

42/

10/11/2006 Dooly County Alcoholic Beverages Ordinance (Draft #3)

Chapter 6 ALCOHOLIC BEVERAGES*

***State law references:** Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.

Editor's note: This Ordinance shall repeal Article I and Article II of Chapter 6 of the previous Ordinance adopted March 3, 2005.

Article I. In General

Section 6-1. Purposes.

Section 6-2. Definitions.

Section 6-3. Violations; penalty.

Section 6-4 – 6-25. Reserved.

Article II. Licensing

Section. 6-26. Required classifications, etc.

Section. 6-27. Procedure for issuance.

Section. 6-28. Qualifications.

Section. 6-29. Initial application procedures.

Section. 6-30. Renewal.

Section. 6-31. Transfer.

Section. 6-32. Change in business ownership.

Section. 6-33. Temporary license.

Section. 6-34. License suspension or revocation.

Section. 6-35. License revocation.

Section. 6-36--6-55. Reserved.

Article III. Location

Section. 6-56. Proximity restrictions.

Sections. 6-57 -- 6-80. Reserved.

Article IV. Sales

Section. 6-81. Responsibility of named licensee.

Section. 6-82. Rentals paid restricted.

Section. 6-83. Display of license.

Section. 6-84. Retention of records.

Section. 6-85. Knowledge of chapter provisions.

Section. 6-86. Sales to underage persons prohibited.

Section. 6-87. Days of sales prohibited.

Section. 6-88. Sales to intoxicated persons; gambling; disorderly conduct.

Section. 6-89. Container, storage, illumination.

Section. 6-90. Cleanliness of premises; inspections.

Sections. 6-91 -- 6-110. Reserved.

Article V. Sales to And by Under Aged Persons

Section. 6-111. General prohibitions.

Section. 6-112. Activity in grocery stores.

Section. 6-113--6-135. Reserved.

Article VI. Breaking Package or Drinking on Premises

Section. 6-136. Prohibited.

Sections. 6-137 -- 6-155. Reserved.

Article VII. Consumption of Mixed Drinks on Premises Where Sold

Section. 6-156. Generally.

Section. 6-157. Restaurant.

Section. 6-158. Bona fide private club.

Section. 6-159. Ratio of alcoholic/non-alcoholic sales.

Section. 6-160. Statement of sales.

Section. 6-161. Illumination of premises; location of sales restricted.

Section. 6-162. Hours of sale.

Section. 6-163. Removal of beverages prohibited.

Section. 6-164. Sexually oriented entertainment.

Section. 6-165. Sale of malt beverages and wine for consumption on the premises.

Sections. 6-166--6-190. Reserved.

Article VIII. Excise Tax on Mixed Drinks

Sections. 6-191--6-215. Reserved.

Article IX. Wholesale Licenses; Excise Tax on Malt Beverages, Wine, and Distilled Spirits

Section. 6-216. Required issuance.

Section. 6-217. Tax imposed.

ARTICLE I. IN GENERAL

Sec. 6-1. Purposes.

(a) The purposes of this chapter shall include, without necessarily being limited to, the following:

- (1) Compliance with and effectuation of the general state law;
- (2) Prevention and control of the sale of alcoholic beverages by unfit persons;
- (3) Insuring that any licenses issued for the consumption of alcoholic beverages on the premises are issued only to a legitimate restaurant or private club as defined in this chapter;
- (4) The protection of schools, homes, churches, parks, and other institutions;
- (5) Protection of the public health, safety, and welfare.

(b) To the maximum extent permissible under state and federal law, the business of selling alcoholic beverages shall under this chapter be considered to be a privilege to be accorded in conformity with the foregoing and other public policies of the County, rather than a right.

Sec. 6-2. Definitions.

(a) Unless a contrary intention is clearly apparent from the context, the following terms used in this chapter shall have the following meaning:

Alcohol means ethyl alcohol, hydrated oxide of ethyl, spirits or wine, from whatever source or whatever process produced.

Alcoholic beverage means and includes all alcohol, malt beverages, distilled spirits, wine and fortified wines defined in this section.

Board of County Commissioners means Chairman and County Commissioners of Dooly County, Georgia.

County means Dooly County and when used in geographical sense means the unincorporated area of Dooly County.

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.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy.

Interest includes 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 or control.

Licensed premises includes not only the room wherein alcoholic beverages are sold or served, but also the entire building in which such room is located, except that when such a room is located in a hotel, motel, or similar facility or in a shopping center only such room and any adjoining storage, office, toilet, and other similar rooms shall constitute the "licensed premises." Such terms shall also include patios, decks, and other similar appurtenances associated with the licensed premises, but shall not include public, semi-public or private parking lots.

