

**AN ORDINANCE TO PROVIDE FOR THE REGULATION AND CONTROL OF MALT BEVERAGES AND WINE: TO ESTABLISH THE ALCOHOLIC BEVERAGE CONTROL BOARD: TO PROVIDE FOR THE CONTENTS OF APPLICATIONS FOR LICENSES TO SELL MALT BEVERAGES AND WINE: TO PROVIDE FOR PENALTIES FOR VIOLATION OF THE ORDINANCE: AND FOR OTHER PURPOSES.**

**ARTICLE 1. Malt Beverages and Wine.**

**Section 1. BE IT ORDAINED by the Commissioner of Chattooga County, and it is ordained by the authority of said Commissioner as follows:**

**Section 1.1. Definitions:**

- (a) Unless the context or the specific provisions of this section demand otherwise, the words and terms used in this Article shall have the same definition and meaning as state law where used in Title 5A of the Code of Georgia Annotated.
- (b) “Alcoholic Beverages” shall mean all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine.
- (c) “Applicant” shall mean the owner of the outlet or restaurant and include those persons having the authority to act on behalf of the owner where the owner is a firm, partnership, association, corporation or other group of persons acting as a unit.
- (d) “Board” shall mean the Alcoholic Beverage Control Board of Chattooga County, Georgia.
- (e) “Brown Bag Establishment” shall mean any restaurant, or any other establishment, providing food or entertainment in the normal course of business in which the owners or their employees or agents knowingly allow patrons to bring in and consume on the premises the patron’s own alcoholic beverages.
- (f) “Brown Bagging” shall mean the act of a patron or patrons entering any restaurant or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patron’s own alcoholic beverages.
- (g) “Business Location” shall mean the location, or proposed location, of a retail outlet, wholesale malt beverage outlet, wine outlet or restaurant.
- (h) “Clerk” shall mean the Clerk or Deputy clerk of the Alcoholic Beverage Control Board of Chattooga County.
- (i) “Legal Alien” means a foreign national who possesses a valid United States government issued I-551 card. An application for I-551 status does not meet the legal alien definition. Any other status which allows a person to enter the United States does not comply with this definition.
- (j) “Legal Resident” means a United States Citizen or Legal Alien.

- (k) “Malt Beverages” shall mean 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 six (6%) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer.
- (l) “Measured” shall mean the straight line distance from the closest corner of the building in which the outlet or proposed outlet is located to the closest corner of the building of an involved institution or establishment, except as otherwise stated herein.
- (m) “Outlet” shall mean a store for the sale of malt beverages or wine.
- (n) “Owner” shall mean the person in whom is vested the ownership and control of the outlet or restaurant. If the outlet or restaurant is being leased, the tenant(s) under the lease shall be the “owner”.
- (o) “Person” shall mean any individual, firm, partnership, association, corporation or other group of persons acting as a unit.
- (p) “Restaurant” shall mean any public place kept, used, maintained and advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and having employed a sufficient number of cooks and kinds of employees to prepare, cook and serve suitable food at tables with seating, and holding a certificate of inspection and approval from the County Health Department. At least one meal a day shall be served at least five days a week, with the exception of holidays, vacations and periods of remodeling, and serving of such meals shall be the principal business conducted, with the serving of malt beverages and wine to be consumed on the premises as only incidental thereto. A restaurant shall have fifty-one (51%) percent or more of its total annual gross sales of food and malt beverages and wine from the sale of prepared meals or food.
- (q) “Sheriff” shall mean Sheriff of Chattooga County, Georgia.
- (r) “Wine” shall mean any alcoholic beverage containing not more than twenty-one (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 wine, champagne, 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.
- (s) “Licensee” shall mean the person to whom a license under this ordinance is issued.
- (t) “Legal Resident” shall mean a United States citizen or a legal alien.

### **Section 1.2. Necessity for License.**

It shall be unlawful to manufacture, sell or offer to sell at wholesale or retail within Chattooga County, Georgia, any malt beverage or wine without having the appropriate license for such manufacture or sale, or to carry on such activity in violation of the terms of such license or of this Ordinance.

