

# **The White County Alcoholic Beverage Ordinance**

**As amended on October 4, 2010**

## Chapter 6 ALCOHOLIC BEVERAGES

### ARTICLE I. IN GENERAL

Sections 6-1 through 6-30. Reserved.

### ARTICLE II. DEFINITIONS

#### Section 6-31. Definitions

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

***“Adult entertainment establishments”*** means any of the following: adult bookstores, adult dancing establishments, adult mini-motion picture theaters, adult motion picture arcades, adult motion picture theaters, adult video stores, erotic dance establishments, escort bureaus: introduction services, lingerie modeling studios, or nudist or naturalist facilities, campgrounds, restaurants, parks or recreational areas. The following terms used in this chapter defining adult entertainment establishments shall have the meaning indicated below:

***“Adult bookstore”*** means an establishment having a substantial or significant portion of its stock in trade, merchandise, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising ten (10) percent of its net sales consisting of printed material and/or merchandise which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.

***“Adult dancing establishment”*** means a business that features dancers displaying or exposing specified anatomical areas.

***“Adult minimotion picture theater”*** means an enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

***“Adult motion picture arcade”*** means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other impact producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

***“Adult motion picture theater”*** means an enclosed building with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

***“Adult video store”*** means any establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas or an establishment with a segment or section, comprising of five (5) percent of its total floor space, devoted to the sale or display of such material or which derives more than five (5) percent of its net sales from videos which are characterized or distinguished or relating to specified sexual activities or specified anatomical areas.

***“Erotic dance establishment”*** means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dances, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

***“Escort bureau: introduction services”*** means any business, agency or person who, for a fee, commission, hire, reward or profit furnishes or offers to furnish names or persons, or who introduces, furnishes or arranges for person(s) who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

***“Lingerie modeling studio”*** means any place or commercial establishment wherein the patron directly or indirectly is charged a fee or required to make a purchase in order to view entertainment or activity which consists or persons exhibiting or modeling swim suits, lingerie or similar undergarments.

***“Nudist or Naturalist facilities, campgrounds, restaurants, parks or recreational areas”*** means any facility that has a formal or informal policy of allowing participants, guests, invitees, licensees or any natural person the option of or requiring said persons to not wear clothing which covers specific anatomical areas as defined herein.

***“Specific anatomical areas”*** shall include any of the following:

- a) Less than completely and opaquely covered human genitals or pubic region, buttock or female breast below a point immediately above the top of the areola; or

- b) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

**“Specified sexual activities”** shall include any of the following:

- a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of sexual relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- b) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- c) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
- d) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- e) Masochism, erotic or sexually oriented torture, beating or the inflicting of pain; or
- f) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
- g) Human excretion, urination, menstruation, vaginal or anal irrigation.

**“Alcohol”** includes ethyl alcohol, hydrated oxide of ethyl or spirits of wine from whatever source or by whatever process produced.

**“Alcoholic beverage”** for licensing purposes herein means all alcoholic beverages obtained by distillation which contains not more than twenty-one percent (21%) alcohol by volume, including beer, malt beverage, wine, but does not include distilled spirits or fortified wine.

**“Alcoholic Beverage Commission”** means the White County Alcoholic Beverage Commission or Commission members authorized by this article to regulate the sale, distribution and consumption of alcoholic beverages in accordance with this chapter and otherwise exercise the powers prescribed herein.

**“Applicant”** is an Entity that seeks a license in accordance with the provisions of this chapter.

***“Bed and Breakfast”*** means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where:

- a) Five (5) or more rooms used as sleeping accommodations are offered for pay to guests, whether transient, permanent or residential; and
- b) The sleeping accommodations and dining rooms are in the same building or in separate buildings on the same premises and are a part of the bed and breakfast operation; and
- c) An adequate and sanitary kitchen exists; and
- d) Breakfast is regularly prepared for, served to and consumed by guests; and
- e) There exists one (1) or more dining rooms whether public or for the use of guests with a seating capacity of at least ten (10); and
- f) A current occupational tax license has been issued by White County; and
- g) A current hotel/motel tax certificate has been issued by White County.

***“Board”*** means the White County Board of Commissioners.

***“Bona fide non-profit civic organization”*** means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. Sections 501(c), 501(d), or 501(e).

***“Church”*** means a place of public religious worship.

***“Commissioner”*** means the Commissioner of the Department of Revenue.

***“County”*** means White County.

***“Distilled Spirits”*** means any alcoholic beverage obtained by distillation or which contains more than twenty-one percent (21%) alcohol by volume, including, but not limited to all fortified wines.

***“Due cause”*** shall consist of the violation of federal or state laws or local regulations which govern the applicable businesses.

***“Entity”*** means an association, company, enterprise, firm, franchise, general partnership, joint-stock company, agency, syndicate, state, trust, receiver, joint venture, limited liability company, limited liability partnership, partnership, society, sole proprietorship, trust or any type of incorporated or unincorporated organization whether profit or nonprofit.

**“Farm winery”** means a winery which makes at least 40 percent of its annual production from agricultural produce grown in Georgia and

- a) Is located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery; or
- b) Is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production.

**“Fortified wine”** includes any alcoholic beverage containing more than twenty one percent (21%) 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.

**“Gallon”** or **“wine gallon”** means a United States gallon of liquid measure equivalent to the volume of two hundred thirty one (231) cubic inches or the nearest equivalent metric measurement.

**“Hotel”** or **“Motel”** includes every building or other structure kept, used, maintained, advertised and held out to the public to be a place where:

- a) Adequate and sanitary kitchen facilities exist; and
- b) There exists one (1) or more dining rooms whether public or for the use by the guests with a seating capacity of at least thirty (30); and
- c) Meals are regularly prepared for, served to and consumed by guests; and
- d) Fifteen (15) or more rooms used for sleeping accommodations are offered for pay to travelers and guests, whether transient, permanent or residential; and
- e) Sleeping accommodations and dining rooms are in the same building or in separate buildings on the same premises and are a part of the hotel operation; and
- f) A current occupational tax license has been issued by White County; and
- g) A current hotel/motel tax certificate has been issued by White County.

**“Immediate Family”** includes spouse, children who reside in the applicant’s household or anyone who is recognized by law as a dependent of the applicant. If the applicant is not a natural person, the “immediate family” relationship shall apply to those natural persons who hold an interest in the business.

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

**“Managing Agent”** means a resident of the State of Georgia designated by a license applicant, which managing agent shall be responsible for any matters relating to the license.

**“Manufacturer”** means any maker, producer or bottler of an alcoholic beverage

**“Minor”** is any individual under twenty-one (21) years of age.

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

**“Private Residence”** means a house or dwelling wherein not less than one (1) nor more than two (2) families reside. The term private residence shall not include an apartment house having facilities for housing more than two (2) families nor a boarding or rooming house where there are five (5) or more boarders or roomers.

**“Private school”** means an institution meeting the following criteria or requirements:

- a) The institution is privately controlled and operates on a continuing basis; and
- b) The primary purpose of the institution is to provide education; and
- c) In a twelve (12) month period the institution provides instruction for the equivalent of one hundred eighty (180) days of education with each school day consisting of at least four and one-half (4 ½) hours; and
- d) The institution provides a basic academic educational program, which includes, but is not limited to, reading, language arts, mathematics, social studies and science; and
- e) If the primary purpose of the institution is religious in nature, the institution shall provide the basic academic educational program specified in subparagraph (d) of this section.

**“Public school”** means any school or day school under the:

- a) Control and management of a county, independent or area board of education supported by public funds and any school under the control and management of the State Board of Education, department or agency thereof supported by public funds; or
- b) Authority and supervision of a duly elected county or independent board of education.

**“Registered Agent”** means the person authorized in the application to receive any process, notice or demand required or permitted by law or under this chapter on behalf of the licensee or owner.

