



**ALCOHOLIC BEVERAGE ORDINANCE
for the UNINCORPORATED PORTION of
DECATUR COUNTY**

A replacement for the Resolutions and Ordinances approved by the Board of Commissioners on October 14, 1997, which themselves were Amendments to the Resolutions and Ordinances approved by the Board of Commissioners on September 22, 1986, providing for the granting of malt beverages, wine, and distilled spirits licenses within Decatur County, Georgia, but outside the corporate limits of municipalities located therein; criteria for the granting thereof; license fees for the sale thereof; regulation of licenses hereunder; the repeal of all resolutions and ordinances in conflict herewith, and for other purposes.

BE IT ORDAINED that the Decatur County Board of Commissioners, in meeting duly assembled, enact the following ordinance to be called Alcoholic Beverage Ordinance for the Unincorporated Portion of Decatur County. All County rules, regulations, and previous ordinances relating to the granting of licenses for the sale and consumption of alcoholic beverages within Decatur County, Georgia, but outside the corporate limits of municipalities located therein, are, hereby, repealed. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The EFFECTIVE DATE of this ordinance shall be January 1, 2010.

Approved on this _____ day of _____, 2009.

H. Palmer Rich,
Chairman, Board of Commissioners

Beverly King,
County Clerk

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ARTICLE I - GENERAL PROVISIONS

Sec. I-1. Purpose of this ordinance.

In accordance with the laws of the State of Georgia, it is necessary and appropriate for the Decatur County Board of Commissioners to establish reasonable regulations for the sale, consumption, tax, and control of alcoholic beverages in the unincorporated portion of Decatur County.

Sec. I-2. Short title.

This ordinance shall be known and may be cited as the **Decatur County Alcoholic Beverage Code**.

Sec. I-3. Definitions.

(a) The following terms, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Authorized catered function means any event for which a food caterer, permitted by the County Health Department or other appropriate governmental organization, prepares and serves food to the public.

Board means Decatur County Board of Commissioners.

Building means any man-made entity used for sheltering or supporting any activity. A nonexclusive list of such entities would include: enclosed building, open shed, tent, kiosk, wagon, cart, trailer, booth, stall.

Church means a permanent building where persons regularly assemble for religious worship or instruction and which has been publicly designated as a church or church educational building. This term shall not be applied to a residence which is also used for religious purposes or properties owned by a church, but not used for church assembly or religious education.

County means Decatur County, Georgia.

County Clerk means the Clerk of the Decatur County Board of Commissioners.

Distance means the measure of the most direct route of travel on the ground and shall be measured in the following manner:

(1) in a straight line from the front door of the structure from which alcoholic beverage is

- offered for sale;
- (2) to the front door of the building of a church, government-owned alcoholic treatment center, or other business licensed to sell distilled spirits;
 - (3) to the nearest property line of the real property being used for school or educational purposes or a housing authority; or
 - (4) to the outer edge of any building within which a polling place is located.

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

Event permit means a permit allowing a licensed alcoholic beverage caterer to sell malt beverages and wine by the drink at an authorized catered function.

Food caterer means any person who is permitted by the County Health Department, or other appropriate governmental organization, to prepare and serve food outside a typical food service establishment setting.

Housing authority property means any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. Title 8, Chapter 3, Article 1.

Individual means a natural person.

Interest means any pecuniary interest and any ownership interest, whether present or future, whole or partial, legal or beneficial, contingent or vested, direct or indirect, and any right, power, or authority.

License means the authorization by the Decatur County Board of Commissioners to engage in the sale and serving of alcoholic beverages in the unincorporated portion of Decatur County.

Licensed alcoholic beverage caterer means any person who has been licensed by the State of Georgia for the retail sale of malt beverages, wine, or distilled spirits.

Licensed premises means not only a building or temporary sale site wherein or wherefrom alcoholic beverages are sold or served but also the outdoor area within the property lines as approved by the Board.

Licensee means an individual licensee or, in the case of a partnership or corporation, both the partnership or corporation and the named licensee.

Majority stockholder means the individual, if any, who owns more than fifty percent of the voting stock of a corporation. If no individual owns more than fifty percent of the voting stock of a corporation, the majority stockholder is the person owning more of the voting stock than any other person. If two or more individuals each owns the same amount of the voting stock of a corporation and each owns more of the voting stock than any other individual, then any one of such individuals may act as the majority stockholder.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer.

Named licensee means the individual acting as such for a partnership or corporation.

Non-profit organization means an entity which is exempt from federal income tax pursuant to the provisions of subsection (c), (d), or (e) of 26 U.S.C. Section 501.

On-Premises means all the contiguous property under the control of the licensee.

Operator means and includes the owner, license holder, operator, manager, and person in charge of any licensed premises.

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

Person means any individual, firm, partnership, cooperative, nonprofit 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.

Premises means land and buildings, if any, together considered as a property which is owned, leased, or controlled by the licensee and used by him for the purpose of operating under the license.

Private Club means any nonprofit association organized under the laws of Georgia which:

- (1) has been in existence at least one year prior to the filing of its application for a license to be issued;
- (2) has at least 75 regular dues-paying members;
- (3) owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:
 - (i) has suitable kitchen and dining room space and equipment; and
 - (ii) is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
- (4) 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, which shall not include any commission on any profits from the sale of alcoholic beverages. Tips or gratuities which are added to the bills under club regulations shall not be considered profits from the sale of alcoholic beverages.

