

**AN ORDINANCE  
BY THE BOARD OF COMMISSIONERS  
OF FRANKLIN COUNTY, GEORGIA**

An Ordinance of Franklin County, Georgia to create and establish Rules and Regulations for Licensing the Sales of Distilled Spirits, Wine, and Malt Beverages within Franklin County, Georgia, to repeal conflicting law, and for other purposes.

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the county may adopt clearly reasonable ordinances, resolutions and regulations; and

WHEREAS, the Board of Commissioners of Franklin County, Georgia hereby intends to adopt an ordinance establishing rules and regulations for licensing the sale of distilled spirits, wine, and malt beverages within Franklin County, Georgia; and

WHEREAS, the Board of Commissioners of Franklin County, Georgia desires to repeal any and all existing provisions of law and all amendments to thereto to the extent they conflict with the provisions set forth herein; and

WHEREAS, appropriate notice and hearing on the provisions contained herein have been carried out according to general and local law.

NOW THEREFORE, be it resolved and ordained by the Board of Commissioners of Franklin County, Georgia, it is hereby resolved and ordained by the authority of same as follows:

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## **ARTICLE I – GENERAL RULES AND REGULATIONS**

### **Section 1.1 General Policies and Purpose**

- (a) Alcoholic beverages may be sold in the County of Franklin only after the issuance of a license for such sale by the County and only in the manner permitted by said license. Alcoholic beverages may be sold in the County only by a licensee who complies with the rules and regulations of this Ordinance, and with the licensing, regulatory and revenue requirements of the State of Georgia.
- (b) All licenses granted by the County for the sale of alcoholic beverages are a mere grant or privilege subject to all terms and conditions imposed by the County Ordinance and State law and subject to being revoked by the Board of Commissioners of Franklin County.
- (c) Each licensee of the County shall display the license prominently at all times at the outlet for which the license is issued. A separate license must be issued for each outlet of sale and a separate application must be made for each outlet.
- (d) The purposes of this Ordinance include but are not limited to the following:
  - (1) Compliance with State law;
  - (2) Guarding against monopoly and concentration of the retail sale of alcoholic beverages in one group;
  - (3) Prevention and control of the sale of alcoholic beverages by unfit persons;
  - (4) Promotion of appropriate land use, planning, and zoning, in accordance with the County's comprehensive zoning policies;
  - (5) Protection of schools, homes, churches, parks, and other institutions;
  - (6) Protection of the public health, safety, and general welfare.

### **Section 1.2 Definitions**

As used in this ordinance, the term:

- (a) Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- (b) Alcoholic Beverage(s) means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine as defined in this section.
- (c) Applicant means any one or more persons applying for a license in the County or renewal thereof.
- (d) Application means those forms required by the County to be completed by persons applying for an original license or a renewal license under this Ordinance.
- (e) Beer and Malt Beverage means any alcoholic beverage obtained by the fermentation of any infusion of decoction of barley, malt, hops or any other similar

product or any combination of such products in water, containing not more than six percent (6%) alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine. The term "beer" is used interchangeably with "malt beverage."

- (f) Brew Pub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form.
- (g) Board of Commissioners shall mean the Board of Commissioners of Franklin County, Georgia.
- (h) Church means any place of permanent public religious worship and shall exist if a building permit therefor has been obtained and construction of the church building has commenced or substantial materials, or supplies for its construction, have been moved to the site.
- (i) County shall mean County of Franklin and when used in a geographical sense means the political subdivision of Franklin County outside the municipal limits of any municipal corporation located wholly or partially within Franklin County.
- (j) County Manager shall mean the County Manager of Franklin County, Georgia, or his/her designee.
- (k) Distilled Spirits means any alcoholic beverage obtained by distillation or containing more than twenty-one percent alcohol by volume, including but not limited to, all fortified wines.
- (l) Eating Establishment means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least fifty percent of its total annual gross food and beverage sales from the sale of prepared meals or food.
- (m) Fortified Wine means any alcoholic beverage containing more than twenty-one 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, brandy.
- (n) Hotel means every building or structure kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed, sleeping accommodations are offered for adequate pay to travelers and guests, in which fifty or more rooms are used for sleeping accommodations of such guests, and having one or more public dining rooms having a seating capacity of 100 persons or more where meals are regularly served to such guests. Motels meeting the qualifications set out herein for hotels, shall be classified as hotels for the purpose of this Ordinance.
- (o) Immediate Family shall include the spouses, parents, children, brothers and sisters, related by blood or marriage.

- (p) License shall mean the formal approval granted or issued by the County to a licensee for the sale of alcoholic beverages within the County of Franklin.
- (q) Licensee means the individual licensee and in the case of a partnership, corporation, private club, or non-profit tax-exempt organization, includes both the partnership, corporation, private clubs, or non-profit tax-exempt organization and the named licensee.
- (r) Outlet means the definite structure, whether a room, ship, store, building, restaurant, or club, in which activities permitted by this Ordinance are conducted.
- (s) Package means a bottle, can, keg, barrel, or other original consumer container.
- (t) Person means any individual, firm, partnership, cooperative, non-profit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private or quasi-public.
- (u) Premises shall mean not only the structure wherein an outlet for sale of alcoholic beverages is operated under a County license, but shall include all of the lot whereon said outlet is located, except where such outlet is located in a hotel or shopping center.
- (v) Retail Consumption Dealer means any person who sells distilled spirits for consumption on the premises at retail, only to consumers and not for resale.
- (w) Retailer or Retail Dealer means, except for distilled spirits, 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. With respect to distilled spirits, Retailer or Retail Dealer means any person who sells distilled spirits in unbroken packages at retail only to consumers and not for resale.
- (x) Sheriff means the Franklin County Sheriff or his/her designee.
- (y) Wholesaler or Wholesale Dealer means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.
- (z) Wine means any alcoholic beverage containing not more than twenty-one percent alcohol by volume, made from fruits, berries, or grapes, either by fermentation, or 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, and like products. The term wine does not include cooking wine mixed with sale or other ingredients to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

- (aa) Zoning shall mean the zoning classifications as approved for the unincorporated areas of Franklin County, Georgia.

### **Section 1.3 Qualifications for Issuance of a License**

Any person who desires to obtain a license for the retail sale of alcoholic beverages by the drink or by the package must meet the minimum qualifications set forth in this section. If the applicant is a partnership, each partner must meet the qualifications of any individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation having as its principal business the sale of alcoholic beverages, the majority stockholder and each principal officer of the corporation must meet the qualifications of any individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation having as its principal business an activity other than the sale of alcoholic beverages, the officer or employee of the corporation primarily responsible for the operation of the licensed premises must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a nonprofit tax-exempt civic, patriotic, or social club or corporation which is organized and operated in the County as a mutual benefit membership group, such club or corporation may be licensed without reference to the financial interest qualifications of this section if no officer, director, trustee, manager, member, or stockholder therein can, in any event, derive any financial gain from the sale of alcoholic beverages by such club or corporation. The individual being primarily responsible for the club or corporation's compliance with this section must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. If the applicant is a private club, each member of its governing body must meet the qualifications of an individual licensee and must make sworn statements of these qualifications as part of the application process. The specific qualifications are as follows:

- (a) No license shall be issued to an applicant who is under twenty-one years of age.
- (b) No license for the sale of distilled spirits by the package shall be issued to any person unless an application is accompanied by a certificate from the Judge of the Probate Court of Franklin County, Georgia, certifying that the applicant has been a bona fide resident of Franklin County, Georgia for at least twelve months immediately preceding the application. Applicant may, in lieu of being a resident of Franklin County, certify and designate a resident of Franklin County who shall be responsible for any matters relating to the license. All licenses, other than those issued for the sale of distilled spirits by the package, may be issued to any person who is a citizen of the United States, or an individual lawfully admitted to this country as a permanent resident.
- (c) No license for the sale of alcoholic beverages may be issued to an applicant under the following circumstances:
  - (1) An applicant who has been convicted under any federal, state or local law of a felony, particularly, but not limited to, those offenses involving alcohol

beverages, gambling, tax law violations, or violations relating to the Georgia Controlled Substances Act.

- (2) An applicant who has been convicted under any federal, state or local law of a misdemeanor involving alcoholic beverages, gambling, tax law violations, or violations relating to the Georgia Controlled Substances Act, if such conviction indicates to the Board of Commissioners that the applicant will not maintain the outlet for which he is seeking a license in conformity with the federal, state or local laws, rules, and regulations.
- (3) An applicant who has been convicted under any federal, state or local law of any felony or misdemeanor involving moral turpitude.

For purposes of subparagraphs 1.3(c)(1), (2), and (3) above, a "conviction" under this Ordinance shall include any plea of guilty or admission of guilt and subsequent sentence, including, but not limited to any sentence under the First Offender Act of O.C.G.A. § 42-8-60, or any similar sentencing provision for first time offenders of any other state or of the United States. A plea of nolo contendere for any felony or misdemeanor of any state or of the United States, or any municipal ordinance, except traffic violations, or the forfeiture of a bond (except traffic offenses) when charged with a crime is also considered a conviction under this Ordinance.