**“Restaurant”** means any public place kept, used, maintained, advertised and held out to the public as a place where:

- a) An adequate and sanitary kitchen exists; and
- b) Meals are regularly prepared for, served to and consumed by guests; and
- c) There exists one (1) or more dining rooms with a seating capacity of at least thirty (30) people; and
- d) A sufficient number and kind of employees are employed to prepare, cook and serve suitable food for its guests; and
- e) There exists sanitary restroom facilities and
- f) A current Occupational Tax License has been issued by White County.

**“Retail”** means the sale of goods or commodities in small quantities directly to consumers.

**“Retail consumption dealer”** means any natural person or entity who sells beer, malt beverages, or wine, or any combination thereof, for consumption on the premises to consumers at retail only and not for resale

**“Retail package dealer”** means any natural person or entity who sells beer, malt beverages or wine, or any combination thereof, by unbroken packages [being sealed containers - bottles, cans etc.] to consumers at retail only and not for resale.

**“Tasting room”** means an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine can be given complimentary or for a fee.

**“Temporary Special Use Permit”** means a permit issued to a bona fide non-profit civic organization, as defined herein, to sell malt beverages and/or wine for consumption on the premises or otherwise for a period not to exceed three (days), not including Sunday, for an event associated with and to benefit the cause of a charitable or civic organization.

**“Wholesaler” or “wholesale dealer”** means any entity who sells beer, malt beverage or wine to other wholesale dealers, retail package dealers or to retail consumption dealers.

**“Wine”** means any alcoholic beverage containing not more than twenty-one percent (21%) 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 champagnes, rectified wines, sparkling wines, special natural wines or vermouths.

## **ARTICLE III.**

### **DIVISION 1. RULES – GENERALLY**

#### **Section 6-32. License Required.**

No entity shall engage in the business of wholesaling, retailing or otherwise providing alcoholic beverages of any kind in the unincorporated area of the county without first obtaining a license therefore under this Chapter. It shall also be unlawful for any entity to sell or make deliveries beyond the boundaries of the premises covered by the license. However, the sale of alcoholic beverages on the premises of a farm winery is governed under Article V of this Chapter.

- a) Certain alcoholic beverages may be sold in the unincorporated area of the county under a license granted by the Alcoholic Beverage Commission or Board of Commissioners upon the terms and conditions provided in this Chapter.
- b) All licenses in this Chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this Code and the state law.
- c) All licenses pursuant to this Chapter shall have printed on the front these words: “This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances which may be enacted.”
- d) Any holder of a license issued pursuant to this Chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, county licensees are required to abide by all applicable state regulations and laws.

#### **Sections 6-33 – 6-39 – Reserved.**

### **DIVISION 2. APPLICATION**

#### **Section 6-40. Separate application and separate license for each location of sale and for each license category.**

Separate applications must be made for each location and separate licenses must be obtained. A separate application is also required for each license category enumerated in Sections 6-102 and 6-144 of this chapter. The Alcoholic Beverage Commission will act upon each application separately.

#### **Section 6-41. Application Information**

- a) Every applicant for a license for the operation of a farm winery or for sales of wine and

malt beverages shall make written application on forms furnished by the county and shall furnish all certificates, affidavits, bonds and other supporting data required.

- b) All applications for licenses under this Ordinance shall be made by the applicant to the Business License Office, or other County office designated by the Board of Commissioners, in writing under oath and verified on forms furnished by the County, and all requested information thereon shall be provided. Any misstatement or concealment of fact in the application shall be grounds for denial or revocation of the license issued and shall make the applicant liable to prosecution for perjury under the laws of the state. An application containing false information or false statements may result in disapproval, revocation, suspension or failure to renew the license applied for.
- c) Such application shall be filed with the Business Tax Office, or other County office designated by the Board of Commissioners, and contain the following information:
  - 1) The names, ages, addresses and length of residency of all persons who have an ownership interest in the business; and
  - 2) The license category for which the applicant is applying; and
  - 3) The names and addresses of all persons and immediate family members having an ownership interest in the business who have an interest in any other business licensed to sell malt or vinous beverages; and
  - 4) The name of the owner, landlord or lessor of the proposed location and whether rent for the premises is to be paid to the landlord or lessor on a percentage of the receipts of the business or contingent upon the amount of business done; and
  - 5) The names and addresses of all entities having any whole, partial, beneficial or other interest in and to the land and building on and in which the store is located; and
  - 6) The trade name, address and description of the premises or place of business, which is to be operated under the license; and
  - 7) A statement of whether the applicant, or any entity with an interest in the application, has made application at any previous time for any alcoholic beverage license and the disposition of such application; and
  - 8) A statement of whether a previous license issued to the applicant or any entity with an interest in the application has been revoked or suspended by or surrendered to any federal, state or local authority and the reason therefore.
- d) The following documents shall be attached to each application:
  - 1) Evidence of ownership of the premises where the proposed business is to be located or a copy of the lease if the applicant is leasing the building or premises; and

- 2) A certified or cashier's check payable to White County; and
- 3) A drawing to scale showing the nearest church, residence, and school or an affidavit from a registered surveyor indicating that the proposed location of the business premises complies with Section 6-100 or 6-146 herein; and
- 4) If malt beverages are to be sold in packages or for consumption on the subject premises, a copy of the advertisement from two (2) consecutive issues of the White County legal organ stating the purpose of the application, the location of the business and the owner or owners of the business, along with a Publisher's Affidavit verifying the dates of advertisement. The notice must contain:
  - i. The name of the applicant(s); or
  - ii. If a partnership, the names of all the partners, both general and limited; or
  - iii. If a corporation, the names of the officers and board of directors; and
  - iv. The License Category applied for; and
  - v. The location.
- 5) Photograph(s) of the principal officers; and
- 6) A full disclosure of any interest in establishments, which sell wholesale or retail malt and vinous beverages; and
- 7) Three-(3) character references; and
- 8) For newly constructed buildings, a copy of Certificate of Occupancy issued by the White County Building Inspection Department indicating that the building in which the business will be located is complete for the purposes set out in the application, along with detailed plans of such building and outside premises; and
- 9) If Retail Consumption Dealer license is applied for, a copy of current food service permit and a current inspection from the White County Health Department; and
- 10) An Affidavit by the applicant or managing agent affirming that prior to any sales/service of alcoholic beverages, all employees, cashiers, or servers, or future employees, cashiers, or servers, will be trained in the regulations governing the sale of alcoholic beverages prior to being allowed to serve/sell, and that a copy of the policies and procedures for such sales/service be attached to the Affidavit; and
- 11) Any other information requested by the Alcoholic Beverage Commission.

## **Section 6-42. Qualifications of Applicant.**

- a) For the purpose of this chapter, unless otherwise indicated, applicant means the corporation, partnership, sole proprietorship, or other organization and the managing agent.
- b) Every managing agent applicant for an alcoholic beverage license shall be at least twenty-one (21) years of age, a U. S. citizen or an alien lawfully admitted for permanent residency, and a resident of the state, and shall make application on forms furnished by the County and in connection therewith, shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, bonds, and other supporting data as required thereby.
  - 1) Where the application is made on behalf of a corporation, the license shall be issued jointly to the corporation and an officer or agent who meets the requirements as set forth in Section 6-42 (b). The officer or agent named as the applicant shall be an individual who does in fact have regular managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full-time by the corporation. Said individual shall be known as the “managing agent.”
  - 2) Where the application is made on behalf of a partnership, the license shall be issued jointly to the partnership and either the managing general partner thereof, or an individual who meets the requirements set forth in section 6-42 (b) who does in fact have managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the partnership. Said individual shall be known as the “managing agent.”
  - 3) Where the application is made on behalf of a sole proprietorship, the license shall be issued jointly to the sole proprietorship and an individual who meets the requirements set forth in 6-42 (b) who does in fact have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the proprietor. Said individual shall be known as the “managing agent.” The “managing agent” may be the sole proprietor if he/she otherwise qualifies under this section.
  - 4) Where the application is made on behalf of any other type organization, the license shall be issued jointly to the organization and an individual who meets the requirements set forth in Section 6-42 (b) who does in fact have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the organization. Said individual shall be known as the “managing agent.” In the case of a non-profit private club, the

managing agent may be an officer of the organization in lieu of a full-time employee if the individual is otherwise qualified under section 6-42 (b).

