultural activity shall be consistent with best management practices established by the Georgia Soil and Water Conservation Commission;
 - b. Agricultural activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended, and
 - c. Agricultural activity shall be consistent with all state and federal laws and all regulations promulgated by the Georgia Department of Agriculture.
 7. Other uses permitted by the Department of Natural Resources or under Section 404 of the Clean Water Act.
 8. Handling areas for the receiving and storing of hazardous waste is prohibited within the river corridor.
 9. Hazardous waste or solid waste landfills are prohibited within river corridors.
 - F. The natural vegetative buffer shall be restored as quickly as possible following any land-disturbing activity within the river corridor. The natural vegetative buffer restoration plan shall be included in the erosion and sedimentation control plan. Dawson County must approve this plan before land disturbance activities. Commercial and industrial uses are prohibited within the river corridor.
 - G. Except as noted above, all construction within the buffer area shall be prohibited.

Sec. 109-91. Wetlands Protection District Overlay.

- A. *Permitted uses.* All uses allowed in the underlying zoning districts as established by the Ordinance, except for those listed in prohibited uses below, are permitted in the Wetland Protection District Overlay, subject to the following conditions and standards:
1. No development permit will be issued on a project that appears to contain wetlands until a determination has been made by the Corps of Engineers or a formally trained wetland delineator from the Corps of Engineers' list of approved consultants on whether jurisdictional wetlands exist on the site. If there are jurisdictional wetlands on the site that will be disturbed by the proposed development, the applicant must:
 - a. Obtain a wetlands alteration Section 404 Permit from the Corps of Engineers or
 - b. Provide documentation indicating that coordination with the Corps of Engineers regarding a Section 404 Permit is in effect.
- B. If a project appears to contain wetlands, the following note must be printed in boldface type on all development plans: This site contains wetlands. The applicant will first obtain a wetland alteration Section 404 Permit from the Corps of Engineers before disturbing any jurisdictional wetlands.
- C. Prohibited uses of wetland areas include:
1. Receiving areas for toxic or hazardous waste or other contaminants;
 2. Hazardous or other waste landfills;
 3. Wastewater treatment.
 4. Other uses unapproved by Dawson County
- D. Use of wetland areas without long-term impairment is permitted. Acceptable uses may include:
1. Timber production and harvesting activities consistent with the best management practices established by the Georgia Forestry Commission;
 2. Natural water quality treatment or purification; and
 3. Other uses permitted under Section 404 of the Clean Water Act.

109-92. Russell Creek Reservoir Watershed Protection Overlay.

The Russell Creek Reservoir is within the Alabama-Coosa-Tallapoosa basin within the Etowah River watershed.

- A. *Applicability.* These provisions shall apply to all areas within the Russell Creek Reservoir Watershed Protection Overlay District and as defined below. See Figure #
- B. *Buffer Criteria.*
 - 1. A natural stream buffer shall be established and maintained within 150 feet of the banks of the Russell Creek Reservoir boundary within any protected watershed area. Vegetation, land disturbance, and land uses shall be controlled by the provisions of the applicable reservoir management plan, as approved by the Georgia Department of Natural Resources (DNR).
 - 2. The perennial stream corridors within a seven (7) mile radius upstream of the Russell Creek Reservoir are protected by the following criteria: See Figure 4-#
 - a. A natural undisturbed buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
 - b. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream (as measured from the stream banks).
 - c. Septic tanks and septic tank drain fields are prohibited in the 150-foot setback.
- C. *The following land use criteria apply in the Russell Creek supply watershed overlay.*
 - 1. New sanitary landfills are prohibited.
 - 2. New hazardous waste treatment or disposal facilities are prohibited.
 - 3. No silvicultural activities shall be permitted within stream buffers and setbacks.
 - 4. Impervious surface area restricted. The impervious surface area, including all public and private structures, utilities, or facilities, of the entire watershed protection area shall be limited to 25 percent. The Board of Commissioners must approve any individual development resulting in more impervious surface than 25 percent of the property's total area.
 - 5. Any new facility that handles hazardous materials listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) is prohibited.
 - 6. Adjoining lots to the boundary of the reservoir are subject to the following criteria:
 - a. The creation of lots on which there is not sufficient area for construction is prohibited.
 - b. All lots shall have a permanent 150-foot protection buffer adjoining the reservoir property.
 - c. No septic tanks, septic tank absorption field, related structure or feature, substantial structure, or other feature that may adversely impact the reservoir or may occupy any portion of this 150-foot buffer.
 - d. The 150-foot buffer area shall remain a natural vegetated buffer.
 - 7. Access the Russell Creek Reservoir to conform to the Etowah Water and Sewer Authority policies.

D. *Water Supply Reservoir Management Plan.*

1. Etowah Water and Sewer Authority shall develop and update a reservoir management plan for approval by the Department of Natural Resources. A reservoir management plan protects the Russell Creek Reservoir. All properties within these areas shall have a permanent 150-foot protection buffer adjoining the reservoir property from the normal full-pool elevation.
2. No septic tanks, septic tank drain fields, related structure or feature, substantial structure, or other feature, which may adversely impact the reservoir, may occupy any portion of this 150-foot buffer. Additionally, this area should be a natural, vegetated buffer when the requirements of this section conflict with the requirements within itself or any other lawfully adopted rules, regulations, resolutions, deed restrictions, or covenants, the more restrictive or that imposing higher standards shall govern.
3. The reservoir management plan shall include a buffer maintained 150 feet from the reservoir boundary.

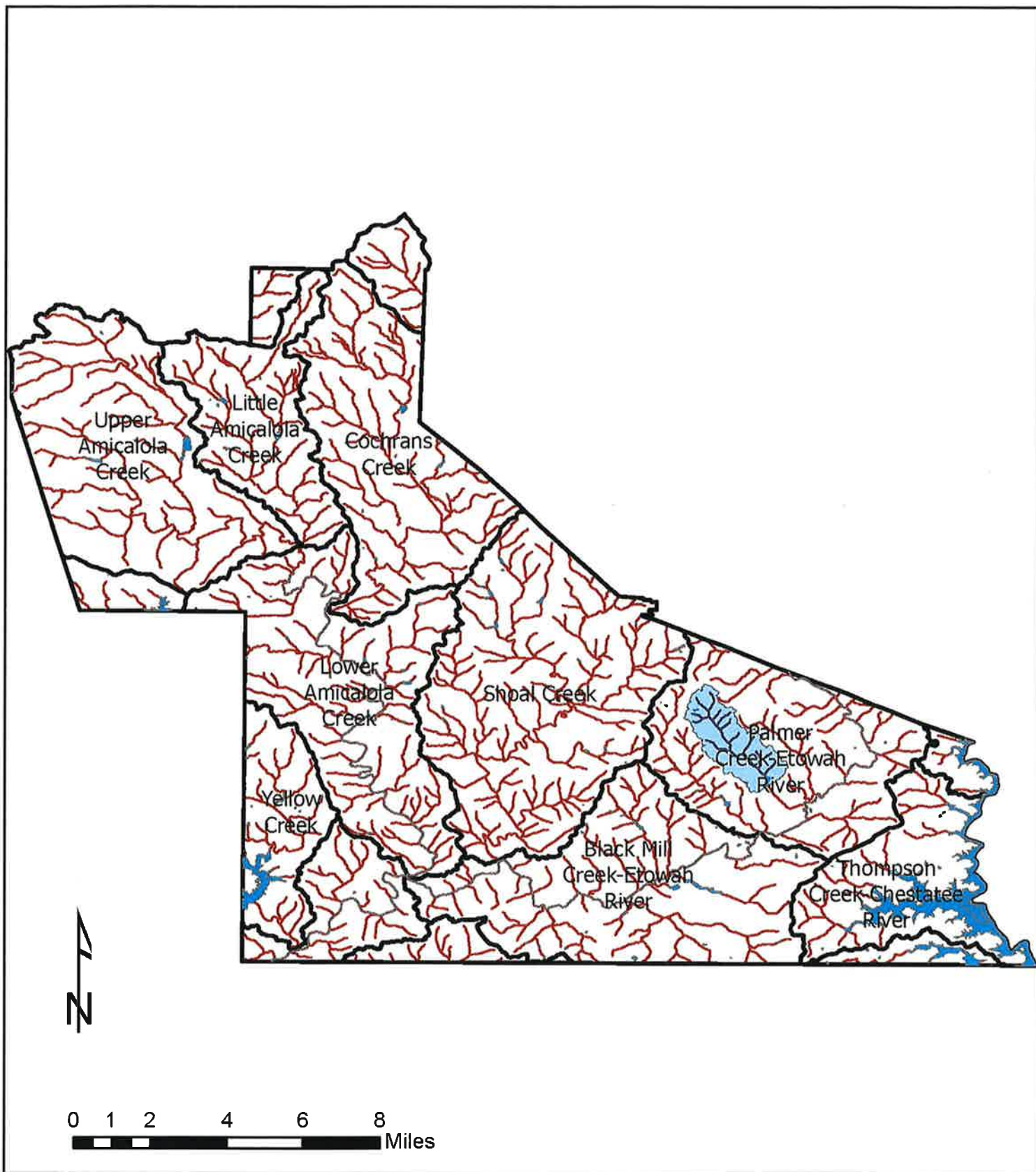
E. *Recreational use of the reservoir and maintaining a buffer around the reservoir.*

Any recreational uses shall protect the reservoir's water quality for drinking water purposes. The recreational uses shall be outlined in the reservoir management plan.

Sec. 109.93. Buffer Requirements.

The buffers required in this section protect the County's drinking water source and are intended to be left in their natural, undisturbed state.

- A. *Buffer Exceptions from County.* Variances required in this Section will only be issued in cases where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship only upon a finding by the County Administrator and approved by the Board of Commissioners.
 - 1. A variance to the buffers established in the adopted ordinance only when:
 - a. Some hardships prevent compliance with the buffer widths and required practices. An opportunity for meaningful public notice of, comment upon, and administrative appeal of all decisions relating to action upon an application for a variance shall be provided. Hardships shall be evaluated in accordance with the following:
 - i. If the applicant complies with the buffer widths and required practices, they can secure no reasonable return from, nor make good use of, their property. Merely proving that the variance would permit a more significant profit from the property shall not be considered adequate justification for a variance. Moreover, the local government shall consider whether the variance is the minimum possible deviation from the buffer widths that shall make reasonable use of the property possible;
 - ii. The hardship results from the application of the buffer widths to the property rather than from other factors, such as unrelated deed restrictions;
 - iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography;
 - iv. The applicant did not cause the hardship;
 - v. The variance is in harmony with the general purpose and intent of the riparian buffer widths and required practices and preserves the meaning thereof;
 - b. In granting the variance, the public safety and welfare have been assured, and the quality of downstream water, including but not limited to water used to supply public drinking water, has been maintained or improved and
 - c. The applicant certifies that the applicant has not and does not intend to apply for a variance from the minimum buffer requirements of the Georgia Erosion and Sedimentation Control Act for the same perennial stream or streams for which a variance is sought according to this paragraph.
- B. *Buffer Exceptions from the State:* Any encroachment into the twenty-five (25) feet undisturbed State Water Buffer will require a buffer variance from the Georgia Environmental Protection Department.
- C. *Conditions:* The County Administrator could, as a condition of the variance to specific provisions of this ordinance, require that alternative measures be taken by the applicant such that the purpose of this ordinance may be achieved through alternative means.



Legend

- USGS_Rivers_Dawson
- USGS_Lakes_Dawson
- USGS_HUC12_Dawson

Sec. 34-1. Noise.

- (a) *Intent and purpose.* The intent and purpose of this section is to regulate noise that adversely affects the health, safety, welfare, peace, rest and repose, and tranquility of the citizens of Dawson County.
- (b) *Definitions.* The following words, terms and phrases shall have the meanings ascribed in this subsection, unless the context clearly indicates a different meaning:

Alarm means any fire, burglary, motor vehicle or civil defense alarm, whistle or similar stationary emergency signaling device.

All-terrain vehicle means any motorized vehicle designed for off-road use that is equipped with three or more low pressure tires and with a seat to be straddled by the operator and with handlebars for steering control.

Commercial area means any area zoned commercial in accord with the Dawson County Land Use Resolution.

Construction means any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action for public or private rights-of-way, structures, utilities or similar items.

Demolition means any dismantling, destruction or removal of buildings, structures, or roadways.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency vehicle means a motor vehicle belonging to a fire department or certified private volunteer firefighter or firefighting association, partnership or corporation, an ambulance, a motor vehicle belonging to a private security agency or a motor vehicle belonging to a federal, state, county or municipal law enforcement agency, provided such vehicles are in use as emergency vehicles by a person authorized to use such vehicles for that purpose.

Emergency work means any work for the purpose of preventing or alleviating the physical trauma or damage threatened or caused by an emergency.

Industrial area means any area zoned industrial in accord with the Dawson County Land Use Resolution.

Motor vehicle means every vehicle that is self-propelled other than an electric personal assistive mobility device (EPAMD).

Noise-sensitive area means an area where a school, hospital, nursing home, church, court or public library is located.

