

# ALCOHOLIC BEVERAGE ORDINANCE NEWTON COUNTY, GEORGIA

July 3<sup>rd</sup>, 2012 (Unofficial Working Copy With All Amendments Through 12-2-14)



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NEWTON COUNTY DEPARTMENT OF  
DEVELOPMENT SERVICES

## **Section 32-201 Alcoholic Beverage Ordinance**

### **I. General Provisions**

#### **A. Wine and Malt Beverages; License Required.**

1. No wine, beer or other malt beverage may be manufactured, distributed, or sold in the unincorporated area of Newton County, Georgia, whether at wholesale or retail, by the package or by the drink, for on-premises consumption or off-premises consumption, except under a license granted by the Board of Commissioners of Newton County, Georgia (hereinafter referred to as the "Board"), upon the terms and conditions hereinafter provided.
2. No license hereunder shall be issued for the sale of wine or malt beverages at retail, by the package, for consumption off-premises, except in retail establishments devoted to retail sales which maintain at least 80 percent of the floor space and storage area in a manner which is devoted principally to the retail sale of grocery products, and located in zoning districts in which retail establishments are permitted as a conforming use.
3. No license hereunder shall be issued for the sale of wine, beer or other malt beverage by the drink for consumption on the premises except in eating establishments as defined herein and hotels with eating establishments on the premises where such eating establishments and hotels are located in zoning districts that permit such as conforming uses.
4. No license hereunder shall be issued for the manufacture or wholesale distribution of wine or malt beverages unless the location is zoned to permit such use as a conforming use.

#### **B. Distilled Spirits; License Required.**

1. No distilled spirits may be sold by the drink for on-premises consumption in the unincorporated area of Newton County, Georgia, except under a license granted by the Board, upon the terms and conditions hereinafter provided.
2. No license hereunder shall be issued for the sale of distilled spirits by the drink for consumption on the premises except in eating establishments as defined herein and hotels with eating establishments on the premises where such eating establishments and hotels are located in zoning districts that permit such as conforming uses.
3. No distilled spirits may be distributed at wholesale in the unincorporated area of Newton County, Georgia, except under a license granted by the Board, upon the terms and conditions hereinafter provided.

5. No license hereunder shall be issued for the wholesale distribution of distilled spirits unless the location is zoned to permit such use as a conforming use.
5. No distilled spirits may be manufactured or sold by the package in the unincorporated area of Newton County, Georgia.

**C. County License a Privilege.**

1. All licenses herein 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 County ordinances and state law.
2. All licenses hereunder 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 which may be enacted."

**D. State License Required; Compliance with all Applicable Laws.**

Any holder of a license pursuant to this ordinance is required to apply for and obtain an alcoholic beverage license from the State of Georgia before any sales commence. Additionally, County licensees are required to abide by all applicable state regulations and laws. No licensee, owner, or agent or employee of a licensee shall permit the sale of alcoholic beverages in violation of any local, state, or federal law, ordinance or regulation.

**E. Contraband**

Alcoholic beverages owned, possessed or stored contrary to the provisions of this Ordinance are declared to be contraband and may be seized by the Sheriff's Department.

**II. Definitions.**

For the purpose of this Ordinance, the following definitions shall apply:

- A. Alcohol.** Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- B. Alcoholic beverage.** All alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.
- C. Alcoholic Beverage Caterer.** Any person who has obtained an off-premises catering license to sell and/or distribute alcoholic beverages by the drink.

- D. Applicant.** The person, partner, firm or corporation, as owner, or other entity authorized to represent the business making application for the license.
- E. Authorized Catered Function.** An event for which an Authorized Catered Event Permit has been issued pursuant to Section V.F. of this Ordinance for the sale and/or distribution of alcoholic beverages by the drink for consumption at such event.
- F. Board.** The Board of Commissioners of Newton County, Georgia.
- G. Bona Fide Nonprofit Civic Organization.** An entity which is exempt from federal income tax pursuant to the provisions of subsection (c) of 26 U.S.C. Section 501.
- H. Clerk.** The Clerk serving the Board of Commissioners of Newton County, Georgia.
- I. Direct Supervision.** Having a person at least 21 years of age on the licensed premises at all times where required under this Section.
- J. Distilled Spirits.** Any alcoholic beverage obtained by distillation or containing more than twenty-one percent (21%) alcohol by volume, including, but not limited to, all fortified wine as defined in Section 3-1-2 of the Official Code of Georgia as now or hereafter amended.
- K. Eating Establishment or Restaurant.** Any public place selling prepared food for consumption by the public on the premises, with a full kitchen (a “full-service kitchen” will 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), prepared to serve food every hour they are open and deriving a ratio of beverage sales in accordance with subsection IV.D. of this Ordinance, and further, that the eating establishment may provide only passive leisure time activity for patrons and guests like televisions for viewing, ambient music (including live music) for listening or similar such activity. A licensed eating establishment may provide interactive video games, for entertainment only, for use by patrons. These games shall not occupy more than ten percent of the available square footage of the common area floor space of any eating establishment.
- L. Governing Authority.** The Board of Commissioners of Newton County, Georgia.
- M. Hotel.** Any building or other structure providing sleeping accommodations for hire to the general public, either transient, permanent or residential, which has a minimum of seventy-five (75) rooms, each having a minimum gross area of two hundred square feet (including a private bathroom for each guest room) used for the sleeping accommodations of such guests and which regularly offers at least sixty (60) percent of its rooms for travelers and guests on a short term basis and which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging. Motels and Bed and Breakfast facilities meeting the qualifications set out herein for hotels shall be classified in the same manner as hotels.

- N. License.** The authorization by the Board to engage in the manufacturing, distribution or sale of wine or malt beverages or the sale of distilled spirits by the drink for consumption on-premises.
- O. Licensee.** Any person, partner, firm or corporation, as owner, holding a license to engage in the manufacture, distribution, or sale of wine or malt beverages or the sale of distilled spirits by the drink for consumption on-premises.
- P. Malt Beverage.** Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water containing not more than six percent (6%) alcohol by volume and including, but not limited to, ale, porter, brown, stout, lager beer, small beer, or strong beer and including hard cider as defined in Section 3-1-2 of the Official Code of Georgia as now or hereafter amended. The term "malt beverage" does not include Japanese rice wine known as sake.
- Q. Manufacturer.** Any maker, producer or bottler of an alcoholic beverage.
- R. Minor.** As used herein, the term "minor" shall mean any person under the age of 21, who, by Federal, state or local law, is prohibited from possessing, purchasing or selling alcoholic beverages. Should Federal, State or local law change such that the legal drinking age is increased or decreased, then this provision shall be interpreted so as to incorporate such change herein without necessity of formal amendment.
- S. Owner.** Any person, corporation or partnership or any other entity having a financial interest in the income of the business. The term "owner" shall also include any person, corporation, or partnership operating a business under a management contract.
- T. Pouring Permit.** Authorization granted by the County to dispense, sell, serve, or mix alcoholic beverages in an establishment licensed for sales by the drink for on-premises consumption.
- U. Premises.** The definite closed or partitioned-in locality, whether room, shop or building, wherein wine, malt beverages, or distilled spirits by the drink are sold at retail. Notwithstanding any provision of this Section to the contrary, the term "premises," when applied to a golf course shall also mean and include all tee areas, cart paths, fairways, roughs, greens and other open areas within the boundaries of the tract of land upon which the golf course is situated.
- V. Prepared Food.** Food that is prepared and served on the eating establishment's premises. Nachos, pretzels, peanuts and other similar snack foods shall not be considered prepared food.

