

Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE I. - IN GENERAL

Secs. 4-1—4-18. - Reserved.

ARTICLE II. - DISTILLED SPIRITS, WINE AND MALT BEVERAGES

Sec. 4-19. - Definitions.

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

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

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

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

Auditorium means a permanent building or hall used for concerts, speakers, plays and similar activities and that has a seating capacity in excess of 50 seats.

Board or Board of Commissioners means the Board of Commissioners of Jackson County, Georgia.

County shall mean the County of Jackson and when used in a geographical sense means the political subdivision of Jackson County outside the municipal limits of any city therein.

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

License means the authorization by the Board to engage in the package sale or sale for consumption on the premises of distilled spirits, wine, and malt beverages.

Licensed alcoholic beverage caterer means any holder of a class D license issued under this chapter who derives at least 50 percent of its annual gross sales from the sale of meals or food prepared on the premises of the caterer by the caterer and who otherwise qualifies with the provisions set forth in O.C.G.A. Title 3, Chapter 11.

Licensee, under this Article, means any entity which seeks to obtain the class of license, as defined in section 4-21, for the sale of distilled spirits, wine, or malt beverages must meet all of the following criteria:

- (1) Class A-1 or A-2.
 - a. Have a minimum of three full time employees;
 - b. Have a minimum of 15 paved off-street parking facilities;

- c. Have a building or space therein for the reasonable use of its customers which it owns, hires or leases;
- d. Have a minimum of 70 percent of the gross income of the licensee deriving from the sale of other retail merchandise or other similar sources relating directly to providing goods or services to those being served by the licensee's premises. The County reserves the right to analyze such income to determine if income is being allocated in a manner calculated to avoid the terms of this provision. Any prices for retail merchandise which is not a normal and reasonable charge shall be presumed to be an attempt to avoid the terms of this provision; and
- e. Have a minimum distance of 100 yards from any church building, government-owned treatment center, or school building, educational building, school grounds, or college campus, measured by a registered land surveyor in a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale to either:
 - 1. The front door of the building of a church or government-owned treatment center; or
 - 2. To the nearest property line of the real property being used for school or educational purposes.

(2) Class B-1 or B-2.

- a. Have a minimum of three full-time employees;
- b. Have a minimum of 50 paved off-street parking facilities;
- c. Have a building or space therein for the reasonable use of its guests which it owns, hires or leases;
- d. Have suitable kitchen and dining room space and equipment to serve meals or snacks for its guests;
- e. Have a minimum of 50 percent of the gross income of the licensee deriving from the sale of food stuffs, the use of its recreational facilities or other similar sources relating directly to providing goods or services to those being served by the licensee's premises. The County reserves the right to analyze such income to determine if income is being allocated in a manner calculated to avoid the terms of this provision. The term "food stuffs" shall not include mixers or any other component of a wine or malt beverage. Any price for foodstuff or services which is not a normal and reasonable charge shall be presumed to be an attempt to avoid the terms of this provision; and
- f. Have a minimum distance of 100 yards from any church building, government-owned treatment center, or school building, educational building, school grounds, or college campus, measured by a registered land surveyor in a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale to either:
 - 1. The front door of the building of a church or government-owned treatment center; or

2. To the nearest property line of the real property being used for school or educational purposes.

(3) Class C-1.

- a. Have a minimum of three full-time employees;
- b. Have a minimum of 50 paved off-street parking facilities;
- c. Have a building or space therein for the reasonable use of its guests which it owns, hires or leases;
- d. Have suitable kitchen and dining room space and equipment to serve meals or snacks for its guests;
- e. Have a minimum of 50 percent of the gross income of the licensee deriving from the sale of food stuffs, the use of its recreational facilities or other similar sources relating directly to providing goods or services to those being served by the licensee's premises. The County reserves the right to analyze such income to determine if income is being allocated in a manner calculated to avoid the terms of this provision. The term "food stuff" shall not include mixers or any other component of a distilled spirit, wine, or malt beverage. Any price for foodstuff or services which is not a normal and reasonable charge shall be presumed to be an attempt to avoid the terms of this provision; and
- f. Have a minimum distance of 100 yards from any church building or government-owned treatment center or 200 yards of any school building, educational building, school grounds, or college campus, measured by a registered land surveyor in a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale to either:
 1. The front door of the building of a church or government-owned treatment center; or
 2. To the nearest property line of the real property being used for school or educational purposes.

Malt beverage means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, hops or any other similar product or any combination of such products in water containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

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

Person means an individual, firm, partnership, cooperative, non-profit membership corporation, joint venture, association, company, corporation, 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 premises described in a license issued pursuant to this Article.

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, including, but not limited to, a passport, military identification card, driver's license, or identification card authorized under an Act to require the state department of public safety to issue identification cards to handicapped persons who do not have a motor vehicle driver's license. The term "proper identification" does not include a birth certificate.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six (6) days per week, with the exception of holidays, vacations and periods of redecorating, and the serving of those meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto.