**Section 1.2.1. Privilege for License.**

The holding of a license and the granting of same under this ordinance is a privilege and not a right.

**Section 1.3. Separate license for each outlet and restaurant; license not transferable; surrender of license.**

- (a) A separate license shall be required for each restaurant and malt beverage or wine outlet, and separate application shall be made for each.
- (b) Immediately upon the sale or closing of an outlet or restaurant, it shall be the duty of the licensee to surrender the license to the Board within ten (10) days from the closing of said outlet or restaurant.

**Section 1.4. Classification of licenses; license fee.**

A license granted pursuant to this ordinance shall be classified as follows:

- (a) Retail package – retail beer or wine package store, which shall permit the sale of malt beverages or wine only in packages at retail.
- (b) Convenience Stores (Retail) – a retail store whose primary function is the sale of food and related merchandise in which the sale of beer or wine is incidental to the operation thereof.
- (c) Private clubs which are affiliated with a nationally chartered organization, with a minimum of seventy-five (75) members, and further occupying no less than 1,500 square feet, and provided further that the sale of beer or wine at said club shall be an incidental part of its functions.
- (d) Wholesale – wholesale malt beverage or wine distributor which shall permit only the sale of malt beverage or wine at wholesale.
- (e) A license for manufacturing malt beverages or wine. The amount of the license fee for each class shall be as set forth in the license schedule in Section 2.3 of this Ordinance.
- (f) Retail by the drink - a restaurant which shall be permitted to sell malt beverages or wine by the drink.

**Section 1.4.1. A Person is Required to File an Application.**

- (a) An application for a license under this ordinance shall be made by the applicant.

**Section 1.5. Initial application for license.**

- (a) Application for a license under this ordinance shall be written, under oath, on the form as provided by the Alcoholic Beverage Control Board.
- (b) The application shall be filed with the Clerk with a fee of \$250.00 for investigation of the applicant and the proposed location and processing of the applications, which fee is not refundable, but shall be credited if granted.

- (c) The application shall state:
- (1) As to the applicant(s): Full name, age, home address, business address, name of spouse and all minor children, complete record of all convictions, guilty pleas and nolo contendere pleas for violations of all laws, City, State and Federal, of both applicant and spouse, and proposed manager of outlet or restaurant.
  - (2) Exact Location: Name and address of owner or landlord and/or resident manager of business location and whether there is a building proposed to be used already erected thereon.
  - (3) Trade name (or proposed trade name) of proposed business.
  - (4) Name(s) and address(es) of all persons having any financial interest in the outlet or restaurant by way of ownership of building or stock, receipt of income from business or otherwise, except for a corporation publically traded.
  - (5) A consent statement by the applicant that all necessary investigation reports on applicant and any employees in the applicant's establishment including, but not limited to, credit reports and reports from law enforcement agencies may be obtained; that any information in such reports may be furnished to the licensor; and that applicant will be responsible for the cost thereof. If so requested, applicant shall also obtain such consent forms from each employee who will be employed in applicant's establishment. Licensor may, at its option, require fingerprints and/or photographs of applicant and applicant's employees for the purposes of conducting its investigation.
  - (6) Such other information as may be required by the Chattooga County Commissioner, the Board, the Sheriff or County Attorney through interrogatories or otherwise.

**Section 1.6. Attachments to Application.**

- (a) All applications shall include a scaled drawing, showing the location of the business location, proposed or existing premises, and the straight line distance to the property line of the nearest church, its building, the nearest residence or school.
- (b) All applications shall include a copy of applicant's application or proposed applications for a license from the State of Georgia, if one is required by the State of Georgia.
- (c) All applications for licenses shall include any additional information now required by applicable state law or subsequently required by statute.