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

Majority stockholder means the person, if any, who owns more than 50 percent of the voting stock of a corporation; if no person owns more than 50 percent of the voting of a corporation, the "majority stockholder" is the person owning more of the voting stock than any other person; and if two or more persons each own the same amount of the voting stock of a corporation and each own more of the voting stock than any other person, then any one of such persons may act as the "majority stockholder."

Malt beverage means fermented beverage made in whole or in part from malt or any similar fermented substance, also sometimes referred to as "beer".

Mixed drink means any distilled spirits served for consumption on the premises, whether or not diluted by water or any other substance.

Named licensee means the person acting as such for a partnership or corporation pursuant to section 6-27.

Person includes a corporation, partnership, association, club or institution.

(b) Unless a contrary intention is clearly apparent from the context, any term used in this chapter shall have the same meaning as when used in comparable provision of the Georgia Alcoholic Beverage Code, as appearing in the Official Code of Georgia, Title 3.

(c) As used in this chapter, 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 chapter, the term "may" is permissive and the term "shall" is mandatory.

Sec. 6-3. Violations; penalty.

(a) Any person who violates any provision of this chapter shall, upon conviction, in a court of competent jurisdiction, be punished as provided in this Code, which may include a fine or imprisonment, or both such fine and imprisonment. Any such punishment, if imposed, shall be in addition to and not in lieu of any license suspension or revocation under this chapter.

(b) The violation of any of the provisions of this chapter shall be grounds for suspension or revocation of any alcoholic beverage license issued hereunder, as follows:

(1) For the first offense, there may be imposed a fine of up to \$500.00 and/or a suspension of all alcoholic beverage licenses issued by the County for a period of not exceeding ten days.

(2) For the second offense, occurring within one year of the date of occurrence of the first offense, there may be imposed a fine of up to \$1,000.00 and/or suspension of all alcoholic beverage licenses issued by the County for a period not exceeding 30 days.

(3) For the third and any subsequent offenses occurring within one year of the date of occurrence of the first offense, there may be imposed a fine of up to \$1,000.00 and/or all alcoholic beverage licenses issued by the County shall be revoked for a minimum of 60 days before the license holder can reapply for a license at the same location.

Secs. 6-4--6-25. Reserved.

ARTICLE II. LICENSING

Sec. 6-26. Required classifications, etc.

(a) ***Required.*** It shall be unlawful for any person to sell or offer to sell any alcoholic beverages within the County except under a valid license issued under this chapter and in compliance with the provisions of this chapter.

(b) ***Pay schedule.*** License fees shall be payable in advance for an entire year beginning January 1 and ending December 31 of the same year. If an initial license fee is paid after January 1, the license fees shall be prorated on a monthly basis for each month or portion of a month left between the date of payment and December 31. The suspension or revocation of any license granted pursuant to this article shall not entitle the licensee to a return of any portion of the license fee.

(c) ***License fee.*** Classes of licenses issued under this chapter, activities permitted and regulated there under, and the annual license fees shall be as follows:

(1) ***Retail Consumption Off-Premises Licenses:***

- a. Retail sales for off-premises consumption of malt beverages \$250.00
- b. Retail sales for off-premises consumption of wine \$250.00

(2) ***Retail Consumption On-Premises Licenses:***

- a. Pouring license for malt beverages.....\$250.00
- b. Pouring license for wine \$250.00
- c. Pouring license for distilled spirits..... \$1,500.00
- d. Pouring license for malt beverages, wine, and distilled spirits.... \$2,000.00

(3) **Wholesale licenses:**

Resident wholesale dealer's license: wholesale of distilled spirits, wine, and malt beverages by a wholesale dealer having a place of business in the County \$1,000.00

(d) **Application fees.** A nonrefundable application fee in the following amount shall accompany each application for a license under this chapter:

- (1) Sale off-premises of package malt beverages and/or wine license \$75.00
- (2) Consumption on-the premises pouring license for distilled spirits,
beer and/or wine \$150.00

(e) **Payment of fees.** All application fees for license applicants shall be paid at the time the application is filed and shall not be refunded. All license fees shall be paid upon approval of the license application and no license shall be issued until the payment of all applicable license fees.

Sec. 6-27. Procedure for issuance.

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

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

(c) In the case of a corporation having as its principal business the sale of alcoholic beverages, the majority stockholder and each principal officer of the corporation shall join as applicants for the license; and each such person must meet the qualifications of an individual licensee, as provided herein, except for the residency requirement which shall be required only for the named licensee.