- 5) All licensed establishments must have and continuously maintain in White County a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of White County. The licensee shall file the name of such agent, along with the written, notarized consent of such agent with the County on such form as may be prescribed.
  - 6) A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
  - 7) The written application for the license shall be a permanent record which the licensee must maintain current as required by this chapter. Failure to maintain a current application shall be grounds for revocation of the license.
  - 8) In the event the “managing agent” changes, the licensee shall notify the County within five (5) days of the change. A fee of one hundred dollars (\$100.00) will be charged for the processing of an application for the change of the “managing agent,” and such applicant must be approved by the Alcoholic Beverage Commission.
  - 9) In the event the “registered agent” changes, the licensee shall notify the County within five (5) days of the change. A fee of twenty-five dollars (\$25.00) will be charged for the processing of a change in the “registered agent.”
- c) The Alcoholic Beverage Commission may in its discretion require a personal statement of any employee of any licensed establishment for licensing purposes.
- d) When contrary to the public interest and welfare no license to sell alcoholic beverages of any kind shall be issued by the Alcohol Beverage Commission to or for:
- 1) Any entity as determined by the Alcoholic Beverage Commission by reason of such entity’s business experience, financial standing, trade associations, personal associations, record of arrest, or reputation in any community in which the entity has been located, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
  - 2) Any person, managing agent, registered agent, or anyone holding a five percent (5%) interest or more in the business who has been convicted under any federal, state or local law of any felony or a misdemeanor involving moral turpitude.

- 3) Any person, managing agent, registered agent, or anyone holding a five percent (5%) interest or more in the business who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten (10) years immediately preceding the filing of application for such license.
- 4) Any person, managing agent, registered agent, or anyone holding a five percent (5%) interest or more in the business who has been convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
- 5) Any person, managing agent, registered agent, or anyone holding a five percent (5%) interest or more in the business which the granting of such license would constitute a violation of state law or regulations.
- 6) Any person, entity, managing agent, registered agent, or anyone holding a five percent (5%) interest or more in the business which has remaining any delinquent ad valorem taxes due White County or has any outstanding fines, assessments, liens, fi. fas., penalties, or judgments due to White County or is currently in any violation of any White County ordinance or resolution.
- 7) Any person, entity, managing agent, registered agent, or anyone holding a five percent (5%) interest or more in the business who seeks the license for an adult entertainment establishment.

#### **Section 6-43. Financial Interests Restricted**

- a) No person shall have any ownership, interest in, share in the profits or participate in the business of any licensee unless such person furnishes a description of such to the Alcoholic Beverage Commission at the time of the Application or prior to obtaining an interest.
- b) It shall be the duty of the licensee to present any proposed changes in the interest holders to the Alcoholic Beverage Commission for approval.
- c) The Alcoholic Beverage Commission shall notify the licensee of the approval or objection to the ownership or interest and the grounds for such objection within thirty-(30) days.
- d) Upon receipt of the Alcoholic Beverage Commission's objection, the licensee and/or the interest holders shall have thirty (30) days to request a hearing to respond to the objections or ninety-(90) days to dispose of such interest. The licensee and/or interest holders shall notify the Alcoholic Beverage Commission within thirty (30) days of their choice.

- e) Failure to disclose at application any existing interest, notify the Alcoholic Beverage Commission of any change in interest or failure to dispose of such interest if so required shall result in revocation of the license.
- f) It shall be unlawful for the holder of any retail license to accept or receive financial aid or assistance from the holder of any wholesaler's license.

#### **Section 6-44. Investigation of Applicant**

- a) Prior to accepting applications, background investigations from the White County Sheriff's Office must be filed with the White County Business Tax Office, or other designated County office. Background investigations must be completed on any person, entity, managing agent, registered agent, and anyone holding a 5% interest or more in the business which seeks a license under the alcoholic beverage ordinance. The fee for each background investigation is \$50.00 and must be paid to the White County Business Tax Office, or other County designated office, prior to the investigation process. After payment of the \$50.00 fee, the person seeking the background investigation must present the receipt for the fee and a completed Background Investigation and Criminal History Consent Form to the White County Sheriff's Office for fingerprinting and further background checks. The results of the background investigation will be forwarded from the Sheriff's Office to the White County Business Tax Office or other designated office.
- b) The Alcoholic Beverage Commission or designated agent shall investigate all applications for new licenses and applications for renewals.
- c) Applicants agree to submit under oath to interrogation by the Alcoholic Beverage Commission as to any facts considered pertinent to the application. Applicants also agree to produce for oral interrogation by the Alcoholic Beverage Commission any entity requested as being important in the ascertainment of the facts relative to the granting of the license. Failure to furnish this data, information, records or entities within thirty-(30) days from the date of the request shall automatically serve to dismiss the application.
- d) At the meeting at which the issuance of a license is being considered by the Alcoholic Beverage Commission, the applicant or managing agent of the subject applicant must be present.

#### **Section 6-45. Processing of Application**

- a) Upon completion of the application and upon receiving the results from the fingerprint search, the White County Business Tax Department, or other designated office, shall submit the application to the Alcoholic Beverage Commission and notify the applicant of the date, time and place of the meeting. The Alcoholic Beverage Commission shall act within sixty-(60) days from the date of the filing of the completed application or a change in any relationship declared in Section 6-148.
- b) Upon consideration of an application, renewal, revocation or suspension, which the

Alcoholic Beverage Commission deems subject to additional investigation, the applicant or licensee shall be given notice in writing to “show cause” why the license should not be denied, revoked or suspended. Such action shall occur at a time and place specified and not more than thirty-(30) days from the date of service of the notice.

- c) This notice shall set forth objections to the application or reapplication and any possible grounds on which a denial of the application, reapplication, revocation or suspension of the license shall be based.
- d) At the appointed time and place the applicant or licensee shall have an opportunity to present evidence, call witnesses, cross-examine witnesses, make statements and otherwise show cause why the Alcoholic Beverage Commission should not deny an application, reapplication, revocation or suspension.
- e) The Alcoholic Beverage Commission shall take such action, as deemed warranted under the facts. All decisions approving, denying, suspending, or revoking the permits or licenses shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant.
- f) In all instances in which an application is denied under the provisions of this chapter or a license revoked, the applicant may not reapply for a license for at least one year from the final date of such denial or revocation.

#### **Section 6-46. Refund**

- a) The license fee is refundable as set out below if the applicant withdraws the application before Alcoholic Beverage Commission action.
- b) If the applicant withdraws the application before Alcoholic Beverage Commission action or if the Alcoholic Beverage Commission denies the application for a license, the applicant shall be entitled to a refund of the license fee less any investigative expense and less an additional charge of \$150.00 to cover the clerical costs of initiating the application process.
- c) In the event a license is revoked, surrendered or suspended, there shall be no refund whatsoever.

#### **Sections 6-47 – 6-49 – Reserved.**

### **DIVISION 3. RULES - Generally**

#### **Section 6-50. Knowledge; Responsibility of Licensee**

The holder of every farm winery, malt beverage or wine license shall have available in the place of business at all times a current copy of this Ordinance and shall be responsible for compliance with this Ordinance by all persons on the premises.

#### **Section 6-51. Display of License Number**

Each entity licensed under this Ordinance shall display in a prominent location within 10 feet of the front door the license issued to the license holder from White County and containing the license number.

