

WHITE COUNTY BOARD OF COMMISSIONERS

MINUTES OF THE WORK SESSION & CALLED MEETING HELD

MONDAY, NOVEMBER 28, 2016 AT 4:30 P.M.

The White County Board of Commissioner held a Work Session and Called Meeting on Monday, November 28, 2016 in the Board Room at the White County Administration Building. Present at the meeting were: Chairman Travis Turner, Commissioner Terry Goodger, Commissioner Lyn Holcomb, Commissioner Edwin Nix, Commissioner Craig Bryant, County Manager Michael Melton, County Attorney Bill House, Finance Director Vicki Mays, and County Clerk Shanda Murphy.

Chairman Turner called the meeting to order.

Mr. Tom O'Bryant, Director of Community & Economic Development, provided a summary of land use application filed by Mr. Nathan Morgan to request a conditional use permit in order to place a single family dwelling (a mobile home) at 176 Mount Scenic Drive Cleveland – Tax Map & Parcel 051A-086, being 1.875 acres in the C-2 Highway District. Mr. O'Bryant stated that this proposed dwelling would serve as a parsonage for the Cornerstone Pentecostal Church Inc. and the proposed use would be characteristic of the surrounding area. Chairman Turner asked if anyone was in attendance to speak on behalf of Mr. Morgan. There was not. There was a consensus of the Board that the schedule public hearing could not take place unless Mr. Morgan or a designee was in attendance in order to present the request. Chairman Turner stated that a decision on the public hearing would be postpone until later in the meeting.

Ms. Juliet Reeves of 302 Stover Road Cleveland, GA presented her request to the Board of Commissioners for the abandonment of a portion of Stover Road – where she owns property at the deadline in and on both sides of the reference portion. Ms. Reeves provided a survey and legal description of the portion of county road she was asking to be abandoned. There was a consensus to move forward with the requested abandonment by advertising and holding the required public hearing at the January 30th Work Session.

Chairman Turner stated that the Board had been considering for some time a change in the provider / record keeper of White County Employee Retirement Benefits and following the presentation in September by GebCorp, the Board felt that the program offered by GebCorp would be beneficial to County Employees. In summary, it was reviewed that employees would have the option to maintain account balances with VALIC or to rollover those over to GebCorp, that the plan structure would remain the same, and that employees would have a one on one meeting with GebCorp in order to see which option is the best benefit for them.

Upon a motion made by Commissioner Nix, seconded by Commissioner Bryant there was a unanimous vote to approve the GebCorp White County Employee Retirement Plan Documents – with the change becoming effective by February 1, 2017.

Mr. Tom O’Bryant, Director of Community and Economic Development, presented the proposed revisions to the White County Alcohol Ordinance related to license and fees for: Distilled Spirits By the Drink, Sunday Retail Package Sales of Beer & Wine, and Sunday Sales by the drink for Beer / Wine & Distilled Spirits. It was determined that all fees would remain the same with a new fee being added for retail consumption dealer of distilled spirits. The method in which licensees remit excise tax to the County for distilled spirits was discussed.

Upon a motion made by Commissioner Holcomb, seconded by Goodger there was a unanimous vote to adopt the following revisions (County Resolution No. 2016-21) to the White County Alcohol Ordinance with an effective date of 01/01/2017:

**WHITE COUNTY BOARD OF COMMISSIONERS
ORDINANCE NO. 2016-21
AN ORDINANCE TO AMEND THE OFFICIAL CODE OF
WHITE COUNTY GEORGIA, CHAPTER 6, ALCOHOLIC BEVERAGES**

WHEREAS, the White County Board of Commissioners wishes to revise portions of the Official Code of White County as it related to various section of the Alcoholic Beverage regulations.

NOW THEREFORE, BE IT RESOLVED by the County Commissioners of White County it is hereby resolved by authority of the same that the regulations be revised as follows.

The effective date of this amendment shall be January 1, 2017.

ADOPTED, this 28th day of November, 2016.

WHITE COUNTY BOARD OF COMMISSIONERS

s/Travis C. Turner
Travis C. Turner, Chairman

s/Terry D. Goodger
Terry D. Goodger, District 1

s/Lyn Holcomb
Lyn Holcomb, District 2

s/Edwin Nix
Edwin Nix, District 3

s/Craig Bryant
Craig Bryant, District 4

Attest:

s/Shanda Murphy

Shanda Murphy, County Clerk
Chapter 6 - ALCOHOLIC BEVERAGES
ARTICLE I. - IN GENERAL

Secs. 6-1—6-30. - Reserved.

ARTICLE II. - DEFINITIONS

Sec. 6-31. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

Specific anatomical areas shall include any of the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, buttock or female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall include any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of sexual relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or

- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- (5) Masochism, erotic or sexually oriented torture, beating or the inflicting of pain; or
- (6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

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

Alcoholic beverage for licensing purposes herein means all alcoholic beverages obtained by distillation which contains not more than 21 percent alcohol by volume, including beer, malt beverage, wine, but does not include distilled spirits or fortified wine.