- (4) An applicant who has been held in civil or criminal contempt by any federal, state or local court if such citation indicates to the Board of Commissioners that the applicant will not maintain the outlet for which he is seeking a license in conformity with federal, state or local laws, rules, and regulations.
- (5) An applicant for a license to sell distilled spirits by the package or an applicant for a consumption on the premises license who has been denied or has had revoked for cause within five years of the date of his/her application any license issued to him/her by Franklin County and/or any other city, county and/or state to sell alcoholic beverages or an applicant for a package beer and wine license at an outlet in Franklin County at which the license at that outlet has been revoked for cause within five years of the date of the application.
- (6) An applicant as determined by the Board of Commissioners, by reason of such applicant's business experience, financial standing, trade associations, personal associations, records of arrests, or reputation in any community in which he has resided, who is not likely to maintain the outlet for which he is seeking a license in conformity with federal, state, or local laws.
- (7) A location not suitable in the judgment and discretion of the Board of Commissioners due to one or more of the following conditions: evidence of detrimental traffic conditions caused by insufficient parking or insufficient means of ingress and egress for vehicles to the establishment; evidence that the location or the type of structure would create difficulty in law enforcement

supervision or cause law enforcement to respond to a substantial increase in complaints; or, evidence that a license at the location would be detrimental to the property values in the surrounding area.

- (8) A location that is not in compliance with any federal, state or local regulation, including but not limited to, a state certificate of occupancy or state fire marshal certificate of approval if the noncompliance has not been remedied by the applicant within a period of three (3) months from the date of the application.
- (d) The applicant, whether it be an individual, a partnership, a corporation, a nonprofit tax-exempt civic, patriotic, or social club, or a private club, shall be the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license. If the premises are leased, a copy of the lease shall be furnished to Franklin County and the Franklin County Sheriff's Office with the application. Except as otherwise provided in this subsection, it shall be unlawful for a licensee to enter into any agreement whereby the rental paid for the licensed premises is based in whole or in part on the volume of sales of alcoholic beverages by the licensed business or whereby the lessor otherwise shares in the profits or receipts from the licensed business's sale of alcoholic beverages, unless the Board of Commissioners grants a licensee an exemption from this provision. This subsection, however, shall not apply when the primary business of a package license is an activity other than the package sale of alcoholic beverages, for example, a grocery store selling package beer and wine.
- (e) The named licensee shall be active in the operation of the outlet and personally present on the premises sufficiently to ensure compliance with the provisions of this Ordinance. If the owner of the outlet is a corporation, the corporation and its principal officers shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the owner of the outlet is a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. If the owner of the outlet is a nonprofit tax-exempt civic, patriotic, or social club or a private club, the entity and its principal officers and/or governing body shall be responsible for the actions of the named licensee and the conduct of the licensed business.
- (f) No license for the retail sale of distilled spirits shall be issued to a person if that person, or a member of the applicant's immediate family, has any interest in more than two retail dealer licenses for the sale of distilled spirits, regardless of the degree of such interest. No person shall be issued a license for the retail sale of distilled spirits if that person, or a member of his immediate family, owns any interest in a liquor distillery, or wholesale distributorship.
- (g) No license to engage in the retail sale of alcoholic beverages by the drink or in the original package shall be granted or issued unless the location within such unincorporated area of the County is, at the time such application is made, located within Commercial or Industrial zoning districts where not otherwise prohibited by the Franklin County Zoning Regulations. Private clubs shall be exempt from the

above zoning classification requirements and need not contain such designations in order for a license to issue.

- (h) No license shall be issued for the sale of distilled spirits by the package or for the sale of alcoholic beverages for consumption on the premises to any outlet located within 1000 feet of the property line of any church building or of any school building, educational building, school grounds, or college building existing at the time of application. No license for the sale of wine or malt beverages by the package shall be issued where the outlet for such sales is located within 600 feet of the property line of any church building, school building, educational building, school grounds, or college building existing at the time of the application. The above provisions do not apply to renewal of a license or to applicants seeking a new license if the location was licensed by Franklin County to sell alcoholic beverages at anytime during the 12 months immediately preceding such application. For the purpose of this Ordinance, the schools or colleges referred to herein, shall include only such state, county, city, church, private, or other schools as teach the subjects commonly taught in the common schools and colleges of this state and expressly exclude buildings used by school officials solely for administrative purposes in which school children are not regularly taught. For purposes of this Ordinance, school and educational buildings shall also include daycare centers if the daycare centers receive State or federal funding for an educational program at the time of application. Distances shall be measured by the most direct route of travel on the ground according to O.C.G.A. § 3-3-21(c).

Unless waived by the County Manager out of recognition of the absence of any school or church buildings in proximity to the outlet, all applications for a license shall have attached thereto a current certificate from a registered surveyor of this state showing a scaled drawing of the premises, the location or premises where the applicant desires to operate an alcoholic beverage outlet, and the distance in linear feet measured by the most direct route of travel on the ground from the subject applicant's structure to the property line of the tract which is located the nearest church building, school building, educational building, school grounds or college campus building defined in this sub-section.

- (i) No license shall be issued to any person who fails to comply with all the rules and regulations regarding the sale of alcoholic beverages contained in this Ordinance.
- (j) No license shall be issued to any person who owes any delinquent taxes, and/or assessments to the County of Franklin.

#### **Section 1.4 The Application Process**

- (a) Any person desiring to sell alcoholic beverages by the drink or by the package shall make written application to the Franklin County Manager's Office for the appropriate license on forms required by the County and filed with the Franklin County Manager's Office. All applications shall be fully completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths. If the application is filed on behalf of a

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

All applications shall be accompanied by the following:

- (1) If the application is for a license authorizing the sale of distilled spirits by the package, then a certificate of residency demonstrating residency for at least the twelve months immediately preceding the application is required for the licensee or, in the alternative, the licensee must certify and designate a resident of Franklin County, Georgia, who shall be responsible for any matters relating to the license.
- (2) Unless waived by the County Manager out of recognition of the absence of any school or church building in proximity to the outlet, the application shall have attached a current certificate from a registered surveyor of this state, showing a scaled drawing of the premises, the location on the premises where the application desires to operate an alcoholic beverage outlet, and the distance in linear feet measured by the most direct route of travel, on the ground, from the proposed outlet to the property line of the tract upon which is located the nearest church building, school building, educational building, school grounds or college grounds or college campus building as defined in this Ordinance.
- (3) If the outlet is to be located on leased premises, then a copy of the lease must be attached.
- (4) If the applicant is a partnership, a copy of the partnership agreement, including amendments, shall accompany the application.
- (5) If the applicant is a corporation, a copy of the Articles of Incorporation and By-Laws, including any and all amendments, shall accompany the application.

- (6) If the applicant is a nonprofit tax-exempt civic, patriotic or social club or corporation which is organized and operated in the County as a mutual benefit membership group, a copy of the charter or Articles of Incorporation, as well as sufficient proof of the organization's tax-exempt status shall accompany the application.
- (7) If the applicant is a private club, a copy of the Articles of Incorporation and By-Laws, including any and all amendments, shall accompany the application.
- (8) As a prerequisite to the issuance of any license, the applicant shall furnish a complete set of fingerprints for all persons required to sign the application to be forwarded to the Georgia Bureau of Investigation and to the Federal Bureau of Investigation, as specified under Georgia law. Each person required to sign the application for an original license and/or renewal license, must authorize the County of Franklin or its designated representatives to secure from any state, county, municipal or federal court, any police department and/or law enforcement agency his, her or its criminal history and civil history and further authorize the County, its officers and employees to use such information in determining whether or not an alcoholic beverage license will be issued to the applicant. Further, the applicant must authorize the County, its officers and employees to use such information in a public hearing, if necessary, to determine whether or not the applicant's license should be denied, voided, cancelled and/or revoked. Each applicant waives any right or rights he, she or it may have under state or federal law, statute and/or court ruling to preclude the County from securing such criminal and/or civil history from any source and waives any right he, she or it may have to preclude the County from using such information publicly in determining whether the license will be issued to such applicant.
- (9) The application shall be accompanied by a certified check for the full amount of the license fee, together with a separate check in the amount of \$250.00 for an investigative fee. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded to the applicant. All other fees paid to the County which were submitted as part of the application, including, but not limited to, the investigative fee, the sign fee, and any employee application permit fee(s), shall be retained by the County, and shall not be refunded to the applicant.
- (10) All applications for licenses shall contain a full and complete statement of all material facts which tend to show whether the applicant or applicants, or any member or members of their immediate families, own a financial interest in any other alcoholic beverage outlets, or any interest in a wholesale alcoholic beverage entity, and/or distillery or brewery, and what interest they and each of them will have in the alcoholic beverage outlet being requested from this County.