**Section 6-52. Prohibited Conduct for all licensees under this Ordinance:**

- a) A licensee, managing agent or employee shall not:
  - 1) Make or allow to be made any false statement on any application, reapplication or other documents required by federal, state or local law; or
  - 2) Have any federal, state or local felony convictions; or
  - 3) Possess sell, furnish any kind of alcoholic beverage not authorized under the license; or
  - 4) Sell or furnish malt beverages or wine to a minor; or
  - 5) Sell or furnish malt beverages or wine to any individual in an intoxicated condition; or
  - 6) Store or make deliveries of any malt beverage or wine beyond the boundaries of the premises covered by the license; or
  - 7) Sell or offer for sale malt beverages or wine by use of vending machines; or
  - 8) Make any sale through any "drive through" or "curb service"; all sales must be made over the counter inside the licensed premises; or
  - 9) Make any sale or deliver any distilled spirits to any person within White County; or
  - 10) Make any sales of alcoholic beverages at any premises where adult entertainment activities are occurring; or
  - 11) Allow anyone who is under the age of 18 years to sell or serve any alcoholic beverages.
  - 12) Receive any alcoholic beverages other than by a conveyance owned and operated by a wholesale dealer with a license from the county or with a license from the county wherein its principal place of business is located to make such deliveries; or
  - 13) Violate any of the terms of this ordinance.
- b) The conduct prohibited under this subsection as to general employees of licensee must be related to the operation of the licensed business.

- c) After a formal accusation, the Alcoholic Beverage Commission shall make the determination of whether any violation has occurred that necessitates suspension or revocation of the license.

**Section 6-53 Prohibited Conduct specifically pertaining to Retail Package Dealers.**

- a) In addition to the other prohibited acts set out in Section 6-52, the licensee(s) or employees of a Retail Package Sales License shall not:
  - 1) Permit the consumption of malt beverages, wine or any other alcoholic beverages on the premises unless the premises is licensed as a retail consumption site; or
  - 2) Allow single malt beverages or beer to be sold at retail package stores in containers of less than 22 ounces; or
  - 3) Allow packages of beer, malt beverages, or wine to be purchased and carried from the sales site uncovered; or

**Section 6-54. Prohibited Conduct specifically pertaining to Retail Consumption Dealers.**

- a) In addition to the other prohibited acts set out in Section 6-52, the licensee(s) or employees of an On Premise Consumption License shall not:
  - 1) Permit any disturbance, obscenity or conduct or practice considered lewd, immoral or improper in connection with the operation of the licensed premises; or
  - 2) Add to the contents of a bottle, refill empty bottles or in any other manner misrepresent the quantity, quality or brand name of any malt beverage or wine; or
  - 3) Receive or cause to be delivered any alcoholic beverages other than by a conveyance owned and operated by a wholesale dealer with a permit and license from the county, or from the county in which its principal place of business is located, to make such deliveries.
- b) It shall be unlawful for any entity operating places licensed for the sale of malt beverages and wine for consumption on the premises to control or store any other alcoholic beverages for which the owner holds no license.
- c) This shall not infringe on the right of any owner, operator or employee who resides on the property to store personal alcoholic beverages on the property and serve alcoholic beverages to family and friends if such alcoholic beverages would, except for location on the premises, be legal. This personal right shall not extend to a privilege of service to paying guests.
- d) As of July 1, 2009, the consumption of malt beverages, beer or wine, or any combination thereof, in places of public accommodation is expressly prohibited and banned in the

unincorporated area of White County unless purchased (or provided as a sample in a tasting room by the licensee operating a farm winery) from a properly licensed sales by the drink for consumption on the premises license holder. The term “place of public accommodation” as used in this ordinance shall include the premises within the unincorporated areas of White County of any restaurants, coffee shops, cafes, caterers, motels, hotels, inns, bed-and-breakfast establishments, antique shops, curio shops, art exhibits, art and crafts shops, frame shops, furniture stores, and other business establishments selling goods or services to the general public. This section is expressly designed to prohibit “brown bagging” at places of public accommodation within the unincorporated area of White County. Notwithstanding any other provision of this ordinance, nothing contained in this ordinance shall be interpreted as banning or prohibiting the serving of wine as a part of a religious sacrament or ceremony (including weddings and wedding receptions) at the premises of any church or house of worship.

**Section 6-55. Prior Convictions.**

- a) No licensee or managing agent shall have been convicted within ten (10) years immediately prior to the date of application of:
  - 1) Soliciting for prostitution; or
  - 2) Keeping a disorderly place; or
  - 3) Illegal possession or use of controlled substances; or
  - 4) Illegally dealing in controlled substances; or
  - 5) Sex offenses; or
  - 6) Unlawful manufacture of intoxicating liquors; or
  - 7) Illegal sale of intoxicating liquors; or
  - 8) A crime involving moral turpitude.
- b) Such conviction subjects the licensee to suspension or revocation of the license.

**Section 6-56. Licensed Premises – Fire, Health Regulations, Inspections**

- a) All premises licensed under this Ordinance shall conform to all fire regulations and health regulations of the county and state.
- b) Upon request of the Alcoholic Beverage Commission, the Building Inspections Department, Code Enforcement Department, Fire Department or Health Department shall inspect the premises and report its findings to the Alcoholic Beverage Commission. The

Alcoholic Beverage Commission may request additional inspections by the State Fire Marshal as deemed appropriate.

- c) After a formal accusation, the Alcoholic Beverage Commission shall make the determination of whether any violation of the building, code, fire or health regulations has occurred that necessitates the revocation or suspension or of the license.

### **Section 6-57. Severability**

In the event any provision of this chapter is ruled invalid or unenforceable by any court of competent jurisdiction, such ruling shall not invalidate or render unenforceable any other provision of this chapter.

### **Sections 6-58 – 6-59 Reserved.**

## **DIVISION 4. LICENSES**

### **Section 6-60. Duration**

- a) All licenses issued under the provisions of this chapter shall expire at 11:59 P.M. on December 31 of the issuing year.
- b) All licenses issued pursuant to this Ordinance shall be valid only so long as the licensee is actively engaged in such business, subject to annual expiration as hereinabove set out. If a licensee ceases to be actively engaged in such business, the license shall be invalid and the licensee shall immediately return the license to the Alcoholic Beverage Commission.
- c) If a licensee fails to open the establishment and begin the sale of the product or products authorized by the license within six (6) months from the date of issuance of the license, the license shall be invalid and the licensee shall immediately return the license to the Alcoholic Beverage Commission.

### **Section 6-61. Renewal**

- a) Licensees shall file renewal applications prior to November 15 of each year.
- b) Any renewal application not filed prior to November 15 shall be assessed a late filing penalty of ten percent (10%) of the cost of the license. Renewal applications may be filed up to ninety (90) days in advance of the November 15 deadline.
- c) All renewal applications shall automatically renew so long as the renewal applicant meets all terms for renewal under this ordinance, with those terms being the same as an application for a new license except that the renewal application need not be advertised again. Renewal applications must have attached a copy of the State License or a copy of the State License Application. Fingerprints are required on the owners every three years, or as requested by the Board of Commissioners or Sheriff, or for reasonable cause.

- d) If a renewal application contains a change in ownership or interested parties, the application process shall be the same as a new application.

#### **Section 6-62. Transfer**

- a) Licenses issued for a specific location are not transferable to another location without a new application, fee and license.
- b) Licenses issued to an entity are not transferable to another entity without a new application, fee and license.
- c) The fee for transfer of a license, through a new application, to a new location or entity shall be the same as for the initial issue of a license.
- d) In the event of the death of a licensee, the estate or the lawful heir(s) shall have sixty-(60) days to apply, through a new application, for a license transfer. The procedure shall be the same as for a new license.

#### **Section 6-63. Examination of Books, Records, etc**

The county or agent may examine the books, equipment, financial reports, papers, records and other facilities of any licensee in order to verify the accuracy of any return or report made or to ascertain and determine the amount of tax or other fee required to be paid.

#### **Section 6-64. Inspection of Premises**

Premises Licensed under this Ordinance shall be open to inspection by authorized personnel of the county at all times.