**Section 1.6.1. Advertisement of Application.**

- (a) All applicants for licenses at a new location must advertise said application for such license once a week for two weeks, in the local newspaper wherein the Sheriff's advertisements are published, prior to the granting of said license by the Board.

- (b) The advertisement and notice of application for a license shall state the proposed site and location of the outlet or restaurant, the name of the applicant, the type and character of the proposed malt beverage or wine sale, the date the Board will hear same, and notice to the public that the public may protest the issuance of such license at any time before its issuance. Said notice or advertisement of application for a license shall be of the size, type, form and contents approved by the Board. Applicant shall furnish proof that said advertisement has been run as herein provided before said application may be considered, and failure to submit said proof shall result in a dismissal of the application with prejudice.

**Section 1.7. Action by Malt Beverage Control Board.**

Within seven days from the time an application is filed, the Clerk shall notify the Sheriff or other such investigative officer as approved by the Board, who shall investigate the character of the applicant and the reputation of the location and make a full report to the Board. The Clerk shall also refer said application, together with any objections filed, to said Board. Said Board shall, after investigation of applicant and proposed location, direct the Clerk to issue or refuse the license for which application is made upon payment of the appropriate fee. The Board shall either issue or refuse to issue the license for which application is made within sixty (60) days from the time application is filed. All actions by the Board shall be upon majority vote of its members.

**Section 1.8. Grounds for denial of license.**

(1) Prohibited location. It shall be unlawful to grant a license for the sale of malt beverages or wine within the following areas in Chattooga County, Georgia:

- (a) Within a measured three hundred (300) feet of any church building. The word “building” as used herein shall mean a structure used at the time of filing of the application for license for the purposes of the church. Additionally, for the purpose of this Ordinance a church is hereby defined as an organization for the purpose of preaching the gospel and other related religious activities located within a permanent structure either owned or leased by such organization and must consist of at least ten (10) adult members on its official rolls that meet on a regularly scheduled basis not less than one time per week at said location. Such organization must also qualify under the rules of Internal Revenue Service as an organization to which contributions may be deducted for Federal Income Tax purposes.
- (b) Within three hundred (300) feet, measured in a straight line, from the nearest property line of any school or school house to the nearest corner of the building in which the outlet or proposed outlet is to be operated.
- (c) In any existing building or establishment having history of or reputation for prostitution or other sex offenses; fighting, shooting, stabbing, or other violence; gambling; illegal dealing in alcoholic beverages or drugs; or other violation of the law. By history or reputation is meant within the six months next preceding the filing of said application and provided said business is not owned, operated, managed, or any way connected to the person operating said business during the times these offenses occurred.

(2) Prohibited outlet or restaurant. It shall be unlawful to grant a license for the sale of malt beverage or wine where the business location does not have a front entrance to the premises which is clearly visible from a public street, road or highway, except as to a freeway, campground, or private club which would be impossible.

(3) Prohibited Persons. It shall be unlawful to grant a license for the sale of malt beverages or wine to:

- (a) A person who is not a legal resident or legal alien of the United State of America.
- (b) A person who is not of good character and reputation in the community in which he resides.
- (c) A person who has been convicted of a felony, or of a crime opposed to decency and morality within ten years immediately prior to the filing of said application.
- (d) A person who has been convicted, pled guilty or entered a plea of nolo contendere for any felony or any misdemeanor involving the illegal possession, transportation or sale of any alcoholic spirits, prohibited liquors, wine or malt beverages, or taxability thereof within ten years immediately prior to the filing of said application, except that as to such misdemeanors this prohibition as to applicants may be waived by the unanimous vote of all board members.
- (e) A person whose license under this Ordinance has been revoked for cause or who has had a license of any type under this Ordinance revoked for cause within five (5) years immediately prior to the filing of this application, except that where said revocation was due to the conviction, guilty or nolo contendere plea of a misdemeanor, this prohibition may be waived by the unanimous vote of all board members.
- (f) A person whose license under this Ordinance has been denied for less than one (1) year from the date of said denial by this board.
- (g) A person, who, at the time of application of renewal of any license issued hereunder would not be eligible for such license upon a first application.
- (h) A person who is not of sound mind and memory.
- (i) A person who is under the age of twenty-one (21) years.
- (j) An officer or employee or their spouse of Chattooga County, Georgia.
- (k) Any owner, partnership or corporation where any individual having any interest, either as owner, partner, stockholder, director or officer, of his spouse, shall have been convicted, pled guilty or shall have entered a plea of nolo contendere within ten (10) years immediately prior to the filing of said application for any felony or crime opposed to decency and morality or any felony or misdemeanor involving the manufacturing, possession, transportation of sale of beer, alcoholic spirits, wine or prohibited liquors or taxability thereof, or a violation of this Ordinance, except that as to such misdemeanor this prohibition as to applicants may be waived by the unanimous vote of all board members.