(d) In the case of a corporation having as its principal business an activity other than the sale of alcoholic beverages, the officer or employee who is to be the named licensee shall be the applicant and must meet the qualifications of an individual licensee as provided herein; provided, however, that the County Administrator (or designee) may require the fingerprinting and investigation of officers and shareholders of the corporation if such official deems it necessary in undertaking his investigation.

(e) 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. 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.

(f) Each licensee shall also be responsible for the actions of each employee employed by the licensee and the licensed business during such employee's working hours.

Sec. 6-28. Qualifications.

(a) A licensee must be at least 21 years of age, of good moral character, and a citizen of the United States or a legal resident of the United States; provided, however, that any license issued to a person who is a legal resident of the United States shall only be valid during the term of such person's legal residency, and if such legal residency status is lost, revoked, or terminated, then such license shall be deemed revoked as of the date of loss of such legal residency status by the licensee.

(b) A licensee shall not have been convicted within the past five years of any felony, any misdemeanor involving moral turpitude, or any other misdemeanor involving a violation of County alcohol ordinances within the past two years. This subsection shall apply with respect to the laws of this state, other states, the United States, and other countries. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection. The County Administrator (or designee) may recommend the waiver of the conviction of a misdemeanor for purposes of this subsection if the County Administrator (or designee) determines that the misdemeanor does not have a bearing on the applicant's fitness for a license, subject to the approval of the Board of County Commissioners at the time the license is issued.

(c) A licensee shall not have been denied or had revoked, within the 12 months immediately preceding his application, any license to sell alcoholic beverages issued by any governmental entity.

(d) A licensee shall be the owner of the premises to be licensed or the holder of a lease thereon for substantially the same period to be covered by the license.

(e) No license for the sale of alcoholic beverages by the drink for consumption on the premises shall be issued to any applicant for a location or facility that does not meet the requirements of a private club, restaurant or country club as defined in this chapter.

Sec. 6-29. Initial application procedures.

(a) Applications for a Retail Consumption Off-Premises License and/or a Retail Consumption On-Premises License shall be filed with the County Administrator (or designee) upon forms prescribed by the County and made available at the County Commissioners' Office. The application shall be subscribed by the applicant under oath and fully completed and executed. At a minimum, the applicant shall be required to provide the following information with the application:

(1) The employment history for the previous five years of the applicant, its chief operating officers or partners, including names and addresses of previous employers, places of doing business, and experience in the field for which the applicant seeks an alcoholic beverage license;

- (2) Proof of liability insurance in the amount of \$100,000.00, and worker's compensation insurance where applicable, effective for at least one year from the date of application;
- (3) Written consent for the County to receive the criminal history of the applicant (the chief operating official and partners in the case of firms, corporations, or partnerships;
- (4) Permanent address and phone number for the person making the application;
- (5) A photograph of the applicant or chief operating officers or partners of the entity making the application; and
- (6) Whether the applicant seeks permission to sell alcohol for consumption on the premises.

(b) There shall be attached to the application a bank money order, certified check or like remittance of the application fee in full.

(c) As a prerequisite to the issuance of the license, the applicant shall furnish a complete set of fingerprints to be forwarded to the state bureau of investigation which shall search the files and forward the fingerprints the Federal Bureau of Investigation to determine past criminal activity.

(d) At some time during the two weeks prior to the Board of County Commissioners consideration of an initial or renewal application, the County Administrator (or designee) shall cause to be published in the County legal organ one time a notice of the application, including the name of the applicant, the location of the business, the type of license applied for and the date and time of the Board's hearing thereon.

(e) Failure to fully complete and execute an application for a license or to furnish accurately all data, information and records required by the application form as well as failure to accompany the application with the payment of the prescribed fee shall be deemed just cause for denying the application with prejudice.

(f) After his investigation, the County Administrator (or designee) shall make a recommendation to the Board of County Commissioners at their next regularly scheduled meeting and the Board shall hold a public hearing thereon. Unless unanimous consent of the Board is obtained to consider the application at the conclusion of the public hearing, the Board shall consider and either grant or deny the application at the next regularly scheduled meeting of the Board, unless the matter is properly tabled. The decision to grant or deny the application must be based upon the best interests of the citizens of the County as determined by consideration of the following factors that are determined to be relevant to the applicant:

- (1) The existence or nonexistence of verifiable information regarding the applicant's work history, status, experience and reputation;
- (2) The history of the applicant, if any, in engaging in fraudulent in criminal activities;
- (3) Compliance with the application requirements;
- (4) Adequate and satisfactory reference response;
- (5) Proximity of the proposed business to densely populated residential districts;
- (6) Compliance with zoning regulations;
- (7) Safety of the premises from which the business shall operate; and
- (8) Past compliance, or past failure to comply, with state and local laws, regulations and ordinances.

