

ARTICLE I. IN GENERAL

Sec. 2-4-1. Definitions.

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

Alcoholic beverage means and includes all beer, malt beverage or wine.

Board of commissioners means the Board of Commissioners of Floyd County.

Distance means the measurement in feet from the point on that premises where malt beverages and/or wine is sought to be sold which is the centerline of the customer entry closest to the protected use along the shortest traveled route on applicant's property through the point of access for vehicles nearest the protected use to the center of the right-of-way and along the center of the right-of-way to the nearest property line of the protected use.

License means the authorization by the board of commissioners to engage in the sale or consumption on the premises of alcoholic beverages, and for the sale of alcoholic beverages for consumption off of the premises.

Licensee means a person holding any class of license issued under the terms of this chapter.

Malt beverage and *beer* mean any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six (6) percent alcohol by volume and including ale, porter, brown, stout, larger beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

Manager means the person in charge of the day-to-day operation of the business establishment for which an application is made under this chapter and whose primary place of employment is at the location for which the applicant's application is made.

Package means a bottle, can, keg, barrel or other original consumer container.

Park means any public lands or parking facilities for boat trailers and motor vehicles owned or controlled and operated by the county, the Rome-Floyd Parks and Recreation Authority, or any other governmental unit of the state in and upon which play facilities are provided for the recreation and enjoyment of the general public.

Private residence means a house or dwelling wherein not less than one (1) family customarily resides, but does not include any residence that has not been occupied for a period of six (6) consecutive months immediately prior to the filing of an application for license.

Protected use means private residences in a residential zoning district, churches, alcohol or drug treatment centers owned and operated by the state, any county or municipal government, daycare facilities, schools, college campuses, public libraries, branches of a public library, public parks, public housing, or public hospitals, as applicable.

Provisional license means a license that would be issued except for the building's not being completed at the time.

Retail sale means selling or offering for sale malt beverages or wine to any member of the public.

Retailer or retail dealer means any person who sells alcoholic beverages, either in unbroken packages or for consumption on the premises, at retail only to consumers and not for resale.

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

Wine means any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, 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 Code section.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2007-001A, § I, 1-23-07)

Sec. 2-4-2. Compliance with chapter required.

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any malt beverage or wine without first having complied with the provisions of this chapter.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-3. Applicability to territory outside municipalities only.

The terms and provisions of this chapter shall apply only to the unincorporated areas of the county.

(Ord. No. 2004-004A, § 1, 7-13-04)

Secs. 2-4-4—2-4-10. Reserved.

ARTICLE II. LICENSES

Sec. 2-4-11. Separate licenses; classification; fees.

- (a) A separate license is required as follows:
- (1) For the sale of malt beverages for consumption off the premises.
 - (2) For the sale of wine for consumption off the premises.
 - (3) For the sale of malt beverages for consumption on the premises.
 - (4) For the sale of wine for consumption on the premises.
 - (5) For the wholesale delivery of alcoholic beverages.
 - (6) For the sale of malt beverages for consumption on the premises on Sundays.
 - (7) For the sale of wine for consumption on the premises on Sundays.
- (b) The amount of the fee for each class of license shall be as set forth in the fee schedule book of the county as authorized by section 2-1-12 of this Code.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2013-001A, § I, 11-26-13)

Sec. 2-4-12. Application; filing; forms; contents; investigation report.

- (a) All businesses and individuals twenty-one (21) years of age or older desiring to obtain a license shall make written application to board of commissioners for such privilege, which application shall state:
- (1) The name and address of the applicant which shall also be the individual or business entity desiring to sell malt beverages and/or wine by virtue of a license issued by the county;
 - (2) The place where the proposed business is to be located;
 - (3) The name and address of the manager of the business establishment for which a license application is made;
 - (4) The nature and character of the business to be carried on;
 - (5) If a partnership, the names of the partners;
 - (6) If a corporation, the names of the officers and registered agent of the corporation;
 - (7) If a limited liability company, the names of all officers of the company and the registered agent of the limited liability company;
 - (8) Whether the applicant, if an individual, is a legal resident of the United States; and
 - (9) Such other information as may be required by the board of commissioners.

All information shall be sworn to by the applicant and must be accompanied by, in the case of an individual, a valid driver's license, birth certificate, permanent residence card, ("green card"), naturalization documents, valid passport, valid state identification card or work visa. Any false statement made by an applicant in the application or any false documents submitted in support of any statements made therein shall authorize the immediate denial or revocation of the license.

- (b) All nonresident individual applicants and nonresident applicants who are a corporation, limited liability company or partnership shall designate an officer, member, partner, manager, or employee, who shall be a resident of Floyd County, and who shall hold the license for the benefit of the applicant. The applicant may designate a successor license holder, who shall meet the requirements of this section, notifying in writing the clerk of the board of commissioners, and if the clerk of the board of commissioners finds that all requirements of this section have been met, a corrected license shall be issued showing such change. All licenses held by an individual for another, a corporation, limited liability company or partnership shall be deemed held for the benefit of the applicant, and shall not be the license of such individual.
- (c) All applications shall be accompanied by a certificate signed by the tax commissioner of the county or the tax commissioner's designee stating that all property taxes, both rent and personal, due the county by the applicant and the owner of the premises for which a license is being sought have been paid.
- (d) All applications shall be accompanied by a certificate from the county health department that water and other facilities meet health department standards. The burden shall be upon the applicant to obtain and submit at the time of filing the application such certificate, and where food is served in conjunction with the sale of alcoholic beverages for consumption on the premises, the food preparation facilities shall also be covered by the certificate.
- (1) Further, all applications shall be accompanied by a certificate from the Floyd County Tax Commissioner indicating that all real estate property taxes and/or any other taxes are currently paid.
- (e) All applicants shall furnish to the clerk of the board of commissioners all data, information and records requested of them by the board of commissioners or their authorized designee; and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve to dismiss, with prejudice, the application. The applicant, by filing an application, agrees to produce for the

purpose of answering questions any persons requested by the board of commissioners, its designee, or the county attorney, who are considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within thirty (30) days after being requested to do so shall result in the automatic dismissal with prejudice of such application. The clerk of the board of commissioners shall be an authorized designee of the board of commissioners with respect to the application process, the issuing of licenses, and the collection of fees.