[Entertainment Overlay District shall be defined as the following parcels: Parcel ID 114 004.](#)

Powered model vehicle means any self-propelled airborne, waterborne or land borne plane, vessel or vehicle that is not designed to carry persons including, but not limited to, any model airplane, boat, car or rocket.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley or similar place normally accessible to the public, which is owned or controlled by a governmental entity.

Public space means any real property or structure thereon owned by a governmental entity and normally accessible to the public including, but not limited to, parks and other public recreation areas.

Real property line means a line along the surface, and its vertical plane extension, which separates the real property owned, rented or leased from other real property, excluding intra-building real property division.

Residential area means any real property that contains a structure or building in which one or more persons reside, provided that such structure or building is properly zoned or is legally nonconforming for residential use in accordance with the terms and maps of the Dawson County Land Use Resolution.

-
- (c) *Scope.* The provisions of this section shall apply to the control of all sound originating within the unincorporated area of Dawson County.
- (d) *Excessive noise.* It shall be unlawful for any person to make, continue or cause to be made or continued any loud or excessive noise in the unincorporated area of Dawson County, which violates the prohibitions set forth in subsection (c) of this section.
- (e) *Specific prohibitions.* The following specific acts are declared to be violations of this section:
- (1) *Horns, signaling devices.* The sounding of any horn or signaling device of a motor vehicle continuously or intermittently singularly or as a group for a period in excess of 60 seconds, except as a danger or emergency warning or testing a danger or emergency warning.
 - (2) *Radios, musical instruments and similar devices.*
 - a. The operation or playing of any radio, television, phonograph, musical instrument or similar device while not in a vehicle that produces sound plainly audible across the real property line of the origin of such sound 50 feet or more away from such device between the hours of 10:00 p.m. and 7:00 a.m.
 - b. The operating or playing of any radio, television, phonograph, musical instrument or similar device that produces or reproduces sound within a vehicle in a manner as to be plainly audible at a distance of 50 feet to any person in a commercial, industrial, residential or noise-sensitive area, motor vehicle or public space between the hours of 10:00 p.m. and 7:00 a.m.
 - (3) *Loudspeakers and sound amplifiers.* The use or operation of any loudspeaker system, sound amplifier or other similar device between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 8:00 a.m. on weekends and holidays within or adjacent to residential or noise-sensitive areas, public rights-of-way or public space such that the sound therefrom is plainly audible across the real property line of the source excluding all school related functions or government authorized events; provided that this prohibition shall not apply to any public performance, gathering or parade for which a permit has been obtained from Dawson County [or within the Entertainment Overlay District](#).
 - (4) *Street sales.* The offering for sale by shouting or outcry within any residential, commercial or noise-sensitive area, public rights-of-way or public space except by permit issued by Dawson County.
 - (5) *Animals.* The owning, possessing or harboring of any animal that frequently or continuously howls, barks, meows, squawks or makes other sounds that create excessive noise across a residential or commercial real property line or within a noise-sensitive area. For the purpose of this section, barking dogs shall include a dog that barks, bays, cries, howls or makes any other noise continuously for a period of ten minutes or barks intermittently for one-half hour or more at any time of day or night regardless of whether the dog is physically situated in or upon private property. This prohibition shall not apply to any protected agriculture use set forth in O.C.G.A. § 41-1-7.
 - (6) *Construction and demolition.* The operating of any equipment used in construction work within 1,500 linear feet of any residential or noise-sensitive area between the hours of 10:00 p.m. and 7:00 a.m., except for emergency work; pile driving, jack hammering, and blasting shall be prohibited on weekends and holidays and shall be prohibited for all other days between 6:00 p.m. and 6:00 a.m. For purposes of this subsection, distances are to be measured from the property line of the nearest residence or a structure in a noise-sensitive area to the prohibited construction operation.
 - (7) *Powered model vehicles.* The operation of, or permitting the operation of, powered model vehicles between the hours of 10:00 p.m. and 7:00 a.m. within or adjacent to residential or noise-sensitive areas, public rights-of-way or public space such that the sound therefrom is plainly audible across the real property line of the source.
 - (8) *Emergency signaling devices.*

-
- a. Except in case of an emergency, the intentional sounding of any alarm between the hours of 10:00 p.m. and 7:00 a.m.
 - b. The testing of any alarm for a period in excess of 60 seconds at any time.
 - c. The testing of a complete emergency signaling system, including the signaling device and the personnel response to the signaling device and the sounding of the emergency signaling system, for a period in excess of 15 minutes.
- (9) *Motor vehicles.* No person shall operate or cause to be operated any all terrain vehicle or motorcycle or motor vehicle not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises therefrom.
- (10) *Blowers, engines, machinery.* The operation by any person of any noise-creating power blower, power fan, power tool, air compressor, internal-combustion engine (except trains, motor vehicles or motorcycles), or other similar equipment or machinery that causes noise due to its operation within 1,500 feet of any adjoining residential or noise-sensitive area, unless the blower, fan, tool, compressor, engine or other machine is equipped with a functional muffler device or is contained or housed within a structure sufficient to deaden the noise to the point that the noise is not plainly audible across the property line of the source of the noise in a residential or noise-sensitive area between the hours of 10:00 p.m. and 7:00 a.m. Vacuum trucks cleaning commercial or industrial parking lots shall be exempt from the prohibition set forth herein.
- (11) *Commercial garbage collection.* The servicing of a private, commercial garbage dumpster by any person using garbage collection vehicles and equipment within 1,500 feet of any residential area or noise-sensitive area between the hours of 11:00 p.m. and 6:00 a.m. on weekdays and between the hours of 11:00 p.m. and 8:00 a.m. on weekends and holidays, or within 500 feet of any residential area or noise-sensitive area between the hours of 10:00 p.m. and 6:00 a.m. However, this prohibition shall not apply to the collection of garbage from any location that has a plastic lid on the dumpster and if the collection of garbage during the establishment's hours of operation would constitute a safety hazard.
- (f) *Special permits.* A permit is required for all outdoor entertainment events that have commercial entertainment and for all events using electronic amplification that violate the terms of this section. [Entertainment events within the Entertainment Overlay District do not require a special permit. For events outside that district, a](#) ~~Such~~ permit shall be obtained from the Board of Commissioners of Dawson County in accord with the terms hereof.
- (1) The applicant shall notify the Dawson County Sheriff's office of the request for the permit and shall specify security provisions and traffic control associated with any such permit request, which shall be approved by the Dawson County Sheriff's office before the board of commissioners shall consider such permit request.
 - (2) The applicant for such permit shall specify the organization, person, or party sponsoring the event, the location, the date and time of the event, as well as the security and traffic control information.
 - (3) A permit shall not be granted for any event that includes the hours between 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday mornings.
- (g) *Exemptions.* The provisions of this section shall not apply to nor be enforced against any person or party engaging in the following activities:
- (1) Any agricultural operation as such term is defined in O.C.G.A. § 41-1-7;
 - (2) Noises resulting from an emergency or an emergency vehicle or any required emergency signaling devices;

-
- (3) Noises resulting from the operation of a properly licensed kennel, except that the exemption provided for herein shall not apply between the hours of 10:00 p.m. and 7:00 a.m. if the noise emanating from such kennel is plainly audible across the real property line of the property where the kennel is located into a residential area and is plainly audible 50 feet or more away from the origin of the noise;
 - (4) Vacuum trucks cleaning commercial or industrial parking lots;
 - (5) Excavation or repairs of streets or any other activity by or on behalf of the county or state authority or agency or utility; or
 - (6) Organized school- related programs, activities, events or parades, or other public programs, activities, or events authorized by the Board of Commissioners of Dawson County.
 - (7) Music, singing, and other forms of entertainment, whether amplified or not, within the Entertainment Overlay District, provided that it occurs no later than 10:00 p.m. and that the sounds are not audible to a person of normal hearing ability from the nearest residential property line to the district.

(h) *Violations and enforcement.*

- (1) Any person or party who violates any provision of this section shall be cited for a civil infraction. Each day the violation continues shall constitute a separate violation.
 - (2) The Magistrate Court of Dawson County may impose a penalty or fine not to exceed \$1,000.00 per violation per day of the violation; however, in the case of a violation involving a motor vehicle, the person charged with a violation may be granted a period of 15 days to correct the cause of the sound.
- (i) *Other laws.* Any resolution or ordinance that may be applicable hereto and aid in carrying out or making effective the intent, purpose, and provisions hereof, which shall be liberally construed in favor of Dawson County, is hereby adopted as a part hereof.

(Ord. of 5-7-2009, §§ I—VIII, X)

Chapter 6 ALCOHOLIC BEVERAGES¹

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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

¹Editor's note(s)—An ordinance adopted May 6, 2021, amended ch. 6 in its entirety to read as herein set out.

Former ch. 6 pertained to the same subject matter, consisted of §§ 6-1—6-3, 6-23—6-26, 6-56—6-58, 6-90—6-108, 6-130—6-136, 6-160—6-162, 6-193—6-207, 6-227—6-229, 6-252, 6-253, 6-286—6-290, 6-314—6-317, 6-340, 6-341, 6-371, 6-401—6-407, 6-451—6-454, and derived from ordinances adopted on May 17, 2018; October 17, 2019; and August 6, 2020.

State law reference(s)—Alcoholic beverages, O.C.G.A. § 3-1-1 et seq.; local regulation of alcoholic beverages, O.C.G.A. § 3-3-2.

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 30. 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.

(Ord. of 5-6-2021(1))

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.
- (Ord. of 5-6-2021(1))

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 renewal 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 6-102 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" of "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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Supp. No. 28)

Created: 2023-06-30 14:02:22 [EST]

-
- (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 offenses: 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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Supp. No. 28)

Created: 2023-06-30 14:02:22 [EST]

-
- (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-premises 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.

(Ord. of 5-6-2021(1))

Sec. 6-13. Display of license.

A copy of the county alcoholic beverage license, together with a copy of the business license, shall at all times be kept plainly exposed to view to the public at the front of 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.

(Ord. of 5-6-2021(1))

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.
- (Ord. of 5-6-2021(1))

Sec. 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.

(Ord. of 5-6-2021(1))

Sec. 6-16. Other general provisions.

Alcohol may be sold at retail only in conformance with applicable zoning codes.

(Ord. of 5-6-2021(1))

Secs. 6-17—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-premises consumption sales.
- (c) The hours of operation of retail licenses for the sale of malt beverages and wines by the package shall be between the hours of:

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

12:30 p.m.—11:30 p.m. on Sunday.

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

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

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

Saturday 10:00 a.m. through 1:00 a.m. on Sunday; and

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.

(Ord. of 5-6-2021(1))

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 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 XV of this chapter 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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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

- ~~(a)~~ ~~(a)~~ — It is prohibited for customers to leave the approved portion of the premises with open alcoholic beverages ~~except unless the premises are within the Entertainment Overlay District or~~ as expressly permitted in this chapter, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out in prohibited areas.
- ~~(b)~~ ~~However, nothing in this section shall be construed to prohibit the~~ Golf courses may allow 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 of licensed premises~~ may not consume alcoholic beverages, or carry open alcoholic beverage containers, in parking lots of the licensed premises.

~~(a)~~ —

~~(b)~~ ~~(b)~~ It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages unless the customers are within the Entertainment Overlay District.

~~(c)~~

~~(d)~~ ~~(e)~~ It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages unless the persons are within the Entertainment Overlay District

~~(e)~~ Entertainment Overlay District open container regulations

(1) The Entertainment Overlay District shall be coterminous with the following parcels: Parcel ID 114 004.

(2) Alcoholic drinks consumed under this provision must be purchased from a licensed premises or mobile food service unit authorized to sell alcoholic beverages for consumption within the limits of the Entertainment Overlay District.

a. *One drink sidewalk limit.* Any establishment or mobile food service unit licensed to dispense alcoholic beverages by the drink for consumption is authorized to issue an alcoholic beverage in a plastic cup or other container other than a can, bottle, or glass for removal from the premises, provided, however, that no establishment or mobile food service unit shall dispense to any person more than one such alcoholic beverage at a time. No person shall remove at one time more than one such alcoholic beverage from the licensed premises or mobile food service unit.

b. *Size limited to sixteen (16) ounces.* No container in which an alcoholic beverage is dispensed and removed from the licensed premises or mobile food service unit shall exceed sixteen (16) fluid ounces in size. No person shall hold in possession on the sidewalks, or in other places within the defined Entertainment Overlay District any open alcoholic beverage container that exceeds sixteen (16) fluid ounces in size.

c. Alcoholic beverages shall be dispensed and transported only in plastic containers within the Entertainment Overlay District. Licensed premises and mobile food service units shall be responsible for the design, expense, and implementation for the identification of authorized containers or patrons, to include the date in which the alcoholic beverage was sold.

d. A person's display of a plastic container does not relieve licensed establishments and mobile food service units of their responsibility to determine if a person has attained the age of 21 years before dispensing alcohol to that person.

e. *Drinking from a can, bottle, or glass is prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.

(3) *Signage.* Any licensed establishment or mobile food service unit that allows patrons to purchase an alcoholic beverage as regulated herein, shall have an 11-inch by eight-and-one-half-inch or larger sign posted for public view stating the following:

"All patrons leaving this establishment with an alcoholic beverage do hereby take full responsibility only to consume an alcoholic beverage served in a plastic cup not to exceed 16 ounces in size and obtained by this establishment, which is licensed to sell alcoholic beverages in the Entertainment Overlay District boundary. Any individual that leaves the permitted district

area with an alcoholic beverage in an open container violates county code and is subject to a citation and fine."

