

**COUNTY OF DADE
STATE OF GEORGIA**

ORDINANCE NO. 04 – 06 – 17

AN ORDINANCE TO AMEND THE ALCOHOLIC BEVERAGE CONTROL ORDINANCE; TO PROVIDE FOR THE LICENSING OF OFF-SITE AND ON-SITE CONSUMPTION OF ALCOHOLIC BEVERAGES; TO PROVIDE FOR THE ADMINISTRATION OF LICENSING OF THE WHOLESALE AND RETAIL SALE OF ALCOHOLIC BEVERAGES; TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Board of Commissioners of Dade County, Georgia, (“Board of Commissioners”) is the county governing authority for Dade County;

WHEREAS, Official Code of Georgia Annotated (“O.C.G.A.”) § 36-1-20 authorizes county governing authorities to adopt such ordinances as may be necessary for the purposes of protecting and preserving the public health, safety, and welfare of its citizens;

WHEREAS, O.C.G.A. § 3-4-90 authorizes county governing authorities to issue licenses for the sale of distilled spirits by the drink for on premises consumption, conditioned upon the approval by referendum of a majority of the qualified voters in a referendum election to grant such authority;

WHEREAS, such a referendum was held on November 8, 2016, at which time a majority of Dade County voters (3655 votes or 59.38% in favor, to 2500 votes or 40.62% opposed) did vote in favor of granting authority to the Board of Commissioners to issue licenses for the sale of distilled spirits by the drink for on-premises consumption;

WHEREAS, the Board of Commissioners desires to amend the previous ordinance to reflect the will of the voters in the referendum by establishing such regulations to approve the licensing of the sale of distilled spirits by the drink for on-premises consumption;

WHEREAS, by previous ordinance (O-2-95, and subsequent amendments), the Board of Commissioners has established the Alcoholic Beverage Control Board to consider approval and administer the licensing of the sale of malt beverages and wine in Dade County;

WHEREAS, the Board of Commissioners desires to further amend the previous ordinance concerning the sale of malted beverages and wine by the drink for on-premises consumption, and for other related purposes;

WHEREAS, the Board of Commissioners deems the establishment of fair and comprehensive rules and regulations for the regulation of the

licensing and sale of alcoholic beverages as necessary to protect and preserve Dade County, including its schools, churches, and the general welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Dade County, Georgia, that Ordinance O-2-95 is hereby amended by deleting the same in its entirety and placing, in its stead, the following:

Section 1

Name of Ordinance; Definitions.

This ordinance shall be known as the Dade County Alcoholic Beverage Control Ordinance.

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

Alcohol Beverage Control Board means a five-member board established to investigate, grant, supervise, monitor, and enforce alcoholic beverage licenses as provided in this article.

Alcoholic beverages means and includes all distilled spirits, alcohol, malt beverage, wine or fortified wine.

Alcoholic beverages for consumption on the premises means all distilled spirits, alcohol, beer, malt beverage, wine, or fortified wine that are consumed on the premises, including bottles of beer or malt liquor and bottles of wine that are opened only for consumption on the premises, except for certain partially consumed bottles of wine in accordance with O.C.G.A. § 3-6-4 and this article.

Beer. See malt beverage.

Church means a tax exempt organization in a building including the main structure together with any auxiliary structures where persons regularly assemble for religious worship.

Convenience store means a small store or shop that sells, but is not limited to, such items as candy, ice cream, soft drinks, water, lottery tickets, tobacco products, newspapers, magazines, a selection of processed foods, sandwiches, a few items of groceries, ATM and money order services, as well as fuel, motor oils, etc., such as are typical in Dade County.

County means Dade County, Georgia.

County clerk means the official certified county clerk, or other duly designated person appointed by the governing authority to handle certain county clerk duties.

Distilled spirits means any alcoholic beverage obtained by distillation or any alcoholic beverage containing more than 24 percent alcohol by volume (or any other such percentage that may be determined by the laws of Georgia).

Eating establishment means any public place, including a place available for rental by the public, with seating for 60 or more persons, or other number as specified in this article, selling prepared food for consumption by the public on the premises, with a full-service kitchen which must be approved by the health and fire departments, and sanitary restroom facilities.

Fuel means any petroleum product including but not limited to, gasoline, diesel, kerosene, ethanol and propane.

Governing authority means the Board of Commissioners of Dade County or its duly appointed designee.

Grocery store means a store established primarily for the retailing of food. This term includes large grocery stores, such as supermarkets, that also stock products other than food, such as paper goods, cleaning supplies and household items in addition to food items.

Licensee means a person, as defined herein, holding any class of license issued under this article.

Malt beverage (commonly referred to as beer) means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer, as well as hard cider containing not more than six percent alcohol by volume. The term does not include sake, known as Japanese rice wine.

Nonprofit organization means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. §§ 501(c), 501(d), 501(e).

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

Person or entity means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, limited liability company, agency, syndicate, estate, trust, business trust, receiver, fiduciary, sole proprietorship, or other group or combination acting as a unit, whether such entity operates for profit or nonprofit.

Premises means the entire building, including patios, porches and decks. In some instances, where indicated, premises may also include the entrance area, parking lot and the entire lot or parcel wherein the licensed establishment is located.

Registered agent means a resident of the county designated to receive all communications, notices, service of process or other papers or documents with respect to any alcohol license and who will be responsible for any matters relating to the alcohol license.

Retail consumption dealer means any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.

Retail package dealer means any convenience store or grocery store which offers for the retail package sale of beer, malt beverages or wine, or any combination thereof, by unbroken packages in sealed containers to consumers at retail only and not for resale.

Wholesaler or wholesale dealer means an entity that sells alcoholic beverages to other wholesale dealers, retail package dealers, or retail consumption dealers.

Wine means any alcoholic beverage containing not more than 24 percent alcohol by volume (or any other such percentage that may be determined by the laws of Georgia) made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, flavored malt beverages, and like products.

Section 2

Applicability of ordinance.

- (a) It shall be unlawful for any person to sell, to offer for sale, or to provide to the general public, at wholesale or retail any alcoholic beverages without having first complied with this ordinance.
- (b) It shall be the duty of each licensee to maintain and prominently display a copy of any license obtained pursuant to this ordinance on the licensed premises and to instruct each employee as to the terms of this ordinance. The licensee and each employee shall at all times be familiar with this ordinance and any amendments thereto.
- (c) A licensee is charged with the responsibility for compliance with this article by its officers, agents, servants and employees. A licensee is responsible for acts in violation of this article committed by others, other than those listed in this article, if within the knowledge of the licensee.
- (d) All federal and state laws and regulations relating to the sale, manufacture, and distribution of distilled spirits, malt beverages and wine in Georgia, including all laws which may subsequently be enacted, are incorporated into and made a part of this ordinance as if fully set out herein. Any violation of such state or federal law or regulations shall be grounds for suspension or revocation of any license issued under this ordinance.

Section 3

Establishment of Alcoholic Beverage Control Board.

There is hereby established the Alcoholic Beverage Control Board comprised of five members, to be appointed by the Board of Commissioners. Each member so appointed by the Board of Commissioners shall serve at the pleasure of the Board of Commissioners and until the member's successor is duly appointed. The Board of Commissioners shall designate a member of the Alcoholic Beverage Control Board to serve as the chairperson thereof.