- (f) Each applicant shall furnish a complete set of fingerprints, which shall be forwarded to the Georgia Bureau of Investigation, which shall search the files of the Georgia Crime Information Center for any instances of criminal activity during the two (2) years immediately preceding the date of such application. The Georgia Bureau of Investigation shall also submit such fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification records. The federal record, if any, shall be obtained and returned to the board of commissioners considering such application.
- (g) All applications for licenses shall be made to the clerk of the board of commissioners and shall be accompanied by a deposit equal to the amount of the license fee applicable to the license for which the applicant is applying. In the event the license is denied, one-half of the deposit shall be returned to the applicant (the remainder shall be retained for defraying some of the expense of the investigation required).
- (h) Promptly upon filing of each application with proper deposit and all required information, the clerk shall place the application on the agenda for a regular meeting of the board of commissioners that shall take place no later than thirty (30) days from the date the application was filed, unless extenuating circumstances exist preventing the completion of all investigations.
- (i) All applications for a license shall be investigated by the county police department to determine if the applicant is qualified to obtain the license and to determine whether any of the criteria for denying a license exists. The county police department shall attach a written report of the investigation to the application and return the same to the clerk of board of commissioners prior to the meeting at which the application is to be considered. The county police department's report will include information on the checklist furnished by the board of commissioners or its designee to the county police department. If the county police department shall be unable to complete its investigation and make its recommendation within the time prescribed, a written statement setting forth the reasons for the delay shall be attached to the application and delivered to the clerk. As soon as the reason for delay ceases to exist, the county police department shall give written notice to the clerk. Upon receiving such notice from the county police department, the clerk shall ensure all other requirements of this chapter have been met in order for the application to be heard by the board of commissioners and shall then place the application on the agenda of the next regularly scheduled meeting of the board of commissioners.
- (j) The clerk shall also circulate the application to the building inspector and fire marshal for their investigation and recommendation or approval. If a recommendation is delayed for any reason, the building inspector or fire marshal shall state the reasons in writing for the delay. As soon as the reason for the delay ceases to exist, the building inspector or fire marshal as applicable shall give written notice to the clerk. Upon receiving such notice from the building inspector or fire marshal, the clerk shall ensure all other requirements of this chapter have been met in order for the application to be heard by the board of commissioners and shall then place the application on the agenda of the next regularly scheduled meeting of the board of commissioners.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2008-002A, § I, 1-22-08; Ord. of 11-12-19(1))

Sec. 2-4-13. Advertising; filing.

- (a) For new license applications and not for renewals, the license applicant shall cause an ad to be placed in the local newspaper that has been designated as the legal paper for running legal ads for the county once a week

for two (2) consecutive weeks prior to the meeting of the board of commissioners to consider the application, which ad shall contain the following and be completed in full:

"Alcoholic beverage license application with Floyd County, Georgia. A license application before the Board of Commissioners of Floyd County shall be heard on the _____ day of _____, 20_____, unless deferred by the Board of Commissioners, to consider the application of _____ for a license for _____ at _____ address. The owners and managers of the business at said address are as follows: _____. All interested persons take notice. Any person objecting to the application in addition to being heard at the meeting may register his or her objection, either orally or in writing, to the Chief, Floyd County Police Department."

The ad shall be in the same size as usual legal notices run by the board of commissioners.

- (b) For new license applications, at least two (2) weeks before a license application is heard by the board of commissioners, a sign shall be placed at the location for which the license is applied on a metal or wooden post, which sign shall be provided by the county and shall measure not less than six (6) square feet which shall be in addition to the notice that is to be run in the local newspaper. The sign shall have printed on the front in bold letters the following words: "ALCOHOLIC BEVERAGE LICENSE APPLICATION PENDING," and shall also state the date, time and place the license application is scheduled to be heard. The sign shall face toward the public street, sidewalk or other public property that adjoins the location so as to be clearly legible by persons using such public area. The sign shall be provided by the county, but the costs associated with the sign shall be paid by the applicant along with the application fee.
- (c) The applicant before consideration will be given to his application shall file with the clerk of board of commissioners a copy of the advertisement, together with affidavits to the effect that the ad has been printed as required.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. of 5-8-18)

Sec. 2-4-14. Submitting plan; architectural standards; compliance with codes and zoning.

- (a) All new applicants for licenses and not renewals shall furnish a plat of the building and surrounding areas showing the lot the building is located on and the location of the building on the lot. The plat shall also show the parking areas and all entrances and exits to public streets or roads, the exact location of the business, including street address. Distance shall be measured in feet as set forth in section 2-4-1 and shown on the plat, except that the requirement of showing such distances shall not exist for any distance in excess of five hundred (500) feet, provided the plat shall so state. Each building located on the premises shall be in compliance with all fire, health, and similar state and county codes. The premises shall be subject to inspection and approval before the application is approved.
- (b) Each building in which the business is to be located shall contain sufficient lighting so the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all the outside premises of such building.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2007-001A, § I, 1-23-07)

Sec. 2-4-15. Consideration and guidelines for grant or denial.

- (a) The board of commissioners, in making its determination on an initial application, shall be guided by the following factors as to whether or not to grant a license under this article:
 - (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.