- (11) The County Manager may require any additional information and records he reasonably deems necessary. Failure to furnish such data shall automatically serve to dismiss the application. Any misstatement or concealment of fact in the application shall be grounds for denying a license or revoking an issued license, and shall make the applicant liable to prosecution for perjury under the laws of the State of Georgia.
  - (12) Each applicant shall certify that applicant has read this Ordinance and if the license is granted, each licensee shall maintain a copy of this Ordinance on the premises and shall require each of the licensee's employees to be familiar with this Ordinance.
- (b) Once an application, the accompanying documents described above, and the required investigative and license fees are filed with the Franklin County Manager's Office, the County Manager shall request the Franklin County Sheriff's Office to conduct a criminal investigation of the application and produce a written criminal investigation report concerning all information relating to fingerprinting, criminal history, arrest data, prior alcohol violations, and other matters pertaining to law enforcement. In the event the failure to obtain fingerprinting information from state and federal authorities delays completion of the written report, the Sheriff's Office may later supplement any fingerprinting information. If the fingerprinting information later reveals that the applicant fails to meet the requirements set by this Ordinance, this may be grounds for denying the application or revoking a license, despite an otherwise satisfactory written report. Upon production of the criminal investigation report, the Sheriff's Office shall assemble the application forms and all accompanying documents relating to investigation and processing of the application and deliver such documents to the County Manager for review. If the criminal investigation report shows that the applicant meets the requirements set by this Ordinance and the County Manager believes that the applicant may meet all other qualifications of this Ordinance, then the County Manager shall schedule the application for a hearing at the next regularly scheduled Board of Commissioners' meeting and shall so inform the applicant of this fact before such meeting. If the criminal investigation report shows that the applicant fails to meet the requirements set by this Ordinance, or if the County Manager finds that the applicant fails to meet any other qualifications outlined by this Ordinance, then the County Manager shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his/her right to appeal; said appeal to be before the Board of Commissioners in accordance with Section 1.12 of this Ordinance. If an applicant desires to appeal a denial by the County Manager, the applicant must file a written request for an appeal hearing with the County Manager within five (5) business days of the date of the written notice informing the applicant of the denial by the County Manager.
- (c) Any application which the County Manager determines to satisfy all the qualifications outlined in this Ordinance, including character requirements as contained in the criminal investigation report of the Franklin County Sheriff's Office, shall be scheduled for review at the next regularly scheduled meeting of the Board

of Commissioners. At that meeting, the applicant and any person opposed to said application has the right to present to the Board of Commissioners any information that the Board of Commissioners determines is relevant to the licensing decision. In making its determination on whether to approve or deny the application, the Board of Commissioners shall look to the qualifications set forth in this Ordinance and consider the public interest and welfare. The Board shall have the sole discretion to grant or deny the application based on the information presented. A decision by the Board of Commissioners shall be made within thirty (30) days from the date of the Board of Commissioners' meeting, unless the decision is postponed for purposes of the Board obtaining additional information deemed necessary for consideration of the application. Notice of the decision by the Board of Commissioners shall be mailed to the applicant. In the event the application is denied, such written notification shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his right to appeal; said appeal to be in accordance with Section 1.12 of this Ordinance.

- (d) At the time the applicant makes application for a license, he shall pay to the County, in addition to all other required fees, a \$50.00 nonrefundable sign fee for the posting on the premises where the activities permitted by such license are to be conducted, a notice of the pending application. The sign shall be posted and furnished by the County and will be painted or printed in black letters one and one-half inches in height, against an orange background, on a two face, back to back surface of not less than 24 x 30 inches in space, and shall be placed by the County Manager or his designee with the base of the sign not more than three feet from the ground on the most conspicuous part of the premises, facing the most frequently traveled road, street, or highway abutting same, and not more than ten feet therefrom. The sign shall state clearly the nature and purpose of the application, and the name of the person, partnership, organization, corporation or private club making the application.
- (e) In all instances in which an application is denied under the provisions of this Ordinance, the applicant may not reapply for the same type of license for at least one year from the final date of such denial.
- (f) Upon the issuance of a license, the licensee must have and continuously maintain in Franklin County, a registered agent upon whom any process, notice, or demand required or permitted by law or under this Ordinance may be served. This person must be an individual and must be a resident of Franklin County, Georgia. The licensee shall file the name of such agent, along with the written consent of such agent, with the County Manager, in such form as he or she may prescribe.
- (g) Upon approval by the Board of Commissioners of the application for a license, the County Manager shall issue a license in accordance with the approved application. If the applicant is an individual, the license shall be issued in the name of the individual. If the application is a corporation having as its principal business the sale of alcoholic beverages, the license shall be issued in the name of the corporation and in the name of the majority stockholder or a principal officer of the corporation. If the application is a corporation having as its principal business an

activity other than the sale of alcoholic beverages, the license shall be issued in the name of the corporation and in the name of the officer or employee of the corporation primarily responsible for the operation of the licensed premises. If the application is a partnership, the license shall be issued in the name of the partnership and in the name of one of the partners. If the applicant is a nonprofit tax-exempt civic, patriotic, or social club or corporation which is organized and operated in the County as a mutual benefit membership group, the license shall be issued in the name of the club or corporation and in the name of the individual primarily responsible for the club or corporation's compliance with this Ordinance. If the applicant is a private club, the license shall be issued in the name of the private club and in the name of one of the members of the private club's governing body who shall be the named licensee. All licenses issued shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1, shall pay the full license fee without pro-rata. License fees for licenses granted on or after July 1, shall be one-half (1/2) the annual license fee. License fees are not refundable once the license is granted by the County.

- (h) In the event the Board of Commissioners denies the application for a license, the applicant may appeal to the Board of Commissioners for reconsideration of the denial by filing a written request for an appeal hearing with the County Manager within five (5) business days of the date of the written notice informing the applicant of the denial. Any such appeal hearing concerning a denial shall be conducted according to the procedures set forth in Section 1.12.

### **Section 1.5 Renewal of License**

- (a) All licenses granted hereunder shall expire on December 31<sup>st</sup> of each year. Licensees who desire to renew their license shall file a renewal application accompanied by the requisite license fee and investigative fee of \$250.00 with the Franklin County Manager's Office upon forms prescribed by the County on or before November 15<sup>th</sup> of each year without penalty. Persons holding a license for more than one establishment and desiring to renew the license for such establishments shall pay only one investigative fee charge. Applications for renewal filed after November 15<sup>th</sup> shall be subject to a late charge of ten percent of the license fee.
- (b) Each application for renewal will show the date of the original application and state there have been no changes in any of the information and data contained in and/or furnished with the original application and that the applicant or applicants for the renewal are familiar with applicable Georgia laws and regulations and with the rules and ordinances of the County. The renewal application must be signed and sworn to by all applicants in the presence of a notary public or other officer authorized to administer oaths. In the event it is discovered by the County that changes have occurred, which are in any way different from those facts shown in the original application and the documents furnished with the original application, the renewal shall be void. The applicant may be required to file a new application if changes have occurred in the information and data furnished with the original application.

The applicant will furnish all information required by the renewal application and failure to furnish the information will be grounds for denying the application. A false statement made on the renewal application will void the application and shall make the applicant liable to prosecution for perjury under the laws of the State of Georgia.

- (c) Each application for renewal of a license shall be approved or denied in accordance with the procedures prescribed in Section 1.4 of this Ordinance, except that the public hearing for all applications of renewal will be conducted before the Board of Commissioners at the last regularly held December meeting of the calendar year.

#### **Section 1.6 Transfer of License**

- (a) No license for the sale of alcoholic beverages shall be transferable, except upon the death of a licensee, at which time such license may be transferred to the administrator, executor, or lawful adult heir or heirs of such deceased person. If the legal representatives of such deceased licensee cannot meet all the requirements of this Ordinance when the time arrives to renew the license, it shall not be renewed.
- (b) Whenever a licensee doing business as a sole proprietorship loses its license as a result of the provision of this Ordinance, the licensee's successor in interest, upon filing an application for a new license, may continue to operate under the terms of the prior license until such time as the new application is approved or denied by the Board of Commissioners; provided, however, no such continued operation shall be authorized until such time as a new application for license is made and the required fees paid to the Franklin County Manager's Office. Payment of fees shall not be required of a corporation whose predecessor in interest remains the named licensee under the new license.

#### **Section 1.7 Restrictions and Prohibitions**

- (a) It shall be unlawful for any person to manufacture, distribute, sell, or possess for the purpose of sale, any alcoholic beverage when such person does not have a license from the County to sell or possess or manufacture for sale such beverage, provided that this subsection shall not be interpreted to preclude the otherwise legal practice of private production of beer as permitted under O.C.G.A. § 3-5-4 or the private production of wine as permitted under O.C.G.A. § 3-6-3 for private use and consumption or to require the procuring of a license for a private party conducted at a private home, business, or other private establishment for which alcoholic beverages are provided at no charge.
- (b) Except as otherwise authorized by law, no licensee, or employee of the licensee, shall sell or permit to be sold alcoholic beverages to any person under the legal drinking age as prescribed by Georgia law under O.C.G.A. § 3-3-23.
- (c) No licensee, or employee of the licensee, shall permit on the licensed premises the sale, barter, exchange, giving, providing or furnishing alcoholic beverages to any

person who is in a state of noticeable intoxication as prescribed by Georgia law under O.C.G.A. § 3-3-22.