Any vacancies on the Alcoholic Beverage Control Board shall be filled by appointment by the Board of Commissioners. The Alcoholic Beverage Control Board shall appoint its own clerk. The Alcoholic Beverage Control Board members shall be appointed for terms of four years. Those board members currently serving at the time of the final adoption of this ordinance amendment shall continue to serve for the remainder of their current terms.

The Alcoholic Beverage Control Board shall be the designee of the Dade County Board of Commissioners to receive, investigate, and duly consider the applications for licenses, and to otherwise administer the terms of this ordinance. The Board of Commissioners shall establish powers, duties, rules and regulations governing the Alcoholic Beverage Control Board consistent with the provisions of this ordinance. The members of the Alcoholic Beverage Control Board shall be residents of Dade County for at least one year and shall be at least 21 years of age. A quorum required for all meetings shall be deemed to be a majority of the Board members then serving. Decisions shall be decided by a majority of those members present. The Alcoholic Beverage Control Board shall meet at such times as may be deemed necessary or appropriate, and meetings shall be open to the public except as may be expressly provided by the Georgia Open Meetings Law. The Alcoholic Beverage Control Board clerk shall serve as secretary, and shall make a full and complete record of proceedings consistent with the Georgia Open Meetings Law, and shall retain original applications and copies of all relevant documents.

Section 4

Sale in unincorporated area of county; license a privilege.

- (a) Alcoholic beverages for consumption on the premises may be sold in the unincorporated area of the county under licenses granted by the Alcoholic Beverage Control Board upon the terms and conditions provided in this section.
- (b) Malt beverages and wine for consumption off premises may be sold in the unincorporated area of the county by the package under licenses granted by the Alcoholic Beverage Control Board upon the terms and conditions provided in this section.
- (c) All licenses in this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this article and state and federal law.
- (d) All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to being revoked and annulled, and is subject to any further ordinances which may be enacted."

Section 5

Types of licenses to be issued.

Only the following alcoholic beverage licenses shall be issued under this article:

Class 1 - Malt beverages and wine for sale for off premises consumption;

Class 2 - Malt beverages and wine by the drink for consumption on the premises;

Class 3 - Distilled spirits by the drink for consumption on the premises;

Class 4 - Wholesale dealer licenses.

Section 6

General Requirements for Licenses.

- (a) Any holder of a license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. County licensees are required to be familiar with and to abide by all applicable state regulations and laws. All county licensees are required to obtain and maintain a county business license during the effective period of all licenses issued herein.
- (d) No alcoholic beverages shall be sold in the unincorporated areas of the county, except under a license issued pursuant to this article.
- (c) No outdoor signs, flyers or billboards shall be allowed anywhere in the unincorporated area of the county advertising or promoting the sale of alcoholic beverages, except for signs allowed pursuant to Georgia law regarding farm wineries and distilleries utilizing only Georgia-grown fruits and other agricultural products.
- (d) A licensee may display at the licensee's place of business unilluminated signs, using letters not larger than eight inches in height, flat against the outside of the building, below the roof line, bearing the words "liquor," "beer," "wine," "champagne," or any combination thereof, and "package store", together with the trade name of the retail dealer. In addition to such signs flat against the outside of the building, the retail dealer may display at a location on the tract of property upon which the business is located, but not affixed to the building, one unilluminated sign using letters not larger than eight inches in height bearing the words "package store" and the trade name of the retail dealer.
- (e) No person knowingly, directly or through another person, shall sell, furnish, or cause to be sold or furnish, or permit any person in such person's employ to sell, serve, or furnish any alcoholic beverage to any person under 21 years of age. Licensees and their agents and employees are responsible for checking proper identification to ensure that a purchaser is at least 21 years of age, and it shall be a violation of this article to reasonably fail to check such identification. For the purposes of this subsection, proper identification means any document issued by a governmental agency, which has a photograph of the person and indicates the person's date of

birth. These documents shall include, but not be limited to, a passport, military identification card, driver's license, or identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate and shall not include any traffic citation and complaint form.

- (f) No alcoholic beverages shall be sold to any person who is noticeably intoxicated, nor shall any noticeably intoxicated person be allowed to remain upon the premises of any licensee hereunder.
- (g) No alcoholic beverage license shall be issued to any person unless the building in which the business will be located shall comply with all county ordinances and state laws, regulations of the state revenue commissioner, and the state. All buildings shall be subject to inspection and approval by the County Code Enforcement Officer or its designee, prior to final approval of a license.
- (h) Each building in which a business will be located shall be complete and in good repair, constructed of permanent exterior materials, and be neat, clean and well maintained not only at the time of application, but continuously maintained at all times a premises is licensed, including all restrooms and sanitary facilities. In addition:
 - (1) Any exterior lighting shall be aimed at and around the premises including the parking lot and other outdoor areas so as to minimize any negative effects on neighboring properties.
 - (2) All parking areas must be maintained in good repair and in a neat and clean manner.
 - (3) Each business location shall front on a public access road, state, or county road, as provided in this ordinance.
- (i) Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building, or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application.
- (j) If the Alcoholic Beverage Control Board deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license(s) issued under this article.
- (k) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises or other office or headquarters located in Dade County:
 - (1) Monthly income or operating statements.
 - (2) Daily sales receipts showing liquor, beer, wine, food, fuel and other items sales separately, according to the type of license.
 - (3) Daily cash register receipts such as Z tapes or guest tickets.
 - (4) Monthly state sales and use tax reports.

- (5) Federal income tax return, with all Form 1099s.
 - (6) All invoices or other statements reflecting a record of alcohol purchases by the licensee.
 - (7) Electronic equivalents of records may be accepted, if needed, and if the county or Alcoholic Beverage Control Board agrees.
- (l) All licensed establishments shall submit to the county at least semi-annually, on or before January 30 and July 30 of each year, or as at such other times as requested, summaries of financial records showing compliance with the required percentage sales requirements as of January 1 and July 1 respectively, together with copies of back-up documentation, or the electronic equivalent if the Alcoholic Beverage Control Board agrees. It shall be the responsibility of the licensed establishments to timely submit the required reports.
 - (m) All licensed establishments shall be subject to such inspections as the Alcoholic Beverage Control Board, Dade County Code Enforcement Officer, or law enforcement, deems necessary and appropriate in order to ensure compliance with this article.
 - (n) Any person, including the licensee, who is engaged in selling, pouring, mixing, serving, or handling alcoholic beverages shall be at least 18 years of age and shall apply to the Alcoholic Beverage Control Board for an alcoholic beverage service permit. The Alcoholic Beverage Control Board shall require a photo ID and make such investigation as the Alcoholic Beverage Control Board may deem necessary as to the qualification of such person before issuing an alcoholic beverage service permit to that person. This subsection is not intended to apply to persons under 18 years of age who are employed in grocery stores from selling, stocking, or handling alcoholic beverages to be sold for consumption off premises.
 - (1) The County Code Enforcement Officer or the Alcoholic Beverage Control Board shall arrange an investigation that shall include a GCIC (computerized) search through both Georgia and also any state where an employee holds a current driver's license, as well as a search of the GBI, and the FBI data bases.
 - (2) Applicants for an alcoholic beverage service permit shall make themselves available for photographing, fingerprinting and such other investigating as may be required by the Alcoholic Beverage Control Board or the sheriff.
 - (3) Such person shall not have been convicted of any violation of the laws of this state or any other state or any federal laws relating to the sale of alcoholic beverages, controlled substances, weapons violations, or related offenses, or any offense involving moral turpitude within the past two years; and shall not have had revoked, for cause, such as a violation of regulations or improper operation, within two years before the date of application, any license or permit issued to the applicant by any state, county or municipality to sell pour, mix, or handle alcoholic beverages of any kind. Following any conviction of the above-listed offenses while employed, the employee and the licensee shall promptly notify the county. The Alcoholic Beverage Control Board may immediately revoke a permit and demand its surrender where the employee violates the provisions of this

article, or becomes one who adversely affects the public health, safety and welfare. It shall be unlawful for an employee whose permit has been revoked, and upon whom demand for surrender of a permit has been made, to refuse to so surrender, or to alter, conceal, deface or destroy the permit.