Sale means selling or offering for sale alcoholic beverages to any member of the public.

Wholesale or wholesale dealer means any person who sells alcoholic beverages to wholesale dealers, to retail package dealers or to retail consumption dealers.

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruit, berries or grapes either by natural fermentation or 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.

Any term not defined herein shall have that definition established by the provisions of the Georgia Alcoholic Beverage Code (Title 3, O.C.G.A.).

Sec. 4-20. - Regulation of sales of distilled spirits, wine, and malt beverages.

It shall be unlawful for any person to sell or offer to sell any distilled spirits, wine, or malt beverages without first complying with the rules and regulations set out in this Article. Alcoholic beverages may be sold in the County only by a licensee who complies with the rules and regulations of this Article, and with the licensing, regulatory, and revenue requirements of the State of Georgia.

Sec. 4-21. - Licensing requirements.

No distilled spirits, wine, or malt beverages shall be sold except under a license granted by the Board, after notice and a public hearing as provided herein, or by the Public Development Department to a licensee. Application to sell distilled spirits, wine, or malt beverages as set out herein below shall be made on forms provided by the Board as follows:

- (1) All licensees.
 - a. For the remainder of the year 2009, applications will be considered anytime. For the remainder of the year 2012, Class F, Class G, Class H, Class I and Class J applications by existing license holders will be considered anytime. Any person holding an existing Class A, B, C, D or E license for 2012 who has not had a violation of the terms of said license(s) and this Article, and who has not had a change of ownership or corporate officer(s) who were the applicants on the current license, or supervisory personnel holding alcohol service training certificates as required by subsection 4-25(5) may make application for a Class F, G, H, I or J license without complying with subsection 4-21(1)c., (1)d., or (1)e., or section 4-25.
 - b. A license shall be valid only for the calendar year indicated thereon and no such license may be renewed. A licensee who desires to continue in business during the next or subsequent calendar year must make a new application for such year on or before November 1st of the preceding year.
 - c. Each licensee of the County shall display the license prominently at all times at the outlet for which the license is issued and must be presented to any law enforcement officer, code enforcement officer, or any duly authorized employee of the Public Development Department immediately upon request. A separate license must be issued for each outlet of sale and a separate application must be made for each outlet.
- (2) Class A-1. A Class A-1 license shall be required for the sale of wine by the package, not for consumption on the premises.
- (3) Class A-2. A Class A-2 license shall be required for the sale of malt beverages by the package, not for consumption on the premises.
- (4) Class B-1. A Class B-1 license shall be required for the sale of wine by the drink for consumption on the premises only.
- (5) Class B-2. A Class B-2 license shall be required for the sale of malt beverages by the drink for consumption on the premises only.
- (6) Class C-1. A Class C-1 license shall be required for the sale of distilled spirits by the drink for consumption on the premises only.
- (7) Class D-1. A Class D-1 license shall be required for the sale of wine by the drink, by a licensed caterer for consumption on the premises only.
- (8) Class D-2. A Class D-2 license shall be required for the sale of malt beverages by the drink, by a licensed caterer for consumption on the premises only.
- (9) Class D-3. A Class D-3 license shall be required for the sale of distilled spirits by the drink, by a licensed caterer for consumption on the premises only.
- (10) Class E-1. A Class E-1 license shall be required for the sale of wine at wholesale to other wholesale or retail dealers.
- (11) Class E-2. A Class E-2 license shall be required for the sale of malt beverages at wholesale to other wholesale dealers or retail dealers.

- (12) Class F-1. A Class F-1 license shall be required for the sale on Sunday of wine by the package, not for consumption on the premises.
- (13) Class F-2. A Class F-2 license shall be required for the sale on Sunday of malt beverages by the package, not for consumption on the premises.
- (14) Class G-1. A Class G-1 license shall be required for the sale on Sunday of wine by the drink for consumption on the premises only.
- (15) Class G-2. A Class G-2 license shall be required for the sale on Sunday of malt beverages by the drink for consumption on the premises only.
- (16) Class H-1. A Class H-1 license shall be required for the sale on Sunday of distilled spirits by the drink for consumption on the premises only.
- (17) Class I-1. A Class I-1 license shall be required for the sale on Sunday of wine by the drink by a licensed caterer for consumption on the premises only.
- (18) Class I-2. A Class I-2 license shall be required for the sale on Sunday of malt beverages by the drink, by a licensed caterer for consumption on the premises only.
- (19) Class I-3. A Class I-3 license shall be required for the sale on Sunday of distilled spirits by the drink, by a licensed caterer for consumption on the premises only.
- (20) Class J-1. A Class J-1 license shall be required for the sale on Sunday of wine at wholesale to other wholesale or retail dealers.
- (21) Class J-2. A Class J-2 license shall be required for the sale on Sunday of malt beverages at wholesale to other wholesale dealers or retail dealers.

