

BE IT ORDAINED by the Board of Commissioners of Rabun County, Georgia, CHAPTER 4 of Rabun County's CODE OF ORDINANCES titled "ALCOHOLIC BEVERAGES" is hereby amended as shown in the underlined and highlighted areas and shall henceforth read as follows:

Sec. 4-1. 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:

Adequate parking means one parking space for each 100 square feet of customer service area within the premises of an applicant.

Administrator means the county clerk or county marshal or their designee.

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

Bar means a business open to the public which sells alcoholic beverages for consumption on the premises which is not a restaurant.

Building code means and includes all building, plumbing and electrical codes and any similar technical code of the county.

Business area means any street length between intersections where 50 percent or more is in use for business purposes.

Church means any permanent building which houses the main sanctuary in which persons regularly assemble for religious worship and which is publicly designated as a church, but shall not include a residence also used for religious purposes. The term "church" shall not include the temporary housing of a religious group in an otherwise commercial center.

County community center means those county-owned events facilities which are made available for payment rental and use by the general public.

Distance means the measurement in horizontal lineal feet as defined in section 4-24.

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.

Family means any person related to the holder of such license within the first degree of consanguinity or affinity as determined according to civil law.

Good moral character means the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.

(1)

A judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the

determination and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that:

- a. At the current time he or she has the ability to, and is likely to, serve the public in a fair, honest and open manner; and
- b. He or she is rehabilitated, or that the substance of the former civil action is not reasonably related to the occupation or profession for which he or she seeks a business license or business permit.

(2)

The following criminal records shall not be used, examined or requested by the county in a determination of good moral character when used as a requirement to obtain a business license or business permit:

- a. Records of an arrest not followed by a conviction.
- b. Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.
- c. Records of an arrest or conviction for a misdemeanor unrelated to the person's likelihood to serve the public in a fair, honest and open manner.

Indoor recreation establishment means an indoor facility that contains regulation-size courts or alleys where physical sporting activity takes place and equipment related to the activity is available for rent or sale.

License means the authorization by Rabun County to engage in the sale or consumption on the premises of alcoholic beverages.

Licensee means a person, real or artificial, holding any class of license issued under the terms of this chapter.

Lounge means a separate room connected with a part of and adjacent to a restaurant or with a hotel with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least 20.

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

Park means any public lands owned or controlled by the county or any county of the state, in and upon which play facilities are provided for the recreation and enjoyment of the general public.

Premises means the definite closed or partitioned establishment, whether room, shop or building, wherein alcoholic beverages are sold or consumed. The term "premises" shall also include any privately owned or leased courtyard or patio which is architecturally visibly defined.

Private club or bona fide private club means any nonprofit association organized under state law that:

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

Private residence means a house or dwelling wherein not less than one nor more than three families customarily reside and shall not include an apartment house having facilities for housing four or more families; or any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of an application.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment, having employed therein a sufficient number and kind of employees to prepare, cook, and serve non-prepackaged meals for its guests. At least one meal per business day shall be served and the serving of such meals shall be the principal business conducted and sales of prepared, cooked, and non-prepackaged meals must be equal to or more than 60 percent of total sales.

Retail means retail sales packaged to go and not for consumption on the premises.

School means any state, county, church or other private school that teach the subjects commonly taught in the common schools of this state and shall include the adjacent open land or fenced areas used for school purposes but this shall not include any portion of a private school, where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Service area means that in the event a lounge, private club or restaurant is located adjacent to an indoor recreational establishment and within the same building or structure, the recreational area is defined as being within the service area of such lounge, private club or restaurant and the consumption of alcoholic beverages within the recreational area is permitted.

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 free of charge or for a fee.

Wholesaler means any person, firm or corporation engaged in distribution or selling to retailers for the purpose of resale any alcoholic beverages.

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to this definition.

(Ord. of 3-22-2011)

Sec. 4-2. Purpose of chapter.

This chapter has been enacted for the purposes, among others, of:

- (1) Promoting the health and general welfare of the community;
- (2) Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages;
- (3) Protecting and preserving schools and churches;
- (4) Giving effect to existing land use and to preserve certain residential areas, with reasonable consideration being given, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values; and
- (5) Protecting against the evils of concentration of the retail outlets for alcoholic beverages in one area or ownership or to prevent undesirable persons from engaging in or having any interest in alcoholic beverages.

(Ord. of 3-22-2011)

Sec. 4-3. Compliance with chapter required.

No person holding a license for the sale of beer and wine shall violate any of the provisions of this chapter or the state alcoholic beverage code, O.C.G.A. § 3-1-1 et seq., as presently enacted or as the same shall be amended or any of the laws of the United States concerning the sale and distribution of alcoholic beverages. All licensees shall prohibit any employee or agent from being in violation of the law or amendments thereto and the failure of any licensee to properly ensure compliance with this provision shall be sufficient grounds for the denial of the issuance of any license under this chapter or the revocation of any existing license.

Each applicant for a beer, wine and/or distilled spirits license shall, upon the issuance of the license, be furnished with a copy of this chapter and shall acknowledge in writing that he has received the same and has full knowledge of its contents and will instruct all employees to fully comply with the terms hereof.

(Ord. of 3-22-2011)

Sec. 4-4. Penalties; revocation of license.

(a)

Upon conviction in the magistrate court of any violation of any provision of this chapter, unless otherwise provided, the punishment shall be as follows:

(1)

First offense, a minimum fine of \$500.00;

(2)

Second offense, if within 12 months of the first offense, a minimum fine of \$750.00 and/or the suspension of any licenses issued under this chapter for three months;

(3)

Third offense, if within 12 months of the second offense, a minimum fine of \$1,000.00 and the suspension of any licenses issued under this chapter for 12 months; or

(4)

Otherwise punishment shall be as set by the magistrate court judge as allowed by the state law.