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- (2) The proximity of private residences in a residential zoning district, churches, alcohol or drug treatment centers owned and operated by the state, any county or municipal government, daycare facilities, schools, college campuses, public libraries, branches of a public library, public parks, public housing or public hospitals.
 - (3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
 - (4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
 - (5) The criminal record of the applicant and the manager listed in the application and the general good character and reputation and financial responsibility of the applicant and manager listed, provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.
 - (6) A report of the county police chief, the building inspector, and the fire marshal.
 - (7) The information required in the application or statement and whether all requirements as to notice, advertising, fire and health codes, building, zoning, parking, lighting, and legal matters have been met.
 - (8) Evidence presented to the board of commissioners for or against the application.
 - (9) Whether or not the granting of the application is in the interest of the county.
 - (10) Whether any license or sale of malt beverages or wine previously issued for the location has been revoked for cause by the board of commissioners.
 - (11) Whether the applicant holds or possesses any other licenses for the sale of alcohol issued by the county.
 - (12) The history or reputation of the building or establishment where licensee will operate with regard to prostitution or other sex offenses, fighting, shooting, stabbing or other violence, gambling, illegal dealing in alcoholic beverages or drugs, and other violations of the law.
 - (13) Even if there is compliance with the minimum distance from schools and churches, whether the type and number of schools or number of churches in the vicinity cause minors to frequent the immediate areas.
 - (14) Whether the location or type of structure is likely to create difficulty in law enforcement.
 - (15) Whether the license for the location would be detrimental to the property values in the area.
- (b) It shall be unlawful for the county to grant any license for the sale of malt beverages or wine or for the wholesale delivery of alcoholic beverages within the following areas of the county:
- (1) Within any residential zoning district.
 - (2) Within a distance, as defined in section 2-4-1, of two hundred fifty (250) feet of the nearest property line of a private residence, if such residence is located within a residential zone.
 - (3) Within a distance as defined in section 2-4-1, of three hundred (300) feet of the nearest property line of any churches, alcohol or drug treatment centers owned and operated by the state, any county or municipal government, daycare facilities, schools, college campuses, public libraries, branches of a public library, public parks, public housing or public hospital.
 - (4) Any existing building or establishment having a history of, or reputation for, prostitution or other sex offenses; fighting; shooting; stabbing; or other violence; gambling; illegal dealings in alcoholic beverages or drugs; or other violations of the law.

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- (c) Subsection 2-4-15(b) shall not apply to renewals, grandfather renewals or existing licenses.
- (d) *Prohibited persons or entities.* It shall be unlawful for the board of commissioners to grant a license for the sale of malt beverages or wine to:
- (1) A person or business entity who is not a resident of the county at the time of the filing of the application; provided that such prohibition as to residency in the county shall not apply where said person and/or business entity designates an officer, member, partner, manager, or employee who is a resident of Floyd County who shall hold the license for the benefit of the applicant.
 - (2) A person or business entity who is not of good character and reputation in the community in which he resides, or an operator, manager, clerk or other employee of an applicant who is not of good character and reputation in the community in which he resides.
 - (3) A person who is not a legal resident alien or a citizen of the United States.
 - (4) A person or business entity whose principals, officers, or managers have been convicted of a felony or a crime opposed to decency and morality, or who has been convicted of a crime involving a violation of the ordinances of the county relating to the use, sale, taxability or possession of malt beverages, wine, or intoxication liquors or he taxability thereof.
 - (5) A person or business entity whose license under this chapter has been revoked for cause or who has had a license under this chapter revoked for cause.
 - (6) A person who is under the age of twenty-one (21) or who is not of sound mind and memory.
 - (7) Any applicant where it appears that the applicant is intended to be a mere surrogate for a person who would not otherwise qualify for a license for a reason whatsoever.
- (e) All decisions of the board of commissioners either approving or denying a license application shall be stated in writing, and a copy of such statement shall be provided to the applicant either personally or by first-class mail to the business address shown on the applicant's license application.
- (f) If no action is taken on a license application, it shall be tabled and action deferred to the next regular meeting of the board of commissioners, provided that no application shall be tabled more than twice without good cause.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2007-001A, § I, 1-23-07; Ord. No. 2008-002A, § II, 1-22-08)

Sec. 2-4-16. Renewal; new licenses for consumption on the premises on Sunday to existing licensees; denial.

- (a) All licenses under this article shall be valid only for the calendar year indicated on the license, and no such license may be renewed except as provided in this section. A licensee who desires to continue the license for the next consecutive year must make a new application for the next consecutive calendar year on or before November 15 of each year on forms provided by the board of commissioners, the county manager, or the clerk of the board of commissioners or their designee. The license fee for the next consecutive calendar year shall be paid in full prior to the issuance of a new license. All current licensees who apply for a corresponding initial license for the sale of malt beverages for consumption on the premises on Sunday and/or the sale of wine for the consumption on the premises on Sunday shall complete a new application and shall pay the license fee established by the county.
- (b) All new license applicants who are not current licensees must comply with the requirements of section 2-4-12, except current licensees who apply for a corresponding initial license for the sale of malt beverages for consumption on the premises on Sunday and/or the sale of wine for consumption on the premises on

Sunday may comply with this section and shall not be required to comply with all of the requirements of section 2-4-12.

- (c) All applications authorized by this section shall be referred to the county police chief, the building inspector and the fire marshals who shall report on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year.
- (d) All licenses authorized by this section shall be approved or renewed by the county manager or his designee as a matter of course upon payment of appropriate fees and taxes, except as is set out in subsection (e).
- (e) If the county police chief, building inspector or fire marshal reports any activity which constitutes probable cause for not approving or renewing a license pursuant to this section or should the application be recommended for denial by the county manager, clerk or their designee, approval or renewal shall not be made and the matter shall be referred to the board of commissioners for its consideration. The board of commissioners in making its determination on an application for a current licensee who is applying for a corresponding initial license for the sale of malt beverages for consumption on the premises on Sunday and/or the sale of wine for consumption on the premises on Sunday shall make its decision pursuant to the criteria established in section 2-4-15. The board of commissioners shall afford the licensee seeking a renewal a public hearing where the licensee may present evidence and cross-examines witnesses and in passing upon the application for renewal, the board of commissioners shall be guided by the following factors applicable to an initial application:
 - (1) The criminal record of the applicant, its principals, officers or managers, and the manager listed in the application and the general good character and reputation and financial responsibility of the applicant and manager listed; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.
 - (2) A report of the county police chief, the building inspector, and the fire marshal.
 - (3) Evidence presented to the board of commissioners for or against the application.
 - (4) Whether or not the granting of the application is in the interest of the county.
 - (5) Whether any license or sale of malt beverages or wine previously issued for the location has been revoked for cause by the board of commissioners.
 - (6) The history or reputation of the building or establishment where licensee will operate with regard to prostitution or other sex offenses, fighting, shooting, stabbing or other violence, gambling, illegal dealing in alcoholic beverages or drugs, and other violations of the law.
 - (7) Whether the applicant holds or possesses any other license for the sale of alcohol issued by the county.
 - (8) Whether the applicant has violated any ordinance contained in this chapter.
- (f) At the public hearing, the board of commissioners may grant or deny for cause the renewal of any license issued under this article. If no action is taken by the board of commissioners, the matter shall be considered tabled and action deferred until the next regular meeting of the board of commissioners, provided that no application shall be tabled more than twice without good cause.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2013-001A, § II, 11-26-13; Ord. of 8-11-20(2), §§ 1—3)

Sec. 2-4-17. Suspension; renewal; revocation; probation.