Sec. 4-22. – Qualifications for Issuance of a License.

Any person who desires to obtain a license for the sale of alcoholic beverages under this Article must meet the minimum qualifications set forth in this section. If the applicant is a partnership, each partner must meet the qualifications of any individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a limited liability company (LLC), each member must meet the qualifications of any individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation having as its principal business the sale of alcoholic beverages, the majority stockholder and each principal officer of the corporation must meet the qualifications of any individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation having as its principal business an activity other than the sale of alcoholic beverages, the officer or employee of the corporation primarily responsible for the operation of the licensed premises must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a nonprofit tax exempt civic, patriotic, or social club or corporation which is organized and operated in the County as a mutual benefit membership group, such club or corporation may be licensed without reference to the financial interest qualifications of this section if no officer, director, trustee, manager, member, or stockholder therein can, in

any event, derive any financial gain from the sale of alcoholic beverages by such club or corporation. The individual being primarily responsible for the club or corporation's compliance with this section must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a private club, each member of its governing body must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. The specific qualifications are as follows:

- (1) No license shall be granted to an applicant under the following circumstances:
 - a. An applicant who has been convicted under any federal, state or local law of a felony.
 - b. An applicant who has been convicted under any federal, state or local law of a misdemeanor, within a five-year period immediately preceding application, involving alcoholic beverages, gambling, tax law violations or violations relating to the Georgia Controlled Substances Act, or a misdemeanor within a ten year period immediately preceding the application, involving moral turpitude.

For purposes of subparagraphs 4-22(1)(a) and (b) above, a "conviction" under this Article shall include any plea of guilty or admission of guilt and subsequent sentence under the First Offender Act of O.C.G.A. § 42-8-60, or any similar sentencing provision for first time offenders of any other state or of the United States. A plea of nolo contendere for any felony or misdemeanor of any state or of the United States, or any municipal ordinance, except traffic violations, or the forfeiture of a bond (except traffic offenses) when charged with a crime is also considered a conviction under this Article.

- c. An applicant who has been held in civil or criminal contempt by any federal, state or local court if such citation indicates to the Board of Commissioners that the applicant will not maintain the outlet for which he is seeking a license in conformity with federal, state or local laws, rules, and regulations.
- d. An applicant for a license who has been denied or has had revoked for cause within five years of the date of his/her application any license issued to him/her by Jackson County and/or any other city, county and/or state to sell alcoholic beverages.
- e. An applicant as determined by the Board of Commissioners, by reason of such applicant's business experience, financial standing, trade associations, personal associations, records of arrest, or reputation in any community in which he has resided, who is not likely to maintain the outlet for which he is seeking a license in conformity with federal, state, or local laws.
- f. A location not suitable in the judgement and discretion of the Board of Commissioners due to one or more of the following conditions: evidence of detrimental traffic conditions caused by insufficient parking or insufficient means of ingress and egress for vehicles to the establishment; evidence that the location or the type of structure would create difficulty in law enforcement supervision or cause law enforcement to respond to a substantial increase in complaints; or,

evidence that a license at the location would be detrimental to the property values in the surrounding area.

- g. A location and/or applicant that is not in compliance with any federal, state or local regulation, including but not limited to, a state certificate of occupancy state fire marshal certificate of approval, or payment of County taxes, fees or assessments. Regarding payment of County taxes, fees and assessments, this subsection shall only be applicable when it is within the power and authority of the applicant (either as the person obligated to pay such taxes, fees or assessments, or as an agent for or member, officer or principal of such person, or through contractual obligation with such person) to pay such taxes, fees or assessments
- (2) A license application may be denied to any applicant where it appears that the applicant would not have ownership, control and direction of the operation of the licensee, or where it appears that the applicant is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- (3) The Board, in its discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application or the location of the licensee. If in their judgment, circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstance may be grounds for denying the application.
- (4) All applicants for a Class B-1, Class B-2, or Class C-1 license must provide evidence that at least one person in the employ of the applicant, who is in a supervisory capacity and is on duty, has completed an alcohol service training course. Such course may be reviewed and approved by the Board.
- (5) The named licensee shall be active in the operation of the outlet and personally present on the premises sufficiently to ensure compliance with the provisions of this Article. If the owner of the outlet is a corporation, the corporation and its principal officers shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the owner of the outlet is a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the owner of the outlet is a limited liability company, each member shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the owner of the outlet is a nonprofit tax exempt civic, patriotic, or social club or a private club, the entity and its principal officers and/or governing body shall be responsible for the actions of the named licensee and the conduct of the licensed business.
- (6) No license shall be issued to any applicant unless the premises is in compliance with all Jackson County ordinances, including, without limitation, any ordinances dealing with building safety or zoning.
- (7) No Class A, B, C, F, G or H license shall be issued to any person unless the building in which distilled spirits, wine or malt beverages will be served has complete and detailed plans of said building and outside premises and are attached to the application. The completed building or the proposed building shall comply with ordinances of

Jackson County, regulations of the state revenue commissioner, and the laws of the State of Georgia.