- (4) The alcoholic beverage service permit issued to any person who is at least 18 years of age but less than 21 years of age, shall have a distinguishing notice in color on the face of the permit indicating the age range of the employee and that the employee may not mix or pour alcoholic beverages nor be employed in any store that sells package malt beverages or wine unless there is also present a manager or person in charge who is at least 21 years old.
 - (5) The employee who has been issued an alcoholic beverage service permit must present the permit to employer who in turn must keep a copy on file so long as it employs the employee. The permit holder should display or wear the permit at all times while on duty. The permit is personal to the permit holder who shall have the right to keep it when changing jobs and may use it simultaneously when working two jobs requiring a permit. The permit shall be valid for up to three years from the date of issue.
 - (6) There is hereby created a temporary alcoholic beverage service permit, effective for up to 30 days, during which a new, probationary employee may work in a licensed establishment while complying with all requirements as to background checks, permit cards and training during that 30-day period. No employee holding a temporary permit may work alone and unsupervised in any licensed establishment. The licensee shall be held strictly accountable for such probationary employee's performance and actions while holding a temporary permit and violation by such employee of any of the requirements of this article shall subject the licensee to fines and other enforcement procedures, including suspension or revocation of a license, as might be the case for any other violation. The county clerk or Alcohol Beverages Control Board shall issue the temporary permit which shall carry the expiration date clearly displayed. There shall be no extensions of temporary permits.
- (o) No license shall be issued under this Ordinance to any person who is not lawfully present in the United States or, if such person is not an individual, where the individual making the application is not lawfully present in the United States. Further, no license shall be issued under this Ordinance to any person who has not executed a notarized E-Verify Affidavit and is not registered to use or is not using the Federal Work Authorization Program, as required by O.C.G.A. § 36-60-6.
 - (p) Use in any way of false, outdated or invalid documents or identification, or to fail to disclose requested or required information by any employee of a licensed establishment, shall be a violation of this article.
 - (q) No license shall be issued to any person owing taxes, fees, fines or other amount of money due the federal, state, or county under this article or any other statute or ordinance.

Section 7

Regulations for the sale of malt beverages and wine for off-premises consumption.

In addition to those regulations required of all licensees, the additional regulations pertaining to the sale of malt beverages and wine for off premises consumption shall be as follows:

- (a) No On-Premises Consumption. Persons holding a license to sell malt beverages and wine by the package shall be permitted to sell them only at retail and not for consumption on the premises. No one purchasing or obtaining malt beverages or wine by the package may open any package or container of malt beverages or wine anywhere on the premises, including but not limited to the parking lot of licensee.
- (b) Hours of Sale. No retail package dealer shall engage in the sale of malt beverages or wine except between the hours of 6:00 a.m. and 11:55 p.m., on weekdays and Saturdays, and shall not permit the sale of malt beverages or wine on Sundays, Christmas Day, or any other day on which state law prohibits such sale. All persons shall be off the premises of any retail package dealer by 11:55 p.m. on weekdays and Saturdays, except for those retail package dealers where the sale of groceries and other non-alcoholic items constitute at least 50 percent of their gross receipts annually.
- (c) Building Requirements. No license shall be granted to a retail package dealer under any provision or section of this article unless the front entrance to the retail package dealer outlet is clearly visible from a public street, road or highway. The front to such outlet shall have a minimum window at least three (3) feet by five (5) feet in height and width. Nothing shall be placed on or near such window so as to obstruct the view into the interior of the retail package outlet. Each retail outlet shall be lighted so that the interior of the store and outside premises are visible and fully lighted. There shall be no drive-up or drive-through sales of any malt beverages or wine by the package. Each retail package outlet shall be constructed with sufficient parking for all customers of the retail package outlet, so that no customers of the retail package outlet shall be required or permitted to park on public roads or rights of ways.
- (d) Distance and Location Requirements.

No license shall be issued for the sale of wine or malt beverages for off-premises consumption in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus. As used in this subsection, the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).;

No license shall be issued for the sale of wine or malt beverages for off-premises consumption in or within 100 yards of any alcoholic treatment center owned and operated by this state or any county or municipal government therein.

For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- (1) In a straight line from the front door of the structure from which Alcoholic Beverages are sold or offered for sale.
- (2) To the nearest property line of the real property being used for church, school, or educational purposes.

As to any location licensed in the future, if the distance requirements in this section are met at the time of application of any license, the subsequent opening and operation of a church or school within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

- (e) Restrictions on Advertising and Displays. An establishment issued a license under this article may not display malt beverages or wine outside of the building, or within 20 feet of any entrance door on the interior of the building.

Section 8

Regulations for the sale of malt beverages and wine for on premises consumption.

In addition to those general requirements for all licenses, the regulations pertaining to the sale of malt beverages and wine for on-premises consumption shall include, but not necessarily limited to, as follows:

- (a) On-Premises Consumption Only. Persons holding a license to sell malt beverages and wine for on-premises consumption shall not be permitted to sell any alcoholic beverage by the package or to allow anyone to take alcoholic beverages in any form away from the building premises, except in accordance with O.C.G.A. § 3-6-4 which provides that notwithstanding any other contrary provision of law, any restaurant licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises. A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container. If transported in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

- (b) Hours for Sale. Malt beverages and wine shall not be sold or served for consumption on the premises except between the hours of 11:00 a.m. until 11:55 p.m. Monday through Saturday, and excluding Christmas day. Exterior lights shall be extinguished within one hour after closing, except for limited lighting necessary for security for employees and clean-up crews remaining on the entire premises including the parking lot and entire parcel of land.
- (c) Eating establishments only. Subject to the provisions of Section 6(l), malt beverages and wine for on-premises consumption may be sold only in eating establishments regularly serving prepared food, with a full-service kitchen approved by the Dade County Health Department and Code Enforcement Officer. Malt beverages and wine may only be served to those customers who also are served food to be consumed within the eating establishment. Such eating establishments will regularly serve food every hour it is open and derive at least 60 percent of its gross receipts annually from the sale of prepared meals or food, and derive no more than 40 percent from the sale of alcoholic beverages.
- (d) Building Requirements. No license shall be granted for on-premises consumption unless the front entrance to the on-premises consumption outlet is clearly visible from a public street, road or highway. Eating establishments licensed to sell malt beverages and wine for consumption on the premises are required to have seating for food service of at least 60 patrons.