**W. Retail Establishment.** An establishment which maintains 80 percent of the floor space and storage area in a manner which is devoted principally to the retail sale of grocery products and located in zoning districts in which these establishments are permitted as a conforming use or where an existing establishment exists as a non-conforming use.

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

**Y.** All other terms shall have the same meaning as defined or used in the Georgia Alcoholic Beverage Code, Official Code of Georgia Annotated Section 3-1-1 et seq., as now or hereafter amended.

### **III. Applications for Licenses.**

#### **A. Separate Licenses Required.**

Separate applications must be made for each location and separate licenses must be issued.

#### **B. Limitation on Number of Licenses.**

No person, partner, firm or corporation, as licensee, shall hold a retail alcoholic beverage license and a wholesale alcoholic beverage license.

#### **C. When License Granted.**

1. No license shall be granted under this Ordinance until the application is approved by the Board of Commissioners and proof of a state license is submitted, except as hereinafter provided.
2. A conditional license may be granted no more than sixty (60) days prior to a business establishment opening for business, or a change in ownership of a licensed premises. Said conditional license does not authorize the manufacture, distribution or sale of alcoholic beverages. A conditional license may be used to obtain any necessary licenses from the state. Upon written request of the licensee and prior to the expiration of the 60-day conditional license period, a conditional license may be renewed for a period of time not to exceed thirty (30) days.

#### **D. Application.**

1. All persons, firms or corporations desiring to manufacture, sell or distribute alcoholic beverages shall make application to the Development Services Department on the form prescribed by the County, to be forwarded to any appropriate department(s) for review and investigation.
2. The application shall include but shall not be limited to:
  - a. The first, middle and last name, any previous names, maiden name, address, telephone number, date of birth and social security number of the applicant;
    - i. If a partnership, the names and addresses of the partners;
    - ii. If a corporation, the names of the officers, the names and address of the registered agent for service of process, the name of the manager, and the name of all shareholders holding more than 20 percent of any class of corporate stock.
  - b. The name and address of any other entity having a financial interest in each entity which is to own or operate the establishment for which a license is sought.
  - c. The name of the property owner, if different from the applicant;
  - d. The proposed business to be operated;
  - e. A certification that the Applicant has read this Ordinance, and if a license is granted, the licensee shall maintain a copy of this Ordinance on the licensed premises and shall require each and every employee to be familiar with the requirements of said Ordinance.
3. All applicants shall furnish data, financial responsibility and other records as required by the County. Failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.
4. Fingerprints shall be as required by O.C.G.A. 3-3-2(c), as now or hereafter amended. Fees for fingerprinting shall be according to a fee schedule adopted by the Board of Commissioners.
5. All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.
6. Any false, misleading or omitted information in any original, renewal or transfer application may be grounds and due cause for the application to be denied or any license issued on such application to be suspended or revoked. Applicant may also be subject to criminal sanctions for false swearing.

#### **E. Notice of Applications.**

1. The applicant shall place a notice of each application in the official organ of the County to be advertised once a week for two weeks immediately preceding consideration of the application by the Board. To facilitate processing the application, the applicant shall submit an affidavit to the Development Services Department indicating when the ad is scheduled to run. The notice (in the form of a tear sheet) shall be submitted to the Development Services Department prior to consideration by the Board.
2. Within three (3) business days from the time of filing of an application, a printed notice not less than 18" x 18", with letters at least two inches in size, shall be placed on the front door or entrance of the building of the proposed location or on a sign in a prominent place on the lot of the building of the proposed location, stating that an application has been submitted for an alcoholic beverage license and the name of the applicant. The cost of printing shall be borne by the applicant. Said notice shall remain at the location until final action by Board.

#### **F. Withdrawal of Applications.**

Any license application made pursuant to this Ordinance may be withdrawn by the applicant without prejudice only until such time as the legal advertisement is placed. All applications, having been advertised, shall be considered by the Board and shall receive final action.

### **IV. Issuance of Licenses.**

#### **A. Investigation and Recommendation.**

1. After receipt of an Application, the Development Services Department shall refer the Applicant to the Sheriff's Department for fingerprinting in accordance with O.C.G.A. § 3-3-2(c). The Sheriff's Department shall conduct a background investigation concerning the applicant and shall make a written report thereof to the Development Services Department prior to consideration of such application by the Board. The Board may request additional investigation if it deems necessary. This provision is cumulative of any other provisions regarding investigations by the Sheriff relating to the sale of alcoholic beverages.
2. After receipt of an Application, the Development Services Department shall refer the Applicant to the Fire Marshal for a life-safety inspection.
3. After receipt of the Sheriff's written report and approval from the Fire Marshal, the Development Services Department shall make such further investigation as may be warranted and shall make a recommendation to the Board within thirty (30) days of the receipt of the Sheriff's report. In making a recommendation, the Development

Services Department shall be guided by the criteria and requirements contained herein.

4. The recommendation of the Development Services Department shall be read at a Board meeting at least one additional time prior to taking final action on same by the full Board. The applicant shall appear in person at the Board's meeting where the recommendation is read on the first occasion in order to respond to any pertinent inquiries from the Board concerning the application.

## **B. Criteria for Issuance.**

1. No alcoholic beverage license shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. All applicants shall submit required affidavits.
2. Where the applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers, managers and majority stockholder. In the case of a corporation, the license shall be issued jointly to the corporation and to the majority stockholder, if an individual. Where the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its agent registered under the provisions of this Section. 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 will be licensed.
3. No person, firm or corporation shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the Board that such person, partners in the firm, officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere, and have been released from parole or probation, to 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 alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that the applicant, nor any of the other owners of the establishment, have been convicted or has pleaded guilty or entered a plea of nolo contendere and have been released from parole or probation to 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 alcoholic beverages to minors in

a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. Should any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, be convicted or plead guilty or nolo contendere to a 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 alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, the license shall be subject to revocation or suspension in accordance with the terms of this Ordinance. For purposes of this Section, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which defendant who was allowed to avail themselves of the Georgia First Offender Act (O.C.G.A. title 42, ch. 8, art. 3, O.C.G.A. § 42-8-60 et seq.) except, however, that any such offense shall not be ignored where 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 as to the crime for which defendant had previously been sentenced as a first offender.