- (8) Each building in which the distilled spirits, wine, or malt beverages will be served shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times, so as to reveal all of the outside of said building.
- (9) Each applicant for a license shall certify ownership of the building or certify that the applicant is leasing the building, provided that applicants may be required to furnish a complete copy of the lease for the premises, including any amendments, as determined in the sole discretion of the Director of the Public Development Director.
- (10) All premises for which a Class B-1, Class B-2, or Class C-1 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 their guests.
- (11) Any applicant for a license must show, to the satisfaction of the Board or Public Development Department, as applicable, financial responsibility. Financial statements must be provided upon request by the Board or the Director of the Public Development Department.

Sec. 4-23. - No assignment of license.

No license shall be transferable or assignable to any person or other location, and in the event that a licensed entity is sold or closed, it shall be the duty of the licensee to immediately surrender its license to the Board.

Sec. 4-24. - Separate license for each location.

A separate license shall be required for each location of the licensee where distilled spirits, wine, or malt beverages are to be sold.

Sec. 4-25. – Application Process.

(1) Any person desiring to sell alcoholic beverages by the drink or by the package shall make application to the County for the appropriate license on forms (whether paper or electronic) required by and filed with Jackson County. All applications shall be fully completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a partnership, then each partner shall sign the application in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a limited liability company, then each member shall sign the application in the presence of a notary public or other officer authorized to

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

All applications shall be accompanied by the following:

- a. Unless waived by the Director of the Public Development Department out of recognition of the absence of any school or church building in proximity to the outlet, the application for a Class A-1, A-2, B-1, B-2, C-1, E-1, or E-2 shall have attached a survey (dated no more than 180 days prior to submission of the application to the County), certified by a registered surveyor of this state, showing a scaled drawing of the premises, the location on the premises where the applicant desires to operate an alcoholic beverage outlet, and the distance in feet or yards measured in a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale to either:
 - 1) The front door of the building of a church or government-owned treatment center;
or
 - 2) To the nearest property line of the real property being used for school or educational purposes.
- b. As a prerequisite to the issuance of any license, the applicant shall submit a complete sets of fingerprints for all persons required to sign the application, taken by the Jackson County Sheriff's Office, to the Jackson County Public Development Department, along with appropriate fees. Upon receipt of the fingerprints and the appropriate fees, the Jackson County Public Development Department will transmit both sets of fingerprints and appropriate fees to the Georgia Bureau of Investigation ("GBI"). As provided by law, the GBI will compare the subject's fingerprints against its criminal file and (1) if no disqualifying conduct is found therein or (2) if necessary, submit the fingerprints to the Federal Bureau of Investigation ("FBI") for a comparison with nationwide records. The results of the FBI check will be returned to the GBI, which will disseminate the state and national results to the Jackson County Department of Public Development.

By filing such application, the applicant consents to Jackson County obtaining their criminal history record information from the Georgia Crime Information Center (“GCIC”) and the FBI.

- c. The application shall be accompanied by a certified or cashier’s check for the full amount of the license fee combined with an investigative fee of \$500.00 that may be paid with a credit or debit card. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded to the applicant. All other fees paid to the County which were submitted as part of the application, including, but not limited to the investigative fee and any employee application permit fee(s) shall be retained by the County.
- d. The Director of the Public Development Department may require any additional information and records he/she reasonable deems necessary. Failure to furnish such data shall automatically serve to dismiss the application. Any misstatement or concealment of fact in the application shall be grounds for denying a license or revoking an issued license, and shall make the applicant liable to prosecution for perjury under the laws of the State of Georgia.
- e. Each applicant shall certify that applicant has read and understands this Article and if the license is granted, each licensee shall maintain a copy of this Article on the premises and shall require each of the licensee’s employees to be familiar with this Article.

(2) Once an application, the accompanying documents described above, and the required investigative and license fees are filed with Jackson County Public Development Department, the Jackson County Department of Public Development shall render a fitness determination in compliance with Federal Public Law 92-544, and shall decide whether the applicant has been convicted of, or is under pending indictment, for the enumerated disqualifiers as set forth within this Article. If the criminal background check shows that the applicant meets the requirements set by this Article, the Director of the Public Development Department shall schedule the application for a hearing before the Board of Commissioners as set forth below. If the criminal background check shows that the applicant fails to meet the requirements set by this Article, or if the Director of the Public Development Department finds that the applicant fails to meet all other qualifications outlined by this Article, then the Director of the Public Development Department shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his/her right to appeal; said appeal to be before the Board of Commissioners in accordance with this Article. If an applicant desires to appeal a denial by the Director of the Public Development Department, the applicant must file a written request for an appeal hearing with the Director of the Public Development Department within five (5) business days of the date of the written notice informing the applicant of the denial by the Director of the Public Development Department. A person who has consented to the County for a criminal history based on fingerprinting record may request and receive a copy of the criminal history records report from the County at no additional charge. Should the person seek to amend or correct the record, he or she shall be responsible for contacting the GCIC as to Georgia records and/or the FBI concerning records from other jurisdictions maintained in its file.