In addition to the general building requirements, all on-premises consumption establishments shall comply with the state minimum building codes, the Life Safety Code, the accessibility requirements of the Americans with Disabilities Act, and all applicable state and county health departments statutes, rules, and regulations. In addition, the building shall have access to a public sewer system, or such other septic system approved by the Dade County Health Department as being adequate for such eating establishment.

Patio or open area seating shall be permitted only as allowed by the Dade County Health Department and County Code Enforcement Officer, and further provided that the patio or open area seating is enclosed by some structure at least three and one half feet in height allowing for non-emergency ingress/egress only through the main licensed building.

- (e) Distance and Location Requirements.

No license shall be issued for the sale of wine or malt beverages for on-premises consumption in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus. As used in this subsection, the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).;

No license shall be issued for the sale of wine or malt beverages for off-premises consumption in or within 100 yards of any alcoholic treatment center owned and operated by this state or any county or municipal government therein.

In special recognition of the need to police and the difficulty in providing emergency services to remote areas of the county, no license shall be issued for the sale of wine or malt beverages for on-premises consumption except for locations immediately adjacent to State Highways or within two miles from an exit or entrance ramp to an interstate highway.

For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- (1) In a straight line from the front door of the structure from which Alcoholic Beverages are sold or offered for sale.
- (2) To the nearest property line of the real property being used for church, school, educational purposes, or interstate exit or entrance ramp.

As to any location licensed in the future, if the distance requirements in this section are met at the time of application of any license, the subsequent opening and operation of a church or school within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

- (f) Restrictions on Advertising and Displays. An establishment issued a license under this section may not display malt beverages or wine outside of the building, or within 20 feet of any entrance door on the interior of the building. The name, brand or type of alcoholic beverage served and the price per serving may be provided to customers on a regular printed food menu.
- (g) Minimum Ages of Employees. Subject to the provisions of Section 6(n), any person, including the licensee, who pours or mixes any alcoholic beverages must be at least 21 years old; and any person taking orders for, selling, or serving any alcoholic beverages in an eating establishment shall be at least 18 years old.
- (h) Brown-bagging not permitted. No licensee under this section shall permit anyone from consuming or bringing onto the premises of the licensee any alcoholic beverages not purchased from the licensee at this retail consumption outlet.

Section 9

Regulations for the sale of distilled spirits for on-premises consumption.

In addition to those general requirements for all licenses, the regulations pertaining to the sale of distilled spirits for on-premises consumption shall include, but not necessarily limited to, as follows:

- (a) On-Premises Consumption Only. Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or to allow anyone to take distilled spirits in any form away from the building premises.
- (b) Hours for Sale. Distilled spirits shall not be sold or served for consumption on the premises except between the hours of 11:00 a.m. until 11:55 p.m. Monday through Saturday, and excluding Christmas day. Exterior lights shall be extinguished within one hour after closing, except for limited lighting necessary for security for employees and clean-up crews remaining on the entire premises including the parking lot and entire parcel of land.
- (c) Eating establishments only. Subject to the provisions of Section 6(l), distilled spirits for consumption on the premises may be sold only in eating establishments regularly serving prepared food, with a full-service kitchen which must be approved by the County Health Department and County Code Enforcement Officer. Alcoholic beverages may only be served to those customers who are served food that is consumed within the eating establishment. Such eating establishment will regularly serve food every hour it is open and derive at least 60 percent of its gross receipts annually from the sale of prepared meals or food, and derive no more than 40 percent from the sale of alcoholic beverages.
- (d) Building Requirements. No license shall be granted for on-premises consumption unless the front entrance to the retail consumption dealer is clearly visible from a public street, road or highway. Eating establishments licensed to sell alcohol for consumption on the premises, unless subject to an exception herein, are required to have seating for food service of at least 60 seats.

In addition to the general building requirements, all on-premises consumption establishments shall comply with the state minimum building codes, the Life Safety Code, the accessibility requirements of the Americans with Disabilities Act, and all applicable state and county Health Departments statutes, rules, and regulations. In addition, the building shall have access to a public sewer system, or such other septic system approved by the Dade County Health Department as being adequate for such eating establishment.

Patio or open area seating shall be permitted only as allowed by the Dade County Health Department and County Code Enforcement Officer, and further provided that the patio or open area seating is enclosed by some structure at least three and one half feet in height allowing for non-emergency ingress/egress only through the main licensed building.

(e) Distance and Location Requirements.

No license shall be issued for the sale of distilled spirits for on-premises consumption in or within 100 yards of any church, or within 200 yards of any school building, educational building, school grounds, or college campus.

As used in this subsection, the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).

No license shall be issued for the sale of distilled spirits for on-premises consumption in or within 100 yards of any alcoholic treatment center owned and operated by this state or any county or municipal government therein.

In special recognition of the need to police and the difficulty in providing emergency services to remote areas of the county, no license shall be issued for the sale of distilled spirits for on-premises consumption except for locations within two miles from an exit or entrance ramp to an interstate highway

For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- (1) In a straight line from the front door of the structure from which Alcoholic Beverages are sold or offered for sale.
- (2) To the nearest property line of the real property being used for church, school, educational purposes, or interstate exit or entrance ramp.

As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

- (f) Restrictions on Advertising and Displays. An establishment issued a license under this article may not display distilled spirits outside of the building, or within 20 feet of any entrance door on the interior of the building. The name, brand or type of alcoholic beverage served and the price per serving may be provided to customers on a regular printed food menu.
- (g) Minimum Ages of Employees. Subject to the provisions of Section 6(n), any person, including the licensee, who pours or mixes any alcoholic beverages must be at least 21 years old; and any person taking orders for, selling, or serving any alcoholic beverages in an eating establishment shall be at least 18 years old.
- (h) Brown-bagging not permitted. No licensee under this section shall permit anyone from consuming or bringing onto the premises of the licensee any alcoholic beverages not purchased from the licensee at this retail consumption outlet.

Section 10

Application and Administration of Licenses.

- (a) In determining whether or not any license applied for under this article shall be granted, in addition to all other provisions of this article, the following shall be considered by the Alcoholic Beverage Control Board in the public interest and welfare:
- (1) The applicant's reputation in the community, character, and known capacity to conduct business;
 - (2) Whether or not applicant has violated any law or regulation relating to any alcoholic beverage business for which he may have previously held a license or in which he may have had an interest within the past two years;
 - (3) Any manner in which the applicant conducted the alcoholic beverage business under any prior license;
 - (4) The extent of the financial interest of the applicant or any member of his or her family in any wholesale alcoholic beverage business, in that no person or family member who has any financial interest in any wholesale alcoholic beverage business in this or any other state or country shall also have any financial interest in any retail alcoholic beverage business, and no financial aid or assistance to any licensee under this article from any wholesaler, distributor, or manufacturer of alcoholic beverages shall be permitted; and
 - (5) The suitability of the premises for the conduct of an alcoholic beverage business, including its appearance, state of repair, maintenance standards, location, highway traffic problems and the difficulty or absence thereof of policing by law enforcement agencies;
- (b) No license shall be issued, under this article, to any person who is, in fact, a front for any person as an initial applicant or whose license has been revoked or previously denied by the governing authority for a period of at least two years, at the discretion of the alcohol board.
- (c) The amount of initial license fees shall be set initially and from time to time by resolution of the governing authority. Each application for a license under this article shall be accompanied by a check or cash for the full amount of the initial license fee, together with a separate check or cash for the license application, investigation, and administrative fees, and other fees which are charged to defray investigative and administrative costs (jointly "application fees").
- (1) If the applicant is denied a state license, the deposit representing the initial license fee shall be refunded, but the cost paid for the application fees shall be retained by the county.
 - (2) Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay an application fee of one-half the regular application fee, but shall pay a separate full initial license fee for each license.