Resident means an individual whose primary residence is located within the County.

Retailer or retail dealer means, except as to 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, the term means any person who

sells distilled spirits in unbroken packages at retail only to consumers and not for resale.

School building means a building, publicly or privately owned, in which are taught subjects commonly taught in the common schools and colleges of this state. This term shall not be applied to a private residential building in which a child receives home schooling from a parent or other person.

Temporary permit means an authorization for a bona fide non-profit civic organization to sell malt beverages and wine for consumption only on-premises.

Temporary sales site means an entity or location, on a licensed premises, used for a limited period of time. A nonexclusive list of such entities would include: enclosed structure, open shed, tent, kiosk, wagon, cart, trailer, booth, stall.

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

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

(b) Unless a contrary intention is clearly apparent from the context, any term used in this ordinance shall have the same meaning as when used in comparable provisions of the Georgia Alcoholic Beverages Code, O.C.G.A. Title 3.

(c) As used in this ordinance, the singular and plural shall each include the other, the masculine and feminine shall each include the other, and any verb tense may include any other verb tense.

(d) As used in this ordinance, the term *may* is permissive and the term *shall* is mandatory.

ARTICLE II - GENERAL REGULATION OF ALCOHOLIC BEVERAGES

Sec. II-1. Declaration of selling and other dealings in alcoholic beverages as a privilege subject to regulatory requirements.

The distributing, selling, handling, and otherwise dealing in or possessing alcoholic beverages are declared to be privileges in the unincorporated portion of Decatur County and not rights; however, such privileges shall not be exercised except in accordance with the licensing and regulatory requirements of this Ordinance.

Sec. II-2. Power of Decatur County as to granting, denying, suspending, canceling, or revoking licenses within the unincorporated portion of the County.

Except as otherwise provided for in O.C.G.A. Title 3, the distributing and selling by wholesale or retail of alcoholic beverages shall not be conducted in the unincorporated portion of Decatur County without a license granted by the Decatur County Board of Commissioners.

Sec. II-3. Due process procedure for the granting or denial and the suspension or revocation of licenses.

The granting or denial and the suspension or revocation of a license shall be in accordance with the following guidelines of due process:

- (a) The Board of Commissioners shall set forth ascertainable standards in this Ordinance upon which all decisions pertaining to these licenses shall be based;
- (b) All decisions approving, denying, suspending, canceling, or revoking a license shall be in writing, with the reasons therefore stated, and shall be sent by certified mail, return receipt requested, or hand delivered to the applicant within 48 hours from the day the decision was made, not counting holidays and weekends; and
- (c) Upon application within 10 working days of delivery of the Board's decision, any applicant or licensee aggrieved by a decision of the Board regarding a license or permit shall be afforded a hearing with an opportunity to present evidence and cross-examine opposing witnesses.

Sec. II-4. Knowledge of Ordinance provisions.

- (a) Each licensee under this Ordinance shall, prior to applying for a license, read and familiarize himself with all the provisions of this Ordinance.
- (b) A license application shall constitute certification by the applicant that he has fulfilled the requirement in paragraph (a) of this Section.
- (c) Each licensee under this Ordinance shall, at all times, maintain a copy of this Ordinance on the licensed premises.
- (d) Each licensee under this Ordinance shall instruct each employee engaged in the sale or handling of alcoholic beverages concerning the relevant provisions of this Ordinance.

Sec. II-5. Requirement for applicant to furnish a complete set of fingerprints.

As a prerequisite to the issuance of any initial license, each individual named in the application shall furnish to Decatur County a complete set of fingerprints.

Sec. II-6. Investigation of applicant.

As a prerequisite to the issuance of an initial license, the County Sheriff shall investigate and

provide to the County Clerk a complete criminal history of every person named in the application.

Sec. II-7. Building code requirements for permanent enclosed buildings used for the sale of alcoholic beverages.

(a) It shall be the responsibility of the license applicant to ensure that any permanent enclosed building intended for the sale of alcoholic beverages satisfies minimum building code standards for occupancy. The applicant can do this by contacting the County Planning Department.

(b) Prior to a licensee having a suspended license re-instated, it shall be his responsibility to ensure that any permanent enclosed building intended for the sale of alcoholic beverages on the licensed premises satisfies minimum building code standards for occupancy. The licensee can do this by contacting the County Planning Department.

Sec. II-8. Environmental health requirements and Georgia Food Service Regulations for permanent and temporary sites used for the sale of alcoholic beverages.

(a) It shall be the responsibility of the license applicant to ensure that state requirements for adequate potable water and sewage disposal and any applicable Georgia Food Services Regulations are satisfied for any permanent or temporary sites intended for the sale of alcoholic beverages on the premises which are to be licensed. The applicant can do this by contacting the County Environmental Health Office.

(b) Prior to a licensee having a suspended license re-instated, it shall be his responsibility to ensure that state requirements for adequate potable water and sewage disposal and any applicable Georgia Food Services Regulations are satisfied for any permanent or temporary sites intended for the sale of alcoholic beverages on the licensed premises. The applicant can do this by contacting the County Environmental Health Office.