(4) Additional Considerations. The Board in reaching its final determination on a initial application may also be guided by the following factors as to whether or not to grant such license:

- (a) The proximity of other outlets, and give due regard to the nature of the commercial area.

- (b) The nature of neighborhood immediately adjacent to the proposed location, that is whether the same is predominantly residential, industrial, or business. There shall be no retail package stores as defined in Section 1.4(a) in any predominantly residential neighborhood except adjacent to a State Highway. Convenience store license shall be allowed in predominantly residential areas provided said applicant meets the other qualifications for a license.
- (c) The proximity of public parks and playgrounds.
- (d) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
- (e) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom. For the purposes of this Ordinance there is hereby established a rebuttable presumption that any proposed outlet to be located within five hundred (500) feet of an existing outlet would create a traffic hazard.

**Section 1.9. Renewals of license; denial of renewals.**

- (a) All licenses shall be issued for a period of one year, the same to be a calendar year, running from January 1 through December 31, and shall be renewable at the option of the Board.
- (b) Each licensee shall make written application for renewal on or before November 1<sup>st</sup> of each year on forms approved by the Clerk.
- (c) If the Sheriff or designated investigator reports any activity which constitutes probable cause for not renewing a license, the renewal may not be made, and the matter shall be referred to the Board for its consideration.
- (d) The Board may grant, or deny for cause, the renewal of any license issued hereunder. If denied the grounds therefore shall be specified in writing and mailed directly to applicant. If applicant is dissatisfied with the decision he may appeal according to the provision of Section 1.10.

**Section 1.10. Suspension and revocation of licenses.**

(1) Summary Action

- (a) If at any time during the holding of the license granted under this ordinance, it should appear that the licensee has violated the provisions of this ordinance, or the law of the State of Georgia or any Federal laws, or if it should appear that the application contains known false information or if it appears necessary for the public safety, health and welfare, the sheriff of Chattooga County, or any deputy sheriff of Chattooga County with specific authority and approval of the sheriff, clerk of the Board, or any officially designated license inspector or tax inspector so designated by the Board shall provide written notice to the license holder of an alleged violation and further informing that the Board will hold a hearing within TEN days of the date of the letter for the purpose of determining whether a suspension of owner's license is warranted. Notice shall be left at the outlet or restaurant with a copy mailed to the licensee at the address on file with the Board. The person serving the notice shall also provide a copy of said notice to the clerk of the Board.