- (d) No licensee, or employee of the licensee, shall permit the sale of alcoholic beverages on Sunday unless otherwise permitted by this Ordinance. The sale of alcoholic beverages is permitted on election days in outlets not located within 250 feet of a polling place.
- (e) No licensee, or employee of the licensee, authorized to sell alcoholic beverages by the package shall sell or permit to be sold any single beer, wine cooler, similar alcoholic beverage that is customarily packaged for sale as part of a four pack, six pack, twelve pack, or similar package as prescribed by Georgia law under O.C.G.A. § 3-3-26.
- (f) No licensee, or employee of the licensee, permitted to sell distilled spirits by the package shall permit any person under the legal drinking age as prescribed by Georgia law to be in, frequent, or loiter about the licensed premises unless this person is accompanied by a parent, legal guardian, or custodian, provided, however, that this section shall not apply to persons who are employees under the terms of this Ordinance.
- (g) All licensees, or employees of licensees, shall properly check, or require his/her employees to properly check, identification to insure an underage person is not sold, served, and has in his or her possession alcoholic beverages while in a licensed establishment. Identification in this section shall mean any document issued by a governmental agency containing a description of the person, or the person's photograph, and giving such person's date of birth, and including, but without being limited to, a passport, military ID card, driver's license, or state department public safety ID card as prescribed by Georgia law under O.C.G.A. § 3-3-23. Proper identification shall not include a birth certificate.
- (h) No licensee, or employee of the licensee, authorized to sell alcoholic beverages by the package shall permit the consumption of alcoholic beverages on the premises as prescribed by Georgia law under O.C.G.A. § 3-3-26.
- (i) No licensee, or employee of the licensee, authorized to sell alcoholic beverages by the drink shall permit any person to remove from the licensed premises any alcoholic beverage sold or dispensed for consumption on the premises. This specifically prohibits the use of "to go" cups or any device permitting any person to remove the alcoholic beverages from the licensed premises.
- (j) No person employed or working in any capacity at any licensed outlet shall solicit or encourage patrons to purchase drinks to be consumed by or otherwise disposed of by any such person so employed or working as prescribed by Georgia law under O.C.G.A. § 3-3-42.
- (k) No licensee, or employee of the licensee, shall add to the contents of a bottle or refill an empty bottle or in any other manner misrepresent the quantity, quality, or

brand name of any alcoholic beverage. No retail licensee shall purchase alcoholic beverages from any person, firm or corporation other than a wholesaler licensed under this Ordinance. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this Ordinance.

- (l) It shall be unlawful for any delivery to be made to and/or sales be made outside of the outlet; provided that this subsection shall not prohibit the sale of alcohol on the premises of a golf course which is licensed to sell alcoholic beverages. It shall be unlawful to sell or dispense alcoholic beverages from "drive-in" or service windows. The consumption and/or sale of alcoholic beverages shall be allowed in open areas and patios, provided that such open areas and patios are not visible from the exterior of the premises, and further provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such outlet, including, but not limited to, regulations pertaining to maximum capacity, ingress and egress.
- (n) The licensee shall keep the premises clean, and in proper sanitary condition, and in full compliance with provisions and regulations governing the conditions of premises used for the storage and sale of food for human consumption.
- (o) No licensee shall permit on the premises any gambling, betting, games of chance, punch boards, vending machines, slot machines, pin ball machines, video machines, or similar machines which are in violation of the gambling provisions of the State of Georgia, provided, however, that this subsection shall not prohibit the lawful playing of bingo by establishments licensed to operate a bingo game under O.C.G.A. § 16-12-50 through § 16-12-62. No games of any type are allowed in outlets licensed for the sale of distilled spirits by the package. Pool tables, pinball, electronic, or similar machines not in violation of the gambling laws of the State of Georgia are permitted in outlets authorized to sell alcoholic beverages by the drink.
- (p) When a change occurs in the relationship of any person, or in the status of any property or license, or any change in payment of rents, ownership of the lease, or buildings or land on which the outlet is located, any change in corporate ownership or management, any loss or damage to goods which result in a claim against an insurance policy and any change in the division of profits, any change in any division of net or gross sales for any purpose whatsoever, and any change in facts stated or claimed in any application or report herein required, a sworn statement of such change in all material facts relating hereto shall be filed with the Franklin County Manager's Office and the Franklin County Sheriff's Office and failure to do so within fourteen (14) days after such change shall, unless such time limit is extended for good cause, be reason for cancellation of a license granted pursuant to the provisions of this Ordinance. In the event that a licensee seeks to change the named licensee of an establishment, the application shall be amended by attaching a new Personal Statement along with an investigative fee in the amount of \$250.00. The new named licensee shall satisfy the qualification requirements as set forth in this Ordinance and be subject to the approval of the Board of Commissioners.

- (q) Any violation of the provisions contained under this section may result in the suspension or revocation of the license held by the licensee and criminal penalties for the licensee or employee as provided for in Title III of the O.C.G.A. and otherwise provided for in subsection (j) of Section 1.8.

### **Section 1.8 Regulations as to Employees**

- (a) No person required to obtain a photograph identification permit may be employed by anyone holding a license under this Ordinance, unless such a person has been issued a photograph identification permit by the County indicating the person is eligible for such employment. An employee identification card shall be required for:
  - (1) Any employee of a package licensee whose primary business is the sale of alcoholic beverages; and
  - (2) Any employee of a consumption on the premises licensee who serves alcoholic beverages on the licensed premises; and
  - (3) Any employee of a convenience store or other package licensee whose duties will constitute handling alcoholic beverages and who will be on duty alone at such establishment.
- (b) Any person employed by a licensee under this Ordinance who is required to obtain an employee identification card under this section shall be at least eighteen years of age provided, however, that this subsection does not prohibit persons under eighteen years of age employed in supermarkets, convenience stores, or drug stores from selling or handling alcoholic beverages which are sold for consumption off the premises.
- (c) No permit shall be issued until such time as the employee has completed the forms furnished by the Franklin County Manager's Office and provided all information considered necessary by the County to make a decision in regard to the employee's request for permission to work in an alcoholic beverage outlet. The employee-applicant shall make himself available for photographing and such other investigating as may be required by the County. The employee-applicant shall pay a fee of \$20.00 payable to the Franklin County Sheriff's Office for each search and report. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the employee. The presence of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt.
- (d) The Franklin County Sheriff's Office shall have a complete and exhaustive search made relative to any criminal record of the employee-applicant. No employee identification card may be issued to an employee-applicant under the following circumstances:
  - (1) An employee-applicant who has been convicted of any felony under any federal, state or local law, particularly, but not limited to, those offenses

involving beverage alcohol, gambling, tax law violations or violations relating to the possession, distribution, or sale of a controlled substance as defined under O.C.G.A. § 16-13-24(4).

- (2) An employee-applicant who has been convicted under any federal, state, or local law of any felony or misdemeanor involving moral turpitude.
- (3) An employee-applicant who has two or more convictions of driving under the influence as defined under O.C.G.A. § 40-6-391 within a five-year period immediately preceding application for an employee identification card or an employee-applicant who has three or more alcohol related convictions, including but not limited to, public drunk, underage possession or consumption of alcohol.

For purposes of subparagraphs 1.8(d)(1) and (2) or (3) above, a "conviction" under this Ordinance shall include any plea of guilty, or admission of guilt and subsequent sentence under the First Offender Act of O.C.G.A. § 42-8-60, or any similar sentencing provisions for first time offenders of any other state or of the United States. A plea of nolo contendere for any felony or misdemeanor of any state or of the United States, or any municipal ordinance, or the forfeiture of a bond when charged with a crime is also considered a conviction under this Ordinance.

- (4) An employee-applicant who has been denied or has had revoked for cause within five years of the date of his application any employee permit issued to him by Franklin County and/or any other city, county and/or state to sell alcoholic beverages.
- (5) An employee-applicant who fails to provide truthful and correct responses to questions on the employee identification card application concerning information of past arrests and convictions.

If it is found that the employee-applicant is not eligible for an employment permit, the Franklin County Manager's Office shall notify the employee-applicant and the employer that this person is not eligible for such permit. In the event the employee-applicant meets the qualifications of this Ordinance, the County Manager or his designee shall issue a permit to the employee stating that the person is eligible for employment.

- (e) It shall be the duty of the licensee, at the time he/she files his/her application for a license to sell alcoholic beverages, to file with the Franklin County Manager's Office a list of the names and addresses of all present and prospective employees who are involved with the sale and/or handling of alcoholic beverages. It is the duty of the licensee who sells alcoholic beverages to further make available to the Franklin County Manager's Office a list of any subsequent employees to be hired or who are hired who will be involved with the sale and/or handling of alcoholic beverages.
- (f) Any permit issued by the County Manager to an employee may be revoked if said permit is issued through administrative error or through an error in completing the

background investigation. The Franklin County Sheriff's Office and/or the County Manager may revoke a permit and demand its surrender, pending a hearing before the Board of Commissioners conducted consistent with Section 1.12, if the employee violates the provisions of this Ordinance or becomes one who adversely affects the public health, safety, and welfare, or if it is discovered that the employee no longer satisfies the requirements issuance of an employee permit. The County may conduct a new search on any permitted employee when the County Manager or the Sheriff's Office receives information in regard to such employee that warrants a recheck. If the search reveals evidence that warrants cancellation of the permit, the employer and employee will be so notified. It shall be unlawful for an employee or employer to refuse to surrender any permit revoked or cancelled.