Sec. II-9. Telephone on the premises.

A licensee shall, at all times, maintain on the premises a telephone, landline or cellular, in good working order.

Sec. II-10. Inspection of premises.

Premises operated under the provisions of this Ordinance shall be open to inspection by authorized County personnel at all times.

Sec. II-11. Display of licenses.

Each person holding licenses issued pursuant to this Ordinance and O.C.G.A. Title 3 shall display the licenses prominently at all times on the premises for which the licenses are issued.

Sec. II-12. Exemptions from license fees.

There shall be no exception from the license fees provided by this Ordinance in favor of any person, unless specifically provided for by state law.

Sec. II-13. Transferability of license.

If a retail licensee is moving his business to a new location, the license for the previously occupied location can be transferred to the new location, provided all requirements of this Ordinance and O.C.G.A. Title 3 are satisfied and a location transfer fee is paid.

Sec. II-14. Prohibition of receiving a license if delinquent taxes are owed the County.

- (a) No alcoholic beverage license shall be granted if there are any delinquent taxes owed to the County against any property, real or personal, belonging to the applicant.
- (b) No alcoholic beverages license shall be granted if there are any delinquent taxes owed to the County against any property, real or personal, pertaining to the location of the business for which the application is being made.

Sec. II-15. Prohibition of holding or having beneficial interest in more than two licenses for the retail sale of distilled spirits.

- (a) No person shall be issued more than two licenses for the retail sale of distilled spirits, nor shall any person be permitted to have a beneficial interest in more than two such licenses, regardless of the degree of such interest.
- (b) For the purpose of this Ordinance section:
 - (1) The term "person" shall include all members of the family of the holder of a license for the retail sale of distilled spirits; the term "family" shall include any person related to the holder of the license within the first degree of consanguinity and affinity as computed according to canon law; and
 - (2) The beneficiaries of a trust shall be considered to have a beneficial interest in any business forming a part of the trust estate.
- (c) Nothing contained in this Ordinance section shall prohibit the re-issuance of a valid license for the retail sale of distilled spirits if the license was:
 - (1) Held prior to the creation by marriage of any of the relationships described in paragraph (b), above; or
 - (2) Held prior to April 3, 1978.

Sec. II-16. Sale of alcoholic beverages on election days.

No alcoholic beverages may be sold within 250 feet of any building within which a polling place is located during the period of time that the polls are open for voting.

Sec. II-17. Times at which alcoholic beverages may be offered for sale.

(a) Malt beverages and wine may be sold for on-premises consumption at any time except:

- (1) Between 12:00 Midnight and 9:00 AM on Mondays;
- (2) Between 2:00 AM and 9:00 AM on Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays; and
- (3) All day on Sundays.

(b) Malt beverages and wine may be sold for off-premises consumption at any time except all day on Sundays.

(c) Distilled spirits may be sold between 8:00 AM and 11:45 PM on any days except: Sundays, Thanksgiving Days, and Christmas Days.

Sec. II-18. Law Enforcement, Fire and Rescue, and Emergency Medical Services.

While there shall be no specific requirement relating to the precautionary presence of law enforcement, fire and rescue, or emergency medical personnel on any premises for which a license or temporary permit has been granted for on-premises consumption of alcoholic beverages, it is strongly recommended that the holder of the license or permit consult with the County Sheriff, the County Fire and Rescue Chief, and the County EMS Director when it is anticipated that there may be more than 200 persons on the premises.

**ARTICLE III - TYPES OF LICENSES AND PERMITS;
GENERAL PROCEDURES FOR THE ISSUANCE OF LICENSES**

Sec. III-1. Types of licenses and permits.

(a) The Decatur County Board of Commissioners may grant alcoholic beverages licenses for the following types of activities in the unincorporated portion of Decatur County:

- (1) The retail sale of malt beverages and wine for on-premises consumption;
- (2) The retail sale of malt beverages and wine by the package for off-premises consumption;
- (3) The retail sale of distilled spirits by the package for off-premises consumption; and
- (4) The wholesale of alcoholic beverages.

(b) There shall be a separate license required for each sales outlet which is not located on a parcel of land contiguous to property for which a license has previously been granted.

(c) The Decatur County Board of Commissioners may grant to a bona fide nonprofit civic organization a temporary permit authorizing the organization to sell malt beverages and wine for consumption only on the premises subject to the following conditions:

- (1) The permit shall be good for a period not to exceed three days;
- (2) The permit shall be valid only for the site specified in the permit;
- (3) The site shall be subject to the same requirements as licensed premises;
- (4) The organization shall be subject to the same requirements as licensees, except for those in Sec. II-5 and Sec. II-6; and
- (5) No more than six such permits shall be issued to an organization in any one calendar year.

(d) Information pertaining to licenses and permits for the sale of malt beverages and wine at authorized catered functions in the unincorporated portion of Decatur County is in Article VII.

Sec. III-2. General procedures for the issuance of licenses.

(a) A license issued to an individual shall be issued in the name of the individual.

(b) A license issued to a partnership shall be issued in the name of the partnership and in the name of one of the partners, who shall be named the licensee.