- (b) Being informed that a notice has been served as provided for in subparagraph (a), the Board shall set a hearing date and time and provide notice of the date, time and place of the hearing to licensee at least twenty-four hours prior to the hearing. Notice of the hearing date is sufficient if it is delivered to the outlet and left with an employee of owner.
- (c) If in the sheriff's sole discretion it appears that immediate suspension of license is warranted the sheriff may seize any license issued by the Board to sell malt beverages or wine within Chattooga County, Georgia, and the licensee shall be there after suspended until a hearing is conducted by the Board. Any hearing held by the Board following the seizure of the license pursuant to this subparagraph by the sheriff shall be held and conducted within TEN days of the seizure and notice shall be provided to the licensee as set forth in subparagraph (b).
- (d) If the Board feels that a suspension of license is warranted, the Board may suspend a license for a first violation for a period of time as the Board deems appropriate but the suspension shall be for a minimum of fourteen days. For a second violation by licensee occurring within three years, a license shall be suspended for a period of time as the Board deems appropriate but the suspension shall be for a minimum of twenty-eight days. For any subsequent violation by licensee as determined by the Board within three years, the license shall be suspended indefinitely.
- (e) The Board shall have the full power and authority to revoke, refuse to renew, suspend or place on probation any license to sell malt beverages or wine for violation of this ordinance, order of the State or Federal laws, or when said Board shall determine that the operation of the licensed business is detrimental to the health, safety or welfare of the public.
- (f) Should a licensee be dissatisfied with a suspension or termination of license by the Board, the licensee may appeal to the Commissioner of Chattooga County by providing a written request to the Commissioner of Chattooga County, Georgia within five days of the Board's order. The Commissioner shall conduct a hearing after notice to the licensee, delivered and provided as set forth in subparagraph (b). The Commissioner may either affirm, deny or modify the Board's judgment.

**Section 1.11. Taxation.**

- (a) In addition to the annual license fees required, there is hereby levied and imposed an excise tax which shall be paid to Chattooga County, Georgia, on all malt beverages and wine sold by each wholesale dealer within the unincorporated areas of Chattooga County, Georgia, as follows:
  - (i) Malt Beverage – Maximum excise tax as provided by O.C.G.A. 3-5-80 or subsequent amendments thereto.
  - (ii) Wine – Maximum excise tax as provided by O.C.G.A. 3-6-60 or subsequent amendments thereto.
- (b) Said tax shall be paid to the Commissioner of Chattooga County, Georgia, by each wholesale dealer on all malt beverages sold within the unincorporated areas of Chattooga County, Georgia, not later than the 10<sup>th</sup> day of each month, based upon the units of beer or wine sold during the previous calendar month by said wholesalers to retailers in said

Chattooga County, Georgia.

- (c) The wholesale dealer shall keep true and correct records of all sales and shipments and shall render a sworn statement of the same accompanying the monthly report to the Commissioner of Chattooga County, Georgia, and said report shall show the exact quantities of malt beverages or wine, by size and type of container and the amount of excise tax collected.
- (d) Each licensee shall maintain for a period of twelve (12) months records of all deliveries made to licensee's establishment of malt beverages, wines, and delivery of food items by all wholesalers, which records shall include copies of the wholesaler's invoice accompanying said delivery. The licensee shall make available to licensor all such records upon request of the licensor.
- (e) The Commissioner of Chattooga County, Georgia, and also the Alcoholic Beverage Control Board shall have the right to audit, and to require production of records from each wholesaler supplying retailers in the unincorporated areas of Chattooga County, Georgia, and also from each retailer so supplied.
- (f) The failure to make a timely report and remittance of aforesaid taxes shall render a wholesaler dealer liable for a penalty equal to ten percent of the total amount due, in addition to the amount due; and additionally, if said report is not filed or if said taxes are not remitted and paid within thirty (30) days from the date that the same are due, the Board shall have the right to suspend and/or revoke any wholesale license, and further to prohibit said wholesaler from making any deliveries of any type whatsoever within the unincorporated areas of Chattooga County, Georgia.
- (g) It shall be unlawful for any person to sell at retail or otherwise within the unincorporated areas of Chattooga County, Georgia any malt beverage or wine on which the tax required in this Ordinance has not been paid to the wholesaler or distributor or to the Commissioner of Chattooga County, Georgia.

**Section 1.12. Brown Bagging Permitted.**

Except as otherwise prohibited by law, brown bagging of alcoholic beverages at a brown bag establishment is permitted. No person shall at any time consume alcoholic beverages in the parking areas outside the premises, nor upon any part of the premises that is not also designated for food consumption. Any establishment allowing brown bagging shall place a sign at or near the cashier, checkout counter or other conspicuous place that designates where brown bagging is permitted upon the premises.