- (g) No licensee shall allow any employee required to hold a permit to work on the licensed premises, unless the licensee has on file on the premises the current valid permit of each employee required to have an employee identification card.
- (h) In the event that any permit holder leaves the employment of a licensed outlet, the licensee shall immediately surrender the employee permit to the County. An employee permit is not transferable.
- (i) All permits issued hereunder remain the property of this County and shall be produced for inspection upon demand by any sworn officer of the Franklin County Sheriff's Office or the County Manager.
- (j) The licensee is responsible for the conduct or actions of his/her employees while in his/her employment. An act or omission of a licensee, owner, or employee of the licensee or licensed establishment that is willingly or knowingly performed, and that constitutes a violation of federal or state law or of any provision of this Ordinance, shall subject the licensee to suspension or revocation of its license in accordance with the provisions of this Ordinance. Criminal penalties may also apply to the licensee or owner when it is determined that the act or omission did occur, and the acts or omissions of the employee were known to or under reasonable circumstances should have been known to the licensee or owner, were condoned by the licensee or owner, or where the licensee or owner has not established practices or procedures to prevent the violation from occurring as prescribed by Title III of the O.C.G.A. It shall be the duty of the licensee hereunder to maintain a copy of this Ordinance at the outlet and to instruct each and every employee engaged in the sale and/or handling of alcoholic beverages of the terms hereof.

### **Section 1.9 Regulations on Premises**

- (a) A licensee authorized to sell distilled spirits by the package shall affix to each bottle or container or distilled spirits, or to the edge of the shelf whereon such bottles or containers are located directly beneath such bottles or containers, a tag showing the prices of individual bottles or containers. A licensee authorized to sell alcoholic beverages for consumption on the premises shall display inside the place of business their current prices.

- (b) The exterior of each building where alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and entrances thereto are clearly visible at all times when the premises are opened for business.
- (c) The licensee shall post in a prominent location on the licensed premises, in a manner whereby it may be easily viewed by patrons, an approved sign setting forth or summarizing the laws of Franklin County and the State of Georgia in regard to the sale of alcoholic beverages to underage, intoxicated, or pregnant persons. Each sign shall be of a size and configuration approved by the Department of Revenue of the State of Georgia and said sign shall be made available to said licensee by the County Manager at a price to be established by the County.

#### **Section 1.10 Suspension or Revocation of License**

Any suspension, revocation, or forfeiture of a license by the Board of Commissioners shall occur only after notice and opportunity for a hearing before the Board of Commissioners consistent with the procedures set for in Section 1.12, and upon the following occurrences:

- (a) Any licensed outlet that is found to be in violation of this Ordinance shall be subject to license revocation or suspension and shall also be subject to criminal citation and prosecution as outlined in Section 1.11.
- (b) Every license issued by the County for the sale of alcoholic beverages shall be immediately revoked in case of bankruptcy, receivership, levy of legal process, or failure to promptly account for and pay the excise tax levied on the sale of alcoholic beverages.
- (c) Except as provided for transfers under Section 1.6 above, any change in the ownership of any entity owning a licensed outlet shall cause the Board of Commissioners to immediately revoke any license issued under this Ordinance.
- (d) All licensees must, within six months after the approval of said license, open for business the outlet referred to in the application for license, and begin the sale of the product or products authorized by the said license. Failure to open the outlet and begin the sales referred to within the six-month period, shall cause the Board of Commissioners to immediately revoke the license and no refund of any fees paid pursuant to this Ordinance shall be made.
- (e) Any licensee who shall for a period of three consecutive months cease to operate the business and sale of the product or products authorized in the said license, shall, after said three months period, cause the Board of Commissioners to immediately revoke the license, and no refund of any fees paid pursuant to this Ordinance shall be made.
- (f) A license may be immediately suspended or revoked by the Board of Commissioners upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the

application for a license, or fails to pay all fees, taxes, or other charges imposed under the provisions of this Ordinance.

- (g) Whenever the state shall revoke any permit or license to sell alcoholic beverages, the County license shall thereupon be immediately revoked.
- (h) Any licensed outlet for the sale of distilled spirits by the drink and any licensed outlet engaging in sale of alcoholic beverages on Sundays shall be subject to immediate license revocation by the Board of Commissioners if said outlet fails to meet the appropriate percentage requirements regarding the sale of food on the premises for two consecutive months.
- (i) The Board of Commissioners shall immediately suspend or revoke the license of any outlet which does not meet the licensing qualifications set forth in this Ordinance at any time such knowledge becomes known to the Board.
- (j) The Board of Commissioners shall immediately revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
- (k) It shall be a violation of the Ordinance for any licensee or any employee or agent of the licensee or licensed establishment to permit any person to engage in any activity on the premises for which the license is issued or within the place of business, which is in violation of the laws or regulations of any federal, state, county, or municipal governing authority or regulatory agency. A violation of this subsection shall subject the license to immediate suspension or revocation.
- (l) An act or omission of a licensee which constitutes a violation of federal or state law or regulation, relating to the sale of alcoholic beverages, taxes, gambling, violation of the Georgia Controlled Substances Act, or constitutes a crime of moral turpitude, shall subject the license to immediate suspension or revocation.
- (m) Any license shall automatically expire on December 31<sup>st</sup> of each year unless renewed by the Board of Commissioners.

#### **Section 1.11 Enforcement of this Ordinance**

- (a) Any violation of this Ordinance shall subject the licensee to the following progressive actions by the Board of Commissioners, except for those violations and occurrences set forth in Section 1.10 above that provide for immediate suspension or revocation upon notice and hearing:
  - (1) The first violation shall result in a warning or a license suspension for a period of up to thirty (30) days.
  - (2) The second violation within a consecutive twenty-four-month period shall result in license suspension for a period of not less than thirty (30) days nor more than ninety (90) days.

- (3) The third violation within a consecutive twenty-four-month period shall result in license suspension for a period of not less than ninety (90) days nor more than six (6) months.

Nothing contained in this subsection shall be construed to preclude the Board of Commissioners from suspending a license for a period exceeding thirty (30) days or ninety (90) days, respectively, or from revoking the license if the Board determines in its discretion that such action is necessary and in the best interest of the public health, safety, and welfare of the County.

In the case of a violation under this subsection by an employee, the suspension period may be mitigated by the Board of Commissioners upon presentation of evidence that the licensee established practices and procedures to prevent the violation from occurring and established procedures to properly train and supervise employees to prevent the violation from occurring.

- (b) In addition to the available actions to be taken by the Board of Commissioners, individuals who violate this Ordinance shall be subject to criminal citation and prosecution by the Franklin County Sheriff's Office. The criminal penalties may result in a fine not to exceed \$1,000.00, imprisonment not to exceed sixty (60) days, or both.
- (c) Sworn officers of the Franklin County Sheriff's Office and the County Manager and/or his designee shall have the authority to inspect the outlet and premises licensed under this Ordinance during the hours when the outlet is open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this Ordinance and state law. This section is not intended to limit the authority of any other county, state or federal officer to conduct inspections authorized by other provisions of law.
- (d) In order to ensure that the licensed premises are kept clean, and are in full compliance with all ordinances and regulations of Franklin County and the State of Georgia, the additional following representatives are authorized to inspect regularly the licensed premises:
  - (1) Representatives of the Franklin County Health Department shall have the authority to inspect regularly the licensed outlet and premises to determine if the licensed outlet is in compliance with all Franklin County and State or Georgia health rules and regulations and report any violations to the County Manager.
  - (2) The Franklin County Manager and/or his designee shall have the authority to inspect regularly the licensed outlet and premises to determine if the licensed outlet is in compliance with all Franklin County and State of Georgia fire regulations and report any violations to the County Manager.

- (3) The County has the right to have an inspector inspect regularly the licensed outlet and premises to determine if the licensed outlet is in compliance with all technical codes of the County and report any violations to the County Manager.
- (e) Every licensee shall keep and preserve records of all alcoholic beverages purchased and sold by the licensee. The records shall be kept for a period of three (3) years from the date of purchase and sale and shall at all times be open to audit and/or inspection by the County Manager or any designated County employee or any outside agent or agents for the County upon approval of such outside agent or agents by the County Manager. Further, all licensees for the sale of distilled spirits by the drink and for the sale of alcoholic beverages on Sundays shall keep and preserve records of all food and non-alcoholic beverages purchased and sold by said licensees. Such records shall be kept for three (3) years from the date of purchase and sale and shall be at all times open for audit and inspection by the County Manager and the Franklin County Sheriff, and/or any designated County and Sheriff's Office employee and/or any outside agent or agents of the County upon approval of said outside agent or agents by the County Manager. In the event an audit is called for by the County Manager, the County Manager shall notify the licensee of the date, time, and place of the audit.