(4) The provisions of this code section shall not be deemed to abrogate or otherwise impact any state law or local ordinance on public drunkenness, disorderly conduct, driving with an open container, or under the influence of alcohol or similar laws.

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.

(Ord. of 5-6-2021(1))

Sec. 6-26. Brown bagging.

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

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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

(a) Music, singing, and other forms of entertainment, whether amplified or not, shall be permitted outdoors during business hours of licensed premises within the Entertainment Overlay District. However, such outdoor music, singing, and entertainment shall not be allowed later than 10:00 p.m.

—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 residential property line of the business-in-question Entertainment Overlay District. ~~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.~~

(b) (Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.
- (Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

Secs. 6-34—6-40. Reserved.

ARTICLE III. DISTILLED SPIRITS

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.—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.

(Ord. of 5-6-2021(1))

Sec. 6-44. Prohibited.

- (a) Except as expressly permitted by state law, it shall be unlawful for any person to:
 - (1) 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;
 - (2) 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;
 - (3) 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;
 - (4) Sell any distilled spirits, malt beverages, wine or any other beverage through a drive-through window or door;
 - (5) Sell or deliver any distilled spirits at any place other than inside the licensed premises; or
 - (6) 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.

(Ord. of 5-6-2021(1))

Sec. 6-45. Other restrictions.

The provisions of sections 6-22 through 6-33 shall apply to sales of distilled spirits, and any references therein to malt beverages or wine shall be replaced with the term distilled spirits for purposes of this article.

(Ord. of 5-6-2021(1))

Secs. 6-46—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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

Sec. 6-60. Other restrictions.

The provisions of sections 6-22 through 6-33 shall apply to sales in private clubs of malt beverages, wine, and distilled spirits, and any references therein to malt beverages or wine shall also include distilled spirits for purposes of this article.

(Ord. of 5-6-2021(1))

Secs. 6-61—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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

Sec. 6-68. Other restrictions.

The provisions of sections 6-22 through 6-33 shall apply to sales at special events of malt beverages, wine, and distilled spirits, and any references therein to malt beverages or wine shall also include distilled spirits for purposes of this article.

(Ord. of 5-6-2021(1))

Sec. 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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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).

(Ord. of 5-6-2021(1))

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 6-79.

(Ord. of 5-6-2021(1))

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 XXV.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

Sec. 6-81. Other restrictions.

The provisions of sections 6-22 through 6-33 shall apply to sales of alcohol at farm wineries.

(Ord. of 5-6-2021(1))

Sec. 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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

Secs. 6-88, 6-89. 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.

(Ord. of 5-6-2021(1))

Sec. 6-91. Restrictions on sale of alcohol.

- (a) Except as expressly stated in this article, 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 of the alcohol type (malt beverages, wine, distilled spirits) that is proposed to be sold, 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.

(Ord. of 5-6-2021(1))

Sec. 6-92. 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. through 12:00 midnight Monday through Thursday; Friday 10:00 a.m. through 1:00 a.m. on Saturday; Saturday 10:00 a.m. through 1:00 a.m. on Sunday; and Sunday 12:30 p.m. until 12:00 midnight.
- (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.

(Ord. of 5-6-2021(1))

Sec. 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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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(a) (wine and distilled spirits).

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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-premises 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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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 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.

(Ord. of 5-6-2021(1))

Secs. 6-105—6-111. Reserved.

ARTICLE XII. PROHIBITED SALES, PURCHASES, 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;
 - (4) There shall be no cost to attend the private function either by donations or any other means; and
 - (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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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 [unless within the Entertainment Overlay District or as expressly authorized in this ordinance](#). It shall be unlawful for any licensee, manager or employee of an on-premises consumption license to knowingly permit any customer to take any alcoholic beverage away from the licensed portion of the premises [license unless within the Entertainment Overlay District or as expressly authorized in this ordinance](#).

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

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.

(Ord. of 5-6-2021(1))

Secs. 6-117, 6-118. Reserved.

ARTICLE XIII. SOCIAL HOSTING AND CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS

Sec. 6-119. Prohibited activities and duties of social host.

- (a) No social host shall allow a gathering to occur or continue if an underage person at the gathering obtains, possesses, or consumes any alcoholic beverage and the social host knows or reasonably should know that an underage person has obtained, possesses, or is consuming alcoholic beverages at the gathering.
- (b) Every social host shall take reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the gathering. Reasonable steps include, but are not limited to:
 - (1) Controlling access to alcoholic beverages;
 - (2) Prohibiting and preventing access to alcoholic beverages by any underage person;
 - (3) Verifying the age of persons at the gathering;
 - (4) Supervising the activities of underage persons at the even; and
 - (5) Remaining on the property during the gathering.
- (c) If a social host determines or has reason to believe that an underage person has consumed an alcoholic beverage before or during the gathering, then the social host shall make reasonable efforts to terminate the gathering including, but not limited to, contacting law enforcement to report the suspected underage consumption.

(Ord. of 5-6-2021(1))

Sec. 6-120. Penalties.

- (a) Any person who violates this article shall be punished by a fine of up to \$1,000.00 and shall be required to perform not less than 24 hours of community service for the first offense.
- (b) Any person who violates this article a second time within one year shall be punished by a fine of at least \$500.00 and up to \$1,000.00 and shall be required to perform not less than 48 hours of community service.
- (c) Any person who violates this article a third or subsequent time within two years shall be punished by a fine of \$1,000.00 and shall be required to perform not less than 100 hours of community service.

(Ord. of 5-6-2021(1))

Sec. 6-121. Exceptions.

- (a) This article shall not apply to conduct solely between an underage person and his or her parent while present in the parent's household.
- (b) This article shall not apply to any situation for which state or federal law establishes an exception or exemption.

(Ord. of 5-6-2021(1))

Secs. 6-122—6-125. Reserved.

ARTICLE XIV. VARIANCES

Sec. 6-126. Purpose.

The purpose of a variance is to provide relief when a strict application of the 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.

(Ord. of 5-6-2021(1))

Sec. 6-127. Criteria for granting variances

- (a) Variances may be granted for the following categories of standards and requirements of this chapter:
 - (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. No variance from the license fees or taxes provided by ordinance will be granted unless specifically provided for by state 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 that 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, giving consideration to surrounding land uses; and
 - (4) Whether there is a concern that the granting of the variance would violate any state laws or requirements.

(Ord. of 5-6-2021(1))

Sec. 6-128. Variance procedures.

- (a) The applicant shall prepare and submit an application setting forth the specific variance sought and the reasons, with supporting data, why variance should be granted, along with any county-adopted fee for such submittal. The planning department, in consultation with the county attorney's office, shall review the application and make a recommendation for approval or denial, along with any recommended conditions.

-
- (b) A public hearing shall be held to consider the variance at a regularly scheduled meeting of the board of commissioners. The planning department may require the applicant to provide notice of the hearing to any properties potentially impacted by the variance.
 - (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. The variance shall not be effective if fewer than all such conditions are met by the applicant.
 - (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.

(Ord. of 5-6-2021(1))

Secs. 6-129, 6-130. Reserved.

ARTICLE XV. DEFINITIONS

Sec. 6-131. 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 chapter.

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. [Mobile food service units are exempt from the requirement for a full-service kitchen and exempt from the requirement that at least 50 percent of the gross receipts annually be 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.

[Entertainment Overlay District is established as an area of the County where it has been found by the Board of Commissioners that allowing open container alcohol consumption will contribute to economic development by providing a more active streetscape. The boundaries of the district are defined as the following parcels: Parcel ID 114 004.](#)

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.

Gathering means the assembly of five or more individuals at one location that includes at least one individual who is underage and who is not the child of the person responsible for the property.

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 percent 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 chapter 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 chapter 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.

Mobile Food Service Unit means a food service establishment that is readily moveable, is a motorized wheeled vehicle, or is a towed wheeled vehicle and that is designed and equipped to prepare and serve food as defined by state law and in accordance with the rules and regulations for food service of the Dawson County Board of Health. Mobile food service units are exempt from the requirement for a full-service kitchen and exempt from the requirement that at least 50 percent of the gross receipts annually be from the sale of prepared meals or food.

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.

Social host means a person who:

- (1) Knows or reasonably should know that a gathering will occur on property owned or controlled by that person;
- (2) Knows or reasonably should know that alcoholic beverages will be at the gathering; and
- (3) Knows or reasonably should know that one or more underage person will be present at the gathering.

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.

Underage person means any person under the age of 21 years.

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.

(Ord. of 5-6-2021(1))

ARTICLE II. FOOD SERVICE SANITATION¹

Sec. 26-25. ~~Definitions.~~ State Food Service Code and Regulations Adopted

Dawson County hereby incorporates O.C.G.A. §§ 26-2-370 – 26-2-379 Food Service Establishments into this adoption of law-. Chapter 511-6-1 et seq. of the Rules and Regulations of the State of Georgia governing food service (Ga. Comp. R. & Regs. 511-6-1), as it may be amended from time to time, is also hereby adopted as the regulations governing food service for the Dawson County Board of Health and the same are made a part of this article and fully incorporated herein by reference. Ga. Comp. R. & Regs. 511-6-1 et seq. is adopted, in its entirety, as the regulations governing food service for Dawson County, regardless of whether a specific provision is re-enumerated in this article. See, Georgia Administrative Code; Department of Human Resources, Public, Chapter 511-6-1 et seq.

¹State law reference(s)—Food generally, O.C.G.A. § 26-2-1 et seq.; food service establishments O.C.G.A. § 26-2-370 et seq.

The following definitions shall apply in the interpretation and enforcement of this article:

~~*Approved* means acceptable to the health authority based on its determination as to conformance with applicable standards and/or good public health practice.~~

~~*Commissary* means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored for subsequent transport, sale or service elsewhere.~~

~~*Corrosion-resistant material* means a material that maintains its original surface characteristics under prolonged influence of environmental conditions and of food, cleaning compounds, and sanitizing solutions.~~

~~*County board of health* means the board of health as established by the O.C.G.A. § 31-3-1 or other law.~~

~~*Department* means the Department of Human Resources, State of Georgia.~~

~~*Easily cleanable* means readily accessible, nonabsorbent and of such material and finish, and so fabricated, that residue may be completely removed by normal cleaning methods.~~

~~*Employee* means the permit holder, individuals having supervisory or management duties and any other person working in a food service establishment.~~

~~*Enough* means occurring in such quantity and quality or scope as to fully satisfy demand or need.~~

~~*Equipment* means all stoves, ranges, hoods, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, ice machines, slicers, and similar items, other than utensils, used in the operation of a food service establishment.~~

~~*Food* means any raw, cooked, or processed edible substances, beverage, ice or ingredient used or intended for use or for sale in whole or in part for human consumption.~~

~~*Food contact surfaces* means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip or splash back onto surfaces normally in contact with food.~~

~~*Food processing establishment* means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.~~

~~**Food service establishment** means an establishment for the preparation and serving of meals, lunches, short orders sandwiches, frozen desserts, or other edible products. The term includes restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms, places which manufacture, wholesale, or retail sandwiches or salads; soda fountains; institutions, both public and private; food carts; itinerant restaurants; industrial cafeterias; catering establishments; food vending machines and vehicles and operations connected therewith; and similar facilities by whatever name called. The term "food service establishment" shall not mean a "food sales establishment," as defined in O.C.G.A. § 29-2-21, which does not provide seating or facilities for consumption of food on the premises.~~

~~**Note(s)—"Food Sales Establishment"** means retail and wholesale grocery stores; retail seafood stores and places of business; food processing plants, except those food processing plants which are currently required to obtain a license from the commissioner under any other provision of law; bakeries; confectioneries; fruit, nuts and vegetable stores and places of business; and similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off the premises. This term shall not include "food service establishments" as defined in O.C.G.A. § 26-2-370.~~

~~**Health authority** means the department, or the county board of health acting as its agent.~~

~~**Hermetically sealed container** means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.~~

~~**Kitchenware** means all multi-use utensils other than tableware used in the storage, preparation, conveying, or serving of food.~~

~~**Law** includes federal, state and local statutes and rules.~~

~~**Mobile food unit** means a trailer, pushcart, vehicle vendor, or any other conveyance operating off the premises of a permitted food service establishment.~~

~~**Packaged** means bottled, canned, cartoned, or securely wrapped.~~

~~**Permit** means authorization granted by the health authority to the management to operate a food service establishment and signifies satisfactory compliance with this article.~~

~~**Person** means any individual, firm, partnership, corporation, trustee or association, or combination thereof.~~

~~*Person in charge* means the individual present in a food service establishment who is the designated supervisor of the food service establishment at the time of inspection. If no individual has been designated as the supervisor, then any employee present is the person in charge.~~

~~*Potable* means water intended for human consumption that meets the bacteriological and chemical requirements of the Federal Environmental Protection Agency's Safe Drinking Water Act, or other regulatory agency having equivalent authority.~~