**ARTICLE 2. Additional Rules and Regulations pertaining to malt beverage or wine.**

**Section 2.1. Hours of restaurants or outlets.**

Licensees are allowed to engage in the sale of malt beverages or wine twenty-four (24) hours on weekdays (Monday - Friday), and on Saturdays from 12:01 a.m. til 11:59 p.m.; and shall not permit the sale of malt beverages or wine on Sundays, Christmas Day and any other day on which State Law prohibits the sale of malt beverages or wine.

The sale by wholesale and retail malt beverages and wine allowed under this ordinance shall be lawful during the polling hours of any election, pursuant to O.C.G.A. 3-3-20.

**Section 2.2. The business hours of wholesale dealers shall be the same hours and days as retail dealers and**

outlets are allowed to engage in the sale of malt beverage or wine by the terms of Section 2.1 above.

**Section 2.3. Annual license fees.**

- (a) The annual license fee for the privilege of engaging in the business of selling malt beverages or wine at wholesale within the unincorporated areas of Chattooga County, Georgia, shall be \$1,000.00 for each license.
- (b) The annual license fee for the privilege of manufacturing malt beverages or wine shall be \$1,000.00 for each license.
- (c) The annual license fee for the privilege of engaging in the business of selling malt beverages at retail shall be \$500.00. The annual fee for selling wine at retail shall be \$500.00 for each license, however, if said license is issued in conjunction with a malt beverage license said fee shall be \$100.00.
- (d) The annual license fee for the privilege of engaging in the business of selling malt beverages at retail in private clubs within the unincorporated areas of Chattooga County, Georgia, shall be \$500.00. The annual fee for selling wine shall be \$500.00 for each license, however, if said license is issued in conjunction with a malt beverage license said fee shall be \$100.00.
- (e) The annual license fee for the privilege of engaging in the sale of malt beverages by the drink shall be \$500.00 and the annual license fee for selling wine by the drink shall be \$500.00, however, if said license is issued in conjunction with a malt beverage license said fee shall be \$100.00.
- (f) No license shall be issued for less than the calendar year as herein provided and in case of revocation or surrender of any such license before the expiration of such calendar year the holder thereof shall not be entitled to receive any refund whatsoever.
- (g) All licenses issued hereunder prior to July 1<sup>st</sup> of each year shall be for the balance of said calendar year, and the full license fee shall be paid. On and after July 1<sup>st</sup>, one-half of the license fee shall be paid, and the license shall be for the remainder of the calendar year.

**Section 2.4. Visibility and lighting of outlets.**

No license shall be granted to a retailer under any provision or section of this Ordinance unless the front entrance to the outlet is clearly visible from a public street, road or highway, and the front of said outlet shall have a minimum window at least 3' x 4' and no screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior of the outlet shall be permitted in the window or upon the doors of any retail outlet. Each retail outlet shall be so lighted that the interior of the store or premises is visible day or night and all parking areas adjacent to or used in connection with said business shall be fully lighted and unobstructed.

**Section 2.5. No consumption on premises.**

- (a) Except for a license granted to a licensee for sale by the drink at a restaurant, there shall be no consumption on the premises of any outlet of any malt beverage or wine, except those outlets provided for in Section 2.3, subsection (d) above and signs to this effect shall be placed at or near the cashier or checkout counter in a conspicuous place.

- (b) Any license for private clubs shall not permit the licensee, under any circumstances, to sell malt beverages or wine to the public, as said sales are limited to the private club, strictly to the membership.

**Section 2.6. Intoxicated persons.**

No malt beverages or wine shall be sold to any intoxicated person, nor shall any intoxicated person be allowed to remain upon the premises of any outlet or restaurant.

**Section 2.7. Sale to minors.**

No malt beverages or wine shall be sold to a minor under any conditions whatsoever. A minor for the purposes of this Ordinance shall be considered to be any person under the age allowed for the selling of malt beverages and wine as provided by Georgia law.