#### **Section 1.12 Hearing on Denial, Suspension, or Revocation**

- (a) Upon receipt of a timely appeal of a denial of a license, upon presentation of evidence to the County Manager of a violation of this Ordinance, or upon a showing to the County Manager of any of the other occurrences set forth in Section 1.10 as grounds for suspension or revocation, the County Manager shall schedule a hearing before the Board of Commissioners or their appointee and provide written notice to the adverse party of the time, place, and date of the scheduled hearing. The County Manager shall also state in the written notice in reasonable detail basis for the denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the County Manager and the adverse party and/or counsel for the adverse party.
- (b) The Board of Commissioners or their appointee shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the competent evidence presented at the hearing. At its discretion, the Board of Commissioners may appoint a Special Master to conduct said hearing and make Findings of Fact and Conclusions of Law and report such findings and conclusions to the Board of Commissioners and to the County Manager.
- (c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his/her case, to rebut the allegations made against him/her, and present whatever defenses he/she has. The adverse party

shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses.

- (d) At the conclusion of the hearing, the findings and conclusions of the Board of Commissioners shall be forwarded to the County Manager, and it shall be the duty of the County Manager to provide written notification to the adverse party of the actions of the Board of Commissioners, which actions shall comport with Section 1.11 of this Ordinance.
- (e) The decision of the Board of Commissioners shall be final unless appealed to the Superior Court of Franklin County, Georgia, within thirty (30) days of the County Manager providing written notification to the adverse party of the Board's decision.
- (f) For purposes of this Ordinance, notice shall be deemed delivered when personally served or when served by certified mail postage prepaid within three (3) days after the date of deposit by the County in the United States Mail.

## **ARTICLE II – MALT BEVERAGE AND WINE – ORIGINAL PACKAGE**

### **Section 2.1 License Fees**

The license fee for a license to sell malt beverages and wine by the package shall be paid to the County Manager in the amount of \$1,500.00 by certified or cashier's check at the time of the filing of the original application or any renewal thereof.

### **Section 2.2 Excise Tax on the Sale of Beer and Malt Beverages**

The County, in addition to excise taxes levied by the State, does hereby levy a local tax on the sale of beer and malt beverages of five cents (\$.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces sold by wholesalers to retail package outlets in the County. Further, there is also levied by the County an excise tax on tap or draft beer of six dollars (\$6.00) per each container sold by wholesalers to retail package outlets in the County of Franklin and containing more than fifteen and one-half gallons and a like rate for fractional parts where the draft beer is sold in or from barrel or bulk containers. Said tax is imposed upon wholesalers and is payable on a monthly basis as set out under Section 6.3.

### **Section 2.3 Excise Tax on the Sale of Wine**

There is hereby levied an excise tax of twenty-two cents (\$.22) per liter on wines sold by a wholesaler to retail outlets in the County and a proportionate tax on the same rate on all fractional parts of a liter. Said tax is imposed upon wholesalers and is payable on a monthly basis as set out under Section 6.3.

### **Section 2.4 Type of Retail Outlet**

Beer and wine may be sold at retail, by the package, only in:

- (1) Outlets duly licensed to sell distilled spirits by the package; or
- (2) Outlets maintaining seventy-five percent (75%) of the floor space and storage area in a manner which is devoted principally to the retail sale of other foods, groceries, and general merchandise, rather than beer and wine.

### **Section 2.5 Hours of Sale**

Retail package outlets shall engage in the sale of beer and/or wine only between the hours of 6:00 a.m. and 11:45 p.m. Monday through Saturday. No package beer and/or wine may be sold on Sunday or on Christmas Day. The sale of beer and wine is allowed on election days provided the outlet is not located within 250 feet of a polling place.

### **Section 2.6 No Consumption on Premises**

It shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of malt beverages or wine by the package and it shall be unlawful for

any licensee by the package to open for, or break the package for, a purchaser and/or permit the consumption of alcoholic beverages on said premises.

**Section 2.7 Listing of Prices**

Licensees shall indicate plainly by tag or labels on the bottles or containers, or on the shelf immediately below where the containers are placed, the prices of all beer and wine offered for sale.

## **ARTICLE III – DISTILLED SPIRITS – ORIGINAL PACKAGE**

### **Section 3.1 License Fees**

A license fee for the sale of distilled spirits in the original package shall be paid by certified or cashier's check to the County Manager by the licensee in the amount of \$4,000.00, payable at the time of the application for the license or renewal thereof.

### **Section 3.2 Excise Tax**

The County does hereby levy an excise tax of twenty-two cents (\$.22) per liter on all distilled spirits, except for fortified wines, sold by wholesaler to a retail outlet authorized to sell distilled spirits by the package and a proportionate tax on the same rate on all fractional parts of a liter. Said tax is imposed upon wholesalers and is payable on a monthly basis as set out under Section 6.3.

### **Section 3.3 Types of Outlets Where Package Sales Are Permitted**

- (a) Distilled spirits by the package may be sold at retail, only in:
  - (1) Outlets duly licensed to sell distilled spirits by the package; and
  - (2) Outlets which are devoted exclusively to the retail sale of distilled spirits, beer and wine by the package with ingress and egress provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building or adjoining building, except in hotels, motels, and high-rise office buildings where every public entrance to this outlet shall be from a lobby, hallway, or other interior portion of the primary use structure.
- (b) Nothing in this section shall prohibit the retail sale within these outlets of liquid commodities and mixes normally used in the preparation and serving of distilled spirits. It is the intention of this section to allow the retail sale of distilled spirits by the package only in outlets devoted exclusively to the sale of distilled spirits, beer, and wine, and to prohibit such sales in outlets that sell groceries, food, gasoline, and other such commodities.

### **Section 3.4 Hours of Sale**

The sale of distilled spirits by the package shall occur only between the hours of 9:00 A.M. and 11:45 P.M. on Monday through Saturday. All customers must be out of the licensee's establishment by 12:15 A.M. on the days such distilled spirits are sold. No sale of distilled spirits by the package shall occur on Sunday or on Christmas Day. The sale of distilled spirits by the package is permitted on election days provided the location of the outlet is not within 250 feet of a polling place.

**Section 3.5 Consumption on the Premises**

It shall be unlawful for any person to consume any alcoholic beverage on premises licensed for the sale of distilled spirits by the package and it shall be unlawful for any licensee authorized to sell distilled spirits by the package to open for, or break the package for a purchaser, and/or permit the consumption of alcoholic beverages on said premises.

**Section 3.6 Listing of Prices**

Licensee shall indicate plainly by tag or labels on the bottles or containers, or on the shelf immediately below where the bottles or containers placed, the prices of all distilled spirits exposed for sale. The licensee shall not display prices or brand names in such a way as to be visible from the outside of the establishment.

## **ARTICLE IV – ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES**

### **Section 4.1 Locations Where Prohibited**

No alcoholic beverages may be sold by the drink for consumption on the premises, except in eating establishments regularly serving prepared food, with a full service kitchen ( a full service kitchen will consist of a four compartment pot sink, a stove or grill permanently installed and a refrigerator, all of which must be approved by the Franklin County Health Department) prepared to serve food every hour they are open and prepared to seat fifty or more persons, pursuant to the applicable building, fire and safety codes in effect for the County. When located in hotels, motels, and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall, or other publicly used interior portion of the primary use structure. Outlets not located within hotels shall derive a minimum of fifty percent (50%) of their total annual gross food and beverage sales from the sale of prepared meals or food. Hotels containing such outlets shall derive a minimum of fifty percent (50%) of their total annual gross income from the sales of prepared meals or food and from the rental of rooms for overnight lodging. On or before the fifteenth day of each calendar month, each such outlet shall file a report of the previous calendar month's operations with the County Manager verifying compliance with the above provisions. Such report shall be filed on forms designated by the County Manager. The license of any licensed outlet that fails to meet the appropriate percentage requirements for two consecutive months shall be subject to immediate revocation. An audit may be required at any time to ensure compliance with these provisions. If such outlet provides a bar or counter service for the sale of alcoholic beverages for on premises consumption, the seating for such bar shall not exceed ten percent (10%) of the total seating capacity of the outlet; provided, however, that this limitation of seating capacity shall not apply to hotel bars that are available for the use of hotel guests. Nothing in this section shall be deemed to prohibit hotel room service of alcoholic beverages or to prohibit a hotel from maintaining a bar separate from the restaurant facility, provided access to said bar shall be from a public lobby, hallway, mall, or other publicly used interior portion of the hotel. This section does, however, expressly prohibit the sale of alcoholic beverages in any bowling alley.

For purposes of this section, a golf course is defined as being a 70, 71, or 72 par course and being a recognized member of the Georgia State Golf Association and United States Golf Association and may be issued an on-premises consumption license without meeting the requirement that fifty percent (50%) of its gross annual sales be derived from the sale of prepared meals or food. In addition, an on-premises consumption license may be issued to an individual or entity operating a performing or cultural arts arena or a performing or cultural arts event without meeting the requirement that fifty percent (50%) of its gross annual sales be derived from the sale of prepared meals or food, with the exception that no licenses shall be issued in conjunction with performing or cultural arts events held at public school facilities or sponsored by the public schools.