(c) A license issued to a corporation having as its principal business the wholesaling of alcoholic beverages shall be issued in the name of the corporation and in the name of the majority stockholder or a principal officer of the corporation; the majority stockholder or the principal officer shall be named the licensee.

(d) A license issued to a corporation or franchise having as its principal business an activity other than the sale of alcoholic beverages shall be issued in the name of the corporation or franchise and in the name of the officer or employee of the corporation or franchise primarily responsible for the operation of the licensed premises; the officer or employee shall be the named licensee.

(e) In the case of a partnership, each partner shall join as an applicant for the license and each partner shall meet the qualifications of an individual licensee.

(f) In the case of a corporation or franchise, having as its business the wholesaling of alcoholic beverages, the majority stockholder and each principal office of the corporation or franchise shall join as applicants for the license and each such person shall meet the

qualifications of an individual licensee, except for the residency requirement, which shall be required only for the named licensee.

(g) In the case of a corporation or franchise having as its principal business an activity other than the sale of alcoholic beverages, the officer or employee who is to be named the licensee shall be the applicant and shall meet the qualifications of an individual licensee. In addition, however, the Board may require the fingerprinting and investigation of any of the officers and stockholders of the corporation or franchise if it deems it necessary in making its investigation.

(h) In the case of a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business.

(i) In the case of a corporation, the corporation shall be responsible for the actions of the named licensee and the conduct of the licensed business.

ARTICLE IV - QUALIFICATIONS OF LICENSEE

Sec. IV-1. Qualifications of licensee who is an individual.

If the applicant is an individual, he:

(a) shall be at least 21 years old;

(b) shall not be an elected official or employee of the County;

(c) shall not have been convicted or pled guilty to any federal or state law classified as a felony involving moral turpitude; and

(d) shall not have been convicted or pled guilty to any federal or state law classified as a felony not involving moral turpitude within five years immediately preceding the filing of the application for a license unless, subsequent to said conviction or guilty plea, he has completed the sentence or received a full and complete pardon.

Sec. IV-2. Qualifications of licensee who is not an individual.

If the applicant is not an individual,

(a) the entity shall be of good business reputation;

(b) no partner or manager shall be an elected official or employee of the County;

(c) no officer, partner, or manager shall have been convicted or pled guilty to any federal or state law classified as a felony involving moral turpitude; and

(d) no officer, partner, or manager shall have been convicted or pled guilty to any federal or state law classified as a felony not involving moral turpitude within five years immediately preceding the filing of the application for a license unless, subsequent to said conviction or

guilty plea, he has completed the sentence or received a full and complete pardon.

Sec. IV-3. Residency requirements.

(a) Except in the case of a retailer of distilled spirits, residency by an applicant within the county shall not be a requirement for the granting of a license, provided the applicant designates a resident of the county who shall be responsible for any matter relating to the license.

(b) If the applicant for a distilled spirits retail dealer license is an individual, he shall file with his application a letter from the County Probate Judge certifying that he has been a bona fide resident of the County for at least 12 months immediately preceding the application.

Sec. IV-4. Restrictions relating to prior license denial or revocation.

The applicant shall not have had a previous application denied within the immediately preceding 6 months or a previous license revoked within the immediately preceding 24 months.

ARTICLE V - LOCATION OF PREMISES FOR RETAIL SALES

Sec. V-1. Location requirements relating to the sale of malt beverages and wine.

Any building or temporary sale site in, or from, which any malt beverages and wine will be sold shall be located:

(a) At least 300 feet from any school building, school grounds, or college campus. This restriction shall not apply at any location for which a license was issued prior to July 1, 1981. Also, this restriction shall not apply at any location for which a new license is applied if the sale of malt beverages and wine was lawful at such location at any time during the 12 months immediately preceding such application; and

(b) At least 300 feet from any housing authority property. This restriction shall not apply at any location for which a license was issued prior to July 1, 2000. Also, this restriction shall not apply at any location for which a new license is applied if the sale of malt beverages and wine was lawful at such location at any time during the 12 months immediately preceding such application.

Sec. V-2. Location requirements relating to the sale of distilled spirits.

Any building or temporary sale site in, or from, which distilled spirits will be sold shall be located:

(a) At least 300 feet from any church and at least 600 feet from any school building, educational building, school grounds, or college campus. This restriction shall not apply at any location for which a license was issued prior to July 1, 1981. Also, this restriction shall not apply at any location for which a new license is applied if the sale of alcoholic beverages

was lawful at such location at any time during the 12 months immediately preceding such application; and

(b) At least 300 feet from any housing authority property. This restriction shall not apply at any location for which a license was issued prior to July 1, 2000. Also, this restriction shall not apply at any location for which a new license is applied if the sale of alcoholic beverages was lawful at such location at any time during the 12 months immediately preceding such application; and

(c) At least 1,500 feet from any other business licensed to sell distilled spirits. This restriction shall not apply at any location for which a license was issued prior to July 1, 1997. Also, this restriction shall not apply at any location for which a new license is applied if the sale of alcoholic beverages was lawful at such location at any time during the 12 months immediately preceding such application.

Sec. V-3. Location requirement relating to the sale of alcoholic beverages near public alcoholic treatment centers.