- (a) The board of commissioners shall have the full power and authority to revoke, refuse to renew, suspend, or place on probation any license to sell malt beverages or wine for violation of this chapter, or the state or federal laws, or when continued operation of the licensed business is detrimental to the health, safety, or welfare of the public, provided that unless a state of emergency exists as set forth in subsection (b), the

licensee shall be afforded a public hearing before the alcohol control commission (the "ACC"), as provided for hereinafter, where the licensee may present evidence and cross-examine witnesses.

- (b) There shall be no summary seizure of licenses under this chapter unless there exists a state of emergency duly declared, and after any such seizure, a hearing shall be held as soon as practicable.
- (c) The approval of an application by the board of commissioners and/or the granting of a license by the board of commissioners may be suspended or revoked, after notice and hearing, if any change in the information supplied, or in the physical layout represented in the plat submitted occurs without the approval of the board of commissioners. An applicant anticipating any such change shall submit all details thereof to the board of commissioners.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2007-002A, § I, 4-10-07)

Sec. 2-4-18. Removing residence from county or otherwise becoming a prohibited person.

Any licensee who removes his residence from the county or otherwise becomes a "prohibited person" as defined in subsections 2-4-15(d)(1)—(7) shall, within three (3) days of the event, make the fact known to the board of commissioners or its designee and shall surrender his license upon demand by the board of commissioners in such case.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-19. Substantially same application not to be resubmitted or entertained within twelve months of previous application; deferral of action on application, the subject matter of which is being litigated.

- (a) No applicant under this chapter may submit and the board of commissioners shall not act upon an application which is substantially the same as an application submitted within the previous twelve (12) months unless directed by the board of commissioners.
- (b) The board of commissioners may defer action upon any application, the subject matter of which is substantially the same as the subject matter of litigation then pending in the state or federal courts, until such time as litigation is resolved.

(Ord. No. 2004-004A, § 1, 7-13-04)

Secs. 2-4-20, 2-4-21. Reserved.

Editor's note(s)—Ord. No. 2007-001A, § I, adopted Jan. 23, 2007, repealed §§ 2-4-20, 2-4-21 Editor's note(s)—, which pertained to distance to location of business and derived from Ord. No. 2004-004A, § 1, adopted July 13, 2004.

Sec. 2-4-22. Sale, possession or consumption in parks.

No malt beverages or wine shall be sold, possessed or consumed by any person at any public park.

(Ord. No. 2004-004A, § 1, 7-13-04)

Secs. 2-4-23—2-4-30. Reserved.

ARTICLE III. ENFORCEMENT

Sec. 2-4-31. Employment of minors prohibited.

- (a) No licensee shall employ any person in or about the premises where malt beverages or wine are sold, or offered for sale, to sell or deliver, or to aid or assist in the sale or delivery, directly or indirectly, of such beverages unless such person is twenty-one (21) years of age or older. It shall likewise be unlawful for any person under the age of twenty-one (21) years to sell, take orders for or deliver, or in any manner take part or assist in the sale, serving or delivery of such beverages.
- (b) The provisions of this section shall not prohibit persons under twenty-one (21) years of age who are employed in supermarkets, convenience stores or drugstores from handling malt beverages or wine sold for consumption off the premises.
- (c) The provisions of this section shall not prohibit persons under twenty-one (21) years of age from being employed in a restaurant that is applying for a license to sell malt beverages or wine provided the person under twenty-one (21) years of age is not involved in the dispensing, serving, selling or handling of alcoholic beverages.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-32. Consumption of alcoholic beverage by licensees or employees while on duty.

- (a) It shall be unlawful for the licensee or any employee of a licensee to consume any alcoholic beverage or any intoxicating beverage while on duty at the licensed premises, or to be on duty at the licensed premises in an intoxicated state.
- (b) For purposes of this section, any licensee or employee of a licensee who is on the licensed premises shall be presumed to be "on duty" if he is:
 - (1) Being paid any salary, wage, or remuneration of any kind for his services rendered during the time he is on the licensed premises.
 - (2) On the licensed premises for the benefit of or at the direction of the licensee or its management (other than as a customer, patron, or guest).
 - (3) Engaging in the sale, either directly or indirectly, of any food or beverage.
 - (4) Taking a break during periods of on-duty employment.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-33. Sale to minors, incompetents, those under the influence prohibited.

No licensee shall sell any malt beverage or wine to any person under the age prescribed as the minimum age by state law, or to any person in an intoxicated condition, or to any person known to such licensee or such licensee's employee to be a person habitually intoxicated, or to any person known to such licensee or licensee's employee to be on probation under an order of any state court or superior court; nor shall any licensee permit the consumption of such beverages on the licensee's premises by any person within the above restrictions.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-34. Purchase, consumption or possession by or for minors.

- (a) It shall be unlawful for any minor to purchase, drink or possess any alcoholic beverage.
- (b) It shall be unlawful for any person to keep or maintain a place where minors knowingly are allowed and permitted to come and purchase, drink or possess any alcoholic beverage.
- (c) It shall be unlawful for any person to buy any alcoholic beverage and furnish the same to a minor for consumption.
- (d) It shall be the responsibility and duty of the licensee to examine the identification of customers and patrons to be certain that such customer or patron is of legal age. For the purpose of this section, "proper identification" means any document issued by a governmental agency containing a description of the person's date of birth, which includes but is not limited to a passport, military identification, drivers license, or identification card authorized under an act to require the department of public safety to issue identification cards to handicapped persons who do not have a motor vehicle drivers license.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-34.1. Magistrate court jurisdiction.

The Floyd County Magistrate Court, in accordance with O.C.G.A. § 15-10-260, is granted jurisdiction to try and dispose of violations of O.C.G.A. § 3-3-23.1, or sections 2-4-33 and 2-4-34 of this Code, pertaining to furnishing alcoholic beverages to, and purchase and possession of alcoholic beverages by, a person under twenty-one (21) years of age, if the offense occurs within the unincorporated area of Floyd County. Such prosecution may proceed by citation, summons, arrest, citation and arrest, by arrest warrant or by accusation of the county attorney, all as provided for under state law.