(b)

In addition to the penalties provided in subsection (a) of this section, a license issued pursuant to this chapter may be suspended, revoked or placed on probation by the board of commissioners for the following reasons:

(1)

Failure to pay excise fees or any other fees or taxes required by the county.

(2)

Disorderly conduct of the establishment.

(3)

Acts of disturbance on the establishment premises.

(4)

Violence on the establishment premises.

(5)

Gambling on the establishment premises.

(6)

Conviction of violating this chapter by any court with jurisdiction.

(7)

Charges of or conviction of a felony by the licensee.

(8)

Creation or maintenance of a nuisance on the establishment premises.

(9)

Any false statement or material misrepresentation given in the application for the license.

(10)

For any and other just cause.

(c)

If it comes to the attention of the board of commissioners or administrator that the licensee has violated any provisions of this chapter, the following procedures shall apply:

(1)

The administrator or his designee shall issue a notice of objection to the board of commissioners, which shall include the address of the location and the specific allegations as to the violation of any provision of this chapter or any provision of this Code. The notice of objection shall also include the recommended action to be taken by the board of commissioners, which may include probation, suspension, or revocation of the license, as well as conditions for maintenance or reinstatement of the license, including and not limited to mandatory responsible sales and server training, with an approved provider, for the licensee, managers, employees, and servers of the licensed establishment. Further, any license under this chapter may be temporarily suspended by the administrator in his notice of objection for any reason outlined in subsection (b) of this section if it is determined that suspension is in the best interest of the health, safety, and welfare of the public. The administrator shall then notify the licensee in writing by certified mail or by personal service that a notice of objection has been filed and of any applicable temporary suspension of the license. The notice to the licensee shall include a copy of the notice of objection, and the time, place, and date for a hearing before the board of commissioners on the matter. The hearing shall be within 30 days of the date of the notice to the licensee. Continuances and necessary investigations will be granted and conducted at the discretion of the board of commissioners.

(2)

At the hearing, the county and the licensee shall be afforded an opportunity to present evidence and examine witnesses. After this hearing, the board of commissioners shall issue a notice of decision at which time the board of commissioners will dismiss or affirm the objection and/or temporary suspension, and in case of affirmation, the board of commissioners may suspend, revoke or place on probation the license of the licensee.

(3)

The decision of the board of commissioners shall be in writing and shall state the reasons for their decisions and shall be based upon the merits of the case.

(4)

The decision of the board of commissioners shall be final but may be appealed to the appropriate court within 30 days of the date of the written decision.

(5)

The decision of the board of commissioners shall be binding upon the retail party or holder of the license.

(d)

When the license of any establishment has been revoked, no further license shall be issued under this chapter to the same person, firm or corporation at that location for a period of 12 months from the date of revocation.

(e)

Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the county license to manufacture or deal in those products shall thereupon be automatically revoked without any action by the county.

(f)

All owners or officers of establishments licensed under this chapter shall be responsible for any violation of this chapter by an employee, agent, or representative of the licensed establishment, and the owners and officers may be subject to appropriate administrative action related to such violation, including and not limited to suspension and revocation of the license, in accordance with applicable laws, regulations, and ordinances.

(Ord. of 3-22-2011)

Sec. 4-5. License required.

(a)

No malt beverages, wines, distilled spirits or any other alcoholic beverages shall be stored, delivered, sold or manufactured in the county except under a license issued pursuant to this chapter and then only for the specific beverage and manner of sale provided in the license.

(b)

The requirements of this chapter shall be in addition to any other requirements for business licenses under this Code and if other provisions of this Code conflict with this chapter then this chapter shall control.

(Ord. of 3-22-2011)

Sec. 4-6. Types of licenses; number of licenses; renewal.

(a)

Licenses which may be issued under this chapter include:

(1)

Wholesale:

- a. Malt beverages.
- b. Wine.
- c. Distilled spirits.

(2)

Retail:

- a. Malt beverages.
- b. Wine.
- c. Ancillary wine sampling license.
- d. Distilled spirits

(3)

Consumption on the premises only:

- a. Malt beverages.
- b. Wine.
- c. Distilled spirits.

(4)

Any combination of the above at the same location provided no retail or wholesale license shall hold any consumption on the premises license for the same location and no license for Retail package sales of Distilled Spirits may be combined with any other license other than Retail package sales of beer and wine.

(5)

Farm winery: A license issued to a farm winery in the county pursuant to this article shall include the right and authority to produce and manufacture wine and to maintain and operate a tasting room on the premises of the farm winery, in conformity with this chapter and state law.

(b)

A person doing business at more than one place shall take out and pay for a separate license for each place of business.

(c)

Except as otherwise specifically provided in this title, all licenses issued pursuant to this title shall expire at 12:00 midnight on December 31 of each year and application for renewal shall be made annually on or before November 1, in accordance with O.C.G.A. § 3-2-7. Any renewal application not filed on or before the last county business day prior to December 15 shall be assessed a late filing penalty of ten percent of the cost of the license.

(d)

No license may be renewed if the licensee could be denied a new license under this chapter, except as provided in section 4-25

(e)

The license year for all licenses except licenses for the wholesale distribution of beer and/or wine shall begin on January 1 of each calendar year and end on December 31 of the following year. There shall be no proration of the cost of a license for a partial year. The license year for the wholesale distribution of beer and/or wine shall be as provided by state law.

(Ord. of 3-22-2011)

Sec. 4-7. Application procedure.

The following provisions shall apply:

(1)

All applications for new licenses under this chapter shall be accompanied by a payment in cash, cashier's check, money order or by certified check, for all the minimum fees and occupational taxes provided for in this Code for the classification into which the applicant falls.