(3) Regarding all new applications, including applications for previously licensed locations regarding which no license is currently in effect, if the criminal investigation report shows that the applicant meets the requirements set by this Article and the Director of the Public Development Department believes the applicant may meet all other qualifications of this Article, the Director of the Public Development Department shall schedule the application for a hearing at the next regularly scheduled public hearing agenda of the Board of Commissioners and a notice of each application shall be advertised in the legal organ of the County once a week for two weeks immediately preceding the meeting of the Board at which the application is to be acted upon. At least 15 days prior to the public hearing, the applicant shall post a sign or signs provided by the Public Development Department stating the date, time and place for the scheduled Board of Commissioners' public hearing, and the nature of the proposed license. One such sign shall be placed in a conspicuous location along each street frontage of the property for which the license has been requested. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property. At that meeting the applicant and any person opposed to said application has the right to present to the Board of Commissioners any information that the Board of Commissioners determines is relevant to the licensing decision. In making its determination on whether to approve or deny the application, the Board of Commissioners shall look to the qualifications set forth in this Article and consider the public interest and welfare. The Board shall have the sole discretion to grant or deny the application based on the information presented. A decision by the Board of Commissioners shall be made within thirty (30) days from the date of the Board of Commissioners' meeting, unless the decision is postponed for purposes of the Board obtaining additional information deemed necessary for consideration of the application. Notice of the decision by the Board of Commissioners shall be mailed to the applicant. In the event the application is denied, such written notification shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his/her right to appeal; said appeal to be in accordance with this Article.

(4) Regarding all applications for locations holding a license currently in effect, the Public Development Department shall review such applications and, upon determining that any such application conforms to the requirements of this chapter, issue the new license without the need for consideration by the Board of Commissioners.

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

(6) Upon approval by the Board of Commissioners or the Director of the Public Development Department of the application for a license, the Director of the Public Development Department shall issue a license in accordance with the approved application. If the applicant is an individual, the license shall be issued in the name of the individual. If the applicant is a corporation having as its principal business the sale of alcoholic beverages, the license shall be issued in the name of the corporation and in the name of the majority stockholder or a principal officer of the corporation. If the applicant is a corporation having as its principal business an activity other than the sale of alcoholic beverages, the license shall be issued in the name of the corporation and in the name of the officer or employee of the corporation primarily

responsible for the operation of the licensed premises. If the applicant is a partnership, the license shall be issued in the name of the partnership and in the name of one of the partners. If the applicant is a limited liability company, the license shall be issued in the name of the company and in the name of one of the members. If the applicant is a nonprofit tax exempt civic, patriotic, or social club or corporation which is organized and operated in the County as a mutual benefit membership group, the license shall be issued in the name of the club or corporation and in the name of the individual primarily responsible for the club or corporation's compliance with this chapter. If the applicant is a private club, the license shall be issued in the name of the private club and in the name of one of the members of the private club's governing body who shall be the named licensee. All licenses issued shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant submitting an application on or before July 1st, shall pay the full license fee without pro-ration. Any applicant submitting an application after July 1st, shall pay one half the annual license fee. License fees are not refundable once the license is granted by the County.

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

Sec. 4-26. - Sale and delivery off-premises.

No licensee holding a Class A, B, C, or D license shall sell or deliver any distilled spirits, wine, or malt beverage to any person except on the premises as described in the application.

Sec. 4-27. - Restricted sales times.

No licensee shall furnish, sell or offer for sale any distilled spirits, wine, or malt beverages at any of the following times:

- (1) On Sunday, except between the hours of 11:00 a.m. and 11:30 p.m. if the licensee has properly obtained a Class F, Class G, Class H, Class I or Class J license;
- (2) At any time in violation of a local ordinance, regulation or special order of the Board; or
- (3) On all days except Sunday, between midnight and 7:00 a.m. for Class A-1 and A-2, and between midnight and 12:00 p.m. for Class B-1, B-2, and C-1.

Sec. 4-28. - Minimum age of consumption exceptions.

Sale to persons under 21 years of age is prohibited. No licensee or employee of same shall knowingly furnish, sell or offer to sell any distilled spirits, wine, or malt beverages to a person under 21 years of age. This prohibition shall not apply with respect to the sale of distilled spirits, wine, or malt beverages to a person when such person has furnished proper identification showing that the person to whom the distilled spirits, wine, or malt beverages are being sold is 21 years of age or older.