**Sections 6-65 – 6-69 – Reserved.**

### **DIVISION 5. EXCISE TAXES**

#### **Section 6-70. Levy**

- a) The Board shall levy excise taxes at the maximum rate permitted by state law.
- b) Malt Beverages. There is hereby levied and imposed upon each wholesale dealer selling malt beverages within the unincorporated areas of the County an excise tax as provided under the Georgia Alcoholic Beverage Code.
  - 1) The initial tax rate on the sale of barrels or bulk containers shall be \$6.00 per 15-gallon container, with a proportionate tax at the same rate of all fractional parts of 15 gallons.

- 2) The initial tax rate on the sale of containers other than barrel or bulk containers shall be \$0.05 per 12 ounces, with a proportionate tax at the same rate of all fractional parts of 12 ounces.
- c) Wine. There is hereby levied and imposed upon each wholesale licensee selling wine within the unincorporated areas of the County an excise tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- d) The Wholesaler shall pay taxes before the tenth day of the month following the calendar month in which the sale of the beverages occurred.
- e) 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.
- f) The wholesale dealer shall provide the name and the exact quantity sold to each retail dealer on a summary of sales with each monthly report. Any misstatement or concealment of fact in reports or applications shall be grounds for revocation of the license issued and shall make the applicant or licensee liable to prosecution for perjury under the laws of the state. Entities selling malt beverages to retail package and/or consumption on the premises licensees shall substitute "state form ATT-122" for the summary of sales.

**Sections 6-71 – 6-79. Reserved.**

## **DIVISION 6. SUSPENSION OR REVOCATION**

### **Section 6-80. Notice of Violation**

Upon a charge that there has been a violation of this chapter and after notice to the licensee, the County Manager shall submit the violation to the Alcoholic Beverage Commission.

### **Section 6-81. Suspension of License**

- a) The Alcoholic Beverage Commission or its designated agent shall have the right to suspend any license issued under this chapter subject to a hearing where in the judgment of the Alcoholic Beverage Commission such action is necessary to protect the public health, safety, or welfare of the community.
- b) Any suspension shall not exceed thirty-(30) days unless the licensee requests a continuance of the hearing before the Alcoholic Beverage Commission in which case the suspension will stay in effect until the time of the hearing.
- c) The Alcoholic Beverage Commission shall have the right to suspend any license issued

under this Ordinance when the:

- 1) License holder or employees violate any of the terms of this Ordinance. A violation by an employee must be found to be in connection with the licensed premises to warrant the suspension of the license from the holder; or
  - 2) License holder or employees are charged with the felony violation of any federal or state law or a misdemeanor violation of any federal, state, or county law, ordinance or regulation involving an alcohol-related violation in the operation of the business licensed to sell alcoholic beverages; or
  - 3) License holder or employees permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practice on the licensed premises or from failing to report such conduct to the County Sheriff; or
  - 4) Health, safety, or welfare of the public demand the suspension of such license.
- d) Upon a suspension, the Alcoholic Beverage Commission shall call for a hearing within ten (10) working days before the Alcoholic Beverage Commission, at which time the Alcoholic Beverage Commission shall decide whether to reinstate the license, continue the suspension for a period or revoke the same upon such terms and conditions as the Alcoholic Beverage Commission may deem fit and proper.
- e) Adequate notice of a hearing shall consist of the issuance of at least a five (5) day written notice stating the time, place and purpose of the hearing and a statement of the charge upon which the hearing shall be held.
- f) When the state revokes an alcoholic beverage permit or license issued to an entity licensed under this Ordinance, the Alcoholic Beverage Commission shall automatically revoke the County license without any action.

**Section 6-82. Revocation of License.**

- a) The Alcoholic Beverage Commission shall have the right to revoke any license issued under this Ordinance when the:
- 1) License holder or employees violate any of the terms of this Ordinance. A violation by an employee must be found to be in connection with the licensed premises to warrant the revocation of the license from the holder.
  - 2) License holder or employees are charged with the felony violation of any federal or state law or a misdemeanor violation of any federal, state, or county law, ordinance or regulation involving an alcohol-related violation in the operation of the business licensed to sell alcoholic beverages; or
  - 3) License holder or employees permit any disturbance of the peace or obscenity or any

lewd, immoral or improper entertainment, conduct or practice on the licensed premises or from failing to report such conduct to the County Sheriff; or  
4) Health, safety, or welfare of the public demand the revocation of such license.

- b) Upon a revocation, the Alcoholic Beverage Commission shall call for a hearing within ten (10) working days before the Alcoholic Beverage Commission, at which time the Alcoholic Beverage Commission shall decide whether to reinstate the license, or continue the revocation.
- c) When the state revokes an alcoholic beverage permit or license issued to an entity licensed under this Ordinance, the Alcoholic Beverage Commission shall automatically revoke the County license without any action.
- d) No license shall be revoked, except for due cause and after a hearing.
- e) Adequate notice of a hearing shall consist of the issuance of at least a five (5) day written notice stating the time, place and purpose of the hearing and a statement of the charge upon which the hearing shall be held.

**Sections 6-83 – 6-89 – Reserved.**

## **DIVISION 7. PENALTIES**

### **Section 6-90. Penalties.**

- a) Civil penalties. Any person violating any of the provisions of this chapter shall be deemed guilty of an offense and upon conviction thereof shall be punished up to the maximum penalties as allowed under general state law for violations of county ordinances, or as allowed by local act and as determined by the Alcoholic Beverage Commission or the Board of Commissioners. 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 the subsection 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 fails or refuses to furnish a supplemental return or other data required by the County or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.
- b) In addition to the other penalties referred to in this Chapter, the Alcoholic Beverage Commission, after a hearing and finding of any license holder to be guilty of sales by the licensee or any employee of alcoholic beverages to a minor in connection with the operation of the licensed business, the penalties shall be as follows:
  - 1) For the first offense by the licensee, a 14-day suspension of the license and a fine of \$500.00 against the licensee and the employee committing the offense;

- 2) For the second offense by the licensee within a 12-month period, a suspension of the license for one hundred eighty (180) days and a fine of \$1,000 against the licensee and the employee committing the offense;
  - 3) Further offenses shall result in a fine of \$1,000 against licensee and server and revocation of the current license and disqualification to receive future licenses for up to three years and as determined by the Alcoholic Beverage Commission.
- c) The Alcoholic Beverage Commission or the Board of Commissioners, after a hearing and finding of any license holder to be in violation of any other provisions of this Ordinance, may take one or more of the following actions depending on the severity of the violation: revocation of license; suspension of license for a period of time; fine the license holder; place the license holder on suspension; warn the license holder; take no action.
  - d) Whenever a fine is imposed by the Alcoholic Beverage Commission, and such fine is not paid within 30 days from the date the fine is imposed, the license shall automatically lapse and be invalid pending payment of the fine and reapplication, along with all application fees.
  - e) All penalties assessed against a license holder may also or instead be assessed against the Managing Agent.
  - f) Upon the failure of any licensee to furnish any report required by the County or State or to pay any tax due promptly, there shall be assessed a penalty of ten percent (10%) of the amount of tax due in addition to the tax due. Should the delinquency remain after one month from the due date, in addition to the 10% penalty, there shall be a one and one half percent (1.5%) monthly penalty imposed.

**Section 6-91 – 6-99. Reserved.**

## ARTICLE IV

### REGULATIONS SPECIFICALLY AFFECTING RETAIL PACKAGE DEALER, RETAIL CONSUMPTION DEALER, AND WHOLESALE OF WINE AND MALT BEVERAGES, BUT EXCLUDING FARM WINERY LICENSEES AND TASTING ROOMS OF A FARM WINERY

#### DIVISION I. GENERAL

The provisions of Article IV shall not apply to farm wineries except when specifically provided by Article V.