**Section 2.8. Employees, drinking on premises.**

No employees of any outlet or restaurant shall work in said outlet or restaurant while intoxicated and no employees shall drink any malt beverages or wine, or alcoholic beverages whatsoever while working and employed in any outlet or restaurant.

**Section 2.8–1. Minors on premises of package store.**

No minors shall be allowed inside of any package store outlet. Minors shall not be allowed to congregate or loiter on the premises of any package store.

**Section 2.9. Advertising.**

One outside sign advertising the sale of malt beverages and wine shall be permitted by the licensee, with the prior approval of the Board but no sign shall be larger than 4 feet x 4 feet. No flashing or revolving lights shall be permitted illuminating said sign. The licensee may designate inside the store the location and pricing of said malt beverages and wine sufficient to identify the same to his patrons.

**Section 2.10. Licenses, posting of same.**

All licenses required under this Ordinance must be posted in a conspicuous place within the outlet or restaurant, and if said license is not so posted said outlet or restaurant shall not be authorized to continue in business until same shall be posted.

**Section 2.11. Posting of this Ordinance.**

At all times, all licensees under this Ordinance must post within the place of business a copy of this Ordinance in a conspicuous place within the outlet or restaurant.

**Section 2.12. Compliance with rules and regulations of health authorities.**

- (a) All licensees under this Ordinance are hereby required to comply with all rules and regulations and requirements of the Chattooga County Board of Health, State Board of Health and any and all other State, Federal and Local authorized public health authorities.
- (b) No license shall be granted to any applicant who has not obtained a certificate from the county health department, that water and other facilities meet health department standards,

and the burden shall be upon the applicant to obtain and submit, at the time of filing the application, such a certificate; and where food is served in conjunction with the sale of the beverages, at private clubs, for consumption on the premises, the food preparation facilities shall also be covered by the certificate. Any person who held a valid malt beverage and wine license immediately prior to the enactment of the April 4, 1997, adoption of the current Malt Beverage and Wine Ordinance, and who did not provide water for public consumption shall be exempt from the provisions of this Subparagraph. If such person prepares food for consumption on the premises, however, said person shall obtain the necessary approval as set forth in this Subsection.

**Section 2.13. License fees, time to pay.**

All license fees required under this Ordinance shall be paid prior to the issuance of a license. All renewal licenses shall be paid for by December 31<sup>st</sup>.

**Section 2.14. Possession for purpose of sale or resale.**

It shall be unlawful for any person, firm or corporation to sell or possess for the purpose of sale or resale of any malt beverages or wine where such does not have a license from Chattooga County, Georgia, to sell or possess for sale or resale such beverages. It shall be presumed, as a matter of law, that any person having located on his premises more than one thousand four hundred forty fluid ounces of malt beverages or four (4) gallons of wine shall have the same in his possession for the purpose of resale.

**Section 2.15. Receipt of and delivery to retail licenses.**

Malt beverages and wine shall be received at or delivered to the premises of the retail licensee by no other means than by a conveyance owned and operated by a wholesale dealer with a permit from Chattooga County, Georgia, to make deliveries in said County. Transportation of malt beverages or wine by any other means shall be grounds for a revocation of a wholesale permit or license. Receipt of malt beverages or wine by any other means by a retail licensee shall be grounds for revocation of a retail license.

**Section 2.16. Licenses, non-transferable.**

No license granted under this Ordinance shall be transferable from one person to another, nor shall the same be transferable from one outlet (location) to another, except for good cause shown and approved in writing by the Board.

**Section 2.17. No drive-in windows or “curb-service” sales.**

No drive-in windows or “curb-service” sales shall be permitted by the licensee, and all purchases of malt beverages or wine shall be made inside the building.

**Section 2.18. Temporary Buildings/Structures.**

No retail sales of malt beverages or wine shall be made from a temporary building, tent, mobile home, motor home, or any vehicle or container which is mobile in nature or removable from the real estate upon which it is located.