Sec. 4-29. - Sale to intoxicated persons.

No licensee hereunder shall furnish, sell or offer to sell any distilled spirits, wine, or malt beverages to any person who is noticeably intoxicated.

Sec. 4-30. - Age of employees.

No licensee hereunder shall employ, require or permit a person under 18 years of age to sell packaged wine or malt beverage or take orders and serve any distilled spirits, wine, or malt beverages. No licensee hereunder shall employ, require, or permit a person under 21 years of age to bartend or pour any distilled spirits, wine, or malt beverages, or take orders for any distilled spirits, wine, or malt beverages.

Sec. 4-31. - Annual fee.

The annual fee for licenses shall be as follows:

- (1) Class A-1: \$500.00
- (2) Class A-2: \$500.00
- (3) Class B-1: \$500.00
- (4) Class B-2: \$500.00
- (5) Class C-1: \$2,000.00
- (6) Class D-1: \$500.00
- (7) Class D-2: \$500.00
- (8) Class D-3: \$2,000.00
- (9) Class E-1: \$1,000.00
- (10) Class E-2: \$1,000.00
- (11) Class F-1: \$100.00
- (12) Class F-2: \$100.00

- (13) Class G-1: \$100.00
- (14) Class G-2: \$100.00
- (15) Class H-1: \$100.00
- (16) Class I-1: \$100.00
- (17) Class I-2: \$100.00
- (18) Class I-3: \$100.00
- (19) Class J-1: \$100.00
- (20) Class J-2: \$100.00

and shall be paid prior to the issuance of any license. The annual fee shall accompany the application and shall be either in cash or a bank certified check and will be refunded if the license is not issued. Additionally, a nonrefundable investigative fee in the amount of the greater of the actual costs of the investigation or \$500.00 shall be charged. The amount of any fee set out hereunder may be changed upon resolution of the Board.

Sec. 4-32. - Restrictions related to certain classes.

(1) Requirements for licensed caterers.

- a. It shall be unlawful for any person to engage in, carry on, or conduct a sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function or to any location not licensed hereunder without first having obtained a caterer's license as provided herein.
- b. A licensed alcoholic beverage caterer may sell only that type of alcohol which is authorized by its alcoholic beverage license.
- c. Sunday sales. A Sunday sales license by the drink is required for Sunday sales of alcoholic beverages by a licensed alcoholic beverage caterer.
- d. A licensed alcoholic beverage caterer must comply with all local ordinances except for section 4-26 of this Article.
- e. A licensed alcoholic beverage caterer must comply with O.C.G.A. § 3-11-3, Event Permits for Catered Functions.

(2) Wholesale licenses. Consumption on the premises of any alcoholic beverage of a wholesale dealer is prohibited.

(3) Excise taxes. In addition to all other taxes and license fees imposed upon retail dealers engaged in the County in the business of selling malt beverages and wines as defined under the laws of the state, there is an imposed levy among all dealers described in this section within the unincorporated area of the County an excise tax to be computed and collected as set forth in this section.

- a. The excise taxes on malt beverages and wine shall be that amount set forth in the schedule of excise taxes on file in the Board of Commissioner's office and the business office.

- b. Computation, payment. The tax imposed in the section shall be computable and payable monthly. Each wholesale dealer selling, shipping or delivering malt beverages or wine to any retail dealer in the unincorporated area of the County shall as a condition to the privilege of carrying on the business: (a) keep true and correct records of all sales, shipments, or deliveries of such alcoholic beverages to any retail dealer in the unincorporated area of the County for a period of one year, and such records are to be made available upon request from a duly authorized representative of the County (b) collect from each said retail dealer in the unincorporated area of the County at the time of delivery of the malt beverage or wine the amount of tax due under the terms of this section and to hold such amount in trust for the County until such amounts are remitted to the County as provided in this section.
- c. Except as provided in O.C.G.A. § 3-5-81 or other applicable state law, on or before the 20th day of each calendar month, make a verified, and comprehensive report to the County business license office which shall correctly show all sales and deliveries of malt beverages and wine to or for retail dealers in the unincorporated area of the County for the month preceding such report. Such report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer the amount collected under the terms of this section and such other information as may be called for by the County. This report shall be accompanied by remittance by the County for all taxes collected or due as shown on the report.
- d. Noncompliance by wholesale dealer. If any wholesale dealer fails to or refuses to make the report provided for in this section the County shall notify the party in writing, and if the reports are not made and the taxes remitted within five days from the date of the notice, the County may revoke the wholesale dealers license. In addition, such wholesale dealer may pay a late payment charge of ten percent per month for each month delinquency together with interest on the total amount due including the late payment fee equal to one percent per month.

Sec. 4-33. - Inspection.