Any building or temporary site in, or from, which any alcoholic beverages will be sold shall be located at least 300 feet from any alcoholic treatment center owned and operated by the state or any county or municipal government. This restriction shall not apply at any location for which a license was issued prior to July 1, 1981. Also, this restriction shall not apply at any location for which a new license is applied if the sale of alcoholic beverages was lawful at such location at any time during the 12 months immediately preceding such application.

Sec. V-4. Location requirements relating to a previously licensed site for which no license has been in effect for more than 12 continuous months.

If at any time there is no license held for a building or temporary sale site for a period in excess of 12 continuous months from the date of termination of the immediately preceding license, all distance restrictions of this Article shall apply to the building or temporary sale site.

Sec. V-5. Location requirements relating to license renewals.

All renewal applications shall use the distance measurements required in the initial application and license.

Sec. V-6. Additional location guidelines.

In addition to the requirements and exceptions stated in the previous Sections of this Article, when considering applications for new licenses, the Board may consider the following location guidelines:

(a) The nature of the neighborhood immediately adjacent to the proposed location; that is, whether the neighborhood is predominantly residential, industrial or commercial;

- (b) Whether the proposed location has adequate off-street parking facilities or other parking available for patrons;
- (c) Whether the proposed location would tend to increase traffic congestion or create traffic hazards;
- (d) The health, safety, and welfare of the citizens and preservation of surrounding neighborhoods, with reference to such factors as light, noise, pollution, traffic and loitering;
- (e) The history or reputation of the location for criminal activity, including but not limited to prostitution or other sex offenses, crimes of violence, gambling, and illegal dealing in alcoholic beverages or drugs; and
- (f) Any circumstances which might cause minors to frequent the immediate area.

**ARTICLE VI - APPLICATION FOR LICENSE;
CONSIDERATION OF THE APPLICATION**

Sec. VI-1. Availability of license application.

Any person who wishes to distribute or sell, at wholesale or retail, alcoholic beverages in the unincorporated portion of Decatur County may obtain a license application from the County Clerk.

Sec. VI-2. Fee payments.

- (a) Each submitted application shall have attached to it three certified checks or money orders, each made payable to Decatur County Board of Commissioners:
 - (1) One to defray processing costs;
 - (2) One for the fee to cover the cost of fingerprint analysis and criminal history investigation by the County Sheriff; and
 - (3) One for the fee for the requested license.
- (b) If the application is denied by the Board, the fee for the requested license shall be refunded, but the other two fees shall not be refunded.

Sec. VI-3. Required documentary attachments to an application.

Each submitted application shall have attached to it:

- (a) A copy of the deed to the premises, if owned by the applicant;
- (b) A copy of the lease agreement covering the premises to be licensed, if leased by the

applicant;

(c) In the case of a partnership applicant, a copy of the partnership agreement;

(d) In the case of a franchise applicant, a copy of the franchise agreement;

(e) In the case of a corporation applicant, a copy of the articles of incorporation;

(f) A current stamped certificate from a registered surveyor or the County Planning Department which shows a scale drawing of the premises and the location at which the applicant desires to operate an alcoholic beverage sales outlet and which shows, with linear feet measurements where appropriate, such location's compliance or noncompliance with the provisions of Sec. V-1, Sec. V-2, and Sec. V-3 of this Ordinance;

(g) A certification from the County Planning Department stating that any permanent enclosed building intended for the sale of alcoholic beverages for on-premises consumption has satisfied minimum building code requirements;

(g) A certification from the County Environmental Health Office stating that state requirements for adequate potable water and sewage disposal and any applicable Georgia Food Services Regulations are satisfied for any site, permanent or temporary, intended for the sale of alcoholic beverages; and

(h) A certification from the County Tax Commissioner stating that the applicant is not delinquent with any property taxes and that the owner of the location of a business for which an application is being made is not delinquent with any property taxes.

Sec. VI-4. Required documentation for unfinished premises.

(a) If the submitted application is for premises not yet constructed or not yet completed, a license may be issued if the application includes the plans for the premises and a stamped certificate from the County Planning Department showing the premises, when completed, will meet all applicable distance requirements.

(b) If upon completion the premises is not approved by the County Planning Department or the County Environmental Health Officer, then the license shall be temporarily suspended by the County Administrator.

Sec. VI-5. Requirements for fingerprints.

Each applicant and any corporate officers or stockholders otherwise required to be fingerprinted shall arrange to be fingerprinted at the Decatur County Jail.

Sec. VI-6. Basic grounds for denial of application.

An applicant's failure to provide all requested information or the submission of false information shall constitute grounds for the application to be denied.

Sec. VI-7. Consideration of application.

(a) At its next scheduled meeting following the submission of the application and the reception by the County Clerk of the report from the County Sheriff, the Board of Commissioners shall consider whether the applicant and application satisfy all requirements of this Ordinance.

(b) The applicant, or any one else who wishes to appear, may make relevant comments to the Board.

(c) The decision of the Board shall be communicated to the applicant in accordance with Sec. II-3(b) of this Ordinance.

ARTICLE VII - SALES OFF PREMISES FOR CATERED FUNCTIONS

Sec. VII-1. License and permit requirements.