(2)

The county application shall include a photostatic or other copy of all the appropriate state applications and other application forms developed by the administrator.

(3)

The applicant shall agree to an examination of his past criminal record, if any, and shall provide to the county a complete set of fingerprints and complete information as to the whereabouts of the applicant for the five years immediately preceding the making of the application.

(4)

The application to be completed by the applicant shall request full details and information as to the ownership of the establishment where the license is to be used and all other information necessary for the administrator to determine if the applicant and the geographical location is in compliance with the laws of this state and the provisions of this chapter.

(5)

Any false statement, or material misrepresentation in any application under this chapter, shall be grounds for the revocation of any license granted under this article.

(Ord. of 3-22-2011)

Sec. 4-8. Surrender of license upon sale, transfer, or closing of licensed business.

Any license issued under this chapter shall be immediately surrendered to the county clerk upon sale, transfer, or closing of the licensed business.

(Ord. of 3-22-2011)

Sec. 4-9. Qualifications of applicant.

No license shall be granted pursuant to this chapter where the application or the evidence shows any of the following conditions to exist:

(1)

The applicant is of bad moral character or has a bad reputation in the community or does not have sufficient mental capacity to conduct the business for which application is made.

(2)

The applicant has had any license issued under the police powers of any county or other governmental subdivision previously suspended or revoked in the preceding 12 months.

(3)

An applicant, or a corporation or partnership of which the applicant is or was an officer, director, shareholder, general partner or managing agent, is delinquent in payment of any property tax or other tax or license fee payable to the county, the county or to the state.

(Ord. of 3-22-2011)

Sec. 4-10. Person and geographical location licensed.

(a)

Any license issued under the provisions of this article is issued jointly to the individual making the application for any license and to the geographical location on which the privileges granted by the license shall be exercised. The failure to comply with the laws of this state or the provisions of this article of either the individual making the application or the geographical location of the license shall be sufficient grounds to deny the issuance of any the license provided for herein or to revoke the same.

(b)

Licenses for the retail sale of beer and/or wine and/or distilled spirits shall be issued only to the owner or principal manager of any place of business seeking the license and no license shall be issued to a nominal employee or relative of the manager if not actively engaged in the operation of the business.

(c)

In the event the place of business, exclusive of real estate, is owned by a person other than the applicant, the fact shall be made known upon the application for license and the owner of the place of business shall also comply with all of the provisions set fourth herein.

(d)

No license for the retail sale of beer and/or wine and/or distilled spirits is transferable from one geographic location to another, nor is the same transferable from one person to another.

(e)

There shall be only one license per place of business. In the event there is presently outstanding a valid beer and/or wine and/or distilled spirits license for the place of business for which an application is presently being made, then the application shall not be considered as approved until the time as the existing license is surrendered to the board of commissioners by the named licensee or his designated and authorized agent.

(Ord. of 3-22-2011)

Sec. 4-11. Prohibition against issuance to persons with criminal convictions.

(a)

No license under this chapter shall be issued, renewed or transferred to any person, partnership or corporation where any individual having an interest either as owner, partner, stockholder, directly or indirectly, beneficial or absolute, shall have been convicted within ten years immediately prior to the filing of the application of any felony or convicted within five years immediately prior to the filing of the application of any misdemeanor relating to drugs or any alcoholic beverage business or any state law, county or municipal ordinance violation relating to any alcoholic beverage business.

(b)

The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of a bond in part or in whole when charged with a crime or the suspension or revocation of any alcoholic beverage license owned in whole or in part by persons listed in subsection (a) of this section.

(Ord. of 3-22-2011)

Sec. 4-12. Residency requirements; registered agent.

- (a) Residency; citizenship. No person shall be granted a license unless the person demonstrates that he or his registered agent has established residency in the county and been a U.S. citizen for more than at least one year prior to applying for the license.
- (b) Licenses for the retail sale of beer, wine and/or distilled spirits shall be issued to individuals or entities that have established residency in the county or who have designated a resident or registered agent within the county to be responsible for any matter relating to the license to be issued.
- (c) If any registered officer shall cease to be the registered agent of the licensee corporation or shall cease to be a resident of the county or in any manner ceases to meet the requirements of subsection (c) of this section, the licensee shall notify the administrator in writing of such event and shall nominate a new registered officer within five days after such event occurs. Such new registered officer shall meet the requirements in subsections (b) and (c) of this section and must be approved by the administrator.
- (d) The county shall charge a fee of \$100.00 for a change of the corporation's registered officer; however, if the licensee corporation fails to notify the county and nominate a new registered officer within the five-day period, then the county shall charge a fee of \$200.00 for a change of the corporation's registered officer and/or revoke the licensee's license. The application process includes submitting a revised application, fingerprinting of the applicant, criminal history investigation.
(Ord. of 3-22-2011)

Sec. 4-13. Police investigation; tax record search.

- (a) The administrator shall cause an inquiry to be made into the county records to determine if the applicant or other parties with an interest in an application for a license under this chapter has any outstanding taxes or special assessments that are delinquent against his property or any other monies owing to the county. No license shall be issued or renewed until such debts are paid in full.
- (b) As a prerequisite to the issuance of any such permit or license, the applicant shall furnish a complete set of fingerprints.
- (c) If the administrator determines that the application is not in order, the administrator shall then notify the applicant of the reasons for not approving the.
- (d) All applicants shall furnish all reasonable data, information and records requested of them by the administrator and failure to furnish such data, information, contracts, documents, financial statements and other records within 30 days of the request shall automatically serve to dismiss the application.
- (e)

The county may require 30 days for processing any application for a license required under this chapter. The administrator may extend the 30 days' processing period according to the licensee's compliance should he or she deem it necessary.