The premises of the holder of a license for the sale of distilled spirits, wine, or malt beverages shall be open to inspection at any and all times during which the outlet is open for business by officers or officials authorized to conduct such inspections by the County, state or federal authorities.

Sec. 4-34. - False statements.

The making of any statement on an application for a license which shall be later found to be false shall constitute grounds for revocation of said license.

Sec. 4-35. - No gambling.

Except for the State of Georgia lottery, there shall be no gambling, betting, games of chance, punchboards, vending machines, slot machines, pinball machines, lotteries or tickets or chances therein or the operation of any schemes of hazarding money or any other thing of value in any licensee's place of business or in any room adjoining the same, owned, leased or controlled by licensee, and any violation of this section shall be cause for suspension or revocation of the license.

Sec. 4-36. - Grounds for suspension or revocation of license.

No person shall engage in the sale of distilled spirits, wine, or malt beverages in the County without first complying with the rules and requirements set out in this Article. Any license issued hereunder shall be subject to suspension or revocation upon any of the following grounds:

- (1) The making of any false statement either in or in connection with the application for a license issued hereunder, which shall be later found to be false;
- (2) All licenses issued hereunder are conditioned upon faithful compliance with the rules and regulations set out in this Article, and the laws and regulations of the United States and the State of Georgia and the ordinances of Jackson County;
- (3) 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;
- (4) Every license issued by the County for the sale of alcoholic beverages shall be immediately revoked in case of bankruptcy, receivership, levy of legal process, or failure to promptly account for and pay the excise tax levied on the sale of alcoholic beverages;
- (5) Suspension or revocation of any applicable state license shall automatically operate to suspend or revoke any license issued hereunder;
- (6) Failure to conform to the definition of a licensee; or
- (7) For any other legal and sufficient cause.

Any action taken by the Board to suspend or revoke a license issued hereunder, shall not preclude, and may be in addition to, any criminal prosecution by a proper authority as provided by the laws and ordinances of the County, the State of Georgia, or the United States. Whenever any action is taken by the Board to suspend or revoke any license issued hereunder, the Board shall provide written notice to the licensee of the action taken and state the reasons therefor. The licensee shall have 15 days following notification of such action to request an appeal hearing before the Board.

Sec. 4-37. - Hearing on Denial, Suspension, or Revocation.

- (1) Upon receipt of a timely appeal (accompanied by a fee of \$250.00 made payable to Jackson County, Georgia) of a denial of a license, upon presentation of evidence to the Director of the

Public Development Department of a violation of this Article, or upon a showing to the Director of the Public Development Department of any of the other occurrences set forth in this Article as grounds for suspension or revocation, the Director of the Public Development Department shall schedule a hearing before the Board of Commissioners or their appointee and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The Director shall also state in the written notice in reasonable detail basis for the denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the Director of the Public Development Department and the adverse party and/or counsel for the adverse party.

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

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

(4) At the conclusion of the hearing, the findings and conclusions of the Board of Commissioners shall be forwarded to the Director of the Public Development Department and it shall be the duty of the Director of the Public Development Department to provide written notification to the adverse party of the actions of the Board of Commissioners.

(5) The decision of the Board of Commissioners shall be final unless appealed to the Superior Court of Jackson County, Georgia, within thirty (30) days of the Director of the Public Development Department providing written notification to the adverse party of the Board's decision.

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

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

Sec. 4-38. - Repealer.

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Sec. 4-39. - Invalidity of part.

Should any sentence, section, subsection or provision of this Article be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Article as a whole nor any part thereof that is not specifically declared to be invalid or unconstitutional.

Sec. 4-40. - Excise taxes.

The County shall charge the maximum excise tax allowable, as amended from time to time by the provisions of the Georgia Alcoholic Beverage Code.

Sec. 4-41. - Penalties.

- (1) Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this Article shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than 60 days or by both such fine and imprisonment. Each violation of a section or subsection of this Article shall be considered a separate violation.
- (2) Any violation of this Article, excluding sales to underage persons, shall subject the licensee to the following progressive actions by the Board of Commissioners, except for those violations and occurrences set forth in Section 4-36 above that provide for immediate suspension or revocation upon notice and hearing;
 - a. The first violation shall result in a warning letter.
 - b. The second violation within a consecutive twenty-four month period shall result in license suspension for a period of not less than thirty (30) days nor more than ninety (90) days.
 - c. The third violation within a consecutive twenty-four month period shall result in a license suspension for a period of not less than ninety (90) days nor more than six (6) months.
- (3) Sales to underage persons shall subject the licensee to the following progressive actions by the Board of Commissioners, except for those violations and occurrences set forth in Section 4-36 above that provide for immediate suspension or revocation upon notice and hearing;
 - a. The first violation shall result in a warning letter to be placed in the file.
 - b. The second violation within a consecutive 24-month period shall result in a mandatory hearing before the Board of Commissioners, with a license suspension for a minimum period of between 7 and 60 days.