~~*Potentially hazardous food* means any perishable food which has as an ingredient milk or milk products, eggs, meat, poultry, fish, shellfish, or other foods or other ingredients in such forms as are capable of supporting rapid and progressive development of infectious or disease-causing agents. The term does not include foods that have a pH level of 4.6 or below or a water activity value of 0.85 or less.~~

~~*Restricted food service operation* means a food service operation that serves only food products that require cooking immediately prior to serving.~~

~~*Safe materials* means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined in the Federal Food, Drug, and Cosmetic Act, they are "safe" only if, as used, they are not food additives or color additives as defined in the Act and are used in conformity with all applicable regulations of the U.S. Food and Drug Administration.~~

~~*Safe temperatures*, as applied to potentially hazardous foods, means temperatures of 41 degrees Fahrenheit (five degrees Celsius) or below, or 140 degrees Fahrenheit (60 degrees Celsius) or above.~~

~~*Sanitization* means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to destroy disease-causing agents and not leave a residue that would be considered harmful.~~

~~*Sealed* means free of cracks or other openings which permit the entry or passage of moisture or vermin.~~

~~*Servicing area* means a location with specific provisions for supplying cleaning and servicing a mobile food unit.~~

~~*Single-service articles* means articles intended for one use only, such as cups, containers, lids or closures; plates, knives, forks, spoons, stirrers, toothpicks, paddles, straws, placemats, napkins, doilies, wrapping materials; and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials that cannot be cleaned and sanitized by an approved method.~~

~~*Special food service operation* includes mobile food unit, temporary food service operation and restricted food service operation.~~

~~*Tableware* means all multi-use eating and drinking utensils, including flatware (knives, forks and spoons).~~

~~*Temporary food service operation* means any food service establishment that operates at the same location for a temporary period of time, not to exceed 14 consecutive days, in conjunction with a fair, carnival, circus, public exhibition or similar transitory gathering.~~

~~*Utensil* means any implement, tableware and/or kitchenware used in the storage, preparation, transportation or serving of food.~~

~~(Ord. of 8-5-2004(1), § 5-14-.01)~~

~~Sec. 26-26. Provisions.~~

~~(a) — Permit.~~

- ~~(1) — It shall be unlawful for any person to operate a food service establishment, or mobile food unit, a temporary food service operation or a restricted food service operation without having first obtained a valid food service permit from the health authority pursuant to this article;~~
- ~~(2) — Permits are invalidated by change of ownership or location;~~
- ~~(3) — Prior to the issuance of the permit to new or existing establishments, the applicant shall provide evidence of satisfactory compliance with the provisions of this article and all other provisions of laws that apply to the location, construction and maintenance of food service establishments and the safety of persons therein;~~
- ~~(4) — The permit shall be prominently displayed at all times, as near the main entrance as practicable;~~
- ~~(5) — The permit shall be property of the health authority and shall be returned within seven days to the local health authority when the food service establishment ceases to operate or is moved to another location or when the permit is revoked;~~
- ~~(6) — Any addition of a "food item" that changes the method of food preparation must be reported to the health authority prior to implementation.~~

~~(b) — Application for a permit.~~

- ~~(1) — The management of the food service establishment or a mobile food unit, a temporary food service operation or a restricted food service operation shall submit to the local health authority an application for a permit at least ten days prior to the anticipated date of opening and commencement of the operation of the food service establishment or a mobile food unit, a temporary food service operation or a restricted food service operation.~~
- ~~(2) — The application shall be prepared in duplicate on forms provided by the department. The original shall be forwarded to the local health authority and the copy retained by the management.~~
- ~~(3) — The application for a temporary and restricted food service operation shall show the inclusive dates of the proposed operation.~~

~~(c) — Plans.~~

~~(1) — Submission of plans. Properly prepared plans and specifications must be submitted for review and approval when a food service establishment is constructed or extensively remodeled, or when an existing structure is converted to use as a food service establishment.~~

~~(2) — Plans and specifications. The plans and specifications shall be submitted to the health authority of the county in which the food service establishment will be constructed at least 14 days prior to beginning construction. The plans shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and mode of proposed fixed equipment and facilities.~~

~~(Ord. of 8-5-2004(1), § 5-14-.02)~~

~~Sec. 26-27. Food care.~~

~~(a) — Food supplies.~~

- ~~(1) — Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.~~
- ~~(2) — Food shall be obtained from approved sources that comply with all laws relating to food processing and shall have no information on the label that is false or misleading.~~
- ~~(3) — The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.~~
- ~~(4) — Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.~~
- ~~(5) — Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in nonreturnable packages identified with the name and address of the original shell stock processor, shucker packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by an approved shellfish control agency. The food service establishment shall retain on file for at least 90 days information pertaining to the source of shellfish products.~~
- ~~(6) — All bakery products shall have been prepared in permitted food service establishments or in an approved food processing establishment; provided, that the health authority may accept other sources which are in compliance with applicable state and local laws and regulations. Bakery products which contain potentially hazardous foods shall be prepared and handled in accordance with all requirements for potentially hazardous foods.~~
- ~~(7) — Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or pasteurized dry eggs products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used.~~
- ~~(8) — Only game animals as specified below may be received for sale or service.~~

a. ~~Game animals will be approved for sale or service which are commercially raised for food, slaughtered and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, or are under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, and will be raised, slaughtered, and processed according to the laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program. The agencies shall consider factors such as the need for ante mortem and postmortem examination by a veterinarian or a veterinarian's designee, approved by the regulatory authority.~~

b. ~~Exotic species of animals including animals raised for exhibition purposes in a zoo or circus will be approved for sale or service that meet subsection (a)(8)a of this section or receive ante mortem and postmortem examination by a veterinarian or a veterinarian's designee, approved by the regulatory authority, and are slaughtered and processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.~~

~~(b) Food protection.~~

(1) ~~At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including toxic materials, dust, insects, rodents, unclean equipment and utensils, unnecessary handling, cross contamination, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation.~~

(2) ~~The temperature of potentially hazardous food shall be 40 degrees Fahrenheit (five degrees Celsius) or below, or 140 degrees Fahrenheit (60 degrees Celsius) or above at all times, except as otherwise provided in this article.~~

(3) ~~In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the health authority. Upon receiving notice of this occurrence, the health authority shall take whatever action that it deems necessary to protect the public health.~~

~~(c) Food storage.~~

-
- ~~(1) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in an approved, clean, and covered container except during necessary periods of preparation of service.~~
 - ~~a. Container covers shall be impervious, nonabsorbent and of safe material.~~
 - ~~b. Solid cuts of meat shall be protected by being covered in refrigerated storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.~~
 - ~~(2) Containers of food shall be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area.~~
 - ~~(3) Food and containers of food shall not be stored under exposed plumbing, tubes and refrigeration components or otherwise located where contamination may occur. This requirement does not apply to automatic fire protection sprinkler heads.~~
 - ~~(4) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.~~
 - ~~(5) Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.~~
 - ~~(6) Bulk food such as cooking oil, syrup, salt, sugar, and flour shall be stored in an approved, clean and covered container with the contents identified by common name.~~
 - ~~(7) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of perishable and potentially hazardous food at required temperatures during storage. Each refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled thermometer, accurate to plus or minus three degrees Fahrenheit, measuring the air temperature in the warmest part of the facility and located to be easily readable.~~

-
- ~~(8) — Potentially hazardous foods requiring refrigeration after preparation shall be placed in shallow pans not to exceed four inches in depth and shall be rapidly cooled by refrigeration to an internal temperature of 41 degrees (five degrees Celsius) or below within four hours. Rapid cooling may be accelerated by using smaller portions, chilling in refrigerator and/or agitation. Accumulated times in the danger zone, 41 degrees Fahrenheit (five degrees Celsius) to 140 degrees Fahrenheit (60 degrees Celsius) shall not exceed four hours.~~
- ~~(9) — Frozen food shall be kept frozen and should be stored at a temperature of zero degrees Fahrenheit or below.~~
- ~~(10) — Ice used for cooling stored food and food containers shall not be used for human consumption, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head.~~
- ~~(11) — Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled thermometer, accurate to plus or minus three degrees Fahrenheit, measuring the air temperature in the coolest part of the facility and located to be easily readable.~~
- ~~(12) — Where it is impractical to install thermometers on equipment or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature. The internal temperature of potentially hazardous food requiring hot storage shall be 140 degrees Fahrenheit or above except during necessary periods of preparation.~~
- ~~(d) — Food preparation.~~
- ~~(1) — Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross contamination.~~
- ~~(2) — Raw fruits and vegetables shall be thoroughly washed with potable water under pressure before being cooked or served. A separate sink shall be provided for this purpose.~~

-
- ~~(3) All potentially hazardous foods requiring cooking except as stated below shall be cooked to heat all parts of the food to a temperature of at least 140 degrees Fahrenheit (60 degrees Celsius).~~
- ~~a. Except as specified in subsection (d)(3)b of this section, raw animal foods such as unpasteurized eggs, fish, poultry, meat and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that are at least:~~
- ~~1. 145 degrees Fahrenheit (63 degrees Celsius) or above for 15 seconds for:~~
- ~~(i) Shell eggs that are broken and prepared in response to a consumer's order and for immediate service, and~~
- ~~(ii) Fish and meat that are not specified in subsection (d)(3)a.1 of this section:~~
- ~~2. For pork and game animals, comminuted fish and meats, injected meats and eggs that are not prepared as specified in subsection (d)(3)a.1 of this section, 155 degrees Fahrenheit (68 degrees Celsius) for 15 seconds.~~
- ~~3. For rare roast beef, an initial internal temperature of at least 130 degrees Fahrenheit (54 degrees Celsius) shall be obtained and rare beef steak shall be cooked to a temperature of 130 degrees Fahrenheit (54 degrees Celsius). Roast beef must be rapidly reheated to 165 degrees Fahrenheit (74 degrees Celsius). Because of shorter cooking time, roast beef cannot be cooked in a microwave oven.~~
- ~~4. 165 degrees Fahrenheit (74 degrees Celsius) or above for 15 seconds for field-dressed wild game animals, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry or stuffing containing fish, meat or poultry.~~
- ~~b. Except for establishments serving a highly susceptible population such as the sick, elderly and children, subsection (d)(3)a of this section does not apply if the food is a raw animal food such as raw marinated fish; raw mollusk and shellfish; steak tartar; or a partially cooked food such as lightly cooked fish, rare meat and soft cooked eggs that is served or offered for sale in a ready-to-eat form and the consumer is informed that to assure its safety, the food should be cooked as specified under subsection (d)(3)a of this section. Notification shall be given by brochures, delicacy or menu advisories, label statements, table tents, placards or other effective written means of the significantly increased risk associated with eating such foods in raw or undercooked form. The notification shall read as follows:~~
-

~~ADVISORY: THE CONSUMPTION OF RAW OR UNDERCOOKED FOODS SUCH AS MEAT, FISH AND EGGS WHICH MAY CONTAIN HARMFUL BACTERIA, MAY CAUSE SERIOUS ILLNESS OR DEATH.~~

- ~~c. Raw animal foods cooked in a microwave oven shall be rotated and stirred throughout or midway during cooking to compensate for uneven distribution of heat, covered to retain surface moisture and heated an additional 25 degrees Fahrenheit (14 degrees Celsius) above the temperature specified in subsection (d)(3)a of this section with the exception of roast beef, to compensate for shorter cooking times. The food shall be allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.~~
- ~~(4) Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.~~
- ~~(5) Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one half gallon in capacity and rapidly cooled to and maintained at 45 degrees Fahrenheit or below.~~
- ~~(6) Dry milk products may be used as an ingredient in nutritional supplement or prescription formulas when served immediately after preparation.~~
- ~~(7) Liquid, frozen, dry eggs and eggs products shall be used only for cooking and baking purposes.~~
- ~~(8) When potentially hazardous foods that have been cooked and then refrigerated are to be served hot, they shall be reheated rapidly to 165 degrees Fahrenheit or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bain-maries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods.~~
- ~~(9) A metal stem type numerically scaled thermometer, accurate to plus or minus three degrees Fahrenheit, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures; of all potentially hazardous foods.~~
- ~~(10) Potentially hazardous foods shall be thawed:~~
- ~~a. In refrigerated units at a temperature not to exceed 41 degrees Fahrenheit (five degrees Celsius);~~

~~b. Under potable running water of a temperature of 70 degrees Fahrenheit (21 degrees Celsius) or below with sufficient water velocity to agitate and float off loose food particles into the overflow; or~~

~~c. In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave; or~~

~~As part of the conventional cooking process, additional time must be allowed for product to reach required internal temperature.~~

~~(11) For special events, foods requiring only cooking may be prepared, if served immediately, in an outside area on the premises of a permitted food service establishment. Prior approval must be obtained from the health authority.~~

~~(e) Food display and service.~~

~~(1) Potentially hazardous food shall be kept at an internal temperature of 41 degrees Fahrenheit (five degrees Celsius) or below or at an internal temperature of 140 degrees Fahrenheit (60 degrees Celsius) or above during display and service, except that rare roast beef shall be held for service at a temperature of at least 130 degrees Fahrenheit (54 degrees Celsius). Animal products that are to be consumed raw must be served at a temperature of 41 degrees Fahrenheit (five degrees Celsius) or below.~~