- (3) When an applicant is making applications for more than one license at the same time, the applicant shall pay only one application fee of 125 percent of a normal application fee, but shall pay a separate full license fee for each license.
 - (4) There shall be an annual license fee for each license payable in advance for the entire year, beginning January 1 and ending December 31, of each year.
 - (5) Licenses shall expire on December 31st of each year and an application for renewal shall be made annually on or before the 1st day of November each year. Any licensee must continue to annually meet the requirements set forth in this article in order to obtain a renewal of any license. There shall be a grace period of 30 days in submitting and paying for a renewal application. Renewal applications received after November 30th shall incur a late fee of 20 percent of the renewal fee as a late charge penalty with no exceptions.
 - (6) The payment of all license fees in full shall be a prerequisite to the issuance of a license or a renewal unless otherwise provided by resolution of the governing authority.
 - (7) The suspension or revocation of any license granted pursuant to this article shall not entitle the licensee to a return of any portion of the license fees.
- (d) As a prerequisite to the issuance of a license, the applicant shall furnish a complete set of fingerprints to be forwarded to the Georgia Bureau of Investigation, which shall search the files of the state crime information center for any instance of criminal activity during the two years immediately preceding the date of the application. The Georgia Bureau of Investigation shall also submit the fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records. The federal record, if any, shall be obtained and returned to the office submitting the fingerprints. Fingerprints records which meet the requirements which were taken within one year of the application shall be deemed acceptable unless the Alcoholic Beverage Control Board requires more current fingerprints for any reason.
- (e) Any person or entity desiring to obtain an alcoholic beverage license as enumerated in this article, shall file with the initial application an affidavit affirming that prior to any sales or services of alcoholic beverages, all employees, managers, cashiers, and servers, or future employees, managers, cashiers, and servers will be trained in the regulations governing the sale of alcoholic beverages prior to being allowed to sell or serve, and that a copy of the policies and procedures for such sales and services be attached to the affidavit, which policies and procedures the employer shall prepare and promulgate to all employees, and which shall include adherence to this article.
- (f) Upon a license being granted, an affidavit signed by each employee, manager, server, cashier or other person handling the sale or service of alcoholic beverages in any way, including owners who work in any premises selling alcoholic beverages, shall be filed with the alcohol board, attesting that the person has received the required training, is familiar with this article, and has read and agrees to follow the written policies and procedures provided to each such person.

- (g) The intention of any person or business entity desiring to obtain an alcoholic beverage license as enumerated in this article shall advertise the intention to make application to the Alcoholic Beverage Control Board for the issuance of a license.
 - (1) Such advertisement shall be in such form as the governing authority may from time to time prescribe, and shall be published for at least two consecutive weeks in the newspaper which shall be the legal organ of the county.
 - (2) Such advertisement shall contain a statement showing the location and name of the proposed business, and the name of the applicant.
 - (3) The advertisement prescribed in this section shall not be required of applicants for licenses where the license sought is a renewal of a prior license issued to the same applicant for the same location.
 - (4) If the same location was previously licensed to do business, but there has been a change of ownership of the business or of other interest therein, the advertisement shall be required.
 - (5) If the business ownership and location have not changed but the individual licensee has changed the advertisement prescribed in this section shall not be required again.
- (h) A person doing business at more than one establishment shall take out and pay for a separate license for each place of business.
- (i) All applications by a corporation, an individual, or other business entity shall name in the application a registered agent who shall be an individual, a resident of the county at the time of serving in such capacity, and must undergo a background check to ensure that the person has not been convicted of a drug, alcohol, or gambling related offense, or any crime involving moral turpitude, within the past two years, and such persons shall be available during generally accepted regular business hours to receive all communications, notices, service of process or other papers or documents with respect to any license. Individuals named pursuant to this subsection will be designated to be responsible for any matters relating to the license and must remain bona fide residents of the county during all the time that such licenses and renewals thereof are in effect. The licensee shall file the name of the registered agent, along with the written consent of such agent, with the alcohol board. Residency shall be proved by two of the following three documents: a current utility bill; a current voter registration card; or a valid driver's license. The registered agent is not required to be an employee of the licensed business but if the registered agent is also an employee, then, as for all employees, the registered agent must have a valid employee alcohol permit and meet all other employee requirements, such as training.
- (j) Any establishment holding a license issued under this article shall at all times during the hours that the establishment is open to the public, be open to inspection by any law enforcement official, the County Code Enforcement Officer, the County Health Department, or any person designated by the Alcoholic Beverage Control Board or the governing authority.

- (k) Alcoholic beverage licenses issued under this article shall not be transferable or assignable to new owners, but where there is a change in the ownership of a business, the new owner or owners shall file an application for a new license within 30 days as provided by this article and shall pay a new initial license fee. Changes of business interests from one party at interest named in the original application to another party at interest named in the original application shall not be deemed a transfer of a license.
- (l) In an ongoing licensed business, when there is a withdrawal, abandonment or transfer of the holder of the alcoholic beverage license, the business shall notify the county in advance if possible or at the latest immediately at the time of the change in circumstances. The new proposed individual licensee must immediately complete an application and meet all of the requirements for a license including undergoing a background check. An application fee shall be required for processing this change. In the event a business fails to timely notify the county as required, or if a new licensee applicant fails to qualify in any way for a license, the previous alcohol license, if issued to an individual who is no longer employed by the business, shall be immediately revoked and the business shall not be eligible to sell any alcoholic beverages until it meets all of the requirements of this article and Georgia law.
- (m) In the case of the sudden withdrawal, abandonment or transfer of the holder of the alcoholic beverage license and upon proper and timely notification of this fact to the county, the alcoholic board may issue a temporary license to the successor in interest if such successor in interest has properly completed an application form and paid the appropriate fee. The Alcoholic Beverage Control Board must verify that the successor in interest meets the qualifications for licensure and that no ordinance violations exist. Such temporary license shall be valid for 60 days or until the application for a permanent license is granted or denied by the alcohol board. A temporary license may be issued if the denial of such would create an undue hardship or cause an existing business to close. The fee for a temporary license shall be set by the governing authority and is in addition to the regular application fee.
- (n) The application shall be in such form as shall be from time to time prescribed by the Alcoholic Beverage Control Board. The application form shall be obtained from the County Clerk and filed with the alcohol board. It shall be subscribed by the applicant under oath, and shall be fully and completely executed. There shall also be attached to the application all required fees in full.
- (o) When the advertisements required by this article have been published, the applicant shall obtain an affidavit of publication and shall attach the affidavit of publication to the written application for an alcoholic beverage license.
- (p) When the verified application, affidavit of publication, and payment of the application and license fees, are submitted, the Alcoholic Beverage Control Board shall have up to 45 days to investigate the application and the background of the applicant.
 - (1) The Alcoholic Beverage Control Board shall refer the application to the sheriff's office and the County Code Enforcement Officer for such investigations as are required.