4. 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 ten years prior to the filing of application for such license. For purposes of this Section, a conviction shall be ignored as to any offense for which defendant who was allowed to avail themselves of the Georgia First Offender Act (O.C.G.A. title 42, ch. 8, art. 3, O.C.G.A. § 42-8-60 et seq.) except, however, that any such offense shall not be ignored where 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 as to the crime for which defendant had previously been sentenced as a first offender.
5. No elected or appointed official or any employee of the County or his or her spouse shall have any whole, partial or beneficial interest in any license to sell alcoholic beverages. However, should any such person hold one or more licenses prior to becoming a disqualified person, then all licenses so held shall remain valid and shall be renewable as herein provided despite the licensee's disqualified status, provided no new licenses shall be acquired during the continuance of the disqualification.

6. No license for the sale of alcoholic beverages shall be granted for any location which also holds license under Newton County's Adult Entertainment Ordinance.
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 suspended or revoked within two years prior to the filing of the application.
8. All licensed establishments must have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this Ordinance to be served upon the licensee or owner may be served. This person must be a resident of Newton County and shall be responsible for any matter related to the license. The licensee shall file the name of such agent, along with the written consent of such agent, with the County.
9. A license application may be denied to any applicant where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
10. No alcoholic beverage license shall be issued to any applicant unless the building in which the business will be located is complete and detailed plans of said building and the outside premises are attached to the application, or unless proposed plans and specifications and a building permit for 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 by the building inspector.
11. Each building in which the business will be located shall meet the following lighting standards that are intended to ensure that there is sufficient lighting so that the building itself and the premises are readily visible at all times from the front of the street on which the building is located:
  - a. All areas of the parking lot, building exterior and associated sidewalks shall be illuminated at level of 2.0 to 3.0 fc;
  - b. The building approach (front door and front of building) shall be illuminated at a level of 5.0 to 7.0 f.c;
  - c. The remainder of the property shall be illuminated at a level of 1.0 to 2.0 fc.

Mounting heights for exterior luminaries shall not exceed 35 feet in height within a parking lot and 18 feet within adjacent non-vehicular pedestrian areas (with the height being measured from the finished grade to the bottom of the luminous opening of the luminary). All acceptable outdoor luminaries shall employ IESNA, "cutoff" or "full cutoff" light distribution designations and shall be either partially shielded fixtures or fully shielded fixtures to reduce glare or spillage. All lighting, regardless of location,

shall be designed to prevent direct glare, light spillage and hazardous interference with automotive, bicycle and pedestrian traffic on adjacent streets and properties.

12. 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.
13. All premises for which an alcoholic beverage license for sales by the drink for on premises consumption shall afford therein adequate sanitary toilet facilities and parking spaces and the interior shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by the customers therein.
14. The Board may consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business, including whether the applicant is of good moral character. If, in their judgment, circumstances are such that granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.

#### **C. Distance Requirements.**

1. No original license shall be issued hereunder where the place of business is located as follows:
  - a. Within 100 feet of any private residence as measured in any direction, unless such residence is itself in a commercial district or mixed use district; however, should the proposed premises be located on a corner, said distance from the nearest point of any residential building in the rear of the proposed premises on the side street shall be no less than 50 feet; or
  - b. Within 200 feet of a branch of any public library; or
  - c. Within 300 feet of any church, shrine, or other place used primarily for religious services, except for the chapel of a mortuary or cemetery or when places used primarily for religious services occupy a tenant space in a shopping center as that term is defined by the Newton County Zoning Ordinance; or
  - d. Within 300 feet of any school building, educational building, school grounds or college campus; the term school building or educational building shall apply only to state, county, city, church school buildings and to such buildings at other schools in which are taught the subjects commonly taught in the common schools and colleges of this state and is a public school or a private school as defined in Section 20-2-690(b) of the Official Code of Georgia Annotated as now or hereafter amended, and shall not include private schools or colleges wherein only specialized subjects such as law, stenography, business, music, art, medicine,

dentistry, vocational occupations, and other special subjects are taught, except at the discretion of the Board. For licenses authorizing the sale of distilled spirits, the distance limitation herein is increased to 600 feet; or

- e. Within 300 feet of an alcoholic treatment center owned and operated by this state or any county or municipal government therein; or
  - f. Within 300 feet of any housing authority property (defined as any property containing 300 housing units or fewer owned or operated by a housing authority created by Article 1 of Chapter 3 of Title 8, the 'Housing Authorities Law'. This subsection applies only to the sale of alcoholic beverages for consumption on the premises. This subsection shall not apply at any location for which a license has been issued prior to July 1, 2000, nor to the renewal of such license. Nor shall this subsection apply at any location for which a new license is applied for if the sale of alcoholic beverages for consumption on the premises was lawful at such location at any time during the 12 months immediately preceding such application.
  - g. Within 2,500 feet of any property with a license under the Adult Entertainment Ordinance.
2. Distances hereunder shall be measured by the most direct route of travel on the ground from the main customer entrance of the premises to be licensed to the main entrance of the establishments described in subsection 1 above.
  3. An applicant for a new license who has acquired a previously licensed location may, within one year after the expiration of the previous owner's license, obtain a license for that location even though the location may not meet the distance requirements set forth in this section.
  4. All applications for a particular location shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed premises and the straight line distances specified herein.

**D. Additional Criteria for Sales by the Drink for On-premises Consumption.**

1. Sale of alcoholic beverages for consumption on the premises shall be restricted to eating establishments and hotels with eating establishments on the premises.
2. Eating establishments. All licensed eating establishments must continuously maintain the following seating capacities to the percentage of sales in food, said capacities excluding bar stools and/or counters. Patio/open area seating shall not be considered for the minimum seating capacities.

Seating Capacity	Percentage of Sales in Food
100 or more	50%
75 to 99	60%
50 to 74	70%
40 to 49	80%

### 3. Hotels.

Sale of alcoholic beverages is limited to the sale of wine, malt beverage or distilled spirits by the drink to patrons and guests in an eating establishment of a hotel.

## V. Licenses.

### A. License Fees.

Before a license shall be granted, the applicant shall comply with all rules and regulations adopted by the Board regulating the sale of alcoholic beverages, and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the Board and kept on file in the office of the Clerk as follows:

1. Each application for a license under this Section shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash to defray investigative and administrative costs. These fees shall be according to a fee schedule adopted by the Board of Commissioners
  - a. If the application is made from January 1 to June 30: The full amount of the license fee designated therein; and
  - b. If the application is made from July 1 to December 31: One-half of the full amount of the license fee designated therein; and
2. If the applicant is denied a state license, the deposit representing the license fee shall be refunded, but the cost paid for investigative and administrative cost shall be retained.
3. Any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Section.
4. In addition to the required license fee and investigative and administrative fee, each renewal application received after the November 15 deadline shall be accompanied by a late filing penalty of 10% of the license fee.

**B. Display of Licenses.**

The County alcoholic beverage license shall at all times be kept plainly exposed to view, to the public, at the place of business of the licensee. Each licensee shall keep a copy of this Ordinance in the licensed premises and shall instruct any person working there with respect to the terms hereof, and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms hereof.