#### Section 6-100. Location Restrictions

- a) No entity may sell or offer to sell any alcoholic beverage, nor shall the Alcoholic Beverage Commission issue a license, to any location:
  - 1) Not accessed and immediately adjacent to a State or U.S. Highway or within one thousand (1,000) feet of a State or U. S. Highway; however, business operations existing at the time of the passage of this Ordinance shall be grandfathered in and shall not be required to comply with this subsection;
  - 2) Within five hundred (500) feet of an educational building, college campus, private school or public school, with the distance limitations being measured in a straight line from the nearest point of the proposed licensed building to the nearest point of the property line of any educational building, college campus, private school, or public school;
  - 3) Within either:
    - i) Three hundred (300) feet of a church, with the distance limitations being measured in a straight line from the nearest point of the proposed licensed building to the nearest point of the property line of any church building; or
    - ii) Five hundred (500) feet of a church, with the distance limitations being measured in a straight line from the nearest point of the proposed licensed building to the nearest point of any church building;whichever is greater;
  - 4) The distance limitations set out in 6-100 a (3) of this Article shall be applicable only if the church or church organization is the owner of the property upon which the church building is situated;

- 5) Within one hundred fifty (150) feet of any private residential building with the distance measured from the nearest point of each building to building; or
  - 6) Within five hundred (500) feet of the property line of any adult entertainment establishment.
- b) The location restrictions shall not include private schools or colleges wherein only specialized subjects such as art, business, dentistry, law, medicine, music, stenography, vocational occupations or other special subjects are taught.
  - c) The Alcoholic Beverage Commission shall not issue a license at a location where:
    - 1) The operation of the proposed business would be in violation of any land use control Ordinance of the county; or
    - 2) The granting of a license would constitute a violation of state law or local regulations; or
    - 3) An adult entertainment establishment operates; or
    - 4) The location thereof would be contrary to the public interest and welfare of the community.
  - d) Subparagraphs a) and b) of this section shall not apply to on premise consumption at a bed & breakfast or hotel located on a site which equals or exceeds three (3) contiguous acres.
  - e) The location restrictions provided for by Section 6-100 of this Ordinance shall not apply:
    - 1) To any premises or location where alcoholic beverages are being sold or dispensed in compliance with the other provisions of this Ordinance and a school or church is built or erected within the minimum distance provided for in this section.
    - 2) To any premises or location licensed as an importer, so long as the same is allowed by the state; provided, however, no signs or other forms of advertisement shall be placed on or near the licensed premises which directly or indirectly advertise that alcoholic beverages are stored or warehoused on the premises.

#### **Section 6-101. Days and Hours of Sale**

- a) Malted beverages or wine shall not be sold on Sundays or Christmas Day.
- b) On all other days the sale of malted beverages and wine shall cease at 11:59 P.M. and not

be resumed before 7:00 a.m. on the next day when sales are permitted.

### **Section 6-102. License Categories**

- a) The alcoholic beverage licenses issuable under this Article IV are:
  - 1) Retail package dealer who sells beer, malt beverage, or wine in unbroken packages at retail only and not for resale.
  - 2) Retail consumption dealer who sells beer, malt beverage or wine for consumption on the premises to consumers and not for resale.
  - 3) Wholesaler of wine and malt beverages whose principal place of business is located in White County. Any wholesaler in malt beverages or wine licensed by the state or the agent of such wholesale dealer may be granted a license to operate a wholesale business in White County. Any wholesaler whose principal place of business is located in another County (and who is licensed in that County), and who desires only to deliver into White County shall not be required to obtain an additional license from White County. A copy of the license issued in the county wherein the principal place of business is located must be filed with White County. Such deliveries shall be made only to businesses licensed under this Ordinance.
  - 4) In addition to the above-mentioned license, a Temporary Special Use Permit may be issued as hereinafter defined.
- b) The Alcoholic Beverage Commission shall not issue an alcoholic beverage license for the sale of distilled spirits including but not limited to fortified wine.

## **DIVISION 2. LICENSE FEES**

### **Section 6-103. Fees**

- a) The Board shall establish license fees for each category of license specified in Section 6-102 by a schedule of fees passed by resolution adopted from time to time by the Board of Commissioners in a public meeting.
- b) A schedule of the currently authorized fees shall be available for reference in the office of the County Clerk.
- c) The Board shall not prorate the annual license fee for partial year issue, except that any license issued on or after October 1 shall be thirty-five percent (35%) of the annual rate.

### **DIVISION 3. RETAIL PACKAGE SALES**

#### **Section 6-104. License for Retail Package Sales Required.**

No entity shall sell any packaged malt beverage or wine unless said entity holds a valid and current Retail Package Sales of Malt Beverages and Wine license issued by the County or unless the entity is properly licensed as a farm winery.

#### **Section 6-105. Required Sales Ratio**

- a) The gross income from the sale of malt beverages and wine shall not exceed forty percent (40 %) of the gross income from the total retail sales.
- b) The licensee shall report to the Alcoholic Beverage Commission monthly total gross sales, gross sales of malt beverages and wine figures and sales ratios before the 20<sup>th</sup> of the month following the month of sales for the initial year and thereafter on an annual basis and submitted as a part of the renewal application. Notwithstanding the foregoing, the Code Enforcement Officer for White County, at anytime during the licensed year, can request to inspect the records of licensee as to the required sales ratio, and shall be given full and complete access to such records by the licensee.
- c) Two (2) consecutive months of ratios in excess of the limits allowed by subsection "a" of this section shall prompt an investigation as to the legitimacy of the license.

#### **Section 6-106 --6-109. Reserved**

### **DIVISION 4. ON PREMISE CONSUMPTION SALES**

#### **Section 6-110. License for On Premise Consumption Required**

Each license for the sale of wine and malt beverages for consumption on the premises shall require that the licensed premises meet the requirements of this Ordinance for a "bed and breakfast," hotel (to include lodge, resort or motel) or restaurant.

#### **Section 6-111. Required Sales Ratio**

- a) The gross income from the sale of malt beverages and wine shall not exceed forty percent (40 %) of the gross income from the total sales.
- b) The licensee shall report to the Alcoholic Beverage Commission monthly total gross sales, gross sales of malt beverages and wine figures and sales ratios before the 20<sup>th</sup> of the month following the month of sales for the initial year and thereafter on an annual basis and submitted as a part of the renewal application. Notwithstanding the foregoing, the

Code Enforcement Officer for White County, at anytime during the licensed year, can request to inspect the records of licensee as to the required sales ratio, and shall be given full and complete access to such records by the licensee.

- c) Two (2) consecutive months of ratios in excess of the limits allowed by subsection "a" of this section shall prompt an investigation as to the legitimacy of the license.
- d) This section shall not apply to farm wineries.

**Section 6-112 -- 6-119. Reserved**

**DIVISION 5. WHOLESALE SALES**

**Section 6-120. License as Wholesaler Required.**

No entity shall sell any wholesale malt beverage or wine unless said entity holds a valid and current Wholesale Sale of Malt Beverages and Wine license from the State of Georgia and from the County in which the principal place of business of the wholesaler is located. Licensed wholesalers shall only make deliveries in the unincorporated areas of White County to businesses licensed under this Ordinance.