- (2) The Alcoholic Beverage Control Board may seek the advice of the district attorney or the county attorney during its consideration of the application.
- (3) The Alcoholic Beverage Control Board shall cause an inquiry to be made into the county records to determine if the applicant, or other parties with an interest in an application for a license under this chapter, has any outstanding taxes or special assessments that are delinquent against other property or any other monies owing to the county, or if any taxes or assessments are owing on the property where the licensed establishment will be located. No license shall be issued or renewed until such debts are paid in full.
- (q) At the time and place that the license is to be considered by the Alcoholic Beverage Control Board, all of which meetings shall fully conform with the Georgia Open Meetings Law, the Alcoholic Beverage Control Board shall hear relevant evidence concerning the issuance of the license.
- (r) The applicant must appear in person and may be represented by an attorney. The applicant may also have witnesses appear on the applicant's behalf. The meeting may be continued for up to ten days if necessary for further investigation or clarification. At the conclusion of the evidence, and following deliberation in an open meeting, the Alcoholic Beverage Control Board shall make a decision regarding the approval or denial of the applicant's license.
- The hearing and subsequent decision shall occur as part of the agenda at a scheduled Alcoholic Beverage Control Board meeting or any continuances thereof or at a specially set called hearing.
- (s) Any material omission, or untrue or misleading information contained in or left out of an original, or renewal application for any license issued under this article shall be unlawful, shall be just cause for a denial thereof, and may be punishable as a violation of a county ordinance or may be brought before the Alcoholic Beverage Control Board as a civil violation. If any such license has previously been granted under the above circumstances, such material omission, or untrue or misleading information shall constitute cause for the revocation of the license.
- (t) Whenever there shall be a change in any of the facts reported to the Alcoholic Beverage Control Board in the application for a license under this article after such license has been granted, it shall be the duty of the licensee, within ten days after such change, to report the change to the Alcoholic Beverage Control Board in writing, except that if the change of facts is a substantial change that might affect the eligibility for an alcohol license, then such change in facts shall be reported within 24 hours by phone and immediately thereafter in person to Alcoholic Beverage Control Board.
- (u) In addition to the provisions of this article, a licensee is also charged with responsibility for strictly adhering to the Dade County Adult Entertainment Ordinance and any other provisions of the Dade County Code, as well as the statutes and laws of the state and of the United States relating to the operation of the licensed business.
- (v) Where a building in which any person intends to operate under the provisions of this chapter is not in existence or not yet completed at the time of the application for the license, a conditional license may be issued for the location provided the plans for

the proposed building show clearly a compliance with the other provisions of this chapter. No sales or consumption shall be allowed in the establishment until it has been completed in accordance with the plans and is in conformity with all of the other provisions of the Dade County Code of Ordinances and Georgia law. Notwithstanding the foregoing, any license issued under this chapter shall automatically be null and void where the licensed business has not begun operation or has not operated or been open to the public for four consecutive months.

- (w) All applicants for licenses (in the case of pending applications) and all licensees (in the case of issued licenses) shall forthwith report to the Alcoholic Beverage Control Board any allegations of a violation of any state law or regulation or local ordinance or regulation when such allegations are made by the state department of revenue, a law enforcement officer, tax commissioner or prosecuting attorney in this state which charges the applicant or the licensee, as the case may be, with the violation of any law or regulation which could or would, in the event of a finding of guilt, result in a suspension or revocation of such license or denial or an application for such license. Similarly, an applicant or a licensee shall report to the Alcoholic Beverage Control Board all findings of such violation by any administrative agency, the tax commissioner or county which under this article could or would result in revocation or suspension of a license. Failure to make reports required by this section shall itself be grounds for suspension or revocation of or the denial of any application for a license as the Alcoholic Beverage Control Board shall determine.
- (x) An applicant, by filing an application for an alcoholic beverage license, submits to all of the terms of this article, and agrees that the applicant will furnish such evidence, oral or written, as the Alcoholic Beverage Control Board shall find to be reasonably necessary to the determination of the application, and such applicant further agrees to continue to comply with the terms of this article.
- (y) All licenses issued under this article shall be subject to the rules and regulations set forth in an act of the General Assembly known as the Georgia Alcoholic Beverage Laws and Regulations 1986 Edition, as now or hereafter amended, to legalize and control alcoholic beverages, as now or hereafter amended, and those prescribed by the state department of revenue. Violation of these statutes shall be violations of this article.
- (z) Application for a retail license shall be made by and the license granted to the individual or partners primarily responsible for personally supervising and conducting the operation of the business at the address specified in the application. Such individual, or, if a partnership, the partners collectively, must be regularly present on the premises during at least one-third of the hours during which the business is open during at least two months of each quarter. Any person applying on behalf of a corporation must disclose the extent of his representative capacity and the names and addresses of the officers of the corporation. The applicant must furnish the names and addresses of the owners of the premises at which the business is to be conducted and the names and addresses of all persons, firms, or corporations who have a financial interest in the ownership of the business to be conducted. An application for a manufacturing license shall provide the information requested on the form.

Section 11

Special provisions for wholesalers.

- (a) No person or entity shall sell any alcoholic beverage at wholesale unless the person or entity holds a valid and current wholesale license from the State of Georgia and from the county where the principle place of business of the wholesaler is located.
- (b) A person or entity desiring to engage in the wholesale sale of alcoholic beverages in this county shall obtain a wholesaler license from the county and pay the license fees as set by separate resolution of the governing authority.
- (c) No person or entity that has any financial interest, either direct or indirect, in any license for the retail sale of any alcoholic beverages in the county or in any city within the county shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the State of Georgia.
- (d) Farm wineries and distilleries acting as wholesalers under the provisions of Georgia law, are exempt from this provision and may, upon proper application, approval, and permitting, hold licenses as on-premises, bulk, or package sales and wholesale operations in strict accordance with Georgia law.
- (e) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler other than licensed farm wineries shall sell any alcoholic beverage to any person other than a retailer licensed under this chapter; provided however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.
- (f) No alcoholic beverage shall be delivered to any retail sales outlet in the county except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.
- (g) Every retailer shall maintain sufficient audit records to attribute all alcoholic beverage items for sale to a purchase from a licensed wholesaler.
- (h) Licensed wholesalers shall only engage in the sale of alcoholic beverages during regular business hours of the retailer, Monday through Saturday, excluding Christmas day.