Sec. 6-30. Renewal.

(a) All alcoholic beverage licensees shall be required to apply for renewal of their licenses annually on forms prescribed by the County Administrator (or designee) and must comply with all provisions of this article, with the exception that neither publication of notice nor a public hearing shall be required for renewal of a license unless there has been a change of ownership of the business or other interests therein.

(b) Upon application for renewal and completion of the investigation by the County Administrator (or designee), the County Administrator (or designee) shall make a recommendation to the Board of County Commissioners at their next regularly scheduled meeting, and the Board shall be authorized to act at that time, either granting or denying the renewal application. Nothing shall prohibit the Board from voting to grant or deny more than one renewal application at a time.

(c) No application for renewal may be approved until all reports to be filed by the licensee hereunder are filed.

(d) At the time of application for a renewal of license for any consumption on the licensed premises, the applicant shall also file with the renewal application a notarized statement or affidavit setting forth the total percentage of sales from food prepared on the premises, non alcoholic beverages consumed on the premises, and alcoholic beverages consumed on the premises for the previous 12 months.

Sec. 6-31. Transfer.

(a) Except as provided in this section, no license shall be transferable to any other person or location.

(b) If a licensee seeks to move his place of business from the licensed premises to another place within the County, the application process shall be the same as the process for obtaining an original license, and the applicable application fees shall be paid at the time the application is filed; provided, however, that no additional license fees shall be payable by the licensee for the current year.

(c) In the case of death of an owner of a license or of a financial interest therein, such license or interest therein may be transferred to the administrator, executor, or adult heir or heirs of the deceased unless the County Administrator (or designee) determines that such a transfer would cause or result in a violation of this chapter. If the proposed transferee cannot meet all the requirements of this chapter, then the license transfer shall not be approved and the license shall be revoked.

(d) Nothing in this section shall prohibit one or more partners in a partnership from retiring there from in favor of one or more of the other partners; provided such withdrawal shall not, without application for an issuance of a new license, introduce any new partner or result in any new person acquiring an interest in the licensed business.

(e) Where a license is issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages, a change in the named licensee may be permitted by the County Administrator (or designee) upon the payment of the required application fees, if the new named licensee meets the requirements of new license applicants.

(f) In the circumstances described in subsections (c), (d) and (e) of this section, the license shall be revoked if the County Administrator (or designee) determines that the change results in a failure to meet the requirements of this chapter.

Sec. 6-32. Change in business ownership.

(a) If any licensee withdraws from, sells or otherwise transfers the licensee's interest in the licensed business, the licensee shall immediately notify the County Administrator (or designee) and surrender the license.

(b) In the case of such a withdrawal, transfer, or sale, a new application shall be made as for an original license.

Sec. 6-33. Temporary license.

(a) A temporary license may be issued by the County Administrator (or designee) if, in his judgment, the denial of a temporary license would create an undue hardship such as the closing of an existing business. The temporary license shall be issued for an extra fee of \$50.00 for a 90-day period. No temporary license may be issued for a location not previously licensed.

(b) A temporary license may be revoked, with or without cause, by the County Administrator (or designee) at any time, and the grant or denial of a temporary license shall not affect or have any bearing upon the grant or denial of an annual license.

Sec. 6-34. License suspension or revocation.

(a) A license may be suspended or revoked by the County Administrator (or designee) as provided in section 6-3 of this Code, for any violation of this chapter and/or other County ordinances relating to alcoholic beverages, for any violation of state or federal law relating to alcoholic beverages, for any material misrepresentation or omission in the application for the license, or at any time when the licensee or the licensed business ceases to meet the eligibility requirements for an alcoholic beverage license.

(b) The County Administrator (or designee) is authorized to suspend the sale of alcoholic beverages for any emergency situation, as officially declared by the Board of County Commissioners, where the County Administrator (or designee) deems such suspension necessary for the immediate protection of public health, safety, or welfare. Such suspension may be made effective immediately and may remain in force until the County Administrator (or designee) determines that the emergency situation is concluded or until directed by the Board of County Commissioners to rescind such suspension, but in no event shall such, emergency suspension exceed 20 calendar days.

(c) Prior to suspending or revoking a license, except in emergency situations described in subsection (b) above, the County Administrator (or designee) shall give at least five days prior written notice to the licensee of the time, place, and purpose of the hearing at which such suspension or revocation shall be considered. Service of such notice shall be perfected by personal service at the licensed premises upon the named licensee or an employee of the licensee at such location by the County Sheriff or his lawful deputy, or, if personal service may not be so perfected, by tacking a copy of the notice to the door of the licensed premises. In addition to the other methods of service, the notice shall also be mailed to the licensee at the address of the licensee contained in the most recent license application on file in the County Administrator (or designee)'s office, certified mail, return receipt requested.