- c. The third violation within a consecutive 24-month period shall result in a mandatory hearing before the Board of Commissioners and revocation of the license absent a showing of mitigation circumstances deemed sufficient in the discretion of the Board of Commissioners to allow retention of the license.
- (4) Nothing contained in this subsection shall be construed to preclude the Board of Commissioners from suspending or revoking a license for a period exceeding those periods identified above or from revoking the license if the Board determines in its discretion that such action is necessary and in the best interest of the public health, safety, and welfare of the county.
- (5) In all cases, the mandatory suspension period may be mitigated by the Board of Commissioners upon presentation of evidence that the licensee established practices and procedures to prevent the violation from occurring and established procedures to properly train and supervise employees to prevent the violation from occurring.

Sec. 4-42. - Temporary permit for special events.

- (1) Upon the filing of an application and payment of a license fee of \$75.00 per day, up to a maximum of \$2,000.00, and after investigation by the Public Development Department, the Department may issue a permit to an individual or organization for the sale of alcoholic beverages for consumption on the premises only during a special event under the following conditions:
 - a. The applicant must already hold an annual license for the sale of alcoholic beverages for on-premises consumption.
 - b. The permit will allow sale of alcoholic beverages beyond the premises described in the annual license only in the area specifically described in the application and only during the special event named.
 - c. The application for such permit must have been filed with the Public Development Department at least 30 days prior to the date of the special event.
 - d. The hours of any such special event must be between 9:00 a.m. and 11:00 p.m. Monday through Saturday. Alcoholic beverages may be sold on Sundays pursuant to this Article between the hours of 12:30 p.m. and 11:30 p.m. in public stadiums, coliseums and auditoriums and restaurants.
- (2) A special event permit may be immediately revoked by the Public Development Department for a violation of this Article which results in an emergency situation in which continued operation of the premises by the licensee endangers the health, welfare or safety of the public.

Sec. 4-43. - Temporary permit for nonprofit civic organizations.

- (1) Upon filing an application and payment of a fee of \$50.00 and after review by the Public Development Department, the Department may issue a permit authorizing a bona fide nonprofit civic organization to sell alcoholic beverages for consumption on the premises only, for a period not to exceed one day, subject to any law regulating the time for selling such beverages.

- (2) Not more than two permits may be issued pursuant to this Article to an organization in any one calendar year.
- (3) Permits issued pursuant to this Article shall be valid only for the place specified in the permit.

Sec. 4-44. - Permits for special events.

Notwithstanding sections of this Article, the Public Development Department is authorized to issue permits for the drinking of alcoholic beverages in the unincorporated areas of Jackson County for special events, in the manner set forth below:

- (1) A person seeking issuance of a special events permit shall file an application with the Public Development Department on forms provided by the Department.
- (2) An application for a special events permit shall be filed with the Public Development Department not less than 30 days nor more than 90 days before the date on which it is proposed to conduct the special event.
- (3) The application for a special event permit shall set forth the following information:
 - a. The name, address and telephone number of the person seeking to conduct the special event;
 - b. If the special event is proposed to be conducted for, on behalf of or by an organization, the name, address, and telephone number of the headquarters of the organization, and of the authorized and responsible heads of this organization;
 - c. The name, address and telephone number of the person who will be the special event chairman of the event and who will be responsible for its conduct;
 - d. The date when the special event is to be conducted, and whether the special event will extend over a series of days;
 - e. The hours when the special event will start and terminate;
 - f. The estimated number of people who will attend the event;
 - g. If the special event is to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file with the Public Development Department a written authorization from the person proposing to hold the special event, authorizing the applicant to apply for the permit on the applicant's behalf; and
 - h. A reasonably detailed description of the event, together with all locations of which alcohol will be consumed;
 - i. Any additional information which the Public Development Department shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (4) The license fee shall be \$75.00 per day.
- (5) The Public Development Department shall issue a permit as provided for in this Article when, from a consideration of the application and from such other information as may otherwise be obtained, the Department finds that:
 - a. The conduct of the special event will not substantially interrupt the safe and orderly conduct of other patrons of the public places in which it will be held.
 - b. The special event will not divert or disrupt law enforcement protection.
 - c. The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.

- d. The applicants for permit have not violated the terms of any previous special event permit granted to them or any terms of this Article and have not caused undue traffic congestion and law enforcement problems under any previous special event permit.
- (6) The Public Development Department shall act upon the application for a special permit at the first meeting after the filing thereof. If the Department disapproves the application, the Department shall mail to the applicant, within 20 days after the date upon which the application was filed, a statement of the reasons for the denial of the permit.
- (7) Any person aggrieved shall have the right to appeal the denial of a special events permit to the Board of Commissioners. The appeal shall be filed within five days after notice of denial.
- (8) The County and County agencies and authorities are deemed to have special event permits for the consumption and retail sale of alcoholic beverages.