(Ord. of 3-22-2011)

Sec. 4-14. License pending completion of building.

Where a building in which any person intends to operate under the provisions of this chapter is, at the time of the application for the license, not in existence or not yet completed, a conditional license may be issued.

(Ord. of 3-22-2011)

Sec. 4-15. Minimum lighting requirements.

No geographical location shall be provided a license unless the location has complied with article IV of this chapter, providing minimum lighting requirements for the premises.

(Ord. of 3-22-2011)

Sec. 4-16. Denial of license application.

(a)

The administrator must take action to consider an application for a license required by this chapter within 45 days of the administrator receiving a complete application.

(b)

The administrator may deny a county license under this chapter on any of the following grounds:

(1)

Failure to meet state requirements for state license;

(2)

Failure to pay required fees and taxes;

(3)

Failure to provide valid information, documents and the like required by this chapter;

(4)

False information in the application or attached documents;

(5)

Improper residency of applicant, owner or registered agent;

(6)

Failure to pass review by the administrator;

(7)

Failure to post and maintain proper signs and advertisements required in this chapter;

(8)

Failure to meet distance, location exterior surface or building requirements;

(9) Prior convictions as provided in this chapter; or

(10) Failure to meet any other requirements in this chapter for a license of the class applied for.

(c) All decisions denying a license shall be in writing, with the reasons for denial stated and shall be mailed or delivered to the applicant.

(d) The applicant has 30 days from the date of written notice of the denial of a license application within which to petition for reconsideration by the board of commissioners. The applicant will be granted an opportunity to present additional information, evidence and cross examine witnesses before the board of commissioners. The board of commissioners' decision will be final.

(e) An application which has been denied shall not be resubmitted for 12 months after the denial unless there is a substantial change therein which would affect the reason for denial originally.

(Ord. of 3-22-2011)

Sec. 4-17. New and renewal applicants.

(a) *New applicant.* An applicant for a place of business not holding a valid license or who has not operated as a business within 180 days immediately preceding the date of the application shall be considered a new applicant and no license shall be issued pursuant to a renewal application.

(b) *Applicant to change person to who licenses is issued.* An application to change only the individual to whom the license is issued and not the place of business where any privileges so issued will be exercised shall be considered a renewal application.

(c) *Renewal applicants.* Any applicant for a license for the sale of beer and/or wine who has been the holder of a valid beer and/or wine license within the immediately preceding 12 months of the date of the application shall be considered a renewal applicant and it shall not be necessary for any renewal applicant to complete the approved application and pay the necessary application fee prior to presenting his application to the administrator.

(d) *Grounds for denial of renewal.* A renewal application can only be denied upon a finding that the applicant has violated the terms of this article, the state alcoholic beverage code, O.C.G.A. § 3-1-1 et seq., or any of the laws of the United States concerning the sale and distribution of alcoholic beverages or has been convicted of any felony, crime of moral turpitude or a misdemeanor concerning laws relating to alcohol or drugs.

The applicant has 30 days from the date of written notice of the denial of a license application within which to petition for reconsideration by the board of commissioners. The applicant will be granted an opportunity to present additional information, evidence and cross

examine witnesses before the board of commissioners. The board of commissioners' decision will be final.

(Ord. of 3-22-2011)

Sec. 4-18. Inspections.

Upon the issuance of a license under this chapter, the named licensee shall, by accepting the license, be deemed to grant full and complete authority to the county marshal and to all other law enforcement officers to enter the place of business wherein the business is operated at any time during regular business hours and at any other time when the business is occupied by one or more persons for the purpose of inspecting the business as to the sale of beer and/or wine and as to any other business or activity being conducted therein.

(Ord. of 3-22-2011)

Sec. 4-19. Open containers prohibited.

(a)

No bottle or other container of alcoholic beverages shall be opened or consumed by any person on the premises, upon which the place of business is conducted and licensed under this chapter, whether the bottle or other container so opened or consumed was bought or obtained at that place of business or elsewhere unless the premises is licensed for consumption on the premises under this chapter. Any place of business for which a license is issued for package beer and wine and/or distilled spirits only shall at all times prohibit the consumption of beer and wine and distilled spirits on the premises of the place of business.

(b)

No establishment licensed under this chapter to sell alcoholic beverages shall allow a person to leave those premises with alcoholic beverages in an open cup, bottle, can or other open container. It is prohibited for any person to take any alcoholic beverages outside of a premises licensed for consumption on the premises only. Also, it is prohibited for any person to take an open container out of an establishment licensed for consumption and/or retail package.

(Ord. of 3-22-2011)

Sec. 4-20. Hours and days of operation.

(a)

Permitted hours. All places of business holding a license for the sale of beer, wine and/or distilled spirits for consumption on the premises shall be closed from 12:00 midnight each night until 7:00 a.m. the following day, and shall further be closed from 12:00 midnight on each Saturday night until 7:00 a.m. the following Monday.

All places of business holding a license for the sale of distilled spirits for package only shall be closed from 12:00 midnight each night until 7:00 a.m. the following day, and shall further be closed from 12:00 midnight on each Saturday night until 7:00 a.m. the following Monday.

(b)

Prohibited hours. The hours from 12:00 midnight of each night until 7:00 a.m. the following day and from 12:00 midnight each Saturday night until 7:00 p.m. the following Monday shall be prohibited hours of operation. All the businesses shall be completely empty as to customers at 12:00 midnight and no person shall remain in the business after 12:00 midnight except regular employees of the business who shall remain therein solely for the purpose of closing the business for the day and the cleaning and other work as is reasonably necessary.