(d) Any licensee, where licenses are suspended or revoked by the County Administrator (or designee), may appeal each suspension or revocation to the Board of County Commissioners. Any such appeal must be filed within ten working days from the date of the written decision by the County Administrator (or designee). Such appeal must be made in writing, must be filed with the County Clerk within such ten-day period, and must set forth the general grounds or basis of the appeal. The suspensions or revocation shall be held in abeyance until the conclusion of the appeal. The Board of County Commissioners shall consider any such appeal within 45 days after the date of filing thereof. The licensee shall be given at least five days prior written notice of the date, time and location of the hearing on the appeal. Service of such notice shall be in the same manner as set forth in subsection (c) hereof. At the hearing, the Board of County Commissioners shall take such testimony under oath and consider such other evidence, as it may deem appropriate. The Board of County Commissioners may then affirm, reverse or modify the decision of the County Administrator (or designee), but it may only reverse or modify each decision if the Board of County Commissioners finds that the decision by the County Administrator (or designee) was improper, clearly erroneous, or based upon insufficient evidence. Notice of the Board's decision shall be provided in writing to the licensee.

Sec. 6-35. License revocation.

(a) A license shall be revoked if:

- (1) The licensee's state alcoholic beverage license is revoked.
- (2) Operation of the licensed activity is not commenced within six months after the license is issued.
- (3) Operation of the licensed activity is commenced and then discontinued for a period of 30 days unless approved by the County Administrator (or designee).
- (4) The licensed business declares bankruptcy or receivership, or fails to properly account for, file, report or pay any excise tax levied under this chapter.
- (5) The licensed businesses fails to properly account for, file, report and maintain any records or remit any license fee imposed or taxes required under this chapter.
- (6) The payment of the annual renewal license fee is not received by the County within the time prescribed.
- (7) The named licensee is convicted of a felony by a court of competent jurisdiction.

(b) The provisions regarding notice and hearing contained in section 6-34(e) shall apply to revocations pursuant to this section.

Secs. 6-36--6-55. Reserved.

ARTICLE III. LOCATION

Sec. 6-56. Proximity restrictions.

(a) No person knowingly and intentionally may sell or offer to sell:

(1) Any distilled spirits in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds or college campus, which are also located in the County.

(2) Any wine or malt beverages within 100 yards of any school building, school grounds, church or college campus. This subparagraph shall not apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such applications;

(3) Any distilled spirits, wine or malt beverages within 100 yards of an alcoholic treatment center owned and operated by this State or any County or Municipal Government therein.

(b) For the purposes of this article, distances shall be measured by the most direct route of travel on the ground.

Secs. 6-57--6-80. Reserved.

ARTICLE IV. SALES

Sec. 6-81. Responsibility of named licensee.

The named licensee shall be active in the operation of the licensed business and shall be personally present on the licensed premises sufficiently to assure compliance with the provisions of this chapter.

Sec. 6-82. Rentals paid restricted.

(a) Except as otherwise provided in this section, it shall be unlawful for a licensee to enter into any agreement whereby the rental paid for licensed premises is based in whole or in part on the volume of sales of alcoholic beverages by the licensed business or whereby the Lessor otherwise directly shares in the profits or receipts from the licensed business's sale of alcoholic beverages.

(b) Subsection (a) shall not apply where the primary business of a package licensee is an activity other than the package sale of alcoholic beverages; for example, a grocery store selling package beer and wine.

Sec. 6-83. Display of license.

Each license issued under this chapter shall at all times be kept plainly exposed to view upon the licensed premises.

Sec. 6-84. Retention of records.

(a) All consumption on-the-premises licensees shall keep and preserve records of all alcoholic beverages purchased and sold by the licensee and shall keep the preserve records of all food and non-alcoholic beverages purchased and sold by them. Such records shall at all times during normal business hours be open for inspection by an authorized agent of the County. Such records shall be maintained for a period of at least three years, provided that the County Administrator (or designee) may authorize the disposal of records prior to the expiration of three years if the County no longer requires the maintenance of such records.

(b) All consumption on-the-premises licensees shall file with the County Administrator (or designee) the following reports at the time and in the form as set out below or as prescribed by the County Administrator (or designee):

- (1) A certified copy of the licensee's annual state sales tax report as filed with the state department of revenue for the period coinciding with the on-premises consumption report;
- (2) Any other documents, reports, records, or books as shall be required by the County Administrator (or designee).