**Section 6-121 -- 6-129. Reserved**

**DIVISION 6. TEMPORARY SPECIAL EVENT LICENSE**

**Section 6-130. Temporary Special Event License**

- a) Bona fide nonprofit civic organizations desiring to sell alcoholic beverages may apply and submit completed forms furnished by the Commissioner of the Georgia Department of Revenue and a permit from the Commissioner authorizing the organization to sell or distribute alcoholic beverages for consumption only on the premises, or to sell wine at retail for off-premise consumption, or to auction wine in sealed containers, or any combination thereof, for a period not to exceed three days (which cannot include any Sunday of the year), and subject to the rules and regulations of the Georgia Department of Revenue.
- b) The bona fide nonprofit civic organization must have been established in White County for one year or more prior to the date of application or have a designated agent located within White County for one year or more prior to the application.
- c) The temporary special use permits to be issued to the bona fide non-profit civic organization shall be subject to the rules and regulations in other applicable Sections of this ordinance relating to the sale and distribution of alcoholic beverages, as follows:
  - 1) The licensing requirements under Sections 6-32 and 6-40;

- 2) The distance prohibitions of Section 6-100;
  - 3) The penalty for false information within an application as set by Section 6-41;
  - 4) That the special use temporary permit is a privilege and conditional upon the holder meeting the requirements of this ordinance;
  - 5) The inspection authority as provided by this ordinance;
  - 6) The employee requirements as to age and criminal history as provided in this ordinance;
  - 7) The days and hours of operation requirements as provided by Section 6-101;
  - 8) The prohibitions against furnishing or providing alcoholic beverages to any person under 21 years of age as provided by section 6-52.
- d) A duly authorized agent for the bona fide non-profit civic organization shall file an application with the County for a temporary special use permit upon the application form of the County and shall provide a copy of the non-profit designation by the State. At the time of the filing of the application form, the bona fide non-profit civic organization shall pay a fee of Fifty Dollars (\$50.00) for each permit received during the calendar year. The application shall identify the bona fide non-profit civic organization, the dates for which the permit is to be applicable (which cannot include any Sunday of the year), the premises where the alcoholic beverages will be served; the event or type of function for the bona fide non-profit civic organization, and such other information as may be required by the County. The Alcoholic Beverage Commission may issue a permit authorizing the bona fide non-profit civic organization to sell alcoholic beverages for consumption on the premises, or to sell wine at retail for off-premises consumption, or to auction wine in sealed containers, or any combination thereof, for a period not to exceed three days, and subject to any law regulating the time and date for selling such beverages. The temporary special use permit shall also be conditioned upon the Commissioner for the Georgia Department of Revenue issuing said Department's permit for a temporary special use permit for a bona fide non-profit civic organization.
- e) No more than six (6) permits may be issued to an organization in any one calendar year pursuant to this ordinance and all events must be associated with and benefit the cause of a charitable or civic organization.
- f) Permits issued pursuant to this Section shall be valid only for the place specified in the permit.
- g) The special event must receive approval from the White County Sheriff's Office on crowd control and security measures.
- h) The special event must receive approval from the White County Sheriff's Office and

County Public Works Department on traffic control measures and parking.

- i) The location at which the special event is to take place must be approved in writing by the owner of the property.
- j) The premises at which the special event is to take place must be approved by the Alcoholic Beverage Commission.
- k) The Sheriff or his designee may immediately revoke any temporary permit for a special event if it is determined continued alcohol sales may endanger the health, welfare or safety of the public.
- l) As a condition on the issuance of a temporary special event permit, the licensee shall indemnify and hold the county harmless from claims, demand or cause of action which may arise from activities associated with the special event. The licensee shall ensure by written documentation satisfactory to the Board that such insurance as may be required for the event has been issued; no event may be held until ten business days after the copy of the policy has been recorded with the County, therefore failure to deliver such policy shall act to automatically cancel the alcoholic beverage license for the event.

**Section 6-131 --6-139. Reserved**

**ARTICLE V.**

**REGULATIONS SPECIFICALLY AFFECTING FARM WINERIES**

**DIVISION I. GENERAL**

**Section 6-140. License Required.**

- a) No entity shall engage in the business of a farm winery of any kind in the unincorporated area of the county without first obtaining a license therefore under this Chapter and a license to operate a farm winery issued by the Commissioner. It shall also be unlawful for any entity to sell or make deliveries beyond the boundaries of the premises covered by the license except at tasting rooms licensed as provided herein and by the Commissioner.
  - 1) Certain alcoholic beverages may be sold by a farm winery in the unincorporated area of the county under a license granted by the Alcoholic Beverage Commission or Board of Commissioners upon the terms and conditions provided in this Chapter and by State law.
  - 2) All licenses in this Chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this

Code and the state law.

- 3) All licenses pursuant to this Chapter shall have printed on the front these words:  
“This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances which may be enacted.”
  - 4) Any holder of a license for a farm winery issued pursuant to this Chapter is required to apply for and obtain a farm winery license from the state before any sales commence. Additionally, county licensees are required to abide by all applicable state regulations and laws.
- b) A farm winery which is qualified and licensed by the state shall be allowed to manufacture wine or to distribute such wine at wholesale and at retail at its tasting room, provided that the farm winery has given the board of commissioners 60 days’ written notice of its intentions to commence operations and filed, through the Alcoholic Beverage Commission, an application with copies of its license and permits from the state, along with the license fees and other requirements as hereinafter set out. A farm winery may also sell at retail in packages or for consumption on the premises or at additional licensed tasting rooms wine manufactured by other wineries.
  - c) Retail sales of wine and malt beverages for consumption on the premises licenses shall require that all consumption be at the farm winery site or approved tasting rooms, which includes wedding or dining facilities associated with the farm winery.
  - d) In addition to the license for the Farm Winery operation, the Alcoholic Beverage Commission may, upon application, issue additional licenses to the farm winery as to malt beverages as follows:
    - 1) Retail package dealer who sells malt beverages, including but not limited to beer, lager and stout, in unbroken packages at retail only and not for resale.
    - 2) Retail consumption dealer who sells malt beverages, including but not limited to beer, lager and stout, for consumption on the premises to consumers and not for resale.
    - 3) The farm winery must make application for the sale of malt beverages as provided by Article III, but shall not be subject to any location restrictions, any of the required sales ratios, or to any other restriction of Article IV.
  - e) The Alcoholic Beverage Commission may also issue a farm winery license for additional tasting rooms on or off the primary premises if the additional tasting room(s) are owned or leased by the primary farm winery owner and said rooms have been licensed by the Commissioner.

**Section 6-141 Grandfathering of current state licensed farm wineries.**

For the initial year of application of the new White County regulations concerning farm wineries, which begins January 1, 2009, farm wineries within White County licensed by the State prior to January 1, 2009, shall be allowed to continue their current operations that existed prior to January 1, 2009, while the operator goes through the licensing process required herein if said initial completed application is filed by June 1, 2009.

**Section 6-142. License Fees.**

- a) The first license at the primary farm winery site shall cost \$1,500.00, which shall cover the operation of the farm winery under the state farm winery laws. In addition to the primary farm winery operation, the farm winery may apply for the following license:
  - 1) To sell malt beverages, including but not limited to beer, lager and stout, in unbroken packages on the farm winery premises at retail and not for resale, which license fee shall be an additional \$1.00;
  - 2) To sell at retail malt beverages, including but not limited to beer, lager and stout, for consumption on the farm winery premises to consumers, which license fee shall be an additional \$1.00.
- b) For each additional tasting room location on the primary farm winery premises, there shall be an additional license fee in the amount of \$100.00 per additional tasting room.
- c) For a licensed entity to obtain an additional license for a tasting room owned or leased by the licensed entity and which is located off of the primary farm winery premises, there shall be an additional license fee in the amount of \$750.00 for each such off-site locations.
- d) The Board shall not prorate the annual license fee for partial year issuance, except that any license issued on or after October 1 shall be thirty-five percent (35%) of the annual rate.

**Section 6-143. Days and Hours of Sale**

- a) Farm wineries operate during such days and hours as provided by the Farm Wineries Act, as amended, including but not limited to O.C.G.A. Section 3-6-21.2.

**Section 6-144. License Categories**

- a) The alcoholic beverage licenses issuable under Article V of this Ordinance are:

- 1) Farm Wineries;
  - 2) Tasting rooms of farm wineries;
  - 3) Retail package dealer who sells malt beverages, including but not limited to beer, lager and stout, in unbroken packages at retail only and not for resale.
  - 4) Retail consumption dealer who sells malt beverages, including but not limited to beer, lager and stout, for consumption on the premises to consumers and not for resale.
- b) The Alcoholic Beverage Commission shall not issue an alcoholic beverage license for the sale of distilled spirits including but not limited to fortified wine to a farm winery.