## **Section 4.2 License Fees**

The licensee shall pay by certified or cashier's check a license fee for the sale of distilled spirits, beer, and wine for consumption on the premises to the Franklin County Manager's Office in the amount of \$4,000.00 to be paid at the time of application for said license or renewal thereof. The licensee shall pay by certified or cashier's check a license fee for the sale of distilled spirits only for consumption on the premises to the Franklin County Manager's Office in the amount of \$2,500.00 to be paid at the time of application for said license or renewal thereof. The licensee shall pay by certified or cashier's check a license fee for the sale of beer and wine only for consumption on the premises to the Franklin County Manager's Office in the amount of \$1,500.00 to be paid at the time of application for said license or renewal thereof.

## **Section 4.3 Excise Tax**

The County hereby imposes an excise tax upon every purchase of a drink containing distilled spirits served for consumption on the premises of three percent (3%) of the purchase price of said beverage. Said tax shall be paid by the licensee to the County, and remitted monthly by said licensee. The imposition of this tax shall be administered pursuant to the following rules and regulations:

- (a) Every licensee or his agent is hereby authorized and directed to collect the tax imposed herein from purchasers of alcoholic beverages by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the County Manager to facilitate the collection of the tax.
- (b) If requested by the purchaser, every licensee for the sale of alcoholic beverages by the drink shall at the time of collection for food and drinks served give to the purchaser a receipt on which the purchase price and tax imposed by this article on alcoholic beverages by the drink shall be itemized separately. In all cases where the collection of food and drinks is by deferred payment or credit, the licensee is liable at the time of sale, and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The County Manager and the Board of Commissioners shall have the authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.
- (c) The taxes imposed by this section shall become due and payable from the purchaser at the time of purchase of any alcoholic beverage by the drink in this County. The full amount of such taxes collected by the licensee shall be due and payable to the County monthly, on or before the 20<sup>th</sup> day of the month following each monthly period. On or before the 20<sup>th</sup> day of the month following each monthly period, a return for the preceding monthly period shall be filed with the County Manager in such form as the County Manager may prescribe, by every licensee liable for the payment of tax hereunder; all returns shall show the gross receipts from the sale of alcoholic beverages by the drink and the amount of the tax collected on such drinks.

- (d) If the County Manager has cause to believe that the return, or the amount of the tax required to be paid to the County by any licensee is not proper, he may compute and determine the amount required to be paid upon the basis of any information that is available to him. Should the County determine that a deficiency exists in the amount of the tax due by the licensee for one or more monthly periods, the amount of the deficiency shall incur interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof from the due date of taxes. The County Manager or his designated representative shall give to the licensee written notice of this deficiency determination, and notice may be served by the County Manager or his designee, or by mail; if by mail, such service shall be addressed to the registered agent of the licensee. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee or by receipt of mailing. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20<sup>th</sup> day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.
- (e) If any licensee fails to make a return, the County Manager shall make an estimate of the amounts of the gross receipts of the licensee, or as the case may be, the amount of the total sales within the 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 available to the County Manager. Written notice shall be given in the manner prescribed in the preceding paragraph. The amount of the determination shall incur interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof, from the 20<sup>th</sup> day of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment.
- (f) Any licensee who fails to pay the tax herein imposed, or who fails to pay any amount of tax required to be collected and paid to the County within the time required, shall pay a penalty in the amount of twenty percent (20%) of the tax or amount of the tax in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in the preceding section.
- (g) At any time within three years after any tax, or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax, or any amount of tax required to be collected, the County may bring an action in the courts of this state, of any other state, or of the United States, to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto. Whenever the amount of any tax, penalty, or interest has been paid more than once, or has been erroneously or illegally collected or received by the County under this Ordinance, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the County Manager, he shall have three years from the date of payment to file claim in writing, stating the specific ground upon which his claim is founded. The claim shall be audited. If the claim is approved by the County Manager, the excess amount paid the County may be credited on any amounts

then due and payable from the licensee, or may be refunded to the licensee if the licensee is no longer operating a licensed premises in the County.

- (h) The County Manager and the Franklin County Sheriff's Office shall administer and enforce the provisions of this section for the collection of the tax imposed by this section. Every licensee for the sale of alcoholic beverages by the drink in the County shall keep such records, receipts, invoices, and other pertinent papers in such forms as the County Manager may require. The County Manager or his designee, or any person authorized in writing by the Board of Commissioners, may examine the books, papers, records, financial reports, equipment, and other facilities of any licensee liable for the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. In the administration of the provision of this section, the County Manager may require the filing of the reports by any person or class of persons having in such person's possession or custody information relating to the purchases which are subject to the tax. The report shall be filed with the County Manager and shall set forth the purchase price for each purchase, the date or dates of purchase, and such other information as the County Manager may require. The licensee shall keep a copy of this Ordinance at the outlet at all times. All employees of the licensee shall be informed of the contents of this section.
- (i) Any person violating any of the provisions of this section shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine and/or imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this section is committed, continued, or permitted by such person and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the County Manager, or who renders a false or fraudulent return, shall be deemed guilty of an offense and upon conviction thereof, shall be punished as aforesaid.

#### **Section 4.4 Hours of Sale**

Alcoholic beverages shall not be sold for consumption on the premises, except between the hours of 9:00 a.m. and 1:00 a.m. on Monday through Thursday, and between the hours of 9:00 a.m. and 2:00 a.m. on Friday, Saturday, and December 31 (New Year's Eve), if December 31 falls on Monday through Saturday. All patrons must have exited the licensee's establishment within 30 minutes of the time which alcoholic beverages may no longer be sold, thus setting such exit time at 1:30 a.m. on Monday through Thursday, and 2:30 a.m. on Friday, Saturday, and New Year's Day. Alcoholic beverages may be sold for consumption on the premises on election days provided the outlet for such sale is not located within 250 of a polling place. Alcoholic beverages may be sold on Sunday for consumption on the premises from 12:30 p.m. until 12:00 midnight in a licensed establishment deriving at least fifty percent (50%) of total annual gross sales from food or meals in all of the combined retail outlets of the total establishment where food is served and in any licensed establishment deriving fifty percent (50%) of total annual gross income from the rental of rooms for overnight lodging.

#### **Section 4.5 Consumption Sales Only**

Licensees authorized to sell alcoholic beverages for consumption on the premises shall not be permitted to sell alcoholic beverages by the package at that outlet and shall not permit a purchaser to remove from the premises any alcoholic beverage. This specifically prohibits the use of "to go" cups or any other device permitting any person to remove alcoholic beverages from the licensed premises.

#### **Section 4.6 Licensee's Price List**

Licensees of alcoholic beverages for consumption on the premises shall display in prominent places, inside the outlet and/or on menus their current prices of distilled spirits, wine, champagne, or malt beverage by the drink and the quantity of such beverage to be served. The licensee shall furnish to any customer who desires or requests an itemized bill of charges which shall not exceed the price list displayed. Provided, however, all licensees shall keep a record of all sales of alcoholic beverages sold on which the excise tax is required to be paid under this Ordinance. No display of prices or brand names of alcoholic beverages to be served shall be displayed in such a manner as to be visible from outside of the licensed outlet.

#### **Section 4.7 Patios and Open Areas**

The consumption of alcoholic beverages shall be allowed in open areas and patios, provided that such open areas and patios are not visible from the exterior of the premises and further provided that the licensee is in compliance with all other appropriate regulations, as to the safe and orderly operation of such establishment, including, but not limited to regulations pertaining to maximum capacity, ingress, and egress.

#### **Section 4.8 Happy Hour Promotions Prohibited**

No licensee shall advertise a happy hour. No licensee may serve discounted drinks or increase the volume of alcoholic beverage contained in a drink without proportionately increasing the price customarily charged for such beverage. As used in this code section, the phrase "customarily charged" means the price regularly charged for such alcoholic beverage in the same calendar week.

#### **Section 4.9 Lighting**

The exterior of each building where alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and all entrances thereto are clearly visible at all times when the outlet is opened for business. Also, the lounge and restaurant areas, including all tables, booths, and other areas where customers are served, and all passageways shall be sufficiently well illuminated so that customers may be viewed by others inside the outlet.

#### **Section 4.10 Bring Your Own Bottle "Brown Bagging" Prohibited**

No person may bring alcoholic beverages (brown bag) into any establishment, whether that establishment is licensed or is not licensed to serve alcoholic beverages, for the purpose of consuming alcohol on the premises during regular business hours of the establishment and/or while the establishment is open to the public.