Sec. 6-85. Knowledge of chapter provisions.

Every licensee shall, prior to applying for a license, read and familiarize himself with the provisions of this chapter and an application shall constitute a certification by the applicant that he has done so. Every licensee shall maintain a copy of the ordinance from which this chapter derives on the licensed premises and shall instruct each employee engaged in the sale or handling of alcoholic beverages on the relevant provisions of the ordinance from which this chapter derives.

Sec. 6-86. Sales to underage persons prohibited.

(a) Except an otherwise provided in this section:

- (1) No person, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person less than 21 years of age.
- (2) No person less than 21 years of age shall purchase, attempt to purchase, or knowingly possess any alcoholic beverage.
- (3) No person less than 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining unlawfully any alcoholic beverage.
- (4) No person shall knowingly or intentionally act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person less than 21 years of age.
- (5) No person less than 21 years of age shall misrepresent his or her identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.

(b) The prohibitions contained in subsections (a)(1), (2), and (4) shall not apply to the following with respect to the sale, purchase, or possession of alcoholic beverages for consumption:

- (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state;
- (2) At a religious ceremony;

(3) When the parent or guardian of the person less than 21 years of age gives the alcoholic beverage to the person and when possession is in the home of the parent or guardian and such parent or guardian is present.

(c) The prohibitions contained in subsection (a)(1), above, shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification, driver's license, or an identification card authorized under O.C.G.A. §§ 40-5-100--40-5-104. "Proper identification" shall not include a birth certificate or school I.D., or a traffic citation and complaint form.

(d) This section shall not prohibit employment of a person less than 21 years of age in licensed premises if such employment is lawful pursuant to O.C.G.A. § 3-3-23(e) and other relevant statutes.

(e) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such alcoholic beverage to request to see and be furnished with proper identification as provided in subsection (c), above, in order to verify the age of such person; and the failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether this person selling or otherwise furnishing such alcoholic beverage did so in violation of this chapter.

(f) In any case where a person selling or otherwise furnishing alcoholic beverages checks for a proper identification, such person shall carefully inspect such identification. If a reasonable prudent person could determine that such identification has been altered and if such person sells or otherwise furnishes alcoholic beverages to the holder of such altered identification, then such may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so in violation of this chapter.

Sec. 6-87. Days of sales prohibited.

(a) No licensee shall knowingly and intentionally sell or offer to sell alcoholic beverages on any day or any time when such sales are prohibited by state law.

(b) The wholesale or retail sale of beer, wine or distilled spirits, including the sale for on-premises consumption, shall be lawful during the polling hours of any election.

(c) Package sales of beer and wine for off-premises consumption shall be authorized between the hours of 6:00 a.m. Mondays until 11:55 p.m. Saturdays.

(d) Except as provided in section 6-87(b) above, the days and hours for the sale of a consumption-on-the-premises licensee shall be as provided in section 6-162 of this chapter.

Sec. 6-88. Sales to intoxicated persons; gambling; disorderly conduct.

(a) No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on licensed premises.

(b) No licensee shall permit any gambling, betting, illegal lottery, or other device for the hazarding of any money or other thing of value on the licensed premises, except that this prohibition shall not apply with respect to a properly licensed bingo game or a lottery game otherwise authorized by state law.

(c) No licensee shall permit on the licensed premises any disorderly conduct, breach of the peace, or noise or activity which is disturbing to the surrounding neighborhood.

Sec. 6-89. Container, storage, illumination.

(a) Alcoholic beverages shall be delivered to and received at licensed premises only in the original container and only in a conveyance owned and operated by a licensed wholesale dealer (or licensed common carrier acting for a wholesaler). Alcoholic beverages shall be sold at retail only on the licensed premises.

(b) A retail licensee shall store alcoholic beverages only on the licensed premises and at no other place. All stock shall be available at all times for inspection by an authorized agent of the County . Any alcoholic beverage found in any retail licensee's stock, which was not received from a wholesaler licensed to make deliveries in the County , shall be subject to immediate confiscation.

(c) The exterior of each building in which alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and all entrances thereto and exits there from are clearly visible at all times.

Sec. 6-90. Cleanliness of premises; inspections.

All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with all regulations governing the condition of premises used for the storage and sale of food for human consumption. All licensed premises shall be open at all times for inspection by authorized agents of the County .

Secs. 6-91--6-110. Reserved.

ARTICLE V. SALES TO AND BY UNDER AGED PERSONS

Sec. 6-111. General prohibitions.