~~a. Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one pint in capacity, or drawn from a commercially filled container stored in mechanically refrigerated bulk milk dispenser. Where a bulk dispenser for milk and milk products is not available and portions of less than one half pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container or not more than one half gallon capacity.~~

~~b. Cream or half and half shall be provided in an individual service container, protected pour type pitcher, or drawn from a refrigerated dispenser designed for such service.~~

~~c. Nondairy creaming or whitening agents shall be provided in a individual service container, protected pour type pitcher, or drawn from a refrigerated dispenser designed for such service.~~

-
- ~~(2) — Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with subsection (e)(7) of this section.~~
- ~~a. — Condiments provided for table or counter service shall be individually portioned, except that catsup, nonpotentially hazardous dressings and sauces may be served in the original container or approved pour type dispenser.~~
- ~~b. — Sugar for consumer use shall be provided in individual packages or in an approved pour type dispenser.~~
- ~~(3) — Ice for consumer use shall be dispensed only by employees using a scoop that has a handle and is constructed of approved materials, tongs, or other ice dispensing utensils or through automatic self-service, ice dispensing equipment.~~
- ~~a. — Ice dispensing utensils shall be stored on a clean surface or in the ice with dispensing utensil's handle extended out of the ice.~~
- ~~b. — Ice transfer containers shall be stored and used in a way that protects the container and ice from contamination.~~
- ~~c. — Ice storage bins shall be drained through an air gap or indirect connection.~~
- ~~(4) — To avoid unnecessary manual contact with food, other than ice, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:~~
- ~~a. — Stored in the food with the dispensing utensil handle extended out of the food;~~
- ~~b. — Stored clean and dry;~~
- ~~c. — Stored in running water; or~~
- ~~d. — Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.~~
- ~~(5) — Once served to a consumer or placed on the table for service, portions of food shall not be served again, except that unopened packaged food, other than potentially hazardous food, still in sound condition, may be reserved.~~
- ~~(6) — Foods that have not been served to a consumer or exposed to contamination by the consumer may be reserved when handled and reprocessed as required by subsections (b), (c), and (d) of this section.~~

-
- ~~(7) Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protective devices, display cases, or by other effective means.~~
- ~~a. Protective devices for counters, serving lines, salad bars and other similar food displays in public eating establishments shall be designed (see section 26-34) and constructed so as to intercept contaminants which may be expelled from the customer's mouth or nose.~~
- ~~b. All food, whether on display, being prepared for service or placed for consumer self-service must be protected from contamination from consumers standing or sitting within eight feet of the food.~~
- ~~c. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.~~
- ~~d. All requirements of subsection (e) of this section shall be met until the food product is received by the consumer.~~
- ~~e. All food display facilities shall be designed or operated to minimize contact by consumer.~~
- ~~(8) The presentation of food orders and limited tableside finishing, such as tossing salad and flaming desserts, is permissible from a permitted food service establishment in an adjoining outdoor seating area. Outdoor salad bars or unenclosed dessert carts are prohibited.~~
- ~~(9) Clean tableware for self-service consumers returning to the service area for additional food shall be provided. A public notice to this effect shall be posted in a conspicuous place in the service area. Beverage cups and glasses are exempt from this requirement.~~
- ~~(f) Food transportation.~~
- ~~(1) During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination and spoilage.~~
- ~~(2) Foods in original individual packages do not need to be over-wrapped or covered if the original package has not been torn or broken.~~

~~(3) During transportation, including transportation to another location for service or catering operations, potentially hazardous food shall be maintained at 45 degrees Fahrenheit or below for cold foods or 140 degrees Fahrenheit or above for hot foods.~~

~~(Ord. of 8-5-2004(1), § 5-14-.03)~~

~~Sec. 26-28. Personnel.~~

~~(a) ——— Employee health.~~

- ~~(1) ——— No person, while infected with or suspected of having a disease that can be transmitted by food, or who is a carrier of microorganisms that cause such a disease, or while afflicted with a boil, a cut or wound, or an acute respiratory infection, shall be permitted by management to work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces or transmitting disease to other persons.~~
- ~~(2) ——— The manager or person in charge of the establishment shall promptly notify the health authority when any employee of a food service establishment is known or suspected of having an infectious disease or one that can be transmitted by food.~~

~~(b) ——— Personal cleanliness.~~

- ~~(1) ——— Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and immediately after using tobacco products, eating, drinking, using the toilet, or being potentially contaminated by other means.~~
- ~~(2) ——— Employees shall keep their fingernails clean and trimmed.~~
- ~~(3) ——— Approved measures should be taken to prevent perspiration from contaminating foods, food contact surfaces, equipment and utensils.~~

~~(c) ——— Clothing.~~

- ~~(1) ——— The outer layer of clothing of all employees shall be clean.~~
- ~~(2) ——— Employees preparing, handling and serving food shall use effective and clean, disposable or easily cleanable nets or other hair restraints approved by the health authority, worn properly to restrain loose hair.~~

~~(d) ——— Employee practices.~~

- ~~(1) ——— Employees shall consume food or use tobacco products only in approved designated areas separate from preparation and serving areas.~~

~~(2) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in areas used for equipment or utensil washing or for food preparation.~~

~~(3) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.~~

~~(4) Employees shall maintain a high degree of personal cleanliness and shall use good hygienic practices during all working periods in the food service establishment.~~

~~{Ord. of 8-5-2004(1), § 5-14-.04}~~

~~Sec. 26-29. Equipment and utensils.~~

~~(a) — *Materials.*~~

~~(1) — Multi-use equipment and utensils shall be constructed of and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.~~

~~(2) — If solder is used, it shall be composed of safe materials and be corrosion resistant.~~

~~(3) — Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in subsection (a)(1) of this section may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. The use of wood as a food-contact surface under other circumstances is prohibited.~~

~~(4) — Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in subsection (a)(1) of this section, are permitted for repeated use.~~

~~(5) — Mollusk and crustacean shells may be used only once as a serving container.~~

~~(6) — Single-service articles shall be made from clean, sanitary, safe materials. Reuse of single-service articles is prohibited. Wood may be used for single-service articles, such as chopsticks, stirrers, or ice cream spoons.~~

~~(b) — *Design and fabrication.*~~

~~(1) — All equipment and utensils, including plastic ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, breaking, bulking, pitting, chipping, and crazing.~~

~~a. — Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, internal corners, and crevices and similar imperfections.~~

~~b. — Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops, and skillets.~~

-
- ~~c. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food contact surfaces, except that in equipment, such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads shall be minimized.~~
- ~~(2) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip or be forced into food or onto food contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food contact surfaces.~~
- ~~(3) Tubes conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice, provided that such tubes are fabricated from safe materials, are grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and are kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.~~
- ~~(4) Sinks and drainboards shall be self draining.~~
- ~~(5) Unless designed for in place cleaning, food contact surfaces shall be accessible for cleaning and inspection:~~
- ~~a. Without being disassembled;~~
- ~~b. By disassembling without the use of tools; or~~
- ~~c. By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or a wrench kept available near the equipment.~~
- ~~(6) Equipment intended for in place cleaning shall be so designed and fabricated that:~~
- ~~a. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing procedure;~~
- ~~b. Cleaning and sanitizing solutions will contact all interior food contact surfaces; and~~
- ~~c. The system is self draining or capable of being completely emptied.~~
- ~~(7) Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.~~

-
- ~~(8) — Thermometers required for immersion into food or cooking media shall be of metal stem type construction, numerically scaled, and accurate to plus or minus three degrees Celsius.~~
- ~~(9) — Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of an approved material and in such repair as to be easily maintained in a clean and sanitary condition.~~
- ~~(10) — Ventilation hoods and devices shall be designed or operated to prevent grease or condensation from collecting on walls and ceilings and from dripping into food or onto food contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place.~~
- ~~(11) — Equipment that was installed in a food service establishment prior to the effective date of the ordinance from which this section is derived and that does not fully meet all of the material, design and fabrication requirements of this section shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the food contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of this section shall meet the requirements of this section.~~
- ~~(12) — Establishments permitted prior to the acceptance of these amendments shall comply immediately with this section or may be allowed a maximum of two years to comply if existing equipment needs remodeling or new equipment must be acquired in order to maintain food at or below 41 degrees Fahrenheit. Existing equipment must be updated with change of ownership. All existing equipment must be maintained properly including routine cleaning of coils and all other parts of the cooling system. Proper food handling is mandatory to ensure that the minimal temperature requirement is obtained by pre-cooling foods and minimizing opening of cooling units. Existing equipment which cannot maintain foods at 41 degrees Fahrenheit must maintain foods at or below 45 degrees Fahrenheit. Upon equipment failure, replacement equipment must be capable of maintaining food at or below 41 degrees Fahrenheit.~~
- ~~(c) — *Equipment installation and location.*~~

-
- ~~(1) Equipment, including icemakers and ice storage equipment, shall not be located under exposed plumbing, tubes and refrigeration components or otherwise located where contamination may occur. This requirement does not apply to automatic fire protection sprinkler heads.~~
- ~~(2) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or evaluated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.~~
- ~~a. Equipment is portable within the meaning of this section if:~~
- ~~1. It is small and light enough to be moved easily by one person; and~~
- ~~2. It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.~~
- ~~(3) Floor mounted equipment, unless easily movable, shall be:~~
- ~~a. Sealed to the floor;~~
- ~~b. Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance;~~
- ~~c. Elevated on approved legs to provide at least a six-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor and equipment if no part of the floor under the mixer is more than six inches reach for cleaning access;~~
- ~~d. Sufficient space shall be provided for easy cleaning between, behind, and above all fixed equipment. If exposed to seepage, the space between the adjoining equipment of adjacent walls or ceilings shall be sealed.~~
- ~~(4) Equipment is easily movable if:~~
- ~~a. It is mounted on wheels or casters; and~~
- ~~b. It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.~~

~~(5) Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.~~

~~(Ord. of 8-5-2004(1), § 5-14 .05)~~

~~Sec. 26-30. Cleaning, sanitization and storage of equipment and utensils.~~

~~(a) — Equipment and utensil cleaning and sanitization.~~

- ~~(1) — After each use tableware shall be washed, rinsed, sanitized, and air dried only. A spoon or other utensil, once used for tasting food, shall not be reused until it has been cleaned and sanitized.~~
- ~~(2) — To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.~~
- ~~(3) — Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed, and sanitized at intervals throughout the day on an approved schedule based on food temperature, type of food, and amount of food particle accumulation.~~
- ~~(4) — The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.~~
- ~~(5) — Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.~~
- ~~(6) — Cloths use for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.~~
- ~~(7) — Moist cloths and sponges shall be clean and rinsed frequently in one of the approved sanitizing solutions listed in subsection (b)(5) of this section and shall be stored in a freshly prepared sanitizing solution between uses.~~
 - ~~a. — Moist cloths and sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be used for no other purpose.~~
 - ~~b. — Moist cloths and sponges used for cleaning non-food-contact surfaces of equipment such as counters, dining table tops and shelves shall be used for no other purpose.~~

~~(b) — Manual cleaning and sanitizing.~~

-
- ~~(1) For manual washing, rinsing, and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. These sinks shall not be used for the preparation of food, such as thawing and washing of vegetables. Sink compartments shall be large enough to accommodate utensils, and each compartment of the sink shall be supplied with hot and cold potable water under pressure. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed, rinsed, and sanitized manually or cleaned through pressure spray methods.~~
 - ~~(2) Drainboards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.~~
 - ~~(3) Equipment and utensils shall be pre-flushed or pre-scraped and, when necessary, presoaked to remove gross food particles and soil.~~
 - ~~(4) Manual washing, rinsing, and sanitizing shall be conducted in the following sequence:
 - ~~a. Pre-flushed or pre-scraped, when necessary presoaked;~~
 - ~~b. Sinks shall be cleaned prior to use;~~
 - ~~c. Utensils shall be thoroughly washed in the first compartment with warm detergent solution that is kept clean;~~
 - ~~d. Utensils shall be rinsed free of detergent and abrasives with clean warm water in the second compartment;~~
 - ~~e. Utensils shall be sanitized in the third compartment according to one of the methods included in subsections (b)(5)a through d of this section;~~
 - ~~f. Utensils shall be air dried only.~~~~
 - ~~(5) The food contact surfaces of all equipment and utensils shall be sanitized by:
 - ~~a. Immersion for at least one half minute in clean, hot water at a temperature of at least 170 degrees Fahrenheit;~~~~

b. ~~Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as hypochlorite and at a temperature of at least 75 degrees Fahrenheit;~~

c. ~~Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75 degrees Fahrenheit; or~~

d. ~~Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 or its successor that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as hypochlorite at a temperature of at least seven degrees Fahrenheit for one minute.~~

(6) ~~Large equipment which cannot be immersed must be sanitized by:~~

a. ~~Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for the particular sanitizing solution under subsection (b)(5) of this section, in the case of equipment too large to sanitize by immersion.~~

b. ~~In the case of equipment in which steam can be confined, it may be treated with steam free from materials of additives other than those specified in 21 CFR 173.310 or its successor.~~