**C. Transferability of License.**

1. Licenses hereunder shall not be transferable, except as hereinafter provided. A change in ownership shall require a new application and the issuance of a new license. No distance requirements shall apply if the location qualified for the original license. In case of the death of any person holding such license, or any interest therein, the same may be transferred to the administrator, executor, or the lawful heirs of the deceased person, if otherwise qualified. The license of such deceased person shall be held by the administrator, executor, or personal representative of such deceased person only for the time necessary to complete administration of the decedent's estate and to dispose of the license or his interest therein, but in no event for longer than twelve (12) months.
2. Nothing in this section, however, shall prohibit one or more partners of a partnership holding a license, to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. Such a withdrawal however shall not serve to bring any new ownership into the partnership without a new application and payment of the administrative and investigative fee specified in subsection III.G of this Ordinance.
3. Should the license transfer to a new location approved by the Board and inspected by the Fire Marshal, there shall be no additional license fee, and the new location shall not be considered as a new license hereunder.
4. If a Licensee disposes of any interest in the business without reporting same to the Development Services Department, the license shall be subject to revocation or suspension in accordance with this Ordinance. Any change of ownership, taking place unreported, shall also be subject to penalty of double the license fee plus investigation fee.

**D. Forfeiture for nonuse.**

1. All holders of licenses hereunder must, within three months after the issuance of the license, open for business the establishment referred to in the license. Failure to open the licensed establishment within three months after the issuance of the license shall serve as the automatic forfeiture and cancellation of the license, and no refund of license fee shall be made to the license holder.

2. Any holder of a license hereunder who shall begin the operation of the business authorized in the license, but who shall for a period of three months thereafter cease to operate the business as authorized in the license, shall, upon expiration of such three-month period, automatically forfeit the license; and the license shall, by virtue of such failure to operate, be canceled without the necessity of any further action of the Board, and no refund of license fee shall be made to the license holder.
3. Extensions of the time period may be granted by the Board under extraordinary circumstances.

#### **E. License Expiration and Renewal.**

1. Each license granted hereunder shall expire on December 31 of the year in which it is granted.
2. Licensees who desire to renew their license shall file a written application with the requisite license fee on or before November 15 of each calendar year, which application shall contain substantially the same information as an initial application, a statement from the Fire Marshal indicating that an annual life safety inspection has been conducted, and a copy of the licensees' state license.
2. When an application for renewal of a license is received, the Development Services Department shall determine whether the licensee is in full compliance with the provisions of this Ordinance and shall request a report from the Sheriff's Department concerning any violations of this Ordinance. If the licensee is in full compliance with this Ordinance, the license shall be recommended for renewal by the Board. Any non-compliance shall subject the Licensee's license to renewal subject to revocation or suspension in accordance with the procedure set forth in Section VI of this Ordinance.

#### **F. Alcoholic Beverage Catering.**

1. Off-Premises License Issued by Newton County. Any person who holds a valid license issued by Newton County to sell alcoholic beverages for consumption on the premises (as provided for in this Ordinance) may be issued an off-premises catering license that permits said person to sell and/or distribute alcoholic beverages by the drink off-premises at an Authorized Catered Function. Any person seeking an off-premises catering license shall make application therefore, which shall be processed and decided according to the same guidelines set forth for other licenses under this Section, including payment of the application fee and annual license fee set forth in Ordinance Section V.A. When an initial application for an off-premises catering license is not filed at the same time the application (or renewal) for an on the premises license is filed, the Development Services Department shall, in consultation with other departments as needed, determine whether the applicant is in full compliance with the provisions of this Ordinance. Upon issuance of an off-premises

catering license, an Authorized Catered Event Permit shall be required for each Authorized Catered Function.

2. Off-Premises License Issued by Other Jurisdictions. If a person is licensed by a municipality or county of this State (other than Newton County) to sell alcoholic beverages by the drink for consumption on the premises and also holds a valid off-premises catering license issued by the same licensing authority, such person may sell and/or distribute alcoholic beverages by the drink at an Authorized Catered Function, provided that such person obtains an Authorized Catered Event Permit for each function.
3. Bona Fide Nonprofit Civic Organization. A Bona Fide Nonprofit Civic Organization (hereinafter referred to as “Nonprofit Civic Organization”) may distribute alcoholic beverages by the drink at an Authorized Catered Function without an alcoholic beverage license, provided that such Nonprofit Civic Organization first obtains an Authorized Catered Event Permit for each function.
4. Authorized Catered Event Permit Application. Any person authorized under paragraphs V. F. (1), (2), or (3) to sell and/or distribute alcoholic beverages at an Authorized Catered Function shall apply for and obtain an Authorized Catered Event Permit issued by the Development Services Department for each Authorized Catered Function prior to serving alcohol at such function. Applications should be submitted at least fifteen (15) calendar days prior to the event and shall include:
  - a. The name of the Alcoholic Beverage Caterer (including license number) or Nonprofit Civic Organization, and the name and phone number of the representative for same who will be at the event;
  - b. A plan of the event, which includes: (1) the date, location and hours of the event; (2) the number of persons expected to be in attendance; (3) the location of guest parking; and (4) whether security, valet parking, or additional restroom facilities will be provided;
  - c. The name and phone number of the host or sponsor of the event, including the name and telephone number of the representative of the host or sponsor who will be at the event;
  - d. The name of the property owner and a signed affidavit or notarized permission from the property owner granting permission for use of the property for the event;
  - e. Whether food is being provided by the applicant, and if not, the name and phone number of the person providing food at the event;
  - f. Documentation of the cost of the food and alcoholic beverages to be served at the event;
  - g. Proof of compliance with all applicable state and local laws, including but not limited to approvals related to zoning and building codes, Newton County Fire Service requirements, Newton County Environmental Health Requirements, and law enforcement requirements;
  - h. Payment of a non-refundable \$50 Authorized Catered Event Permit fee for each Authorized Catered Event;