(a) Except as provided in subsection (d), below, no wholesale dealer or package licensee shall allow or require any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.

(b) No consumption-on-the-premises licensee shall allow or require any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.

(c) This section shall not prohibit the employment of persons under the above ages on licensed premises where such persons do not dispense, sell, serve, take orders for, or handle alcoholic beverages.

(d) This section shall not prohibit persons less than 18 years of age who are employed in supermarkets, convenience stores, grocery stores, or drug stores from selling or handling alcoholic beverages that are sold for consumption off the premises.

Sec. 6-112. Activity in grocery stores.

For the purposes of this article, the bagging or carrying out of wine or malt beverages in the original package in the course of employment by a grocery store, convenience store or similar establishment shall not constitute selling or handling of alcoholic beverages.

Sec. 6-113--6-135. Reserved.

ARTICLE VI. BREAKING PACKAGE OR DRINKING ON PREMISES

Sec. 6-136. Prohibited.

It shall be unlawful for any person to open or consume any alcoholic beverages on premises licensed for the sale of alcoholic beverages by the package.

Sec. 6-137--6-155. Reserved.

ARTICLE VII. CONSUMPTION OF MIXED DRINKS ON PREMISES WHERE SOLD

Sec. 6-156. Generally.

A license for the sale of mixed drinks for consumption on the premises where sold may be granted only to a restaurant, as defined under section 6-157, or a bona fide private club as defined under section 6-158.

Sec. 6-157. Restaurant.

In order to be eligible for a pouring or limited pouring license for the sale of mixed drinks for consumption on the premises, a restaurant shall:

- (1) Be used by the public as a place where meals prepared on the premises are regularly served to the public for adequate pay each day the establishment is open for business;
- (2) Contain one or more public dining rooms, with adequate and sanitary kitchen facilities and staff, to prepare, cook, and serve suitable food for its guests;
- (3) Have an employee or employees available to serve meals prepared on the premises during any time the establishment is open for business;

- (4) Have a valid County health department food service permit and any other applicable local, state, or federal permits, licenses, etc. required for food service establishments;
- (5) On an annual basis, have at least 60 percent of its total sales comprised of the sale of food prepared on the premises and non-alcoholic beverages consumed on the premises; and for this purpose if a restaurant makes a minimum charge, cover charge, or admission charge, or any other non-food or non-alcoholic beverage charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale; and
- (6) Have a permanent seating capacity at tables, not counting bar stools, of at least 50 persons.

Sec. 6-158. Bona fide private club.

(a) In order to be eligible for a pouring or limited pouring license for the sale of mixed drinks for consumption on the premises, a bona fide private club must be a veterans organization, or a country club (whether established for profit or nonprofit), which meets all of the requirements of this section, and all of such organizations must be incorporated under state law, and:

- (1) The local chapter or entity must have been in existence at least one year prior to the filing of its application for a license;
- (2) Have at least 75 regular dues-paying members;
- (3) Be organized and operated exclusively for pleasure, recreation, and other such purposes;
- (4) Own, hire, or lease a building or space within a building for the reasonable use of its members, which building or space:
 - a. Has suitable kitchen and dining room space and equipment;
 - b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
 - c. 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.

(b) For purposes of subsection (a)(4) above, a "fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a private club as may be fixed for revenue of the club and shall not include any commission or any profits from the sale of alcoholic beverages.

(c) No alcoholic beverage license shall be granted to a bona fide private club organized or operated primarily for the selling or serving of alcoholic beverages.

(d) Bona fide private clubs licensed under the provisions of this section shall not be required to maintain the percentage sale of food/non-alcoholic beverages as compared to alcoholic beverages; however, any such organization shall be subject to all chapter regulations dealing with general licensing and consumption on the premises.

Sec. 6-159. Ratio of alcoholic/non-alcoholic sales.

Except as otherwise provided in this article, should the total sales from food and non-alcoholic beverages reported by any licensee for the sale of mixed drinks for consumption on the premises where sold not comply with the requirements of subsection 6-157(5) for any 12-month period, the license may be suspended, revoked, or if an application for renewal is pending, renewal may be denied.

Sec. 6-160. Statement of sales.

In addition to the reporting requirements set out in section 6-84 of this chapter, the County Administrator (or designee) may require that a licensee furnish a statement from a certified public accountant that reports the percentage of the licensee's total sales derived from the sale of food and non-alcoholic beverages sold on the premises compared to the sale of all mixed drinks sold on the premises in the licensee's most recent reporting period.

Sec. 6-161. Illumination of premises; location of sales restricted.