Section 12 **Enforcement.**

- (a) This article shall be enforced by the Alcohol Beverage Control Board, the Dade County Code Enforcement, and state and county law enforcement. Enforcement by the Alcoholic Beverage Control Board may result in additional civil fines and penalties beyond those assessed by any court.
- (b) The Alcoholic Beverage Control Board shall have the right to make such inquiry or investigation as it may find to be reasonably necessary to determine compliance with this article. Such investigation may consist, among other actions, of calling licensees for examination under oath, obtaining evidence under oath from other persons; their procurement of documents and records including records of the licensee, and inspection and examination of records and documents from whatever source obtainable.
- (c) The Alcoholic Beverage Control Board shall be authorized to suspend a license previously granted under this article. If the Alcoholic Beverage Control Board seeks to suspend a license, the Alcoholic Beverage Control Board shall give written notification to the applicant of such action and such notice shall contain the specifics of the violation or violations and shall be served upon the licensee at least ten days prior to a hearing. The licensee shall be given at least ten days' written notice of the time and place of the hearing.
- (d) The Alcoholic Beverage Control Board, if it finds cause, shall be authorized to suspend a license in the event of any one or more of the following:
 - (1) Any licensee gave false or misleading information in the original application process;
 - (2) Any licensee has knowingly allowed consumption, use, or sale of controlled substances, as defined under Georgia law, or contraband, or other illegal items on the premises, to include the entire owned parcel, by any adult or minor;
 - (3) Any licensee has knowingly allowed the violation of a county ordinance or a violation of any criminal law of the state to occur on the premises, to include the entire owned parcel;
 - (4) Violation of any of the provisions of this article by the holder of a license issued under this article or its agents or employees, whether compensated or not;
 - (5) Any licensee has been convicted of any drug or alcohol, tobacco, or firearms related, or crime by the state or the county regarding an offense which was committed on the premises, to include the entire owned parcel, or which would otherwise violate the provisions of this article;
 - (6) Any licensee fails to pay any fee, tax, fine or other amount of money due to the county under this article or any other ordinance provision of the county;
 - (7) The performance of any act prohibited by this article or the failure to perform any act required by this article as well as the violation of any law, state or federal, relating to the business of the licensee. If such act, omission or violation is done

by an agent, servant, employee, or officer of the licensee, whether paid or unpaid, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense;

- (8) The entry of a plea of guilty or nolo contendere, or the conviction of any licensee with respect to a charge of violation of any of the laws of the United States or any state relating to alcohol, drugs, firearms, tobacco, or any crime, whether a felony or not, involving moral turpitude;
 - (9) The occurrence on two or more occasions within any 12-month period of fights, disorderly conduct, drunkenness, breach of the peace, and other similar conduct on the premises, to include the entire owned parcel, whether such conduct is committed by the licensee or by customers or others;
 - (10) Sales of alcoholic beverages to any person under 21 years of age; or
 - (11) Any other act or omission with respect to the operation of a business licensed under this article which the Alcoholic Beverage Control Board shall find to be contrary to the public interest, health or welfare, or which shall render the licensee or the business location unfit for the continued operation of the business.
- (e) In the event the Alcoholic Beverage Control Board shall suspend any license under this article, the suspension shall be for a period of not less than one day or more than one year, within the discretion of the Alcoholic Beverage Control Board. The suspended license shall be retained as revoked by the clerk until final adjudication of the suspension of the license by the Alcoholic Beverage Control Board. Any license suspended for more than one year shall be considered revoked.
 - (f) Except for sales to persons under 21 years of age, the licensee shall be authorized to continue its business operations until the date of the hearing scheduled in accordance with this article.
 - (g) Law enforcement may immediately revoke a license if it is determined by law enforcement that underage persons are being provided alcohol or if there is a disturbance of the peace or any other danger to the health, safety or welfare of the public, and the license shall be retrieved by the law enforcement officials and the alcoholic beverages on the premises inventoried and secured by the law enforcement officials to prevent their sale until a hearing is conducted by the Alcoholic Beverage Control Board and all state, federal, and county court charges, if any, have been resolved. The secured alcoholic beverages shall be dealt with in accordance with Georgia law.
 - (h) The Alcoholic Beverage Control Board, County Code Enforcement, or law enforcement shall revoke and retrieve an alcohol license in the case of there being no licensed individual available, employed or any longer connected with the business; in that case law enforcement shall ensure that no alcohol sales are made unless and until code enforcement or the Alcoholic Beverage Control Board informs law enforcement that the establishment is properly licensed.
 - (i) No applicant may apply for a license during any period of suspension or revocation.

- (j) In the event of a first violation of this article and the issuance of a citation requiring an appearance in magistrate's court, any person, if convicted, shall be guilty of a misdemeanor and be punishable by a fine of at least \$250.00, not to exceed \$1,000.00, per violation or by imprisonment for a period not to exceed 90 days, or both, and possibly a suspension of the license to sell alcoholic beverages for a period of time not to exceed 60 days. In the event of a second violation, the person shall be punishable by a fine of at least \$500.00, not to exceed \$1,000.00, per violation or by imprisonment for a period not to exceed 90 days, or both, and possibly a permanent suspension or revocation of the license. Every day a violation continues may constitute a separate violation. An establishment which has served underage drinkers shall receive a separate citation for each underage patron served, and, if convicted, shall be fined and punished separately for each citation.
- (k) Any fine or punishment assessed by the Magistrate Court, shall be separate and shall not impair or otherwise affect any actions or remedies may be taken by the Alcoholic Beverage Control Board pursuant to the terms of this ordinance.

Section 13

Hearing; basis of determination.

- (a) Whenever the Alcoholic Beverage Control Board finds preliminary cause to suspend or revoke any alcoholic beverage license issued under this article, there shall be a hearing before the Alcoholic Beverage Control Board on the matter of which at least ten days' written notice shall be given to the licensee in person by a Dade County Code Enforcement Officer, by certified mail, or by sheriff's service.
- (b) Such notice shall specify the time, place and purpose of the hearing and a statement of the charges upon which such hearing shall be held. At such hearing, the licensee shall have the right to appear in person and by attorney, and both the county attorney or his designee and the licensee shall have the right to present evidence under oath, introduce documentary evidence, subpoena and cross examine witnesses and generally present evidence of violation of this article or absence thereof. The hearing shall be conducted before the Alcoholic Beverage Control Board.
- (c) Whether a license shall be suspended or revoked, and if suspended, for what period of time, shall be determined by the Alcoholic Beverage Control Board after consideration of the evidence in the case and in accordance with the alcohol board's finding as to the severity of the offense. Upon a determination of violation of this article by the alcohol board, the Alcoholic Beverage Control Board may in its discretion recommend suspension of the license for a period of time up to one year and/or revocation of the license as provided in this article, and/or assessment of civil fines as provided in this article. The decision of the Alcoholic Beverage Control Board shall be conclusive unless modified by the governing authority in writing on or before the tenth day following the decision by the alcohol board.

(d) Any person aggrieved by act or omission of the Alcoholic Beverage Control Board with respect to proceedings under this article may appeal to the Board of Commissioners of Dade County by filing such appeal with the County Clerk of Dade County within fifteen (15) days of the decision or action. Such appeal shall be based upon the record previously considered by, and submitted to the Alcoholic Beverage Control Board. Further appeal shall be to the Dade County Superior Court provided such appeal is filed with the Dade County Superior Court Clerk within thirty (30) days of the final decision of the Dade County Board of Commissioners. If the applicant/licensee does not file an appeal to the Board of Commissioners or to the Dade County Superior Court within the periods provided, then the decision of the of the Alcoholic Beverage Control Board or Board of Commissioners of Dade County shall be final.

Section 14

No new license to be issued after revocation.

When a license has been revoked under the provisions of this article, no application for a new alcoholic beverage license for the same location by a different and unrelated owner following the sale of the business will be received for a period of 30 days and no application for a new license from the licensee involved shall be received for a period of two years in accordance with the provisions of Section 10(b).