A licensed alcoholic beverage caterer, who additionally holds a valid Georgia county or municipality license for the retail sale of malt beverages and wine for on-premises consumption or for off-premises consumption, who wishes to sell malt beverages and wine for consumption in connection with an authorized catered function at any off-premises location shall be required to have:

(a) A valid alcoholic beverages license, issued by the same Georgia county or municipality licensing authority, for off-premises retail sale of malt beverages and wine for consumption in connection with an authorized catered function at any off-premises location; and

(b) A County event permit for any authorized catered function at any off-premises location in the unincorporated portion of Decatur County.

Sec. VII-2. Application for license and permit.

(a) Any person who wishes to obtain an alcoholic beverages license for off-premises retail sale of malt beverages and wine for consumption in connection with an authorized catered function at any off-premises location may obtain a license application from the County Clerk.

(b) Each submitted license application shall have attached to it:

(1) A certified check or money order made payable to Decatur County Board of Commissioners for the fee for the requested license;

(2) A copy of the person's Georgia county or municipal license for the retail sale of malt beverages and wine for on-premises consumption or for off-premises consumption; and

(3) A copy of the person's state license(s) for the retail sale of malt beverages and wine.

(c) Any person who wishes to obtain an event permit for any authorized catered function at any off-premises location in the unincorporated portion of Decatur County may obtain a

permit application from the County Clerk.

(d) Each submitted event permit application shall have attached to it:

(1) A certified check or money order made payable to Decatur County Board of Commissioners for the fee for the requested permit;

(2) A copy of the person's Georgia county or municipality license for off-premises retail sale of malt beverages and wine for consumption in connection with an authorized catered function at any off-premises location; and

(3) A copy of the person's state license(s) for the retail sale of malt beverages and wine.

(e) An applicant's failure to provide all requested information or the submission of false information shall constitute grounds for the application or permit to be denied.

Sec. VII-3. Transportation of alcoholic beverages for an authorized catered function.

(a) The original County event permit and Georgia county or municipality license for off-premises retail sale of malt beverages and wine for consumption in connection with an authorized catered function at any off-premises location at all times shall be present in the vehicle transporting the alcoholic beverages to the location of the catered function.

(b) The licensee shall use Georgia Department of Revenue forms to report the quantity of any and all alcoholic beverages transported from the licensee's primary premises to the location of the authorized catered function.

ARTICLE VIII - LICENSE FEES

Sec. VIII-1. General provisions.

(a) The fee for each license shall be for one year, from January 1 to December 31.

(b) If the initial license is issued prior to July 1, the applicant shall be charged the full appropriate annual fee. If the initial license is issued after June 30, the applicant shall be charged half the annual fee.

(c) All license renewal annual fees shall be due and paid no later than December 31.

(d) A delinquency penalty of 10 percent shall be charged for any overdue license renewal payment.

(e) The annual license fees shall be the same for all retailers, regardless of whether sales are for on-premises or off-premises consumption.

Sec. VIII-2. Fees.

The amount for each of the fees relating to the sale of alcoholic beverages in the unincorporated portion of Decatur County can be obtained from the Fee Schedule Sheets kept by the County Clerk, County Planning Department, and County Environmental Health Office, as indicated.

(a) The County Clerk's Fee Schedule Sheet shall contain the following:

- (1) Initial license application fee for processing costs, which is nonrefundable;
- (2) Initial license application fee for the cost of fingerprinting and criminal history investigation by the County Sheriff, which is nonrefundable;
- (3) Annual fee for the retail sale of malt beverages and wine;
- (4) Annual fee for the retail sale of distilled spirits;
- (5) Annual fee for the wholesale of alcoholic beverages;
- (6) Fee for a temporary permit for a bona fide nonprofit civic organization;
- (5) Fee for the off-premises retail sale of malt beverages and wine for consumption in connection with an authorized catered function at any off-premises location;
- (6) Fee for a County event permit for any authorized catered function; and
- (7) Fee for transferring a license from one location to another.

(b) The County Planning Department's Fee Schedule Sheet shall contain the following:

- (1) Fee for determining compliance with location requirements, which is nonrefundable (This fee may be waived if the applicant submits a scaled drawing, depicting the proposed location and up to 500 feet from each side, from a licensed land surveyor/engineer, containing a statement pertinent to compliance of the proposed location.); and
- (2) Fee for building code inspection, which is nonrefundable.

(c) The County Environmental Health Office's Fee Schedule Sheet shall contain the following:

- (1) Fee for inspection for adequate potable water and sewage disposal, which is nonrefundable; and
- (2) Fee for any applicable Georgia Food Services Regulations, which is nonrefundable.

ARTICLE IX - EXCISE TAXES

Sec. IX-1. Excise tax amounts.

There shall be levied on all alcoholic beverages, except malt beverages and wines containing less than 0.5 percent alcohol, sold in the unincorporated portion of Decatur County excise taxes, in addition to a retailer's annual alcoholic beverages license fee, in the following amounts:

- (a) For all malt beverages sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of 5 cents per 12 ounces and a proportionate tax at the same rate of all fractional parts of 12 ounces;
- (b) For all malt beverages sold as tap or draft beer, a tax of \$6 on each container sold containing not more than 15.5 gallons and a proportionate tax at the same rate of all fractional parts of 15.5 gallons;
- (c) For all wine, a tax of 22 cents per liter and a proportionate tax at the same rate of all fractional parts of a liter; and
- (d) For all distilled spirits, except for fortified wines, a tax of 22 cents per liter and a proportionate tax at the same rate of all fractional parts of a liter.