**Section 2.19. Maximum Revenue from Sale of Malt Beverages and Wine.**

The sale of malt beverages and wine shall merely be an adjunct to the other legitimate business conducted at any location, whether the license sought or held is for consumption on or off the premises. The gross

revenue derived from the sale of malt beverages and wine is limited to forty-nine (49%) percent of the gross sales at any licensed location except retail package stores. It shall be the responsibility of the license holder to ensure that this requirement is met on an annual basis and to maintain all records necessary for a validation thereof by designated county officials. Beer and wine sales shall only be allowed in conjunction with the sale of grocery items in the case of package sales and with the sale of prepared food in the case of consumption on the premises of any private club. The intent of this article is to allow packages sales as a part of grocery sales in establishments involved in grocery sales and in private food service establishments only.

**Section 2.20. Financial Responsibility.**

No license shall be granted to any applicant who has not obtained a certificate signed by the Tax Commissioner of the County or the Tax Commissioner's designee stating that all property taxes, both real and personal, due the County by the applicant and all property taxes, both real and personal, due the County by the owner of the establishment have been paid.

**Section 2.21. Area Around Licensed Premises to be Clean.**

It shall be the duty of any licensee to maintain the grounds and parking areas in a state of cleanliness, taking steps to see that all beverage containers and empty cans are removed from the premises or stored in receptacles provided for same.

**Section 2.22. Same-Inventory at Time of Suspension, Revocation or Cancellation.**

In the event any license issued under these regulations is suspended, revoked or canceled, the Sheriff or other designated County officials hereby are authorized to enter any establishment for the purpose of conducting a physical inventory of the malt beverage on hand for retail sales, such inventory to be conducted during reasonable hours.

**ARTICLE 3. Alcoholic Beverage Control Board.**

**Section 3.1. Alcoholic Beverage Control Board – Establishment, Composition, Appointment, Chairman and Clerk.**

There is hereby established an Alcoholic Beverage Control Board for Chattooga County, Georgia, as appointed by the Commissioner of Chattooga County, or no more than five (5) nor less than three (3) citizens of Chattooga County, Georgia, appointed by the Commissioner of Chattooga County, Georgia. Said Commissioner of Chattooga County, Georgia, shall designate which member of the appointed Board shall serve as Chairman thereof. Each member so appointed by the Commissioner of Chattooga County shall serve at the pleasure of the Commissioner and until their successors are duly appointed by the Commissioner of Chattooga County. Any vacancies on said Board shall be filled by appointment by said Commissioner. The Board shall appoint its own Clerk.

**Section 3.2. Same powers and duties.**

The Alcoholic Beverage Control Board shall have all of the powers, duties and responsibilities as are granted to them by the terms and provisions of this entire Ordinance. It is the intent of this Ordinance that all of the duties, responsibilities and decisions pertaining to the granting of licenses, revoking the same, suspending the same, and the like, and all other matters pertaining to the control of malt beverages or wine are provided under this Ordinance shall be vested in said Board as herein provided.

**ARTICLE 4. General Provisions.**

**Section 4.1. Severability of Ordinance.**

In the event any section, sub-section, paragraph, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect or invalidate the other sections, sub-sections, paragraphs, sentences, clauses or phrases of this Ordinance, unless it clearly appears that such other parts are wholly and necessarily dependent upon the part or parts held to be invalid or unconstitutional, it being the intent in adopting this Ordinance that each such, sub-section, paragraph, sentence, clause, or phrase thereof be enacted separately and independently of each other.

**Section 4.2.**

Nothing in this Ordinance shall be deemed to restrict or change any existing license issued pursuant to a prior Ordinance when same was issued according to the requirements of said Ordinance but shall affect all new applicants and any subsequent renewals.

**Section 4.3.**

All provisions of O.C.G.A. - Title 3 applicable to malt beverage and wine sales are incorporated herein if not in conflict with this Ordinance and made a part hereof including any amendments thereto.