(c)

Employee identification. All employees remaining in the premises after 12:00 midnight shall wear name tags, uniforms, or other easily recognizable identification as employees to aid in the policing of the premises.

(d)

Exception for certain restaurants. Notwithstanding anything in this chapter to the contrary, any restaurant which holds a license for consumption of beer, wine and/or distilled spirits on the premises may be open during the described prohibited hours of subsection (b) of this section on Sunday so long as no alcoholic beverages are being served, sold or consumed on the premises during the prohibited hours, and so long as the restaurant's annual inventory expense for alcohol (beer and wine) is less than 40 percent of its total yearly inventory expense, that is to say at least 60 percent of the restaurant's total yearly inventory expense must be for food or other nonalcoholic items.

(e)

Sunday alcohol sales. The sale of alcoholic beverages for consumption on the premises is authorized on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment which derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

(Ord. of 3-22-2011; Amend. of 4-24-2012)

State law reference— Sale of alcoholic beverages on Sundays, election days, and Christmas Day generally, O.C.G.A. § 3-3-20; local regulation of Sunday sales, O.C.G.A. § 3-3-7.

Sec. 4-21. Certain places and hours where drinking is prohibited.

(a)

Notwithstanding any other provisions governing the hours of operation of a licensed establishment, no person, firm or corporation owning or operating a place of business licensed under this chapter shall permit any person to drink any distilled spirits, wine, beer or other alcoholic beverage upon the business premises between the hours of 12:00 a.m. and 7:00 a.m. on any day of the week.

(b)

No person shall possess, consume, or transport an open container containing any distilled spirits, wine, beer or other alcoholic beverage while upon the streets, sidewalks, or public places of the county, or upon or within any vehicle upon the premises of any business establishment holding a license under this chapter, or in any adjacent parking area of any business establishment holding a license under this chapter. The provision of this subsection pertaining to public places only shall not apply to special events that have been approved in advance and in writing by the administrator's office according to the procedures set forth under section 4-26 of this

chapter, such as motorcycle "bike nights," car shows, and similar events which may take place in the parking area of a business establishment holding a license under this chapter.

(c)

Violations of this section shall be subject to the issuance of a citation by a certified peace officer with jurisdiction over the venue, returnable to the magistrate court of the county. Any persons found in violation of this section shall be subject to a fine not to exceed \$1,000.00 and/or imprisonment of not more than 60 days.

(Ord. of 3-22-2011)

Sec. 4-22. Drive-in, curb service prohibited.

(a)

Curb service by retail or consumption on the premises licensees under this chapter or delivery of any alcoholic beverages off the licensed premises, other than by wholesalers licensed under this chapter or by the state, is prohibited.

(b)

Drive-in service windows at premises licensed under this chapter are prohibited.

(Ord. of 3-22-2011)

Sec. 4-23. Offenses involving minors.

(a)

No person under 21 years of age shall buy or allow to be bought for him any alcoholic beverage from any place where these beverages are kept.

(b)

No person in charge of, or employed in, any place of business where alcoholic beverages are kept, shall permit any person under 21 years of age to buy or allow to be bought for any person under 21 years of age any alcoholic beverages in or from the place of business or to frequent or loiter about the premises unless accompanied by a parent or legal guardian.

(c)

No person shall furnish or serve any person under 21 years of age with any alcoholic beverage. A valid driver's license may be reasonably accepted by the person hereunder as sufficient evidence of age.

(d)

No person under 21 years of age shall falsely represent his age, in any manner whatever, for the purpose of illegally obtaining any alcoholic beverages.

(e)

No person shall allow or require a person in his employment under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverage. However, the provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises.

(f)

No person who is under 21 years of age shall have in his possession, or under his control, at any place whatever in the county, any alcoholic beverage.

(g)

Violation of any provision of this section shall constitute an offense under this chapter and shall be punishable in the magistrate court; provided, violation of this section by persons who have not yet reached the age of 17 shall be handled as provided by the juvenile court code of the state.

(Ord. of 3-22-2011)

Sec. 4-24. Location restrictions.

(a)

Distance measurements. The linear measurements as to location provided for in this section shall be from the nearest point of the residence, the school or church to the nearest point of the place of business, building or structure for which the license is sought, with the distance to be verified by the county marshal prior to issuance of the license.

(b)

Proximity to school or church. No license for the sale of beer and/or wine and/or distilled spirits, either for package sales or for consumption on the premises, shall be issued for any place of business which is located within 100 yards of any school or church.

(c)

Proximity to occupied residence. In addition to the requirements of subsection (a) of this section, no license for the retail sale of beer and/or wine and/or distilled spirits for consumption on the premises shall be issued to any place of business located within 100 yards of an occupied residence unless the location of the business was properly zoned for retail business purposes or held a valid license on the effective date of the ordinance from which this section is derived. Any residence owned by the same owner as the business seeking a beer and/or wine license shall likewise be exempt from the distance requirement.

(d)

Except for a farm winery located on land zoned for agriculture, no license permitted under this chapter shall be issued to any location which is not properly zoned for retail business purposes by an appropriate zoning ordinance or other authority for the county. Renewal applications for those who held a license on the effective date of the ordinance from which this chapter is derived shall be exempt from this provision.

(Ord. of 3-22-2011)

State law reference--- Similar provisions, O.C.G.A. § 3-3-21.

Sec. 4-25. Existing licensed business; compliance.

(a)

To prevent an unconstitutional taking of property, all licensees for alcoholic beverages within the county in compliance with county ordinance requirements involving residency, distance, location, parking and type of building structure in effect at the time of first receiving the license and continuing to be in compliance herewith shall be exempt from the requirements of this chapter involving residency, distance, location, parking and type of building structure. Renewals of such licenses shall also be deemed in compliance under this section to the extent provided in this subsection.