- i. Any Alcoholic Beverage Caterer not licensed by Newton County shall also be required to submit: (i) the name of the local jurisdiction issuing the off-premises catering license to the applicant; and (ii) a photocopy of the applicant's off-premises catering license; and
  - j. A Nonprofit Civic Organization shall provide a copy of the Internal Revenue Service's determination letter (or other official correspondence) recognizing the organization's federal tax exempt status under subsection (c) of 26 U.S.C. Section 501.
5. Authorized Catered Event Permit Application Review. Within ten (10) business days after receipt of an application for an Authorized Catered Event Permit, the Department of Development Services, in consultation with other County departments, shall either approve or deny the Authorized Catered Event Permit and communicate same in writing to the Applicant. An Authorized Catered Event Permit may be denied for any of the following reasons or combination of reasons:
- a. The applicant, and/or event host or sponsor does not meet the requirements for an Authorized Catered Event Permit or has on prior occasion(s) violated or failed to comply with this Ordinance or with any state rules or laws regarding alcoholic beverages;
  - b. The event location is a site where a violation of this Ordinance or the state laws or rules regarding alcohol has previously occurred;
  - c. The plan of the event as proposed is likely to restrict and/or congest traffic on any of the public roads, rights-of-way, or sidewalks in the immediate vicinity of the event, or is likely to present a danger to the health and safety of guests at the event or members of the public;
  - d. The plan of the event as proposed is likely to cause a disturbance of the peace at the time of the event, or is likely to intrude upon the privacy or property of citizens in the area of the event;
  - e. The plan of the event as proposed is inconsistent with the uses of or is prohibited at the event location; and
  - f. The plan of the event as proposed is not in compliance with other County ordinances, including but not limited to, the Newton County Zoning Ordinance and Newton County Noise Ordinance.
6. Authorized Catered Event Requirements. All Authorized Catered Functions and all Alcoholic Beverage Caterers and Nonprofit Civic Organizations receiving an Authorized Catered Event Permit hereunder shall be subject to the following requirements and conditions:
- a. An Alcoholic Beverage Caterer may sell and/or distribute only those alcoholic beverages that are authorized by that person's alcoholic beverage license;
  - b. Alcoholic beverages may only be served at the location and on the date(s) specified in the Authorized Catered Event Permit. Authorized Catered Event Permits shall be valid for a period not to exceed two (2) consecutive calendar days;

- c. No person shall dispense, sell, serve, or mix alcoholic beverages at an Authorized Catered Function without first obtaining a pouring permit under this Ordinance;
  - d. Food, the total cost of which must exceed the total cost of the alcohol served, must be served at the event;
  - e. Copies of Authorized Catered Event Permits shall be posted and/or maintained at the front door or entrance of the event location at all times during the event. Alcoholic Beverage Caterers must also carry a copy of the caterer's off-premises catering license, copy of the Authorized Catered Event Permit, and any necessary state documents and permits in the vehicle transporting the alcoholic beverages to the event;
  - f. Except for events held on sites zoned for agricultural or residential uses, alcoholic beverages may only be served between the hours of 9:00 a.m. and 1:45 a.m., Monday through Saturday and between the hours of 12:30 p.m. and midnight on Sundays. For sites zoned for agricultural or residential uses, alcoholic beverages may only be served between the hours of 12:00 noon and 10:00 p.m.;
  - g. No more than four (4) Authorized Catered Functions per calendar year may be held at a location;
  - h. Alcoholic beverages may not be sold at events held on sites zoned for agricultural or residential uses (e.g. no "cash bar" sales will be permitted) or at events where a Nonprofit Civic Organization is the permit holder, except that such Nonprofit Civic Organizations may charge admission and collect donations provided the net funds collected go to further the organization's mission;
  - i. The service of alcoholic beverages is subject to compliance with state laws and regulations regarding service of alcoholic beverages at such an event, including the receipt of any necessary state permits and filing of reports with the state revenue commissioner; and
  - j. Alcoholic Beverage Caterers licensed by Newton County shall pay excise taxes on the sale of alcoholic beverages, as calculated under this Ordinance and provide a report to the Development Services Department on or before the time when other excise taxes are due for such licensee, while alcoholic beverage caterers not licensed by Newton County shall pay excise taxes on the total quantity of alcoholic beverages brought into the county, as calculated under this Ordinance, and provide a report to the Development Services Department within fifteen (15) days of the conclusion of the event. In addition to information required to determine the amount of tax due, the report shall state the quantity and type of alcoholic beverages transported from the licensee's primary premises to the location of the event.
7. Nothing contained herein is intended to prohibit anyone from hosting a private function at his or her personal residence where the host provides alcohol to guests free of charge or permits the otherwise legal consumption of alcoholic beverages.

## **VI. Suspension or Revocation of Licenses**

### **A. Hearings Required.**

1. No original or renewal license shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.
2. Denials of Licenses.
  - a. The Board shall provide written notice to the applicant or licensee of any order to deny issuance of a license. Such written notification shall set forth in reasonable detail the reasons for such denial and shall notify the applicant of the right to appeal for reconsideration under the provisions of this Ordinance. Such appeal shall be by written petition, filed with the Clerk within 15 days after the action of the Board.
  - b. A hearing shall be conducted within 30 days of the date of filing with the Clerk, unless a continuance of such date is agreed to by the appellant and the Board. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses.
  - c. Upon conclusion of the hearing, the Board shall consider the request for reconsideration, and if the request is denied, shall issue a written decision, with the reasons for denial stated.
  - d. In all instances in which an application is denied, the applicant may not reapply for a license for at least one year from the final date of such denial.
3. Suspension and Revocation.
  - a. Grounds for suspension or revocation.
    - i. Whenever the state shall revoke any permit or license to sell alcoholic beverages, the County license shall thereupon be automatically revoked without the necessity for a hearing.
    - ii. A license may be suspended or revoked by the Board where the licensee furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of this Ordinance.
    - iii. Any licensed establishment that is found to be in violation of any section of this Ordinance shall be subject to license suspension or revocation.

- iv. The Board may revoke the license of any licensee whose license has been suspended two or more times in any consecutive 12-month period.
  - v. The Board may revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
  - vi. An act or omission of a licensee, owner of more than 20 percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this Ordinance will subject the licensee to suspension or revocation of its license in accordance with the provisions of this Ordinance, when the Board determines to its satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensures; provided, however, in the case of an employee, the Board must determine that the acts of the employee were known to, or under reasonable circumstances should have been known to, the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.
  - vii. Whenever it can be shown that a licensee hereunder 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.
- b. Hearing Procedure.
- i. The Board shall provide written notice to the Licensee of the Board's intent to suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the licensee that a public hearing will be held no sooner than ten (10) days from the date of the notice and no later than thirty (30) days from the date of the notice to determine if the license of the Licensee should be suspended or revoked.
  - ii. The hearing by the Board shall be conducted in a manner consistent with said notice. The Board shall consider all evidence properly brought before it. The Licensee shall have the right to be represented by an attorney, at the expense of the Licensee, and to present evidence and cross-examine witnesses.
  - iii. Should the Board find that there has been a violation of this Ordinance, the license of the Licensee may be suspended or revoked in accordance with the provisions of this Ordinance.
  - iv. Any decision of the Board suspending, revoking, or renewing any license subject to suspension or revocation, shall be in writing, with the reasons therefore stated, and shall be mailed or delivered to the licensee.