(7) ~~When hot water is used for sanitizing, the following facilities shall be provided and used:~~

a. ~~An integral heating device or fixture, installed in, on, or under the sanitizing compartment of the sink, capable of maintaining the water at a temperature of at least 170 degrees Fahrenheit;~~

b. ~~A numerically scaled thermometer, accurate to plus or minus three degrees Fahrenheit, convenient to the sink for frequent checks of water temperature; and~~

c. ~~Dish baskets of such size and design to permit complete immersion of the tableware and kitchenware in the hot water.~~

(8) ~~When chemicals are used for sanitization, they shall not have concentration higher than the maximum allowed under 21 CFR 178.1010 or its successor, and a test kit or other device that accurately measures the concentration of that solution, in parts per million, shall be provided and used according to recommended procedure.~~

~~(c) — Mechanical cleaning and sanitizing.~~

- ~~(1) — Cleaning and sanitizing may be done by spray type or immersion dishwashing machines or by any other type of machine, device or procedure if it is demonstrated that it thoroughly cleans and sanitizes utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturer's instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.~~
- ~~(2) — The pressure of final rinse water supplied to spray type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one-quarter inch IPS valve, with a pressure gauge installed, shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water on all spray type dishwashing machines installed after the effective date of this section.~~
- ~~(3) — Machine or water line mounted numerically scaled thermometers, accurate to plus or minus three degrees Fahrenheit, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.~~
- ~~(4) — Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturer's specifications attached to the machines.~~
- ~~(5) — Separate drainboards shall be provided for the proper handling of soiled utensils prior to washing and for cleaned utensils following sanitization. Such drainboards shall be of adequate size and shall be located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or for the storage of clean utensils following sanitization.~~

-
- ~~(6) Kitchenware and tableware shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine, unless a pre-wash cycle is a part of the dishwashing machine operation. Utensils shall be placed in racks, trays or baskets, or on conveyors, in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.~~
- ~~(7) Machines (single tank, stationary rack, door type machines and spray type glass washers) using chemicals for sanitization may be use, provided that:~~
- ~~a. The temperature of the wash water shall not be less than 120 degrees Fahrenheit.~~
 - ~~b. The wash water shall be kept clean.~~
 - ~~c. Chemicals added for sanitization purposes shall be automatically dispensed.~~
 - ~~d. Kitchenware and tableware shall be exposed to the final chemical sanitizing rinse in accordance with manufacture's specifications for time and concentration. After sanitization, all equipment and utensils shall be air dried only.~~
 - ~~e. The chemical sanitizing rinse water temperature shall be not less than 75 degrees Fahrenheit nor less than the temperature specified by the machine's manufacturer.~~
 - ~~f. Chemical sanitizers used shall meet the requirements of 21 CFR 178.1010.~~
 - ~~g. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used according to recommended procedure.~~
- ~~(8) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the temperature listed below.~~

| | | | |
|----|---|-----------------------------|-----|
| | Degrees Fahrenheit | | |
| a. | Single-tank, stationary rack, dual- temperature machine: | | |
| | 1. | Wash temperature | 150 |
| | 2. | Final rinse temperature | 180 |
| b. | Single-tank, stationary rack, single- temperature machine: | | |
| v | 1. | Wash temperature | 165 |
| | 2. | Final rinse temperature | 165 |
| c. | Single-tank, conveyer machine: | | |
| | 1. | Wash temperature | 160 |
| | 2. | Final rinse temperature | 180 |
| d. | Multi-tank conveyer machine: | | |
| | 1. | Wash temperature | 150 |
| | 2. | Pumped rinse temperature | 160 |
| | 3. | Final rinse temperature | 180 |

| | | | |
|----|---|-------------------------|-----|
| e. | Single-tank, pot, pan, and utensil washer (either stationary or moving rack): | | |
| | 1. | Wash temperature | 140 |
| | 2. | Final rinse temperature | 180 |

~~(9) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain effective cleaning and sanitizing of utensils.~~

~~(d) Equipment and utensil storage.~~

~~(1) Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates, and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.~~

~~(2) Cleaned and sanitized utensils and equipment shall be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed plumbing, tubes and refrigeration components or otherwise located where contamination may occur. This requirement does not apply to automatic fire protection sprinkler heads.~~

~~(3) Utensils shall be air dried only before being stored or shall be stored in self-draining position.~~

-
- ~~(4) — Glasses and cups shall be stored inverted. When stacked, a clean rack shall be used between each layer. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.~~
- ~~(5) — Single-service articles shall be stored at least six inches above the floor in closed cartons or containers that protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads.~~
- ~~(6) — Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces that may come in contact with food or with the mouth of the user.~~
- ~~(7) — Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to storing or wrapping the utensils. Unless single-service knives, forks and spoons are pre-wrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensil to the consumer.~~
- ~~(8) — Pre-setting flatware is acceptable when:~~
- ~~a. — Flatware is pre-set immediately prior to the food serving period; all flatware, including unused settings, is washed and sanitized following each use of the table; and all pre-set flatware is washed and sanitized following the serving period.~~
- ~~b. — Pre-set flatware is properly wrapped.~~
- ~~c. — Pre-set flatware for banquets complies with subsection (4)(8)a or b of this section, or in lieu thereof, if the room is closed to the public, and unwrapped flatware is pre-set within a reasonable time prior to the serving period.~~
- ~~(9) — The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.~~

~~{Ord. of 8-5-2004(1), § 5-14-.06}~~

~~Sec. 26-31. Sanitary facilities and controls.~~

~~(a) — *Water supply.*~~

- ~~(1) — Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to applicable state or local plumbing code as amended.~~
- ~~(2) — Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.~~
- ~~(3) — Enough water under pressure at the required temperatures shall be provided to all equipment that uses water and at approved temperatures at all fixtures.~~
- ~~(4) — Steam used in contact with food or food contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310 or its successor.~~
- ~~(5) — Ice for human consumption shall be made from potable water.~~

~~(b) — *Sewage.* All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated according to applicable state or local plumbing code as amended. Non-water-carried sewage disposal facilities are prohibited, except as permitted by section 26-33(b)(1) through (18) (pertaining to temporary food service operations) or as permitted by the health authority in remote areas or because of special situations.~~

~~(c) — *Plumbing.*~~

- ~~(1) — All plumbing shall be sized, installed, and maintained according to applicable state or local plumbing code as amended. There shall be no cross connection between the potable water supply and any nonpotable water supply nor any source of pollution through which the potable water supply might become contaminated.~~

-
- ~~(2) — A nonpotable water system is permitted only for purposes such as air conditioning and/or fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment or surfaces that contact food, or utensils. The piping of any nonpotable water system shall be adequately and durably identified, such as by distinctive yellow-colored paint, so that it is readily distinguished from piping which carries potable water. Such piping shall not be connected to equipment or have outlets in the food preparation area.~~
- ~~(3) — The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and back-siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.~~
- ~~(4) — Grease traps, when used, shall be located to be easily accessible for frequent cleaning.~~
- ~~(5) — Garbage grinders, when used, shall be installed and maintained according to law.~~
- ~~(6) — Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a dishwashing machine is located within five feet of a trapped floor drain, the dishwasher waste outlet may be connected directly on the inlet side of a properly vented floor drain trap if permitted by applicable state or local plumbing code as amended.~~
- ~~(d) — *Toilet facilities.*~~
- ~~(1) — Toilet facilities for food service employees and in all new establishments, patrons toilet facilities, shall be provided and installed in accordance with applicable state or local plumbing code as amended, shall be the number required by such code and shall be accessible at all times. When not on the same premises, location shall be approved by the health authority.~~
- ~~(2) — Toilets and urinals shall be designed to be easily cleanable.~~

-
- ~~(3) Toilet rooms shall be completely enclosed and shall have tightfitting, self-closing, doors with solid surfaces, which shall be closed except during cleaning or maintenance, except as provided by law.~~
- ~~(4) Toilet fixtures and receptacles shall be kept clean and in good repair. A supply of toilet tissue in an appropriate, wall-mounted holder shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have covered waste receptacle(s).~~
- ~~(e) Lavatory facilities.~~
- ~~(1) Lavatories shall be at least the number required by the applicable plumbing code as amended, and shall be located in food preparation areas, and other areas deemed necessary by the health authority, to permit convenient use by all employees.~~
- ~~(2) Lavatories shall be accessible to employees at all times.~~
- ~~(3) Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for hand washing.~~
- ~~(4) Each lavatory shall be supplied with warm water by means of a mixing valve, combination faucet or other mechanisms approved by the health authority. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited.~~
- ~~(5) A supply of hand-cleaning soap or detergent shall be available at each lavatory. A supply of sanitary towels dispensed from an approved dispenser or a hand-drying device providing heated air shall be conveniently located in each lavatory area. Common towels are prohibited. If sanitary towels are used, easily cleanable waste receptacles shall be conveniently located near the hand-washing facilities.~~
- ~~(6) Lavatories, soap dispensers, hand-drying devices, waste receptacles, and all related equipment shall be kept clean and in good repair.~~
- ~~(f) Garbage and refuse.~~

-
- ~~(1) — Garbage and refuse shall be kept in durable, easily cleanable, insect-proof, and rodent-proof containers that do not leak and do not absorb liquids. A sufficient number of garbage containers shall be provided and used. Plastic bags or wet-strength paper bags shall be used to line these containers.~~
 - ~~(2) — Containers used in food preparation and utensil washing areas shall be kept covered after they are used, and emptied and cleaned at least once a day. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, meeting the requirements of section 26-32(c)(2) shall be provided and used for washing containers.~~
 - ~~(3) — Containers stored outside the establishment including dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tightfitting lids, doors or covers, and shall be kept covered when not in actual use. Soiled containers shall be cleaned at a frequency to minimize insect and rodent attraction. In containers designed with drains, drain plugs or screening shall be in place at all times, except during cleaning.~~
 - ~~(4) — Liquid waste from compacting or cleaning operations shall be disposed of as sewage.~~
 - ~~(5) — Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Plastic bags or wet-strength paper bags or baled units containing garbage or refuse when placed on the outside of the establishment must be stored in approved covered containers. Cardboard or other packaging material not containing garbage or food waste need not be stored in covered containers if bundled or baled.~~
 - ~~(6) — Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate and shall be adequately ventilated.~~
 - ~~(7) — Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material such as concrete or machine-laid and sealed asphalt that is kept clean and maintained in good repair.~~

~~(8) — Garbage and refuse shall be disposed of often enough to minimize the development of an obnoxious odor and the attraction of insects and rodents.~~

~~(9) — Garbage or refuse shall not be burned. Incineration shall be in accordance with law.~~

~~(g) — *Insect and rodent control.*~~

~~(1) — Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.~~

~~(2) — All openings to the outside shall be effectively protected against the entrance of rodents and insects. Outside openings shall be protected by tightfitting self-closing doors, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and other openings to the outside shall be tightfitting and free of breaks. Screening material shall not be less than 16 meshes to the inch.~~

~~(3) — Each insecticide and rodenticide must be approved by the U.S. Environmental Protection Agency for use in food service establishments and shall be used in accordance with label directions.~~

~~(4) — Insect control devices such as time dispensers, electronic devices, etc., must be installed in accordance with guidelines established by the health authority.~~

~~{Ord. of 8-5-2004(1), § 5-14-.07}~~

~~Sec. 26-32. Construction and maintenance of physical facilities.~~

~~(a) — Floors.~~

- ~~(1) — Floors and floor coverings of all food preparation, food storage, utensil washing areas, and the floor of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth, durable, nonabsorbent, easily cleanable material such as but not limited to quarry tile, terrazzo, ceramic tile, and durable grades of linoleum or plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of nonabsorbent anti-slip floor products in areas where necessary for safety reasons.~~
- ~~(2) — Floors and floor coverings used in other areas shall be properly installed, easily cleanable by conventional methods, and maintained in good repair. Carpeting is prohibited in food preparation, equipment washing and utensil washing areas, in food storage areas, and in toilet room areas where urinals or toilet fixtures are located.~~
- ~~(3) — The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.~~
- ~~(4) — Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed of terrazzo, ceramic tile or similar nonabsorbent materials, and shall be graded to drain.~~
- ~~(5) — Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.~~
- ~~(6) — In all new or extensively remodeled establishments the junctures between walls and floors shall be covered and sealed in the food preparation, food storage, and utensils washing rooms and areas, and in walk-in refrigeration facilities, dressing or locker rooms and toilet rooms. In all other areas, the juncture between walls and floors shall be sealed.~~
- ~~(7) — Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor or present a safety hazard.~~

~~(b) — Walls and ceilings.~~

-
- ~~(1) — Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.~~
 - ~~(2) — The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigeration facilities, food preparation areas, food storage, equipment washing and utensil washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall constructions in these locations shall be filled, sealed and finished to provide a smooth, easily cleanable surface.~~
 - ~~(3) — Studs, joists, and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.~~
 - ~~(4) — Exposed utility service lines and pipes shall be installed in away that does not obstruct or prevent cleaning of the walls and ceilings or present a safety hazard.~~
 - ~~(5) — Light fixtures, vent covers, wall mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.~~
 - ~~(6) — Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.~~
 - ~~(c) — *Cleaning of physical facilities.*~~
 - ~~(1) — Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms are acceptable.~~
 - ~~(2) — At least one utility sink or curbed cleaning facility shall be provided and used for cleaning of garbage containers, mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid waste. Such facilities shall have a floor drain and be supplied with hot and cold running water, under pressure or steam. The use of lavatories, utensil washing or equipment washing, or food preparation sinks for this purpose is prohibited.~~