(a) All restaurants including all tables, booths, and other areas where customers are served, and including all passageways for customers, shall be sufficiently well illuminated so that those inside the premises may view them.

(b) The sale of mixed drinks in any back room or side room that is not open to the general public is prohibited, except that this prohibition shall not apply with respect to:

- (1) Private parties that have been scheduled in advance;
- (2) Room service to hotel guests in their hotel rooms, provided a properly licensed restaurant is located on the premises, and
- (3) Private clubs.

Sec. 6-162. Hours of sale.

Consumption on the premises licensees, including, but not limited to, licensees selling mixed drinks for consumption on the premises where sold, shall only be authorized to sell alcoholic beverages for on-premises consumption during the hours that the restaurant or private club is open for business, but in no event shall any alcoholic beverages for on-premises consumption be sold or offered for sale between 2:55 a.m. on Sundays and 12:01 a.m. on Mondays.

Sec. 6-163. Removal of beverages prohibited.

(a) All alcoholic beverages sold for consumption on the premises licensed, including, but not limited to, the sale of mixed drinks for consumption on the premises where sold, shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages, including mixed drinks, sold for consumption on the premises. Each licensee shall be responsible for insuring that no person removes any alcoholic beverages, including mixed drinks, from the premises in any type of container.

(b) It shall be unlawful for any person to drink or have in his possession an open container of any alcoholic beverage on any public street, sidewalk, park, or other public place within the County, or upon or within any motor vehicle on the streets, sidewalks, parks, and public places of the County.

Sec. 6-164. Sexually oriented entertainment.

(a) No license holder shall conduct, stage, arrange, or permit upon premises on which alcoholic beverages are sold or dispensed for consumption the following:

- (1) Any live performances that constitute or simulates:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by law;

- b. The touching, caressing, or fondling of the breast, buttocks, anus, or genitals;
 - c. The displaying of any portion of the female breasts below the top of the areola or the displaying of any portion of any person's pubic hair, anus, cleft of the buttocks, vulva, or genitals; or
- (2) The use of artificial devices or inanimate objects to perform, simulate, or depict any of the prohibited conduct or activities described in subsection (1) of this section.

(b) Nothing in this section shall be interpreted to prohibit performances in mainstream performance establishments, museums, or theaters.

Sec. 6-165. Sale of malt beverages and wine for consumption on the premises.

Nothing in this article shall be construed to prohibit the sale of malt beverages and wine for consumption on the premises where sold by a licensee otherwise authorized to make such sales, and such licensee shall not be required to meet the definition of "restaurant" or "bona fide private club" previously set out in this article.

Secs. 6-166--6-190. Reserved.

ARTICLE VIII. EXCISE TAX ON MIXED DRINKS

Secs. 6-191--6-215. Reserved.

ARTICLE IX. WHOLESALE LICENSES; EXCISE TAX ON MALT BEVERAGES, WINE, AND DISTILLED SPIRITS

Sec. 6-216. Required issuance.

Any wholesale dealer in alcoholic beverages who is licensed by the state and who has a place of business in the County shall procure a license under the same provisions applicable to retail licensees.

Sec. 6-217. Tax imposed.

(a) There is imposed by the County an excise tax on the first sale or use of malt beverages in the County as follows:

- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk, container, a tax of \$6.00 on each container containing not more than 15 1/2 gallons and a proportionate tax at the same rate on all fractional parts of 15 1/2 gallons;
- (2) Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(b) There is imposed by the County an excise tax on the first sale or use of wine in the County at a rate of \$0.22 per liter and a proportionate tax on the same rate on all fractional parts of a liter.

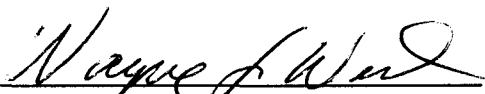
(c) There is imposed by the County an excise tax on the first sale or use of distilled spirits in the County at the rate of \$0.22 per liter and a proportionate tax on the same rate on all fractional parts of a liter.


(d) The excise tax provided for in this section shall be imposed upon and paid by the licensed wholesale dealer. Such taxes shall be paid on or before the 20th day of the month following the month in which the alcoholic beverages are sold or disposed of by the wholesaler within the County.

Sec. 6-218. Effective Date

The provisions of this ordinance are hereby declared to be necessary for the preservation of the public peace, health, safety, and welfare of the people of Dooly County and are hereby ordered to be effective January 1, 2007.

Approved by the Dooly County Board of Commissioners in regular session this 7th day of December, 2006.

Chairman: 
Wayne J. West

Attest: 
Janet P. Joiner, Clerk

First Reading: November 16, 2006

Second Reading: December 7, 2006