- v. The Code Enforcement division, upon notice of a license suspension or revocation, shall take such action as may be necessary to ensure all alcoholic beverage signage is removed from the premises and that all alcoholic beverage sales cease.
  - vi. All decisions of the Board shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Newton County.
- c. Suspension or Revocation Determinations.
- i. Upon any first conviction for any violations of the ordinances of Newton County relating to the use, sale, taxability, possession of alcoholic beverages, or violations of laws of the State and Federal governments pertaining to the manufacture, possession, transportation or sale of alcoholic beverages, or taxability thereof, a license may be suspended for a period time not to exceed ninety (90) days or the license may be permitted to continue to the next renewal date when it shall be renewed subject to revocation for any additional conviction which might occur in the five year period beginning on the date of the occurrence giving rise to the first conviction.
  - ii. Upon any second conviction which might occur in the five year period beginning on the date of the occurrence giving rise to the first conviction as described in paragraph i, the license may be revoked, and the licensee shall not be eligible to reapply for another license for a period of two years beginning on the date of the revocation. Proof of attendance at an alcoholic beverage licensee course approved by the Development Services Department shall be submitted with the application.
  - iii. Wherever this Ordinance permits the Board to revoke or to suspend any license issued hereunder but does not mandate the period of such suspension, such discretion shall be exercised within the following guidelines:
    - (a) No suspension shall be for a period of time longer than the time remaining on such license.
    - (b) The following factors shall be considered on any revocation or suspension as set out above: consistency of penalties mandated by this Ordinance and those set by the Board; likelihood of deterring future wrongdoing; impact of the offense of the community; any mitigating circumstances or remedial or corrective steps taken by licensee; and any aggravating circumstances or failure by licensee to take remedial or corrective steps.
- d. In the event a license is suspended, the license shall not be reinstated until the suspension period has expired and the licensee submits proof of attendance at an alcoholic beverage licensee course approved by the Development Services Department.

- e. Except as otherwise provided in subsection A.3.c.ii., in the event a license is revoked, the licensee shall not be eligible to reapply for a new license for a period of 6 months. Proof of attendance at an alcoholic beverage licensee course approved by the Development Services Department shall be submitted with the application.
  - f. In the event a license is suspended or revoked, the County is not required to refund any portion of the license fee or excise tax.
8. Emergency closure of licensed premises.

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

## **VII. Conditions Applicable to All Licensed Premises.**

### **A. Condition of Premises.**

1. The licensed premises shall be kept clean and shall be in full compliance with all regulations of the County governing the condition of the premises.
2. As applicable, the premises shall be subject to periodic inspection by the Newton County Health Department, the Newton County Fire Department, the Newton County Development Services Department, and the Newton County Sheriff's Department. By acceptance of any license issued pursuant to this Ordinance, the licensee will be deemed to have consented that the officers, agents and employees of these departments shall have the right to enter the premises of the licensee during the hours in which the premises are open for business and without a warrant for purposes of determining compliance with this Ordinance. This section is not intended to limit the authority of any other county officer to conduct inspections authorized by other County ordinances.

### **B. Relationship Between Retailers and Wholesalers.**

1. No licensee shall purchase alcoholic beverages from any person, firm or corporation other than a properly licensed wholesaler.
2. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter.
3. No wholesaler or manufacturer shall provide any financial aid or assistance to any licensee.

4. The Board or its designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.

**C. Hours and days of sale.**

1. Sale of wine and malt beverages by the package.
  - a. Beer and wine in original packages for consumption off the premises shall not be sold except between the hours of 7:00 a.m. and 12:00 midnight, Monday through Saturday and between the hours of 12:30 p.m. and 11:30 p.m. on Sundays.
  - b. No beer and wine in original packages for consumption off the premises shall be sold on Christmas Day.
2. Sale of distilled spirits by the drink for on-premises consumption.
  - a. Alcoholic beverages shall not be sold for consumption on the premises except between the hours of 9:00 a.m. until 1:45 a.m., Monday through Saturday and between the hours of 12:30 p.m. and midnight on Sundays.
  - b. Alcoholic beverages may be sold for consumption on the premises from 12:00 midnight to 1:45 a.m. on any Monday that is New Year's Day, January 1, of any year.
  - c. In no event shall alcoholic beverages be mixed or sold during the prohibited hours based upon the timely sale of tickets or other devices.
3. Sale of alcoholic beverages on election days.

Licenses shall permit the sale of alcoholic beverages on the day of the national, state or county elections, including any primary or special election, within the political area in which the election is being held; provided however, it shall be unlawful for any licensee to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within such polling place is established, on primary or election days during the hours commencing one (1) hour prior to the opening of the polls and ending one (1) hour after the closing of the polls.

**D. Failure to require ID.**

It shall be a violation of this Ordinance not to require and properly check identification to ensure an underage person is not sold, served, or have in his possession, alcoholic beverages while in a licensed establishment. "Identification" in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card.

**E. Underage Persons; Employment Restrictions.**

1. No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.
2. The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises provided such person has direct supervision, as provided for in this Ordinance.

**F. Underage Persons; Alcoholic Beverages Prohibitions.**

1. Except as otherwise authorized by law:
  - a. No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age;
  - b. No person under 21 years of age shall purchase, attempt to purchase, or knowingly possess any alcoholic beverage;
  - c. No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage;
  - d. No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age; or
  - e. No person under 21 years of age shall misrepresent his or her identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
2. The prohibitions contained in this section shall not apply with respect to the sale, purchase, or possession of alcoholic beverages for consumption:
  - a. For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or
  - b. At a religious ceremony.
3. The prohibition contained in this section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the

person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. "Proper identification" shall not include a birth certificate and shall not include any traffic citation and complaint form.

4. If such conduct is not otherwise prohibited pursuant to O.C.G.A. § 3-3-24, nothing contained in this section shall be construed to prohibit any person under 21 years of age from:
  - a. Dispensing, serving, selling, or handling alcoholic beverages as a part of employment in any licensed establishment;
  - b. Being employed in any establishment in which alcoholic beverages are manufactured; or
  - c. Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.
5. Testimony by any person under 21 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this section, shall not be used in any administrative or judicial proceedings brought against such testifying person under 21 years of age.
6. In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such alcoholic beverage to request to see and to be furnished with proper identification as provided for in this section in order to verify the age of such person; and the failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so knowingly.
7. Any licensee, or any person acting on behalf of such licensee, who upon requesting proper identification from a person attempting to purchase alcoholic beverages from such licensee pursuant to this section is tendered a driver's license which indicates that such driver's license is falsified, is not the driver's license of the person presenting it, or that such person is under the age of 21 years, the person to whom said license is tendered shall be authorized to either write down the name, address, and license number or to seize and retain such driver's license and in either event shall immediately thereafter summon a law enforcement officer who shall be authorized to seize the license either at the scene or at such time as the license can be located. The procedures and rules connected with the retention of such license by the officer shall be the same as those provided for the acceptance of a driver's license as bail on arrest for traffic offenses pursuant to O.C.G.A. § 17-6-11.

**G. Underage Persons; Purchase or Possession by Prohibited.**

1. It is unlawful for any person to keep or maintain a place wherein person under 21 years of age are allowed and permitted to come and purchase, drink or possess any alcoholic beverage.
2. It shall be the responsibility of the licensee to examine the identification of patrons to be certain that such patrons are of legal age. A Georgia driver's license, which is apparently valid upon its face, may be accepted by the licensee or his employee as evidence of age.