(Ord. No. 2010-003A, 10-26-10)

Sec. 2-4-35. Sanitation, good order and fire protection regulations; inspection.

- (a) All licensed premises shall be kept clean and in proper sanitary condition.
- (b) All premises licensed under this chapter shall conform at all times with all fire regulations of the state.
- (c) All premises licensed under this chapter shall be subject to inspection by employees of the county, by law enforcement officers, or by the fire marshal to determine that the provisions of this chapter are being complied with.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-36. Requirements for wholesalers generally.

All wholesalers shall be licensed under the provisions of this chapter and shall comply with this chapter before they can sell or deliver any alcoholic beverages to any establishment in the county. Delivery shall be made in a conveyance owned and operated by a wholesaler licensed as set out in this chapter and shall, at all times when deliveries are being made, be subject to inspection by any duly authorized authority of the county.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-37. Employment of persons with prior convictions.

No licensee shall employ in any premises for the sale of alcoholic beverages any person in any capacity whatsoever who has been convicted under any federal, state or local law for a criminal offense involving alcoholic beverages, gambling or tax violation or involving moral turpitude within ten years immediately prior to the application for employment. No licensee shall employ in any premises for the sale of malt beverages or wine any person who has been convicted of a felony.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-38. Storage of inventory.

All retail licensees shall store their alcoholic beverage inventory only on the location for which the license is issued. No retail licensee shall be permitted to enter into any type of arrangement whereby the alcoholic beverage inventory ordered by the licensee is stored by a licensed wholesaler.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-39. Gambling on the premises prohibited.

Except as otherwise authorized by state law, there shall be no gambling, bidding, games of chance, punchboards, slot machines, or the operation of any scheme for hazarding money or any other thing of value in any place of business licensed under this chapter, or in any room adjoining the same, or on any of the property contiguous to the licensed location.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-40. Incorporation of state revenue department regulations.

The state regulations relating to the sale and distribution of malt beverages and wines, as revised, are hereby incorporated and made a part of this section as if fully stated herein.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-41. License constitutes grant or privilege.

- (a) Licenses shall be a mere grant or privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this chapter and related laws, and other ordinances and resolutions of the county relating to such business.
- (b) Licenses shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled by the Board of Commissioners of Floyd County, and is subject to any future ordinances enacted by Floyd County."

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-42. Separate license for each place of business.

A person doing business at more than one place shall take out and pay for a separate license for each place of business.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-43. Display of licenses.

Licenses shall be displayed openly and permanently at all times on the premises for which a license was issued.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-44. Licensees to maintain a copy of this chapter; employees to be familiar with terms; responsibility of licensee for violations.

Each licensee shall keep a copy of this chapter in the licensed premises and shall instruct any person employed by the licensee with respect to the terms of this chapter, and it is the responsibility of the licensee that his agents and employees be familiar with all of the terms of this chapter. The licensee is responsible for any acts of his agents or employees in violation of this chapter.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-45. Completion of proposed license premises.

Where a building in which a retailer intends to operate under the provisions of this chapter is, at the time of the application for such license, not in existence, or not yet completed or renovated, a provisional license may be issued for such location provided the plans for the proposed building show clearly a compliance with all other provisions of this chapter. No sale shall be allowed in such establishment until it has been completed in accordance with the plans and specifications and is in conformity with all of the other provisions of this chapter.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-46. License periods.

- (a) Any new license issued prior to July 1 of any calendar year shall be effective for the remainder of the calendar year. A renewal license, regardless of when originally issued, shall be effective for the entire calendar year; and any new license issued on or after July 1 shall be effective for the remainder of that calendar year.
- (b) If the license is surrendered or revoked before the expiration of the calendar year, the holder shall not be entitled to receive any refund whatsoever.
- (c) Any new license issued before July 1 shall be subject to the full annual license fee without proration. Any new license issued on or after July 1 shall be subject to half the annual license fee without further proration.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-47. Nonrenewal of license; suspension; probation; revocation for due cause.

- (a) No license issued by the county to any retail dealer or wholesale dealer shall be suspended or revoked, subject to probation, or fail to be renewed except for due cause and after a hearing before the alcohol control commission (the "ACC") and upon written notice sent by certified mail or personal service to the holder of such license of the time, place and purpose of such hearing, and a statement of the charge upon

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which such hearing shall be held. Three (3) days' notice shall be deemed reasonable for a revocation, suspension or probation hearing, but shorter or longer periods of notice shall be authorized by the ACC as it may deem the circumstances to justify. Fifteen (15) days' notice shall be reasonable for a non-renewal hearing, but shorter or longer periods of notice shall be authorized as the board of commissioners may deem the circumstances to justify.

- (b) Due cause for suspension or revocation, probation or non-renewal of such license shall in addition to other criteria set forth in this chapter consist of the violation of any law or ordinance regulating such business or for violation of any state or federal law, or for violation of state regulations as promulgated by the state revenue department relating to malt beverages and wine.
- (c) The county police department shall notify in writing the clerk of board of commissioners or the county manager that a licensee is suspected of committing any action that would cause a license to be revoked or suspended.
- (d) The person so notified by the county police department shall notify the chairman of the ACC, who will have the authority to cause notice to be sent to the licensee that a hearing will be had on a date certain, which date shall be at least three (3) days of the date notice is received by the licensee, or a shorter period of time if in the discretion of the ACC circumstances exist that require a shorter hearing date.
- (e) On the date and time set for the hearing, evidence shall be submitted to the ACC regarding the charge against the licensee, and the licensee shall be permitted to cross examine witnesses. The licensee shall also be permitted to offer evidence in support of the licensee's case.
- (f) The chairman of the ACC shall conduct the hearing, and the county attorney shall represent the county at the hearing. The hearing will be informal, but general rules of evidence for the proper conduct of the hearing will apply.
- (g) After all of the evidence has been submitted, the ACC shall confer and consider the evidence. The ACC shall make known their decision in public by majority vote, which shall be reduced to writing and presented to the board of commissioners for consideration. The licensee shall be given a copy of such decision.
- (h) After considering the findings and conclusions of the ACC, the board of commissioners shall confer and make known their decision in public by majority vote. If the decision of the board of commissioners is to revoke the license, the county police department shall immediately take possession of the license and the licensee shall no longer be permitted to carry on the business for which the license was issued.
- (i) If the license is suspended or the licensee is placed on probation, the terms and conditions of the suspension or probation shall be specifically set forth in writing by the board of commissioners and the licensee shall comply with such conditions. The county police department shall make frequent inspections of the licensee to determine that the conditions of suspension or probation are being complied with.
- (j) A copy of the finding of the board of commissioners shall be forwarded to the state revenue commissioner.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2007-002A, § I, 4-10-07)

Sec. 2-4-48. Automatic revocation.