(b)

Transfers of business ownership at the same location shall be deemed in compliance under this section with regard to the county Code requirements involving distance, location, parking and type of building structure, provided that such business complied with such requirements at the time a license was first issued for such business and further provided that such business has continuously been in compliance with such requirements. These transfers may be approved by the administrator, provided the transferee meets all of the license requirements for a new license.

(c)

Business transfers to new locations and new licenses must comply with all requirements of this chapter and must be approved by the board of commissioners.

(Ord. of 3-22-2011)

Sec. 4-26. Temporary permit for special event in parking lot of licensed establishment.

(a)

The licensee or owner of a business establishment holding a current license under this chapter allowing consumption of alcohol on the premises may be issued a special event permit to conduct a special event in the parking lot of the licensed establishment, under the following terms and conditions:

(1)

Applications for special event permits must be in writing on forms provided by the marshal and must be received with the applicable fee, as established by the board of commissioners, at least 30 days prior to the date of the scheduled special event. Application forms are available in the commissioner's office.

(2)

Special events must take place entirely within the private parking lot of the licensed establishment and shall only permit the sale and consumption of beer and/or wine.

(3)

Special events shall comply with all applicable provisions of state and local law pertaining to the sale and distribution of alcoholic beverages and all zoning and land use regulations.

(4)

The presence, location, or concentration of persons, animals, structures, vehicles, displays, or other items incident to the conduct of the event shall not interrupt the safe and orderly movement of pedestrians and vehicles entering and exiting the property.

(5)

The presence, location, or concentration of persons, animals, structures, vehicles, displays, or other items incident to the conduct of the event shall not interfere with access to the event area or contiguous areas by law enforcement, fire, ambulance, or other emergency vehicles.

(6)

The administrator or his designee may deny or immediately revoke any special event permit if it is determined that the special event violates any provision of state or local law or if it is determined that the sale, distribution, or consumption of alcoholic beverages at the event may endanger the health, safety, or welfare of the public.

(b) No licensed establishment shall be permitted to host more than three special events under this chapter in any calendar year.

(c) The special events described under this section shall have a duration of no more than three consecutive days and shall be otherwise governed by the opening and closing time restrictions contained in this chapter.

(Ord. of 3-22-2011)

Sec. 4-27. Display of license.

Holders of licenses issued pursuant to this chapter shall display them prominently and in plain view at all times on the premises for which said licenses were issued.

(Ord. of 3-22-2011)

Sec. 4-28. Manufacture of distilled spirits.

(a) The manufacture of distilled spirits within the unincorporated areas of Rabun County shall be allowed, as provided in this section and as permitted and regulated by state and federal law.

(b) Rabun County shall issue annual license(s) for manufacturing distilled spirits to qualified applicants. The licensee must meet all requirements of this chapter, unless otherwise noted in this section, for the issuance of the license for the sale of alcoholic beverages.

(c) A licensee for the manufacture of distilled spirits shall be exempt from the food sale requirements provided for in this chapter.

(d) Before a license for the manufacture of distilled spirits may be issued, the property upon which the proposed distillery is to be located must lie in an area zoned as follows:

(1) A commercial district zoned pursuant to article IV of chapter 56 of the Rabun County Code of Ordinances;

(2) An industrial district zoned pursuant to article V of chapter 56 of the Rabun County Code of Ordinances; or

(3) An agricultural district zoned pursuant to article VI of chapter 56 of the Rabun County Code of Ordinances.

(e) A manufacturer or distiller issued a license pursuant to this chapter may provide educational and promotional tours.

(f)

A manufacturer or distiller issued a license pursuant to this chapter which provides educational and promotional tours, may include free tastings on the premises by members of the public of tax-paid varieties of distilled spirits manufactured by such distiller.

(g)

As used in this code section, the term:

(1)

"Free tastings" means the provision of complementary samples of distilled spirits to the public for consumption on the premises of a distiller.

(2)

"Sample" means one-half of one ounce of distilled spirits.

(h)

No distiller conducting free tastings under this code section shall provide, directly or indirectly, more than one sample to a person in one calendar day. Free tastings shall be held in a designated tasting area on the premises of the distiller, and all opened bottles shall be visible at all times.

(Ord. of 5-22-2012)

Secs. 4-29—4-80. Reserved.

Sec. 4-81. Fees.

(a)

Application fee. All material, information, petitions or other data required by this article or required by the board of commissioners shall be provided and furnished by the applicant and license holder at the cost of the applicant. There will be a nonrefundable application fee in the amount provided in the county fee schedule.

(b)

Criminal history fee. In addition to the application fee, the applicant shall pay a nonrefundable criminal history fee in the amount specified in the county fee schedule to defray the costs of processing the applicant's fingerprints and obtaining the required criminal history.

(c)

License fee. In addition to application and criminal history fees, the applicant shall submit with his application the first annual license fee in the amount provided in the county fee schedule. In the event issuance of the license is denied, the license fee shall be refunded to the applicant.

(d)

Renewal fees. Licenses issued hereunder are renewable annually upon payment of the renewal fee provided in the county fee schedule.

(Ord. of 3-22-2011)

Secs. 4-82—4-103. Reserved.

Sec. 4-104. Servers limited to employees.

Drinks shall be served only by employees of the establishments licensed for on-premises consumption.

(Ord. of 3-22-2011)

Sec. 4-105. Lewd dancing prohibited.

No licensee under this division shall permit professional belly dancers, strip dancing, exotic dancing or any exhibitions of any like kind by whatever name called in connection with the operation of a restaurant, lounge or private club.

(Ord. of 3-22-2011)

Sec. 4-106. Dangerous weapons prohibited.