**H. Underage Persons; Minors Prohibited at Licensed Premises.**

No holder or employee of the holder of a license authorizing the sale of alcoholic beverages, shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment unless such minors are accompanied by a parent, legal guardian, or custodian; provided, however, that such minors shall be permitted in grocery stores or convenience stores where other products of a non-alcoholic nature are offered for sale to the public, and eating establishments and hotels as defined herein, without being accompanied by a parent, legal guardian, or custodian; and provided further, that this section shall not apply to minors who are employees under the terms of this Ordinance.

**I. Intoxicated persons; sales to prohibited.**

No alcoholic beverage shall be sold, bartered, exchanged, given, provided, or furnished to any person who is in a state of noticeable intoxication.

**J. Gambling prohibited.**

There shall be no gambling, betting, games of chance of any kind, punch- boards, slot machines, or the operation of any scheme for hazarding money or any other thing of value in any place, or any room adjoining the same, leased or controlled by a licensee. Any violation of this section shall be cause for suspension or revocation of a license.

**K. Advertising Restrictions.**

1. No outdoor advertising or signs with respect to the promotions of the sale of alcoholic beverages, or the prices of such beverages, shall be permitted on the exterior of any licensed premises or in the windows of any such establishment that may be view from outside.
2. No advertising of alcoholic beverages by flyer, coupons or newspaper is allowed.
3. Alcoholic beverages may not be priced on signs, menus or any place allowed by this Ordinance except as to single units or unbroken package quantities.

## **VIII. Additional Conditions for Package Sales of Wine and Malt Beverages**

### **A. Visual Obstructions Prohibited.**

No visual obstruction shall be erected to prevent a clear view into the licensed premises.

## **IX. Additional Conditions for Sales by the Drink for On-Premises Consumption**

### **A. Pouring Permit Required**

1. No person shall be employed to dispense, sell, serve, mix alcoholic beverages, or in any managerial position, by an establishment holding a license hereunder until such person has been fingerprinted and cleared by the Sheriff's Department and the person has obtained a pouring permit from the Development Services Department.
2. A pouring permit shall be issued for a period of one calendar year from the date of the original application. The pouring permit must be in the possession of the employee while the employee is working at the licensed establishment and must be available for inspection by members of the Development Services Department and Sheriff's Department.
3. No person shall be granted a pouring permit unless it appears to the satisfaction of the Sheriff or his designee, that such person has not been convicted or plead guilty or entered a plea of nolo contendere to 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 alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of five years of the date of conviction and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a County ordinance shall not, by itself, make a person ineligible for an alcohol pouring permit.
4. For purposes of this chapter, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which defendants who was allowed to avail themselves of the Georgia First Offender Act (O.C.G.A. title 42, ch. 8, art. 3, O.C.G.A. § 42-8-60 et seq.). Except; however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an

adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

5. No pouring permit shall be issued until such time as a signed application has been filed with the Development Services Department and upon paying a fee which shall be established by the Board and a search of the criminal record of the applicant is completed by the Sheriff's Department. Said application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the applicant, 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.
6. The Sheriff shall have a complete and exhaustive search made relative to any police record of the person fingerprinted. In the event there is no record of a violation of this Ordinance, the Sheriff shall forward this information to the Development Services Department for issuance of a pouring permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the Development Services Department shall notify the employer that this person is not eligible for employment, the cause of such denial and their right to appeal.
7. All pouring permits issued through administrative error or through an error in completion of a background investigation can be terminated by the County.
8. This section shall not be construed to include employees whose duties are limited solely to those of busboy, cook or dishwasher.
9. No licensee shall allow any employee required to hold a pouring permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
10. In the event that any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the pouring permit to the Development Services Department.
11. All pouring permits issued hereunder remain the property of the County and shall be produced for inspection upon the demand of any Code Enforcement Officer of the Development Services Department or any officer of the Sheriff's Department.
12. Separate pouring permits shall be required for each employee serving alcoholic beverages in more than one establishment.
13. No person shall be issued a permit if it is determined that the person knowingly and willfully falsified, concealed or covered up any material fact by any device, trick, or scheme while making application to the Development Services Department for a pouring permit under this section. Any person convicted of this offense shall be punished by a minimum fine of \$250.00.

## **B. Alcohol Awareness Servers**

1. Each licensed eating establishment is required to have a minimum of 75 percent, at all times, of servers to be certified as "alcohol awareness servers". Each server's certificate number will be posted in plain view to the public along with the license to operate the establishment. Each server shall carry a certification card at all times, and a copy of each server's certificate shall be kept on file at the eating establishment.
2. Each eating establishment will be granted a maximum of 60 days from receipt of license to allow time for servers to complete the training course and receive certification. The cost of this course will be the responsibility of the eating establishment.
3. Accepted course for this certification is "Training for Intervention Procedures for Servers of Alcohol (TIPS)." Any other program must be comparable, following the same guidelines, and approved by the Development Services Department.
4. Hearings on adverse actions.
  - a. No pouring permit shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.
  - b. The Development Services Department Director shall provide written notice to the applicant/employee of any decision to deny, suspend or revoke a pouring permit. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant/employee of the right to appeal under the provisions of this Ordinance. Any applicant/employee who is aggrieved or adversely affected by such a decision may have a review thereof by appeal to the Board. Such appeal shall be by written petition, filed in the office of the Clerk within 15 days after the final order or action of the Development Services Department Director.
  - c. A hearing shall be conducted on each appeal at the next regularly scheduled meeting of the Board, unless a continuance of such date is agreed to by the appellant and the County.
  - d. At said hearing, applicant/employee shall be allowed to present evidence to the Board to show cause why the pouring permit should not be denied, revoked or suspended, and if necessary, the Development Services Department shall be allowed to present evidence to the Board as to why the license should be denied. Strict evidentiary rules shall not apply to said hearing.
  - e. After said hearing, the Board shall provide written notice to applicant/employee of its decision. Such written notification shall set forth in reasonable detail the

reasons for such decision and shall notify either party of the right to appeal under the provisions of this Ordinance.

- f. The findings of the Board shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of Newton County.

**C. Outside Sales Areas.**

1. Alcoholic beverage sales can be made by a licensed consumption on premises establishment in a patio/open area type environment if the outside sales area has been approved by the Development Services Department.
2. The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.
3. The height of such structure shall be a minimum of four feet above ground level. It does not have to be solid nor does it have to 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.
4. The only exit from this type of area is to be 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.
5. In the event that a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the Department. Interior-type patio/open sales areas must also meet the requirements of the County's development code and fire codes.
6. Patio/open area seating shall not be considered for the minimum seating capacity.

**D. No outside consumption.**

1. It is prohibited for customers to leave the premises with open alcoholic beverages and it is the licensee's responsibility to ensure that no open beverages are sold and carried out.
2. It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

**E. No Package Sales.**

Licenseses to sell alcoholic beverages for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package.

**F. Adding to containers prohibited.**

No one shall add to or permit the adding to any alcoholic beverage or refill any alcoholic beverage container in any manner.