~~(d) — *Lighting.*~~

- ~~(1) — Permanently fixed artificial light sources shall be installed to provide at least 20 footcandles of light on all food preparation surfaces and at equipment or utensil-washing work levels.~~
- ~~(2) — Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor:~~
 - ~~a. — At least 20 footcandles of light in utensil and equipment storage areas and in lavatory and toilet areas; and~~
 - ~~b. — At least ten footcandles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.~~
- ~~(3) — Shielding to protect against broken glass falling into food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, and facilities where utensils and equipment are cleaned and stored.~~
- ~~(4) — Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.~~

~~(e) — *Ventilation.*~~

- ~~(1) — All rooms shall have sufficient mechanical ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed, cleaned, and operated according to law and, when vented to the outside, shall not create an unsightly, harmful or unlawful discharge.~~
- ~~(2) — Intake and exhaust air ducts shall be designed and maintained to prevent the entrance of dust, dirt, and other contaminating materials.~~
- ~~(f) — *Dressing rooms and locker areas.* Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities shall be located only in the designated dressing rooms or areas containing only sealed packaged food and/or single-service articles. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose.~~

~~(g) ——— Poisonous or toxic materials.~~

~~(1) ——— There shall be present in food service establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.~~

~~(2) ——— Containers of poisonous or toxic materials shall be prominently marked "poison" and distinctly labeled for ingredients according to law for easy identification of contents. The use of food containers for storage of toxic materials is prohibited.~~

~~(3) ——— Poisonous or toxic materials necessary for the maintenance of the establishment consist of the following two categories:~~

~~a. ——— Insecticides and rodenticide; and~~

~~b. ——— Detergents, sanitizers, related cleaning or drying agents and caustics, acids, polishes and other chemicals.~~

~~(4) ——— Each of the categories set forth in subsection (g)(3) of this section shall be stored physically separate from each other and from foods. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. This requirement does not prohibit a convenient supply of detergents or sanitizers at utensil or dishwashing stations.~~

~~(5) ——— Bactericides, cleaning compounds or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that constitutes a hazard to employees or other persons.~~

~~(6) ——— Poisonous or toxic materials shall not be stored or used in a way that may contaminate food, food contact surfaces, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.~~

~~(7) ——— Personal medication shall not be stored in food storage, preparation or service areas.~~

~~(8) ——— First-aid supplies, if provided, shall be stored and used in a way that prevents them from contaminating food and food-contact surfaces.~~

~~(h) ——— Premises.~~

-
- ~~(1) Food service establishments and all parts of property used in connection with their operations shall be kept free of litter.~~
 - ~~(2) The walking and driving surfaces of all exterior areas of food service establishments shall be a hard surface of gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling and shall be kept free of litter.~~
 - ~~(3) Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.~~
 - ~~(4) The traffic of unnecessary persons through the food preparation and utensil-washing areas is prohibited.~~
 - ~~(5) Food service operations shall be physically and functionally separated from facilities or areas used for household purposes.~~
 - ~~(6) Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms, and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.~~
 - ~~(7) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing sealed packaged foods and/or single-service articles.~~
 - ~~(8) Clean clothes and linens shall be stored in a dry, clean place and protected from contamination until used.~~
 - ~~(9) Soiled clothes and linens shall be stored in a way that does not contaminate food, utensils, or equipment in nonabsorbent containers or washable laundry bags until removed for laundering.~~
 - ~~(10) Maintenance and cleaning tools such as brooms, dry and wet mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner.~~

~~(11) Live animals, including birds and turtles, shall be excluded from within the food service area. This exclusion does not apply to edible fish, crustacea, shellfish or to fish in aquariums. Patrol dogs accompanying security or police officers or guide/service dogs accompanying handicapped persons, or trainers of such dogs, shall be permitted in dining areas or other public access areas.~~

~~(Ord. of 8-5-2004(1), § 5-14 .08)~~

~~Sec. 26-33. Special food service operations.~~

~~(a) — Mobile food units.~~

- ~~(1) — Mobile food units shall comply with the requirements of this article, except as otherwise provided in this subsection and in subsection (a)(2) of this section. The health authority may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation; may prohibit the sale of some or all potentially hazardous food; and when no health hazard will result, may modify requirements of this section relating to physical facilities, except those requirements of subsections (a)(5) and (a)(6) and (c)(1) and (c)(2) of this section.~~
- ~~(2) — Mobile food units serving only food prepared, prepackaged in individual servings, transported and stored under conditions meeting the requirements of this article, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of this article pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization if the required equipment for cleaning and sanitization exists at the commissary or other approved base of operation.~~
- ~~(3) — The health authority may waive requirements relating to temperature control and sanitization requirements when a unit operates on the premises and as an extension of a fixed, permitted food service establishment.~~
- ~~(4) — Mobile food units shall provide only individually wrapped single-service articles for use by the consumer.~~
- ~~(5) — A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and hand-washing in accordance with the requirements of this regulation. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a connector of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of this article.~~

-
- ~~(6) — If liquid waste results from the operation of a mobile food unit, the waste shall be stored on the unit in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connector shall be located lower than the water inlet connector to preclude contamination of the potable water system.~~
- ~~(7) — Mobile food units shall operate from a commissary or other fixed food service establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations. The commissary or other fixed food service establishment used as a base of operation for mobile food units shall be constructed and operated in compliance with the requirements of this article. When not in use, units shall be properly stored at the commissary or base of operation. Units serving only food prepared, prepackaged in individual serving and beverages that are not potentially hazardous and are dispensed from covered urns or other approved methods are exempt from the requirements of this subsection.~~
- ~~(8) — A mobile food unit servicing area shall be available and shall include at least overhead protection for any supplying, cleaning, or servicing operation. There shall be a location and equipment for the flushing and drainage of liquid wastes separate from the location and equipment provided for water servicing and for the loading and unloading of food and related supplies. The servicing area will not be required where only packaged food is placed on the mobile food unit or where mobile food units do not contain waste retention tanks.~~
- ~~a. — The surface of the servicing area shall be constructed of a smooth, nonabsorbent material, such as concrete or machine-laid and sealed asphalt and shall be maintained in good repair, kept clean, and be graded to drain.~~
- ~~b. — The construction of the walls and ceilings of the servicing areas is exempted from the provisions of section 26-32(b)(1) through (6).~~
- ~~(9) — Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.~~

-
- ~~(10) — The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system in accordance with section 26-31(b).~~
- ~~(11) — All mobile food units shall be identified by a sign or lettering indicating the name and address of the owner, the operator and the permit number. The permit, or copy thereof, and the current inspection report must be displayed for public view and protected from inclement weather.~~
- ~~(b) — Temporary food service operations.~~
- ~~(1) — A temporary food service operation means any food service establishment that operates at the same location for a temporary period of time, not to exceed 14 consecutive days in conjunction with a fair, carnival, circus, public exhibition, or similar transitory gathering.~~
- ~~(2) — A temporary food service operation which does not comply fully with sections 26-27 through 26-32 may be permitted to operate when food preparation and service are restricted and the operation meets fully the requirements set forth in subsections (b)(1) through (18) of this section.~~
- ~~(3) — The health authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food service operation.~~
- ~~(4) — Those potentially hazardous foods requiring limited preparation only, such as seasoning and cooking, may be prepared and served. The preparation of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads containing meat, poultry, eggs or fish is prohibited.~~
- ~~(5) — Any potentially hazardous food that has been prepared, stored and transported under conditions meeting the requirements of this article, is stored at a temperature of 45 degrees Fahrenheit or below or at a temperature of 140 degrees Fahrenheit or above in facilities meeting the requirements of this article may be served.~~

-
- ~~(6) — Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of this article. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use safe plastic or wet strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.~~
- ~~(7) — Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.~~
- ~~(8) — Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.~~
- ~~(9) — Temporary food service operations shall provide only individually wrapped single-service articles for use by the consumer.~~
- ~~(10) — Facilities for cleaning and sanitizing utensils and equipment shall be provided at the temporary site or permitted base of operation. Such items shall be cleaned and sanitized at least daily or more often if prescribed by the health authority.~~
- ~~(11) — When food is prepared on the site, a system capable of producing enough hot water for cleaning and sanitizing utensils and equipment shall be provided on the premises.~~
- ~~(12) — Storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.~~
- ~~(13) — All sewage including liquid waste shall be disposed of according to law.~~
- ~~(14) — A convenient hand washing facility shall be available for employee hand washing. This facility shall consist of, at least, warm running water, soap, and individual paper towels.~~
- ~~(15) — Floors within food preparation and display areas shall be constructed of concrete, asphalt, tight wood, or other similar material kept in good repair and clean.~~
- ~~(16) — Doors to food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors, or windows shall be at least 16 meshes to the inch.~~

-
- ~~(17) — Counter service openings shall not be larger than necessary for the particular operation conducted. These openings shall be provided with tightfitting solid or screened doors or windows to restrict the entrance of flying insects. Counter service openings shall be kept closed, except when in actual use.~~
- ~~(18) — All food preparation and food display areas shall be adequately protected from dust, contamination by patrons, and from insects by provision of walls, ceilings, shields, screens or other approved barriers or devices. Open, unprotected display or service of food is prohibited.~~
- ~~(c) — *Restricted food service operation.*~~
- ~~(1) — A restricted food service operation is a food service operation that serves only food products that require cooking immediately prior to serving. Any persons desiring to cook food in any place other than a permitted food service establishment must apply for and receive a restricted food service operation permit from the health authority. The applicant must describe the proposed operation and the food items to be cooked and served.~~
- ~~(2) — A restricted food service operation shall be exempt from the requirements of this chapter except as otherwise provided in this section. The health authority may impose additional requirements to protect against health hazards and when no health hazard will result may modify the requirements of this section.~~
- ~~(3) — A restricted food service operation shall be restricted to the serving of only food products that require cooking immediately prior to serving. Potentially hazardous foods may be cooked provided they are served hot (140 degrees Fahrenheit or above) directly to the individual consumer, or are protected thereafter by a method approved by the health authority and served within 60 minutes.~~
- ~~(4) — Foods cooked and served from restricted food service operations shall comply with the provisions of section 26-27(a)(1) through (3), and (b)(1) and (2).~~
- ~~(5) — Suitable utensils must be provided to eliminate hand contact with the cooked product.~~
- ~~(6) — All utensils and equipment shall be cleaned periodically as prescribed by the health authority.~~
- ~~(7) — Food handlers shall comply with section 26-28(a) through (d).~~

~~(8) Nonpotentially hazardous foods that are displayed in bulk or require cooling prior to packaging must be protected from contamination until served or packaged.~~

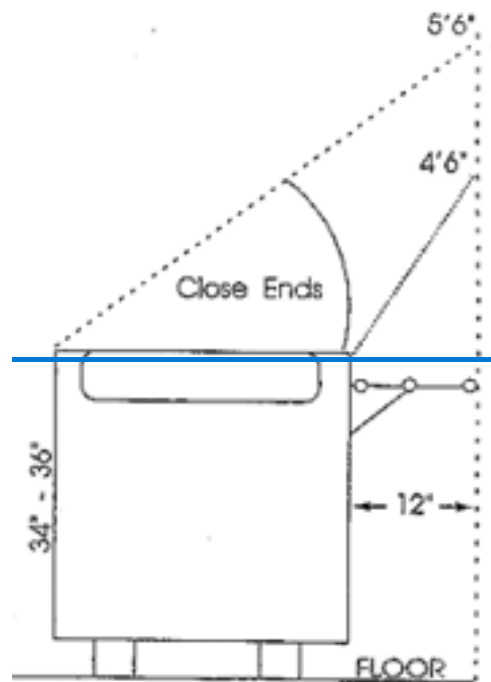
~~(9) Overhead protection shall be provided for cooking area.~~

~~(Ord. of 8-5-2004(1), § 5-14-.09)~~

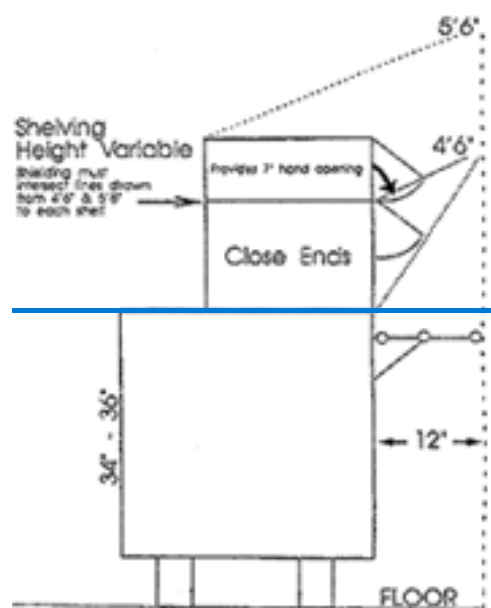
Sec. 26-34. Protective shielding.

Minimum requirements.