Section 15

Unlawful operation declared nuisance.

Any licensed establishment operated, conducted or maintained contrary to the provisions of this article shall be declared to be unlawful and a public nuisance. In addition to any other remedy or prosecution of a criminal action, the county may seek injunctive, mandamus or other appropriate relief in superior court or any courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a place for the sale of alcoholic beverages contrary to the provisions of this article, to enjoin, or prevent a violation of any provision of this article. Such action may also seek civil fines at the mandatory rates specified in this article for violations, and may additionally seek the costs of restitution, and any other costs associated with the action to enjoin or prevent any violation of any provision of this article. The county shall be entitled to its reasonable attorneys' fees and costs for bringing an action in superior court or any other court wherein any relief is granted or fine assessed.

Section 16
Signage required.

- (a) At any establishment subject to this article there shall be posted conspicuously at or near each entrance of the establishment, a sign which shall state the following:
- “DADE COUNTY AND THE STATE OF GEORGIA REQUIRE YOU TO BE 21 YEARS OF AGE IN ORDER TO PURCHASE AND CONSUME ALCOHOLIC BEVERAGES, AND TO PROVIDE PROPER PROOF OF AGE PRIOR TO PURCHASE. PLEASE HAVE YOUR IDENTIFICATION READY TO PRESENT TO THE SERVER, MANAGER OR CASHIER. PERSONS PROVIDING FALSE IDENTIFICATION WILL BE PROSECUTED.”
- (b) Further, retail consumption dealers shall post, in a conspicuous place, a sign which clearly reads:
- "WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS."
- (c) Each person holding a license issued pursuant to this article shall display the license prominently at all times on the premises for which the license is issued.

Section 17
Excise taxes.

- (a) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this article, and such licensee shall remit the same to the county on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the county to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.
- (b) In addition to all other taxes or license fees imposed upon wholesale dealers selling malt beverages or wine to retail dealers in the unincorporated areas of the county, there is hereby levied and imposed upon each such wholesale dealer the following excise taxes:

- (1) Upon the sale of any beer or malt beverages there is imposed an excise tax of \$0.05 per 12-ounce container and \$6.00 for each container of tap or draft beer or malt beverage of 15½ gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

Size of container	Tax per container
7 ounces	\$ 0.0292
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0667
32 ounces	0.1333
½ barrel (15½ gallons)	6.00
1 barrel (31 gallons)	12.00

- (2) Upon the sale of any wine there is imposed an excise tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (c) No county excise tax shall be imposed, levied, or collected in any portion of a county in which a municipality within the county is imposing the same tax.
- (d) The excise taxes imposed shall be paid by the wholesale dealers to the county by the tenth day of each month, based upon the units of beer and wine sold during the previous month. The wholesale dealers shall keep true and correct records of all sales and shipments and shall render a sworn statement of the records accompanying the monthly report to the county. Any tax remaining unpaid at the expiration of 15 days from the due date shall be delinquent.
- (e) Wholesalers collecting excise taxes shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under O.C.G.A. § 48-8-50.
- (f) Determination of deficiencies.

- (1) If the county has cause to believe that the return or returns of the tax or the amount of the tax required to be paid to the county by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One or more deficiency determinations may be made of the amount due for one or more monthly period(s).
 - (2) The amount of the determination shall bear interest at the rate of 0.75 percent per month, or fraction thereof, from the due date of taxes.
 - (3) The county shall give to the licensee or wholesaler written notice of its determination regarding a deficiency. The notice may be served personally or by mail, if by mail, such service shall be addressed to the licensee at his address as it appears in the records of the county. Service by mail is complete when mailed with a certificate of service stamped thereon and a copy retained in county files or when delivered by certified mail with a receipt signed by the addressee.
 - (4) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within 30 days after the tenth day of the month following the calendar month for which the amount is proposed to be determined, or within 30 days after the return is filed, whichever period should last expire.
- (g) Determination if no return made.
- (1) If any licensee or wholesaler fails to make a return, the county shall make an estimate of the amount of the gross receipts of the licensee, or as the case may be, of the amount of the total sales in this county which are subject to the tax. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is in possession of or may come into the possession of the county official. Written notice shall be given in the manner prescribed above.
 - (2) The amount of the determination shall bear interest at the rate of 0.75 percent per month, or fraction thereof, from the 20th day of the month following the calendar month for which the amount or any portion thereof would have been returned, until the date of payment.
- (h) Any licensee or wholesaler which fails to pay the tax herein imposed or fails to pay any amount of the tax required to be collected and paid to the county within the time required shall pay a penalty of 25 percent of the tax owed in addition to interest as set forth above.
- (i) The tax levied by this section may be enforced by execution in the same manner as other taxes of the county, and in addition, any failure of payment of such tax shall be grounds for revocation or refusal of the license of the delinquent taxpayer. The governing authority shall administer and enforce the provisions of this section for the collection of the tax herein imposed, and in so doing shall have the power to:
- (1) Examine, or authorize the examination of, books, papers, records, financial reports, equipment, and other facilities of any person subject to the tax, in order to verify the accuracy of any report made, or if no report is made by the operator, to ascertain and determine the amount required to be paid;

- (2) Require the filing of reports by any person or persons having possession or custody of information relating to the tax herein levied; and
- (3) Allow a credit on any amount due and payable from persons who paid the tax herein levied but who were erroneously or illegally subjected thereto.

Section 18

General provisions.

- (a) If any of the provisions of this article, or the application of this article to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions or application of such other provisions of this article. To this end the provisions of this article are hereby declared to be severable.
- (b) Any modification of Georgia laws and regulations which would effect a change in the provisions of this article are hereby incorporated herein by reference made a part hereof.
- (c) All laws and ordinances, or parts thereof, which conflict with this article, are repealed.
- (d) Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of any federal or state law.
- (e) The ordinance from which this article derives shall take effect and shall be enforced from and after the date of its adoption.
- (f) Those licenses previously issued by the Alcoholic Beverage Control Board still in effect at the time of the adoption of this amendment shall remain in full force and effect, but shall be administered in accordance with this amendment. All license renewals will be applied for and administered in accordance with this ordinance amendment.

PROPOSED AND FIRST READING took place on the 2nd day of March 2017.

SECOND READING AND ADOPTION took place on the 6th day of April 2017.

**BOARD OF COMMISSIONERS
DADE COUNTY, GEORGIA**



BY: _____
TED RUMLEY
Chairperson/County Executive

ATTEST:

BY: _____
DON TOWNSEND
County Clerk

CLERK'S CERTIFICATE

I, Don Townsend, County Clerk of Dade County Board of Commissioners, do hereby certify that the foregoing Ordinance constitutes a true and correct copy of the Ordinance, adopted on March 2, 2017 and April 6, 2017, by the Dade County Board of Commissioners. After due notice was given in accordance with law; and the Commission being duly called and assembled, at which a quorum was present, the Dade County Board of Commissioners did adopt the attached Ordinance, the original appearing as a public record in the Minute Book of said Commission which is in my custody and control.

Given under my hand and the Seal of Dade County this 6th day of April 2017.



Patrick D. Townsend, Jr.
County Clerk
Dade County, Georgia