**G. Self-service in licensed establishments prohibited.**

1. Poured alcoholic beverages shall be transported from outlet by employees only.
2. It is prohibited for any person to bring in his own alcoholic beverage (brown bag) in any establishment either licensed or unlicensed to serve alcoholic beverages.
3. It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

**H. Solicitation prohibited.**

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

**I. Promotions and Sales.**

1. No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:
  - a. Offer or deliver any free alcoholic beverage to any person or group of persons;
  - b. Deliver more than one alcoholic beverage to one person at a time;
  - c. Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic

beverage during the same calendar week, except at private functions not open to the public;

- d. Sell, offer to sell or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not opened to the public;
  - e. Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public;
  - f. Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, by the pitcher, except to two or more persons at any one time;
  - g. Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week;
  - h. Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.
2. Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be effective for not less than one calendar week.
  3. No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
  4. No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, or to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
  5. It is the intent of this section to prohibit activities typically associated with promotions referred to as "happy hour" or similarly designated promotions.

**J. Restrictions on entertainment and attire.**

The following types of entertainment, attire and conduct are not permitted upon any premises licensed to sell, serve or dispense alcoholic beverages or upon any premises licensed under the business ordinances of the County in which alcoholic beverages are consumed, allowed or dispensed on the premises:

1. Cover charges in any form are prohibited except when collected to offset costs of entertainment provided for the period of time of the payor's presence on the premises.
2. Dance floors shall be no larger than necessary to accommodate the number of patrons reasonably served at one time according to the number of food service tables regularly maintained in the licensed premises.
3. No licensee shall permit any conduct prohibited by Title 3, Chapter 3, Article 3 of the Official Code of Georgia Annotated as the same may be now or hereafter amended. Licensee shall not hold, promote or allow any conduct, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any prohibited conduct.

## **X. Reporting and Audits**

### **A. Reporting Requirements for Eating Establishments.**

1. Each licensee for sale of alcoholic beverages for on-premises consumption operating as an eating establishment shall, as a condition of maintaining such license, file with the Development Services Department within thirty (30) days after the end of each calendar quarter:
  - a. A sworn statement on forms approved by the County of the licensee's retail sales during the preceding calendar quarter. Such statements shall reflect the licensee's total dollar sales amounts for the applicable calendar quarter, the total sales amounts for sales of malt beverages and wine, the total sales amounts for distilled spirits sold by the drink, and total dollar sales for prepared food items and all food items.
  - b. Certified copies of the licensee's state of Georgia Department of Revenue Sales and Use/Tax Monthly Reports as filed with Georgia Department of Revenue for each month during the applicable calendar quarter.
2. Each licensee for sale of alcoholic beverages for on-premises consumption operating as an eating establishment shall, as a condition of maintaining such license, file with the Development Services Department a sworn statement on forms approved the County of the licensee's employees. Such statements shall list all employees, with their home addresses and home telephone numbers, and a list of all "alcohol awareness servers" that are employed and a copy of the certificate for each "alcohol awareness server". The initial statement shall be submitted no later than sixty (60) days after receipt of the license and subsequent statements shall be submitted May 15 and November 15 of each year.
3. Any sale of a food or beverage containing any alcoholic beverage shall be deemed to be a sale solely of malt beverages, wine or distilled spirits as the case may be, and no such sale shall be included as food sales in the quarterly reports. The fact that the sale

of food during any calendar quarter meets or exceeds the requirements set forth in Paragraph IV.D. shall not be conclusive on the issue of whether the licensee is meeting the requirements of operating an eating establishment as herein defined; however, the failure of the food sales to meet the requirements set forth in Paragraph IV.D. shall be prima facie evidence that the principal business of the licensee is not that of serving food as required to meet the definition of an eating establishment.

3. Such quarterly statements shall be confidential in nature and shall not be open for public inspection except as may be required by Georgia law. Such forms shall be used solely by the County for determination of whether or not the licensee remains qualified to hold its retail license for sale of alcoholic beverages for on-premises consumption in accordance with the provisions of this Ordinance. Failure to timely file such statements shall be a violation of this Ordinance and a basis for the suspension or revocation of the license granted under this Ordinance. If, after appropriate notice and hearing, the judge of the magistrate court finds that a licensee's violation of this section is not willful and the licensee otherwise meets the requirements of an eating establishment as provided in this Ordinance, the judge shall have the option of imposing a probationary period on the licensee, not to exceed six months, and any further violations shall be a basis for revocation of such license.

#### **B. Audits.**

1. In the event the County deems it necessary to conduct an audit of the records and books of any licensee, the licensee shall be notified of the date, time and place of the audit. The County may designate another person to perform any audit authorized in this chapter. Licensee shall cooperate with said audit or forfeit any license(s) issued hereunder.
2. All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises:
  - a. Monthly income or operating statements;
  - b. Daily sales receipts showing distilled spirits, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees);
  - c. Daily cash register receipts such as Z tapes or guest tickets;
  - d. Monthly Georgia sales and use tax reports; and
  - e. Federal income tax return with all form 1099's;

## **XI. Violations and Penalties**

1. Any alleged violation of this Ordinance shall be tried in the Magistrate Court if no jury trial is demanded, otherwise trial shall be in the Superior Court of Newton County.
  2. Any person convicted of violating any provision of this Ordinance shall be punished by a fine of not less than \$300.00 for each offense and/or 30 days imprisonment, unless a different penalty is set out herein. The maximum fine shall be \$1,000.00 for each offense and 60 days imprisonment.
- B. In addition to the penalties set forth in this Paragraph, the license of any licensee convicted hereunder shall be subject to suspension or revocation as provided herein.

## **XII. Excise Taxes**

### **A. Malt beverages and wine.**

1. In addition to the malt beverage and wine retail license fees, there is hereby assessed an excise tax to be imposed upon and paid by the licensed wholesale dealer in malt beverages and wine based on sales, in the following amounts:
  - a. Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15.5 gallons and a proportionate tax at the same rate on all fractional parts of 15.5 gallons;
  - b. Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces;
  - c. On the first sale or use of wine by the package, a tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
2. The excise taxes provided for in this Section shall be paid by such dealer on or before the 10th day of the month following the calendar month in which the beverages are sold or disposed of within the County.
3. Each licensee responsible for the payment of the excise tax shall file a report itemizing for the preceding calendar month the exact quantities, by size and type of container, for the month sold within the County. The wholesaler shall remit to the County the taxes imposed by this section.

### **C. Distilled spirits per drink excise tax.**

1. 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 hereunder and such licensee shall remit the same to the Development Services Department on or before the 10th day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of alcoholic beverages 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 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 said 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 hereunder to keep and preserve suitable records of the sales taxable hereunder, and such other books or accounts as may be necessary to determine the amount of tax due; and it shall be the duty of every licensee to keep and preserve such records for a period of three years.

In the event the County deems it necessary to conduct an audit of the records and books of the licensee, it will notify the licensee of the date, time and place of the audit.