- (a) No person, either employee or patron, shall have on his person any firearm or other dangerous weapon while on any premises licensed under this article.
- (b) It shall be the responsibility of the owners, operators, managers and their employees to immediately report all violations of this section to the police department. Failure to report these violations shall be a violation of this section.
- (c) This section shall not apply to county law enforcement officers.

(Ord. of 3-22-2011)

Secs. 4-107—4-130. Reserved.

Sec. 4-131. Penalties and revocation.

- (a) Any licensee who fails to pay the taxes imposed in this division by the county, or fails to pay any amount of such tax required to be collected and paid to the county, within the time required shall pay a penalty of ten percent per month of the tax or amount of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof.
- (b) The amount of the determination, exclusive of penalties, shall bear interest at a rate of one percent per month. Interest shall be assessed for each month, or fraction thereof, from the day of the month that the amount or any portion thereof should have been paid until the date of payment.

(Ord. of 3-22-2011)

Sec. 4-132. Malt beverages.

There is levied an excise tax on the sale of malt beverages within 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 pursuant to the fee schedule on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons; and

(2)

Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax pursuant to the fee schedule per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(Ord. of 3-22-2011)

Sec. 4-133. Wine.

There is levied an excise tax on the sale or use of wine by the package an excise tax pursuant to the fee schedule per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(Ord. of 3-22-2011)

Sec. 4-134. Distilled Spirits.

There is levied an excise tax on the sale of distilled spirits by the package an excise tax pursuant to the fee schedule per liter and a proportionate tax at the same rate on all fractional parts of a liter.

Sec. 4-135. Same—Consumption.

There is levied an excise tax on the sale of distilled spirits by the drink in the amount of three percent of the charge to the public for the beverage. This tax does not apply to the sale of fermented beverages.

(Ord. of 3-22-2011)

Sec. 4-136. Payment of tax; records and reports; penalty.

(a)

All taxes, except those levied in section 4-135, shall be imposed on the wholesale dealer, computable and payable monthly. Each wholesale dealer or distributor selling, shipping or delivering alcoholic beverages to any retail dealer in the incorporated areas of the county, whether delivered to the dealer's place of business for resale, shall, as a condition to the privilege of carrying on such business in the county:

(1)

Keep true and correct records of all sales, shipments and deliveries of such alcoholic beverages to each retail dealer; and such records shall be preserved for a period of one year and shall be made available on request for inspection by any duly authorized representative of the county.

(2)

Collect from each retail dealer at the time of delivery of the alcoholic beverages the amount of tax due under the terms of this division and hold the same in trust for the county until such amount is remitted to the county as next provided.

(3)

On or before the 20th of each calendar month make a verified and comprehensive report to the administrator which shall correctly show all sales and deliveries of alcoholic beverages made to or for retail dealers in the county for the month immediately preceding the report. The report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this chapter, including copies of all sales invoices to each retail dealer, and such other information as may be called for by the board of commissioners. The report shall be accompanied by remittance to the administrator of all taxes collected or due as shown on the report.

(b)

Failure of the wholesale dealer or distributor to remit the taxes required in this division will result in a penalty of ten percent of the tax due in addition to the tax due.

(Ord. of 3-22-2011)

Sec. 4-137. Distilled spirits by the drink.

(a)

The tax imposed on retail consumption dealers by section 4-135 shall be payable as provided in this section.

(b)

Every licensee shall, at the time of collecting for food and drinks served, give to the purchaser a receipt on which the price of alcoholic beverages served shall be itemized separately. Where the charges for food and drink are satisfied by credit or deferred payment, the payment of the tax to the licensee may be deferred in a like manner; however, the licensee shall be liable therefore at the time and to the extent that such credits are incurred.

(c)

Every licensee or its agent is authorized and directed to collect the tax imposed in this division from purchasers of alcoholic beverages by the drink sold within its licensed premises. Such licensee or agent shall furnish such information as may be requested by the administrator to facilitate the collection of this tax.

(d)

All taxes collected by any licensee or agent under this division shall be due and payable to the county on or before the 20th day of every month next succeeding each respective calendar month, as set forth in this division.

(e)

On or before the 20th day of the month, a return for the preceding calendar month shall be filed with the administrator in such form as the administrator may prescribe by every licensee liable for the payment of tax under this division. The return shall be accompanied by remittance to the administrator of all taxes collected or due as shown on the return.

(f)

All returns shall show the gross receipts from the sale of alcoholic beverages by the drink; amount of tax collected or authorized due for the related period, and such other information as may be required by the county administrator.

(Ord. of 3-22-2011)

Sec. 4-138. Requirements of wholesalers generally.

All wholesalers shall comply with this chapter before they can sell or deliver any alcoholic beverages to any establishment in the county. Deliveries shall be made in a conveyance owned and operated by a wholesaler licensed as set out in this division, and shall be subject to inspection by duly authorized authorities of the county at all times when deliveries are made.

(Ord. of 3-22-2011)

Sec. 4-139. Failure to collect taxes at delivery; failure to report or remit.

(a)

It shall be unlawful for any wholesale dealer or distributor, person, firm or corporation to delivery any alcoholic beverages to any retail dealer within the incorporated areas of the county without collecting the taxes provided for in this division at the time of delivery.

(b)

If any wholesale dealer or distributor fails or refuses to make the reports provided for in this division, the county council shall notify the party in writing, and if the reports are not made and the taxes remitted within five days from the date of the notice, the board of commissioners may withdraw from the wholesale dealer or distributor the privilege of doing business in the county by notifying the state revenue commissioner of the failure and by notifying the retail dealer that further acceptance of deliveries from the wholesaler, until the taxes are paid, may subject the retail dealer to penalty for violation of section 4-140

(Ord. of 3-22-2011)

Sec. 4-140. Unpaid taxes, sales are violation.