Sec. IX-2. Collection and payment of excise taxes.

- (a) The excise taxes provided for in Section IX-1 shall be imposed upon and shall be paid by the licensed wholesale dealer who sells the alcoholic beverages to the retailer.
- (b) Each wholesale dealer responsible for the payment of the excise tax shall file with the Decatur County Board of Commissioners a report itemizing for the preceding calendar month the exact quantities of each type of alcoholic beverage, by size and type of container, sold during the month within the unincorporated portion of the County.
- (c) The wholesale dealer shall remit the excise taxed to the Decatur County Board of Commissioners on or before the tenth day of the month following the calendar month in which the beverages are sold within the unincorporated portion of the County.

Sec. IX-3. Excises taxes due on alcoholic beverages served at an authorized catered function.

Any properly authorized licensed alcoholic beverage caterer who transports alcoholic beverages from another political subdivision into the unincorporated portion of Decatur County for sale at an authorized catered function shall pay to the Decatur County Board of Commissioners the appropriate excises taxes on the total quantity of alcoholic beverages so transported.

ARTICLE X - PROHIBITED ACTIVITIES

Sec. X-1. Intoxicated person.

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

Sec. X-2. Underage person.

(a) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employment to furnish any alcoholic beverage to any person under 21 years of age.

(b) No person shall allow or require a person in his employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverages for consumption on-premises.

(c) Persons who are under 18 years of age who are employed in supermarkets, convenience stores, or drugstores may sell or handle alcoholic beverages which are sold for off-premises consumption.

Sec. X-3. Consumption of alcoholic beverage on premises licensed for off-premises sales.

No retail dealer of alcoholic beverages for consumption off-premises shall knowingly and intentionally allow or permit the breaking or any package or packages containing alcoholic beverages on the premises where sold or allow or permit the drinking of the contents of such package or packages on the premises where sold.

Sec. X-4. Employee solicitation of patrons for drinks on-premises.

On any premises licensed for the on-premises consumption of alcoholic beverages, no person employed or working in any capacity on the premises shall solicit or encourage patrons to purchase drinks to be consumed by or otherwise disposed of by any such person so employed or working.

Sec. X-5. Sexual activities.

(a) On any premises licensed for the on-premises consumption of alcoholic beverages, no person shall perform acts of or acts which constitute or simulate:

(1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

(2) The touching, caressing, or fondling of the breast, buttocks, anus, or genitals; or

(3) The displaying of any portion of the female breast below the top of the areola or the displaying of any portion of any person's pubic hair, anus, cleft of the buttock, vulva, or genitals.

(b) On any premises licensed for the on-premises consumption of alcoholic beverages, no person shall:

(1) Use artificial devices or inanimate objects to perform, simulate, or depict any of the prohibited conduct or activities described in paragraph (a), above; or

(2) Show, display, or exhibit any film still picture, electronic reproduction, or any other visual reproduction or image of any act or conduct described in paragraph (a), above.

(c) On any premises licensed for the on-premises consumption of alcoholic beverages, no operator shall knowingly permit:

(1) Any person in the licensed premises to view from the licensed premises, by glass partition or other artifice, an act or conduct described in paragraphs (a) and (b), above, and performed on premises other than the licenses premises; or

(2) Any person to remove any alcoholic beverage sold or dispensed on the licensed premises to adjacent or other premises for the purpose of viewing an act or conduct described in paragraphs (a) and (b),above, provided, however, that this subparagraph shall not be applicable to a person who removes an alcoholic beverage to his home or place of abode.

(d) On any premises licensed for the on-premises consumption of alcoholic beverages, no operator shall knowingly permit any contest or form of entertainment which consists of the wetting or soaking of the clothing covering the upper torso of a female or the pelvic area of a male or female.

(e) On any premises licensed for the on-premises consumption of alcoholic beverages, no operator shall employ, encourage, permit, or assist any person to engage in any act or conduct described in paragraphs (a), (b), (c) or (d), above.

Sec. X-6. Authorized catered functions.

(a) It shall be unlawful for a food caterer to sell any alcoholic beverages off the premises of the food caterer's business without a license issued pursuant to Article VII.

(b) It shall be unlawful for a licensed alcoholic beverage caterer, licensed under Article VII, to:

(1) Distribute or sell distilled spirits;

(2) Distribute or sell any alcoholic beverages off premises except in connections with an authorized catered function, within the scope of the event permit; or

(3) Distribute or sell any alcoholic beverages at an authorized catered function during any hours in which the sale of alcoholic beverages for consumption on-premises is not

permitted.

(c) It shall be unlawful for a licensed alcoholic beverage caterer, licensed under Article VII, to employ any person under 21 years of age who, in the course of such employment at an authorized catered function, would dispense, serve, sell, or handle alcoholic beverages.

(d) The activities described in Sec. X-1, Sec. X-2, Sec. X-3, Sec. X-4, and Sec. X-5 shall be prohibited at any catered function.