Whenever the state shall revoke any permit or license to manufacture or sell, at wholesale or retail, malt beverages, or wine the county license to deal in such products shall thereupon be automatically revoked without any action by the board of commissioners.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-49. Removal of signs; no fee returned.

- (a) When any license for selling beverages is revoked, all signs indicating that such beverage may be sold or purchased shall be removed from the place of business, both outside and inside. Upon receipt by the county police department of notice of such revocation, the county police department shall take the necessary steps to see that this section is enforced.
- (b) In the event of revocation by the board of commissioners, the licensee shall not be entitled to a return of the unearned license fee.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-50. Restrictions upon transfers; notification of change in interest.

- (a) No license shall be transferable to or assumable to any other person or location except upon prior approval of the board of commissioners subject to the following:
 - (1) Payment of ten (10) percent of the amount of the license fee.
 - (2) In case of the death of any person holding such a license or any interest therein, the same may, in the discretion of the board of commissioners, be transferred to the personal representative or the lawful heirs of the deceased person.
 - (3) Nothing in this section shall prohibit one (1) or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one (1) or more of the partners, who were partners at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership.
 - (4) Should a transfer of a location be approved, there shall be no pro rata return of any license fee and a new location shall be considered under, and meet the requirements of, a new license hereunder; however, where a transfer of an existing location is approved and there is no change in the ownership of the business, the license fee paid for the old location shall be applied to the new location.
- (b) Any holder of a license for the sale of malt beverages or wine shall make and immediately report to the clerk of board of commissioners or county manager any change in the interest or ownership of the business stated in the application for license.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-51. Alcohol control commission: establishment and composition.

- (a) There is hereby established an alcohol control commission (the "ACC"), which shall consist of the chairman of the Public Safety Committee of the Floyd County Board of Commissioners, who shall serve as chairman of the ACC, and four (4) citizens-at-large.
- (b) All citizen-members of the ACC shall be chosen and appointed by the county commission. All members shall serve terms, and occupy posts, as follows:
 - (1) *Post 1.* Chairman of the Public Safety Committee of the Floyd County Board of Commissioners, with term expiring upon the expiration of his term as county commissioner.
 - (2) *Post 2.* A citizen-at-large, serving a three-year term.
 - (3) *Post 3.* A citizen-at-large, serving a three-year term.

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- (4) *Post 4.* A citizen-at-large, serving a four-year term; provided, however, that said term shall be reduced to three (3) years following the completion of the initial four-year term.
 - (5) *Post 5.* A citizen-at-large, serving a four-year term. provided, however, that said term shall be reduced to three (3) years following the completion of the initial four-year term.
- (c) Each member shall serve his specified term and until his successor is appointed and qualified.
 - (d) In all actions by the ACC, all members of the ACC shall be eligible to vote. A quorum shall be no less than three (3) members of the ACC, and all decisions and judgments of the ACC shall be by simple majority of those members present.
- (Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-52. Staff and advisors.

- (a) The county clerk shall be the recorder and record keeper of the ACC and as such shall attend meetings, take minutes thereof, be responsible for all files and records, receive and process applications, and perform other such tasks as designated by the alcohol control commission. The county clerk may participate in all discussions of the alcohol control commission but has no voting power.
 - (b) The ACC shall have, as it requires, additional staff consisting of the county manager, county attorney, chief of police and all county employees available to it. These staff persons may participate in all discussions of the alcohol control commission but shall not have the power to vote.
- (Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-53. Powers and duties.

The ACC is hereby vested with the following powers and duties:

- (1) To recommend to the county commission modifications to the ordinances and policies of the county pertaining to the regulation, control and taxing of wine and malt beverages.
- (2) To hear complaints, suggestions and recommendations from the county manager, the county commission, police department, state officials, alcoholic beverage dealers and the public at large as to the operation of wine and malt beverage outlets within the county.
- (3) To promulgate rules and regulations governing procedures before it.
- (4) To investigate and hear reports and charges constituting probable cause to suspend or revoke licenses for the sale of wine and/or malt beverages, at wholesale and retail, by the package and by the drink. After such hearing, and considering all evidence presented, the ACC shall make a recommendation to the commission as to what penalty, if any, shall be assessed against an accused license holder or his employee. Such recommendation shall be advisory only and shall not be binding upon the commission. The ACC may consult, but shall not be bound by, the following penalty guidelines.

(Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-54. Offense of sale of alcohol to a minor.

- (1) First time offenders may receive a letter of warning which the county clerk shall place in the offender's file or up to a four-day suspension of their license to dispense malt beverages and/or wine.

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- (2) Second time offenders may receive up to a ten-day suspension of their license to dispense malt beverages and/or wine.
 - (3) Third time offenders may receive up to a thirty-day suspension of their license to dispense malt beverages and/or wine.
 - (4) Fourth time offenders may receive a thirty-day suspension of their license to dispense malt beverages and/or wine.
 - (5) Fifth and subsequent offenses may result in the revocation of the offender's license.
 - (6) An offense committed more than three (3) years subsequent to a prior offense may be considered a first offense for purposes of said penalty guidelines.

(Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-55. Offense of after hours sale of alcohol.

- (1) First time offenders may receive a letter of warning which the county clerk shall place in the offender's file or up to a four-day suspension of their license to dispense malt beverages and/or wine.
- (2) Second time offenders may receive up to a ten-day suspension of their license to dispense malt beverages and/or wine.
- (3) Third time offenders may receive up to a thirty-day suspension of their license to dispense malt beverages and/or wine.
- (4) Fourth and subsequent offenses may result in the revocation of the offender's license.
- (5) An offense committed more than three (3) years subsequent to a prior offense may be considered a first offense for purposes of said penalty guidelines.

(Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-56. Offense of Sunday sale of alcohol.