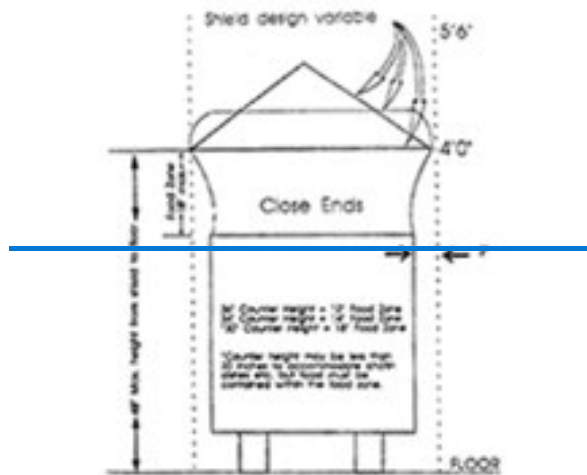
(1) Cafeteria shield.



(2) Cafeteria—Self-service.



(3) ~~Buffer or smorgasbord shielding.~~



~~(Ord. of 8-5-2004(1), § 5-14.10)~~

~~Sec. 26-35. Compliance procedures.~~

~~(a) — Permits.~~

~~(1) — Issuance. Permits shall be issued by the health authority. Such permits shall be valid until suspended or revoked.~~

~~(2) — Suspension or revocation. The health authority shall have the power and authority to suspend or revoke permits for failure to comply with the provisions of this article. When an application for a permit is denied or the permit previously granted is to be suspended or revoked, the applicant or holder thereof shall be afforded notice and hearing as provided in O.C.G.A. title 31, ch. 5 (O.C.G.A. § 31-5-1 et seq.). If an application is denied or a permit is suspended or revoked, the applicant or holder of the permit must be notified in writing, specifically stating any and all reasons why the action was taken. The purpose of these procedures is to state the minimum actions to be taken to fulfill the obligation of the health authority in assuring compliance with the regulations when the continued operation of a restaurant presents a substantial and imminent health hazard to the public or when a food service establishment is in flagrant or continuing violation of this article. Suspension is effective upon service of a written notice thereof, and food service must cease immediately. The notice must state the basis for the suspension and advise the permit holder of the right to a preliminary hearing on request within eight working hours. If requested, the preliminary hearing will be held by an experienced supervisory level employee of the health authority not directly involved in the suspension. The rules of evidence will not apply, but both the health authority and the permit holder may present witnesses, records and argument. The hearing official will be authorized immediately to rescind or modify the suspension or to continue the suspension with or without conditions. If the suspension is not rescinded, the permit holder will have the right on request to an evidentiary hearing. If a hearing is not requested, upon correction of all violations, owner may request an inspection to reinstate permit.~~

~~(3) — Notice of hearing. For the purpose of this article a notice of hearing is properly served when delivered in person or by registered or certified mail.~~

~~(b) — Inspections.~~

-
- ~~(1) — *Inspection frequency.* An inspection of a food service establishment shall be performed at least twice annually. Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of this article.~~
- ~~(2) — *Access.* Representatives of the health authority, after proper identification, shall be permitted to enter any food service establishment or operation at any reasonable time for the purpose of making inspections to determine compliance with this chapter. Should access be denied, an inspection warrant may be obtained as authorized in O.C.G.A. title 31, ch. 5, art. 2 (O.C.G.A. § 31-5-20 et seq.).~~
- ~~(3) — *Report of inspection.* When the health authority makes an inspection of a food service establishment or operation, the findings shall be recorded on an inspection report form provided for this purpose. Upon the completion of the inspection, the evaluating official shall have management or its representative sign the inspection report form. Management's signature shall not necessarily indicate agreement with the findings noted on the inspection form. The most current inspection report shall be posted in public view.~~
- ~~(4) — *Correction of violations.* Violations of this article are categorized according to their potential for creating a health hazard to the consumer. All violations shall be recorded on an inspection report form. Enforcement shall be as follows:~~
- ~~a. — *Category I.* Violations of the following provisions of this article are deemed to create an imminent threat to the public health and an imminent health hazard to the consumer. Category I requirements are:~~

~~Section 26-27, subsections:~~

- ~~(a)(1) through (7);~~
- ~~(b)(1) through (3); (c)(4), (5), (7) through (12);~~
- ~~(d)(1) through (11);~~
- ~~(e)(1), (7) c and d;~~
- ~~(f)(3);~~

~~Section 26-28, subsections:~~

- ~~(a)(1) and (2);~~

~~(b)(1);~~

~~(d)(3);~~

~~Section 26-30, subsections:~~

~~(b)(1) and (7)a;~~

~~(c)(1), (5) and (6);~~

~~Section 26-31, subsections:~~

~~(a)(1), (2), (4) and (5);~~

~~(c)(1);~~

~~(d)(1);~~

~~(e)(1) and (2);~~

~~Section 26-32, subsections: (g)(6);~~

~~Section 26-33, subsections:~~

~~(a)(2), (5), (6) and (9);~~

~~(b)(4) through (6), (9), (10) and (14);~~

~~(c)(3) through (5) and (7);~~

~~Violations of these provisions must be corrected immediately upon the food service establishments' receipt of the Inspection Report citing Category I Violations. Failure to correct these violations to the satisfaction of the health authority may result in such emergency action as deemed necessary by the health authority including actions pursuant to O.C.G.A. §§ 31-5-2(b), 31-5-9(a).~~

~~b. ——— Category II. Violations of the following provisions of this article are deemed to be critical operational and maintenance violations which, if not corrected, increases the potential for causing food borne illness. Category II requirements are:~~

~~Section 26-27, subsections:~~

~~(b)(1);~~

~~(c)(1)b, (2), (3), (6) through (8), (11) and (12);~~

~~(d)(10);~~

~~(e)(1)a through c, (2)a and b, (3)a and b, (4)a through d, (5), (6) (7)b, d and e, (8) and (9);~~

~~(f)(1);~~

~~Section 26-28, subsections:~~

~~(b)(2) and (3);~~

~~(c)(1) and (2);~~

~~(d)(1), (2) and (4);~~

~~Section 26-29, subsections:~~

~~(a)(1) through (6);~~

~~(b)(1)a through c, (2) through (4), (5)a and b, (6)a through (c), (7) through (11)~~

~~Section 26-30, subsections:~~

~~(a)(1) through (4),~~

~~(b)(5)a through d, (6)a and b, (7)b and (8);~~

~~(c)(1) through (6), (7)a through g, (8)a through e, and (9);~~

~~(d)(1) through (7), (8)a through c, and (9);~~

~~Section 26-31, subsections:~~

~~(a)(2) and (3);~~

~~(e)(3) and (5);~~

~~(f)(2);~~

~~(g)(3);~~

~~Section 26-32, subsections:~~

~~(c)(2);~~

~~(g)(1), (2), (4), (5), (7) and (8);~~

~~(h)(10) and (11);~~

~~Section 26-33, subsections:~~

~~(a)(1) and (4);~~

~~(b)(5), (6), (8) through (11) and (18);~~

~~(c)(6) through (9);~~

~~Section 26-34, subsections: (a)(1) through (3).~~

~~Violations of these provisions must be corrected within 72 hours of the food service establishments' receipt of the inspection report citing category II violations. Failure to make timely corrections to the satisfaction of the health authority of category II violations may subject the food service establishment to suspension or revocation of its permit pursuant to subsection (a)(2) of this section.~~

~~c. *Category III.* Category III requirements are general requirements that establishments must meet to maintain an environment conducive to good food management practices and to meet expectations of the consumer. Category III requirements are:~~

~~Section 26-27, subsections: (e)(3)c, (7)a and e;~~

~~Section 26-29, subsections: (c)(1), (2)a, (3)a through d, (4)a and b, and (5);~~

~~Section 26, subsections: (b)(7), (c);~~

~~Section 26-31, subsections:~~

~~(b);~~

~~(c)(1) through (6);~~

~~(d)(1) through (4);~~

~~(e)(4) through (6);~~

~~(f)(1) through (9);~~

~~(g)(1), (2) and (4);~~

~~Section 26-32, subsections: (a)(1) through (7);~~

~~(b)(1) through (6);~~

~~(c)(1) and (2);~~

~~(d)(1), (2)a and b, (3) and (4);~~

~~Section 26-33, subsections: (a)(6), (7), (8)a and b, (10), and (11)~~

~~(b)(7), (13), (15) through (17);~~

~~Section 26-34, subsections: (a)(1) through (3);~~

~~Section 26-35, subsection: (b)(3).~~

~~Violations of category III items must be corrected within a reasonable time period for correction as determined by the health authority. Failure to correct category III violations within such time period may subject the food service establishment to suspension or revocation of its permit pursuant to subsection (a)(2) of this section.~~

~~(c) — Examination, condemnation and public notice.~~

~~(1) — Examination of food. Food may be examined or sampled by the health authority when necessary to determine freedom from adulteration or misbranding.~~

~~(2) — Condemnation of food. The health authority may, upon written notice to the owner or person in charge, place a hold order on any food which he determines or has probable cause to believe to be unwholesome or otherwise adulterated, or misbranded. Under a hold order, food shall be permitted to be suitably stored. No food subject to a hold order shall be used, served, or removed from the establishment. Immediate destruction shall be ordered and accomplished if there is risk to the public health.~~

~~(3) — Public notice. The health authority may ban or require the posting of a public notice when a food service establishment uses products which have been determined to have detrimental effects on the consumer or as required by law.~~

~~(d) — Procedure when infection is suspected. When the health authority has reasonable cause to suspect " possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The health authority may require any or all of the following measures:~~

~~(1) — The immediate exclusion of the employee from employment in food service establishments;~~

-
- ~~(2) The immediate closing of the food service establishment concerned until, in the opinion of the health authority, no further danger of disease outbreak exists;~~
- ~~(3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;~~
- ~~(4) Adequate medical examination and laboratory examination of appropriate specimen from the employee and from other employees.~~
- ~~(e) *Enforcement.* The administration and enforcement of these rules and regulations shall be as prescribed in O.C.G.A. tit. 31, ch. 5 (O.C.G.A. § 31-5-1 et seq.).~~
- ~~(f) *Penalty.* Any person who violates any provision of this article shall be subject to the jurisdiction of the Magistrate Court of Dawson County and may be punished by a maximum fine of \$1,000.00 or a maximum of 60 days confinement in the county jail or both.~~

~~{Ord. of 8-5-2004(1), § 5-14-.11}~~

~~State law reference(s) Penalties for ordinance violations, O.C.G.A. § 36-1-20.~~

Secs. 26-36—26-58. Reserved.

Subpart B - LAND DEVELOPMENT ORDINANCES
Chapter 121 - LAND USE
ARTICLE II. ESTABLISHMENT OF LAND USE DISTRICTS
AMENDMENT FOR ENTERTAINMENT DISTRICT

ARTICLE II. ESTABLISHMENT OF LAND USE DISTRICTS

Secs 121-35.—121-57. Reserved.

Secs. 121-34. Entertainment Overlay District.

The purpose of the Entertainment Overlay District is to encourage retail and restaurant uses within a defined commercial area of Dawson County. The district is intended to create an opportunity to offer a variety of amenities to the public and visitors in a single physical location, promoting pedestrian use.

1. District Boundaries.

The boundaries of the Entertainment Overlay District shall be coterminous with the following parcel: Parcel ID 114 004.

2. Underlying Land Use Regulations

Within the Entertainment Overlay District, land and structures shall be used in accordance with the standards of the underlying land use district. Whenever provisions of this article conflict with any other section in this land use resolution or any other County ordinances, regulations, or the standards set forth in this article shall prevail.

3. Mobile Food Service Units

Notwithstanding anything contrary to the underlying land use district regulations, Mobile Food Service Units are allowed to operate within the Entertainment Overlay District subject to the restrictions and requirements of this Section.

- a. Motor vehicle tag. A Mobile Food Service Unit must have a valid tag from the state's Division of Motor Vehicles.
- b. Food service rules. As applicable, Mobile Food Service Units shall operate according to the State of Georgia's Rules and Regulations Food Service, Chapter 290-5-14, Manual for Design, Installation, and Construction, Section U—Special Food Service Operations, as amended.
- c. Licensing. The operator of a Mobile Food Service Unit shall apply for a license or permit as may be required by the Dawson County Health Department, and the applicant shall submit evidence of health department approval before authorization by the planning and development department. No Mobile Food Service Unit shall operate without a health department permit or approval.
- d. Additional operational constraints.
 1. Mobile Food Service Units shall be parked and operated in walkways or interior areas, not in a parking lot.
 2. The location and set up of Mobile Food Service Units are subject to all applicable safety codes (e.g., use of propane or generators; pedestrian safety).
 3. There shall be no more than eight Mobile Food Service Units on-site.

4. No Mobile Food Service Unit shall be permitted to operate a vehicular drive-through facility or drive-up window.

4. Organized Entertainment.

Notwithstanding anything to the contrary in the underlying land use district regulations, artistic performances and other forms of organized entertainment are allowed within the Entertainment Overlay District, subject to all applicable provisions of the Dawson County Code, including but not limited to, land use, health, safety, and alcohol regulations. Such activities shall be limited to walkways or interior areas and are prohibited in a parking lot.