Sec. X-7. Food Sales.

No food shall be sold on any premises licensed for the on-premises consumption of alcoholic beverages unless it has been prepared in a facility that satisfies any applicable Georgia Food Services Regulations.

ARTICLE XI- LICENSE DENIAL, SUSPENSION, CANCELLATION, REVOCATION, FINES

Sec. XI-1. License denial.

(a) The Board of Commissioners may deny a license if:

(1) The license application is not filed in good faith or is filed by some person as a subterfuge for any other person;

(2) The license applicant does not satisfy all the appropriate qualification requirements presented in Article IV;

(3) The premises to be licensed do not satisfy all the locations requirements presented in Sec. V-1, Sec. V-2, and Sec. V-3.

(4) The license application is not accompanied by all the required fees and appropriate certifications presented in Sec. VI-2, Sec. VI-3, and Sec. VI-4; or

(5) There are bona fide concerns relating to Sec. V-6.

(b) Whenever the Board of Commissioners denies an application for a license, the applicant shall have 10 working days following the date of receipt of such notice of denial to request a hearing before the Board. If a hearing is requested, the following information shall be given to the applicant in writing by certified mail, return receipt requested, at least 10 working days prior to the hearing date:

(1) The date, time and location of the hearing, with the hearing date not to be more than 21 days from the date of the written notice; and

(2) Notice of the applicant's right to attend the hearing, to present evidence and

testimony, to assert any defense of the application, to confront and cross-examine anyone who would testify in favor of the denial for the application, and to have an attorney present to represent the applicant.

Sec. XI-2. License suspension.

- (a) The County Administrator shall have the authority to temporarily suspend a license if:
- (1) The licensee violates any of the prohibitions in Article X, any state laws, or any other County ordinance;
 - (2) The licensee has had his similar state license suspended;
 - (3) The licensee is no longer engaged in the sale of alcoholic beverages;
 - (4) The licensee no longer qualifies as a licensee under this Ordinance or O.C.G.A. Title 3;
 - (5) The licensee has failed to pay the appropriate annual renewal fee, and any delinquency penalty, by January 31;
 - (6) The license was granted for premises not yet constructed or completed and upon completion the premises was not approved by the County Planning Department or the County Environmental Health Officer; or
 - (6) He deems such action necessary for the protection of the public health, safety or welfare.
- (b) If the County Sheriff finds that a licensee under this Ordinance is in violation of a state law or in violation of an ordinance of the County and determines that the continued operation of the licensee would create a clear and present danger to the health, safety and general welfare and security of the County, he shall have the authority to seize and temporarily suspend the license. The sheriff shall deliver the license to the County Administrator on the next working day.
- (c) Whenever a license is temporarily suspended, the County Administrator shall, within 48 working hours, inform the licensee of such action in writing by certified mail, return receipt requested, or hand delivery. This letter shall contain the following information:
- (1) The date, time and location of a hearing, which shall be not less than 3 working days nor more than 10 working days from the date of service of the notice, before the Board of Commissioners relating to whether the license shall be further suspended or revoked; and
 - (2) Notice of the applicant's right to attend the hearing, to present evidence and testimony, to assert any defense of the license, to confront and cross examine anyone who

would testify in favor of a further suspension or revocation, and to have an attorney present to represent the licensee.

- (d) The decision of the Board at a Sec. XI-2(c) hearing shall be immediately effective.
- (e) The Board of Commissioners shall be authorized to impose suspensions varying in length from 0 days to 3 months, except that in no instance shall a suspension be shorter than that imposed by the state for the particular offense.
- (f) The Board of Commissioners shall suspend a license if the same type license is suspended by the state.
- (g) Any licensee who is found guilty at a Sec. XI-2(c) hearing of violating any of the provisions of Sec. X-1, Sec. X-2, Sec. X-3, Sec. X-4 or Sec. X-6 shall be fined \$500 and have his license suspended for a minimum of 30 days.

Sec. XI-3. License cancellation.

The Board of Commissioners shall cancel a license if:

- (a) Operation of the licensed activity is not begun within 6 months after the license is issued;
- (b) Operation of the licensed activity is begun but then discontinued for a period of 30 days, unless the time of inactivity is extended by the Board;
- (c) The licensee is no longer engaged in the sale of alcoholic beverages;
- (d) The licensee no longer qualifies as a licensee under this Ordinance or O.C.G.A. Title 3; or
- (e) The licensee has failed to pay the appropriate annual renewal fee, and any delinquency penalty, by January 31.

Sec. XI-4. License revocation.

- (a) Any licensee who is found guilty of violating any of the provisions of Sec. X-1, Sec. X-2, Sec. X-3, Sec. X-4 or Sec. X-6 at a second Sec. XI-2(c) hearing held within 5 years of a previous such hearing at which he was found guilty shall be fined \$1,000 and have his license revoked for the remainder of the year.
- (b) Any licensee who is found guilty of violating any of the provisions of Sec. X-5 at a Sec. XI-2(c) hearing shall be fined \$1,000 and have his license revoked for the remainder of the year.
- (c) The Board of Commissioners shall revoke a license if:

- (1) The licensee has had his similar state license revoked; or
- (2) The licensee is convicted of a felony by a court of competent jurisdiction.