- (a) First time offenders may receive a letter of warning which the county clerk shall place in the offender's file or up to a four-day suspension of their license to dispense malt beverages and/or wine.
- (b) Second and subsequent offenders may receive up to a ten-day suspension of their license to dispense malt beverages and/or wine or a permanent suspension of their license to dispense malt beverages and/or wine.
- (c) An offense committed more than three (3) years subsequent to a prior offense may be considered a first offense for purposes of said penalty guidelines.

(Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-57. Offense of after hours consumption of alcohol.

- (a) First time offenders may receive a letter of warning which the county clerk shall place in the offender's file or up to a four-day suspension of their license to dispense malt beverages and/or wine.
- (b) Second time offenders may receive up to a ten-day suspension of their license to dispense malt beverages and/or wine.

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- (c) Third time and subsequent offenders may receive up to a ten-day suspension of their license to dispense malt beverages and/or wine or a permanent suspension of their license to dispense malt beverages and/or wine.
 - (d) An offense committed more than three (3) years subsequent to a prior offense may be considered a first offense for purposes of said penalty guidelines.

(Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-58. Offense of consumption of alcohol by on duty employee.

- (a) First time offenders may receive a letter of warning which the county clerk shall place in the offender's file or up to a four-day suspension of their license to dispense malt beverages and/or wine.
- (b) Second time offenders may receive up to a ten-day suspension of their license to dispense malt beverages and/or wine.
- (c) Third time offenders may receive up to a thirty-day suspension of their license to dispense malt beverages and/or wine.
- (d) Subsequent offenders may have their license revoked.
- (e) An offense committed more than three (3) years subsequent to a prior offense may be considered a first offense for purposes of said penalty guidelines.

(Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-59. Excessive or severe altercations on-premises.

- (a) First time offenders may receive a letter of warning which the county clerk shall place in the offender's file or up to a thirty-day suspension of their license to dispense malt beverages and/or wine.
- (b) Second and subsequent offenders may result in the revocation of the offender's license.
- (c) An offense committed more than three (3) years subsequent to a prior offense may be considered a first offense for purposes of said penalty guidelines.

(Ord. No. 2007-002A, § II, 4-10-07)

Sec. 2-4-60. Offense of failure to report management/license change.

- (a) Offender shall receive a letter of warning to correct the offender's application. Failure to correct within ten (10) days of the receipt of such letter of warning may result in the suspension of the offender's license until the matter is corrected.
- (b) An offense committed more than three (3) years subsequent to a prior offense may be considered a first offense for purposes of said penalty guidelines.

(Ord. No. 2007-002A, § II, 4-10-07)

ARTICLE IV. SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES

Sec. 2-4-61. For the sale of malt beverages or wine to be consumed off the premises.

- (a) A licensee under this article shall not allow any patron or customer to consume any alcoholic beverage in the building or on the business property.
- (b) The licensee shall not pour any alcoholic beverage into an open container, or allow the customer to pour any alcoholic beverage into an open container while on the premises.
- (c) The licensee shall allow no loitering inside or outside the building.
- (d) The licensee shall keep the building and grounds clean and free of trash and debris.
- (e) No drive-through windows shall be allowed for the sale of alcoholic beverages.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-62. Hours in which alcoholic beverages may be sold for consumption off the premises.

No sale of malt beverages or wine for consumption off the premises shall be allowed except Monday through Friday between the hours of 6:00 a.m. and 1:30 a.m. the following day, 6:00 a.m. and 12:00 midnight on Saturday, and 12:30 p.m. and 11:30 p.m. on Sunday, nor shall the sale of malt beverages or wine for consumption off the premises be allowed on Christmas and any other days prohibited by state law.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2013-001A, § III, 11-26-13)

Secs. 2-4-63—2-4-70. Reserved.

ARTICLE V. SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES

Sec. 2-4-71. For the sale of malt beverages or wine on the premises.

- (a) A licensee under this article shall not permit any fights, disturbances or activities that would be a nuisance to the neighborhood to take place on the premises.
- (b) The licensee shall not permit any weapons, guns, knives or clubs to be handled, displayed or used on the premises.
- (c) The licensee shall not permit:
 - (1) Any disturbance of the peace.
 - (2) Obscenity or any lewd, immoral or improper entertainment, conduct or practices.
 - (3) Any prostitutes to remain on the premises.
 - (4) Nude dancing.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-72. On the premises.

- (a) A licensee under this article shall provide adequate parking.
- (b) The licensee shall provide lighting as required in this chapter and provide sufficient lighting in the parking area so as to make the parking area visible by light at night.
- (c) The licensee shall keep the building clean and free of trash and debris.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-73. Condition of the building.

- (a) A licensee under this article shall provide toilet facilities for male and female customers, and those facilities shall be kept in a clean and sanitary condition.
- (b) If the licensed business has cooking facilities, the cooking facilities shall be kept in a clean and sanitary condition.
- (c) The premises shall be kept in compliance with all health codes and fire codes.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-74. Hours in which alcoholic beverages may be sold for consumption on-premises.

- (a) No sale of malt beverage or wine for consumption on the premises pursuant to subsections 2-4-11(3) and (4) shall be allowed except Monday through Friday between the hours of 10:00 a.m. and 1:30 a.m. the following day, and 10:00 a.m. to 12:00 midnight on Saturday.
- (b) No sale of malt beverage or wine for consumption on the premises on Sunday pursuant to subsections 2-4-11(6) and (7) shall be allowed except Sunday from 12:30 p.m. until 12:00 midnight.
- (c) All licensed premises must close their premises to the public and clear the premises of patrons within thirty (30) minutes after the time set by this section for the discontinuance of the sale of alcoholic beverages on the premises. Notwithstanding subsections (a) and (b) of this section, the sale of malt beverage or wine for consumption on the premises, pursuant to subsections 2-4-11(3), (4), (6) and (7) shall not be allowed on Christmas, or other days prohibited by state law.
- (d) The licensee and/or licensed establishment shall not sell or permit to be sold any distilled spirits inside the establishment and/or outside the establishment in Floyd County. This includes purchasing and/or obtaining distilled spirits through the establishment and selling the distilled spirits outside the establishment on the open market since the sale of distilled spirits is unlawful in Floyd County, Georgia.