It shall be a violation of this chapter for any person, firm or corporation to sell at retail within the incorporated areas of the county any alcoholic beverages on which the taxes provided for in this division have not been paid.

(Ord. of 3-22-2011)

Sec. 4-141. Suspension, revocation or prohibition of retailer's license.

A violation of this division or other sections of this chapter shall authorize the board of commissioners to suspend, revoke or place on probation, with or without conditions, the license of any retail party or holder in accordance with the procedures and standards set forth in section 4-4.

(Ord. of 3-22-2011)

Secs. 4-142—4-151. Reserved.

Sec. 4-152. Off-site event permits.

Rabun County shall be authorized to issue off-site event permits for those businesses licensed pursuant to this chapter to sell beer and wine for consumption on the premises only, to provide for beer and wine sales to be held at off-site events, for events lasting no more than three consecutive days so long as the permit applicant establishes to the satisfaction of the county the following:

- (1) The applicant contracts to indemnify the county and provide general liability insurance in the amount of not less than \$1,000,000.00 for the specific event;
- (2) The applicant provides adequate assurance to the county that no underage persons will be served through an appropriate program of identification and restriction of the area of service;
- (3) No alcoholic beverages purchased off-site may be brought into the area of the event for consumption and no opened alcoholic beverages shall be removed from the area of service by the consuming public;
- (4) All persons serving beer and wine at said event would be retail dealers licensed pursuant to Georgia Law and pursuant to the requirements herein to sell beer and wine for retail consumption on premises;
- (5) The applicant shall reimburse the county for any additional public safety personnel for event security and furthermore consent in writing to venue and jurisdiction being in Rabun County, Georgia, for collection purposes and for any other disputes between the parties;
- (6) The applicant for the permit fully complies with all sections of this chapter;
- (7) The applicant pays a per-event fee of \$100.00; and
- (8) No permit shall be issued for an off-site event if the proposed site of the off-site event is located within 100 yards of any school or church as provided for under subsection 4-24(b) and as measured from the nearest point of the school or church to the nearest point of the off-site location area for which the off-site permit is sought, with the distance to be verified by the county marshal prior to issuance of the off-site permit.

(Ord. of 3-22-2011)

Sec. 4-153. Parking lot lighting required.

No person, individual, firm, partnership, cooperative, non-profit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary or other group or combination acting as a unit shall in

any manner operate an establishment pursuant to a license given for the purpose of allowing the sale and service of alcoholic beverages upon the premises for consumption on the premises until and unless the establishment shall have installed minimum lighting in the outdoor parking area as provided in this article.

(1)

Penalties for violation. Any person found to be in violation of this article shall be subject to the following:

a.

Revocation of any license issued by the county for the purpose of selling alcoholic beverages for consumption on the premises;

b.

Subject to a fine of not more than \$1,000.00;

c.

Subject to confinement of not more than 30 days;

d.

Injunctive relief commenced by the county board of commissioners through the superior courts of the county to enjoin the operation of any establishment by any person for sale of alcoholic beverages for consumption on the premises without first have obtained, maintained and supplied the minimum lighting required in this article;

e.

Subject to civil penalties which may be levied by any court of appropriate jurisdiction within the county, for violation of ordinances.

(2)

Any parking space, lot or area where a car may be parked upon a premises licensed under this chapter by the county shall provide for outdoor lighting sufficient to illuminate any open or sheltered parking area with an illumination at the surface of no less than three foot candles. Such minimum lighting shall be installed, maintained and operational during all business hours.

(3)

No person shall be authorized to apply for or receive a license for the purpose of serving alcoholic beverages on the premises unless the minimum lighting provided for by this section shall be first installed and certified operational by the utility company servicing the area with electrical power.

(4)

Any person shall be exempt from the provisions of this article for minimum lighting if the utility which serves the area in which the business is located certifies to the county board of commissioners that it would be economically impractical to install the minimum lighting provided for in this article on or upon the premises now operated by any the person. The exemption shall include current operating businesses only and in no event shall any person be awarded or granted a new license unless the minimum lighting provisions of this article shall first have been provided and complied with pursuant to this article.

(Ord. of 3-22-2011)

Unless specifically amended or modified herein, all remaining portions of Chapter 4 of Rabun County's CODE OF ORDINANCES titled "ALCOHOLIC BEVERAGES" shall remain in full force and effect, unchanged and unamended hereby.

PLACED ON FIRST READING AT THE REGULAR MEETING ON THE 25th DAY OF MARCH, 2014.

PLACED ON FINAL HEARING AND ADOPTION ON THE 22nd DAY OF APRIL, 2014.

Any ordinance in conflict with said ordinance amendment is specifically repealed. This ordinance shall become effective immediately upon adoption, after the second reading by the County.

RABUN COUNTY, by and through its Board of Commissioners



Greg James, Chairman L.S.



Stephen Arbiter L.S.



Kay D. Damell L.S.

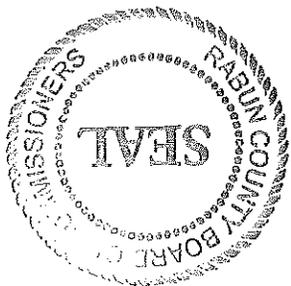


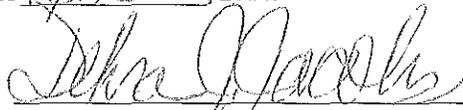
Jimmy Loudermilk L.S.



Will Nichols L.S.

This is to certify that the above Ordinance was adopted at a regular meeting of the Rabun County Board of Commissioners as provided by law. This 22 day of April, 2014.





Debbie Jacobs, County Clerk