**Section 6-145. Revocation of state license**

- a) When the commissioner revokes any state farm winery license issued by the state, permission by the county shall automatically become invalid.
- b) A copy of the current state license shall accompany all applications and renewals of licenses. Failure to present a valid copy of a current and valid state license will result in a refusal to issue or renew the license. Timely application for renewal is determined by the date on which a complete and proper application has been submitted
- c) When the state revokes an alcoholic beverage permit or license issued under this Ordinance, the Alcoholic Beverage Commission shall automatically revoke the County license without any action.

**Section 6-146. Location Restrictions.**

No entity may sell or offer to sell any alcoholic beverage, nor shall the Alcoholic Beverage Commission issue a license, to any location:

- a) Where an adult entertainment establishment operates or within five hundred (500) feet of the property line of an adult entertainment establishment; or
- b) Where the operation of the proposed business would be in violation of any land use control Ordinance of the county; or
- c) Where the granting of a license would constitute a violation of state law or local regulations; or
- d) Where the location thereof would be contrary to the public interest and welfare of the community

**Section 6-147 --6-149. Reserved**

**ARTICLE VI.**

**ALCOHOLIC BEVERAGE COMMISSION**

**Section 6-150. Established; composition**

- a) The Board of Commissioners hereby creates the Alcoholic Beverage Commission which shall be composed of three (3) members appointed by the Board of Commissioners.
- b) The Alcoholic Beverage Commission shall select a chair from the members of the Alcoholic Beverage Commission; and
- c) The County Clerk or designee shall be the Secretary of the Alcoholic Beverage Commission.

**Section 6-151. Qualifications.**

- a) Appointees shall:
  - 1) Be at least twenty-one (21) years of age; and
  - 2) Have been a resident of White County for at least one (1) year;
  - 3) Not have been convicted under any federal, state or local law, whether felony or misdemeanor, and
  - 4) Be qualified to vote in any White County election; and
  - 5) In no way be connected with the sale, storage, distribution or manufacture of alcoholic beverages.

**Section 6-152. Appointment of members; terms of office**

- a) Each member shall serve for a term of two (2) years and until their successors are appointed, subject to earlier removal as provided for herein;
- b) All appointments to the Alcoholic Beverage Commission serve at the pleasure of the Board of Commissioners and are subject to removal at any time.

**Section 6-153. Powers and duties.**

The Alcoholic Beverage Commission shall have all of the powers, duties, responsibilities provided under this Ordinance and state law.

**Section 6-154. Meetings of the Alcoholic Beverage Commission.**

- a) The Alcoholic Beverage Commission shall meet at such times as may be deemed necessary or appropriate provided reasonable notice thereof.
- b) A majority of the members present, if a quorum, shall decide matters before the Alcoholic Beverage Commission.
- c) All meetings of the Alcoholic Beverage Commission shall be open to the public.

**Section 6-155. Reporting.**

- a) The County Clerk or designee shall make a record of the proceedings of all meetings of the Alcoholic Beverage Commission.
- b) The record shall be a public record and shall contain at least the:
  - 1) Date of each meeting; and
  - 2) Names of the Commission members present and absent; and
  - 3) Names of the members introducing and seconding motions; and
  - 4) Statement of each motion presented; and
  - 5) Vote of each member thereon; and
  - 6) Provisions of each alcoholic beverage license or temporary special use permit issued.
- c) The County Clerk or designee shall keep a record of all the proceedings, original applications and a duplicate of each license or permit issued.
- d) The County Clerk or designee shall upon the filing of any application, revocation or suspension of an alcoholic beverage license or any decision concerning same ensure the timely distribution of a copy of same to the Board of Commissioners, County Manager, Sheriff and Code Enforcement Officer. The County Attorney shall be given a copy of documents pertaining to revocation or suspension or any other applications or documents as may be determined by the Alcoholic Beverage Commission.
- e) The Alcoholic Beverage Commission shall perform such other duties and have such other power and authority provided by statute and this chapter.

**Sections 6-156 through 6-159 Reserved.**

## ARTICLE VII.

### VARIANCES

#### Section 6-160. Variances.

- a) *Administration by the Alcoholic Beverage Commission.* The Alcoholic Beverage Commission has the responsibility for administration of this section. A variance cannot be considered if a violation of the county code has occurred. A variance shall be sought prior to the application for a license or as part of an initial application for a license.
- b) *Purpose.* The purpose of a variance is to provide relief when the strict application of the statutes, codes or policies imposes unusual practical difficulties or unnecessary physical hardships on the applicant.
- c) *Criteria for granting a variance.*
  - 1) Based on the application, evidence submitted by the applicant, investigations by the Alcohol Beverage Commission or board of commissioners, all four of the following findings shall exist in order to grant a variance:
    - i. There are extraordinary and exceptional conditions pertaining to the particular situation; and
    - ii. The application of this chapter to the particular situation would create an unnecessary hardship; and
    - iii. Relief, if granted, would not cause substantial detriment to the quality of life for the community or impair the purposes and intent of this chapter; and
    - iv. The special circumstances surrounding the request for a variance are not the result of acts by the applicant.
- d) Variances shall not be granted:
  - 1) If the special circumstances on which the applicant relies are a result of the actions of the applicant, owner or previous owners; or
  - 2) To allow the use of property in a manner or for a purpose not authorized by the statutes, codes or policies.

- e) *Application requirements.* The applicant or duly authorized agent shall file an application for variances with the Alcoholic Beverage Commission on the prescribed form. A complete application shall consist of:
- 1) Variance request form;
  - 2) Copy of code section from which the variance is being requested;
  - 3) Correspondence clearly stating the basis for the variance request;
  - 4) Supporting documentation necessary to give the Alcoholic Beverage Commission a clear understanding of the request.
  - 5) A review fee of \$100.00.
- f) *Appeal to the board of commissioners.* Decisions or actions of the Alcoholic Beverage Commission are subject to an appeal to the board of commissioners. However, the Alcoholic Beverage Commission's action or decision shall remain in full force and effect pending such appeal.
- g) *Conditions.*
- 1) Reasonable conditions may be imposed in connection with the granting of a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this chapter.
  - 2) Guarantees and evidence shall be required that such conditions are and will continue to be in compliance.
- h) *Compliance with conditions approval.*
- Adherence to the approved plans and compliance with conditions imposed in the variance are required. Any departure from conditions of approval constitutes a violation of this chapter.
- i) *Vested interest in approved variances.* A valid variance supersedes conflicting provisions or amendments unless specifically provided by the provisions of this chapter or the conditions.
- j) *Investigations and reports.* The Alcoholic Beverage Commission shall make an investigation to provide necessary information to insure that the action on each application is consistent with the variance criteria. Any report of such investigation shall be included in the application file.

- k) *Revocation.* Variances shall become invalid if not exercised within one year of the date of approval or if there is a change in ownership not otherwise noted and approved at the time of the granting of the variance.
- l) *Limitations on reapplication.* The Alcoholic Beverage Commission shall not hear denied applications for the same or substantially similar variance application until a period of six months has elapsed.

## **ARTICLE VIII.**

### **APPEALS**

#### **Section 6-161. Appeals.**

- a) The applicant or license holder may appeal an action of the Alcoholic Beverage Commission with the refusal to grant a license, variance, revocation, suspension of an existing license or imposition of a civil penalty by written appeal addressed to the White County Board of Commissioners and which states the grounds of the appeal.
- b) Each appeal from an action of the Alcoholic Beverage Commission shall be filed by the applicant or license holder with the White County Board of Commissioners within fifteen (15) days of the action or decision and shall be accompanied by the sum of \$100.00 as the fee for such appeal.
- c) Upon receipt of this notice of appeal, the Board of Commissioners shall establish a date and time to hear the appeal. The request shall include:
  - 1) Correspondence stating the basis for the appeal of the Alcoholic Beverage Commission action or decision;
  - 2) Applicable Alcoholic Beverage Commission minutes;
  - 3) Supporting documentation necessary to give the board of commissioners a clear understanding of the request.
- d) The provisions of this section shall be the sole remedy and exclusive method of review of any action or order that may be issued by the Alcoholic Beverage Commission.
- e) Orders of the Board shall be the final administrative action of White County.