(Ord. No. 2004-004A, § 1, 7-13-04; Ord. No. 2013-001A, § IV, 11-26-13; Ord. of 9-26-17)

Sec. 2-4-75. Licenses for Sunday sales.

- (a) Sunday sales of malt beverages on the premises and Sunday sales of wine on the premises will be permitted if a licensee under this article has a valid consumption on the premises license for Monday through Saturday for beer or wine as applicable to the application for Sunday sales, obtains the appropriate Sunday sales license as provided in section 2-4-11 and derives at least fifty (50) percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where

food is served or in any licensed establishment which derives at least fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging.

- (b) On or before the twentieth day of the month, the licensee of a license to sell malt beverages or wine for consumption on the premises on Sunday shall file with the Floyd County Clerk a gross income report of the outlet for the preceding month, certified by the licensee, which contains a percentage breakdown of the amount of alcohol sales of the outlet relative to the outlet's total gross income from the sale of food for the applicable month. Failure to file a timely report as provided herein, or the filing of a fraudulent report, shall constitute grounds for the suspension or revocation of the Sunday sales license issued by the county to the licensee.
- (c) Article V, sections 2-4-71 through 2-4-73 shall apply to all licenses issued pursuant to subsections 2-4-11(3), (4), (6) and (7).

(Ord. No. 2013-001A, § V, 11-26-13)

Secs. 2-4-76—2-4-80. Reserved.

ARTICLE VI. EXCISE TAXES

Sec. 2-4-81. Levy on malt beverages.

In addition to all other taxes or license fees imposed upon retail dealers engaged in the county in the business of selling malt beverages, as defined under the laws of the state, there is imposed and levied upon all such retail dealers within the unincorporated areas of the county an excise tax, to be computed and collected on the following basis:

- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of six dollars (\$6.00) on each container sold containing not more than fifteen and one-half (15½) gallons and a proportionate tax at the same rate on all fractional parts of fifteen and one-half (15½) gallons.
- (2) Where malt beverages are sold in bottles, cans or other containers except barrels or bulk containers, a tax of five cents (\$0.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-82. Levy on wine.

In addition to all other taxes or license fees imposed upon retail dealers engaged in the county in the business of selling naturally fermented wines, as defined under the laws of the state, there is imposed and levied upon all such retail dealers within the unincorporated areas of the county an excise tax to be computed and collected on the following basis: Twenty-two cents (\$0.22) per liter and a proportionate tax at the same rate on fractional parts of a liter.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-83. Payment of tax; records and reports; penalty.

The tax imposed in this article shall be computable and payable monthly by the licensed wholesale dealer. Each wholesale dealer or distributor selling, shipping or delivering malt beverages or wine to any retail dealer in any unincorporated areas of the county, whether delivered to the dealer's place of business for resale or not, shall, as a condition to the privilege of carrying on such business in the county:

- (1) Keep true and correct records of all sales, shipments or deliveries of such malt beverages and wine to each retail dealer, such records to be preserved for a period of one (1) year and to be made available on request for inspection by any duly authorized representative of the county.
- (2) Collect from each retail dealer at the time of delivery of the malt beverages and wine the amount of tax due under the terms of this article and hold the same in trust for the county until such amount is remitted to the county as next provided.
- (3) On or before the tenth day of the month following the calendar month in which the malt beverage or wine is sold by the wholesaler within the unincorporated area of the county, make a verified and comprehensive report to the board of commissioners or its designee, which report shall correctly show all sales and deliveries of malt beverages and wine made to or for retail dealers in the county for the month immediately preceding the report. The report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer by size and types of container, and the amount collected under the terms of this article and shall include copies of all sales invoices to each retail dealer, and such other information as may be called for by the board of commissioners. The report shall be accompanied by remittance to the county for all taxes collected or due as shown on the report. Failure of the wholesale dealer or distributor to remit the taxes required by this article would result in a penalty of ten (10) percent of the tax due, in addition to the tax due.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-84. Failure to make reports.

If any wholesale dealer or distributor fails or refuses to make the reports provided for in this article, the board of commissioners shall notify the party in writing; and if the reports are not made and the taxes remitted within five (5) days from the date of the notice, the board of commissioners may withdraw from the wholesale dealer or distributor the privilege of doing business in the county by revoking such dealer's license.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-85. Unpaid taxes.

It shall be a violation of this chapter for any person to sell at retail within the unincorporated areas of the county any malt beverages or wine on which the taxes required by this article have not been paid.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-86. Failure to collect taxes at delivery.

It shall be unlawful and a violation of this chapter for any wholesale dealer or distributor to deliver any malt beverages or wine to any retail dealer within the unincorporated areas of the county without collecting the taxes provided for in this article at the time of delivery.

(Ord. No. 2004-004A, § 1, 7-13-04)

Secs. 2-4-87—2-4-100. Reserved.

ARTICLE VII. ADULT ENTERTAINMENT PROHIBITION

Sec. 2-4-101. Findings; public purpose.

Based on the experience of other urban counties and municipalities, including but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Cobb County, Georgia; Richmond County, Georgia; Dalton and Whitfield County, Georgia; Carrollton, Georgia; Amarillo, Texas; and Ft. Lauderdale and Palm Beach, Florida, which experiences are relevant to the problems faced by the county, the board of commissioners takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within the country. Moreover, it is the finding of the board of commissioners that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "adult entertainment," begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcoholic beverages are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcoholic beverages are depression of property values in the surrounding neighborhood, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior hereinabove described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude conduct in establishments licensed to sell alcoholic beverages for consumption on the premises is in the public welfare; and it is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcoholic beverages and also allow and/or encourage nudity. To that end, this article is hereby adopted.

(Ord. No. 2004-004A, § 1, 7-13-04)

Sec. 2-4-102. Prohibited acts.

The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or dispense alcoholic beverages:

- (1) The employment or use of the services of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals.
- (2) Live entertainment where any person appears in the manner described in subsection (1) of this section or where such person performs acts of or acts that simulate any of the following:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act prohibited by law.
 - b. The touching, caressing or fondling of the breasts, buttocks, anus, vulva or genitals.
 - c. The displaying of the male or female pubic hair, anus, vulva or genitals.
- (3) The holding, promotion, sponsoring or allowing of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) above.

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(Ord. No. 2004-004A, § 1, 7-13-04)

Secs. 2-4-103—2-4-110. Reserved.

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