#### **Section 4.11 Organizations Exempt From Food Service Requirement**

Nationally recognized and chartered organizations such as veterans' organizations, fraternal organizations, and other nonprofit organizations currently having tax-exempt status under either the United States Internal Revenue Code or the Georgia Income Tax Law shall not be required to operate a food establishment serving prepared food in order to sell alcoholic beverages. Such organization, however, dispensing or selling alcoholic beverages, shall be subject to all County ordinance regulations and general licensing application requirements for licensees; provided, however, any applicants for temporary licenses may be exempted from certain ordinance regulations and application requirements if the County Manager, after consultation with the Franklin County Sheriff's Office, determines that such exemption will not violate the purposes of the Ordinance as set forth in section 1.1(d) herein. Any applicant requesting a temporary license must qualify for said license by submitting an application on a form provided by the County Manager and by tendering a certified or cashier's check to Franklin County in the amount of \$25.00 per each day alcoholic beverages are sold. Said temporary license will be granted to the same applicant a maximum of five (5) days per year.

#### **Section 4.12 Hotel/Motel In-Room Service**

- (a) "In-room service" is the provision of a cabinet or other facility located in a hotel-motel guest room which contains beer, wine, and/or distilled spirits and which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of the beer, wine, and/or distilled spirits contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.
- (b) Any hotel-motel that acquires this "in-room service" shall also be required to obtain a consumption on the premises license and meet all of the requirements of this Ordinance.
- (c) No hotel-motel shall be authorized to provide "in-room service" until it has been issued a special license to do so. A license fee of \$100.00 shall be imposed to provide only beer, wine, and/or distilled spirits.
- (d) The sale of beer, wine, and/or distilled spirits by "in-room service" shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this Ordinance.
- (e) Keys for "in-room service" shall only be sold to guests between the hours of 9:00 a.m. until 1:00 a.m. Monday through Friday and on Saturday between the hours of

9:00 a.m. and 11:45 p.m. No sales of keys for "in-room service" shall be allowed on Sunday.

#### **Section 4.13 Nude Dancing; Findings; Public Purpose**

Based on the experience of other Georgia counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; and Ft. Lauderdale and Palm Beach, Florida, which experiences we believe are relevant to the problems faced by Franklin County, Georgia, we take note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country. 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 alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding 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 alcohol 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 which serve alcohol and also allow and/or encourage nudity. To that end, this section 4.13 is hereby adopted.

- (a) Enactment. The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or dispense alcohol beverages for consumption on such premises within the unincorporated area of Franklin County:
  - (1) The employment or use of any person, in any capacity, in the sale or service of alcohol 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 region, anus, cleft of the buttocks, vulva and genitals.
  - (2) Live entertainment where any person appears in the manner described in paragraph (1) of this section or where such persons (or person) perform(s) acts of or acts which simulate any of the following:
    - (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.
    - (b) The caressing or fondling of the breasts, buttocks, anus or genitals.

- (c) The displaying of the male or female pubic region, anus, vulva or genitals.
- (3) The holding, promotion, sponsoring or allowance 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 paragraphs (1) and (2) above; provided, however, that nothing shall apply to the premises of any mainstream performance house, museum or theater which derives less than twenty (20) percent of its gross annual income from the sale of alcoholic beverages.

## **ARTICLE V – PRIVATE CLUBS**

### **Section 5.1 Definitions**

“Private Club” as used in this section means any nonprofit association organized under the laws of this State which:

- (a) Has been in existence continuously for at least one year prior to the filing of its application for a license to be issued pursuant to this chapter;
- (b) Has at least 75 regular dues-paying members;
- (c) Owns, hires, or leases a building or space within a building for the reasonable use of its members and guests with:
  - (1) Suitable kitchen and dining room space and equipment; and
  - (2) A sufficient number of staff employees for cooking, preparing, and serving meals for its members and guests; and
  - (3) Has no member, officer, agent or employee directly or indirectly receiving in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

For purposes of paragraph (c)(iii), “a fixed salary” means the amount of compensation paid any member, officer, agent, or employee of a private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include a commission or any profits from the sale of alcoholic beverages. Tips or gratuities, which are added to the bills under club regulations, shall not be considered as profits from the sale of alcoholic beverages.

### **Section 5.2 License Fees**

A license fee authorizing a private club to sell and dispense alcoholic beverages shall be paid by certified or cashier’s check to the County by the licensee in the amount of \$4,000.00, payable at the time of the application for the license or renewal thereof.

### **Section 5.3 Excise Tax**

In addition to the excise taxes levied by the State, the County does hereby levy an excise tax of twenty-two cents (\$.22) per liter on all distilled spirits sold by a wholesaler to a private club. Said tax is imposed upon wholesalers and is payable on a monthly basis as set out under Section 6.3. Accordingly, the County also imposes an excise tax on every purchase of a mixed drink in the amount of three percent (3%) of the purchase price of said beverage. Said tax shall be paid by the licensee to the County and remitted monthly in the manner prescribed under Section 6.3.

**Section 5.4 Regulation**

Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable ordinances and regulations of the County governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations. The County, however, will grant no alcoholic beverage license to a private club organized or operated primarily for the selling or serving of alcoholic beverages.

## **ARTICLE VI – WHOLESALERS**

### **Section 6.1 License Required**

Any wholesale dealer in alcoholic beverages licensed by the State of Georgia or the agent of such wholesale dealer, shall be granted a license to distribute such beverages to licensed retailers or dealers in the unincorporated areas of the County upon application for such license to the County Manager and the presentation of satisfactory evidence that he understands the alcoholic beverage rules and regulations of this County and the conditions under which retail licenses are issued.

### **Section 6.2 License Fees**

A wholesaler of alcoholic beverages sold in the County whose principal place of business is in the County shall pay to the County Manager the following annual license fees:

(1)	Distilled spirits	\$4,000.00
(2)	Beer	\$1,000.00
(3)	Wine	\$1,000.00

A wholesaler dealer who is licensed to do business in more than one municipality or County of the State of Georgia and whose principal place of business is not in Franklin County shall pay to the County Manager a license fee in the amount of \$100.00. Said license fees are payable at the time of application for a license and any renewal thereof.

### **Section 6.3 Excise Taxes**

All wholesale dealers engaged in the wholesale distributions of alcoholic beverages to retail package outlets in this County shall pay to the County Manager an excise tax of twenty-two cents (\$.22) per liter of wine for each liter of wine sold to retail package licensees and a proportionate tax at the same rate on all fractional parts of a liter. Further, all wholesale dealers shall pay to the County an excise tax for malt beverages sold to retail package outlets in this County, equal to five cents (\$.05) per twelve ounces and a proportionate tax at the same rate on all fractional parts of twelve ounces. Further, the wholesale dealers shall pay to the County an excise tax on tap or draft beer in the sum of six dollars (\$6.00) for each container sold containing not more than fifteen and one-half gallons and a like rate for fractional parts where the draught beer is old in or from a barrel or bulk container. Further, all wholesale dealers shall pay to the County an excise tax of twenty-two cents (\$.22) per liter for all distilled spirits, except for fortified wine, sold to a licensee authorized to sell distilled spirits by the package and a proportionate tax at the same rate on all fractional parts of a liter. Each licensee responsible for the payment of the excise tax shall file a report itemizing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, sold during the month within the County. Said report and payment shall be filed with the County Manager before the tenth day of the month following the calendar month in which the beverages were sold. Failure to file such report and payment within the time required shall result in a payment

penalty of 10% of the excise tax amount due or \$100.00 whichever is greater. Payment of this excise tax shall be made before the tenth day of each month for all sales made during the previous month.

#### **Section 6.4 Hours of Sale**

The business hours of wholesale dealers shall be from sunup to sundown only on days the outlets for sale of alcoholic beverages in the original package and by the drink are authorized to sell alcoholic beverages, excluding Sundays.

#### **Section 6.5 Special Provisions Applicable to Wholesale License**

- (a) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this Ordinance. No wholesaler shall sell any alcoholic beverages to any person other than a retailer licensed under this Ordinance. No alcoholic beverages shall be delivered to any outlet in the County except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.
- (b) Licensed wholesalers or their employees shall follow all traffic rules in effect for the County and shall not in any way conduct their business so as to interfere with the flow of traffic in the County.

## ARTICLE VII – LEGAL STATUS PROVISIONS

### Section 7.1 Severability

Should any section, subsection, clause, sentence, phrase, or part of this Ordinance for any reason be held, deemed, or construed to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions thereof and the Board of Commissioners hereby declares that it would have passed this ordinance, each section, subsection, clause, sentence, phrase, and part thereof irrespective to the fact that one or more sections, subsections, clauses, sentences, phrases, or parts thereof, be declared unconstitutional or invalid.

### Section 7.2 Effective Date and Repealer Provision

This ordinance shall become effective immediately upon its adoption and any and all existing or pre-existing Franklin County ordinances, amendments and resolutions in conflict with the provisions of this Ordinance are hereby repealed. The County Manager is hereby directed to promulgate and establish such procedures and forms as may be necessary to implement the provisions of this Ordinance, and to shall establish such procedures and forms on or before December 31, 2021, such that applications for licenses hereunder may be received on or after January 1, 2022.

Adopted this 2<sup>nd</sup> day of August, 2021.

  
Jason K. Macomson, Chairman

  
Robert L. Franklin, Commissioner, District 1

  
Kye Foster, Commissioner, District 2

  
Ryan Swails, Commissioner, District 3

  
Eddie Wester, Commissioner, District 4

Attest:

  
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Kayla Finger, County Clerk