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

Applicant is an entity that seeks a license in accordance with the provisions of this chapter.

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

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

Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than 21 percent alcohol by volume, and including ale, porter, brown, stout, lager, beer, small beer, strong beer or hard cider. The term "beer" or "malt beverage" includes beverages known as "nonalcoholic beer" which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. Hard cider meaning an alcoholic beverage obtained by the fermentation of the juice of apples, containing not more than six percent alcohol

by volume, including, but not limited to flavored or carbonated cider. The term "malt beverage" does not include sake, known as Japanese rice wine.

Board means the White County Board of Commissioners.

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

Brewpub means any restaurant in which beer or malt beverages are manufactured or brewed for retail consumption on the premises.

Church means a place of public religious worship.

Commissioner means the commissioner of the department of revenue.

Convenience store means a small store or shop that sells, but is not limited to, such items as candy, ice cream, soft drinks, water, lottery tickets, tobacco products, newspapers, magazines, a selection of processed foods, sandwiches, a few items of groceries, ATM and money order services, as well as fuel, motor oils, etc., such as are typical in White County.

County means White County.

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

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

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

Farm winery means a winery which makes at least 40 percent of its annual production from agricultural produce grown in the state and:

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

Food caterer means any person who prepares food for consumption off premises, possesses a valid occupational tax certificate, and meets all White County Environmental Health regulations.

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

Gallon or wine gallon means a United States gallon of liquid measure equivalent to the volume of 231 cubic inches or the nearest equivalent metric measurement.

Gift store means a small store or shop that sells miscellaneous article or goods appropriate as gifts, presents, souvenirs or items for special events. These shops feature locally crafted items

and products for the community and for visitors as well as some items for convenience (but not as a convenience store).

Golf course means a tract of land publicly or privately owned that is designed and laid out for playing the game of golf, and improved with tees, greens, fairways, hazards, and driving range and may include a club house with dressing rooms, dining facilities, professional shop and meeting space.

Grocery store means a store established primarily for the retailing of food. This term includes large grocery stores, such as supermarkets, that also stock products other than food, such as paper goods, cleaning supplies and household items in addition to food items.

Growler means a reusable, resealable sanitized container used to transport malt beverages and hard cider for off-premises consumption that is not to exceed 72 ounces and not less than 12 ounces and is filled with malt beverages or hard cider from a keg by a licensee, or an employee of a licensee holding a retail package dealer license issued by White County.

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

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

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

Licensed alcoholic beverage caterer means any holder of a license under this chapter for the retail sale of beer or wine who is a licensed caterer, who is otherwise qualified under the provisions of O.C.G.A. § 3-11-1 et seq., and who obtains a license to sell **distilled spirits**, beer, malt beverage or wine at authorized temporary special events under this chapter.

Managing agent means a resident of the state designated by a license applicant, which managing agent shall be responsible for any matters relating to the license.

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. Manufacturer also means; in the case of malt beverage, any brewer; in the case of wine, any wine maker.

Minor is any individual under 21 years of age.

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

Person means and shall extend and be applied to associations, firms, partnerships and bodies politic and corporate, or any combination thereof, as well as to individuals.

Private residence means a house or dwelling wherein not less than one nor more than two families reside. The term "private residence" shall not include an apartment house having facilities for housing more than two families nor a boarding or rooming house where there are five or more boarders or roomers.

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

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

Public school means any school or day school under the:

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

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

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

- (1) An adequate and sanitary kitchen exists; and
- (2) Meals are regularly prepared for, served to and consumed by guests; and
- (3) There exists one or more dining rooms with a seating capacity of at least 30 people; and
- (4) A sufficient number and kind of employees are employed to prepare, cook and serve suitable food for its guests; and
- (5) There exists sanitary restroom facilities; and
- (6) A current occupational tax license has been issued by the county.

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

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

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

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

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

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

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to champagnes, rectified wines, sparkling wines, special natural wines or vermouths.

(Ord. No. 2008-38, 12-16-08; Ord. No. 2010-29, 10-4-10; Ord. No. 2011-12, 4-4-11; Ord. No. 2013-10, 6-24-13; Ord. No. 2015-06, 6-15-15)

ARTICLE III. - LICENSES

DIVISION 1. - RULES—GENERALLY

Sec. 6-32. - License required.

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

- (1) Certain alcoholic beverages may be sold in the unincorporated area of the county under a license granted by the alcoholic beverage commission or board of commissioners upon the terms and conditions provided in this chapter.
- (2) All licenses in this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this Code and the state law.
- (3) All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances which may be enacted."

- (4) Any holder of a license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, county licensees are required to abide by all applicable state regulations and laws.

Secs. 6-33—6-39. - Reserved.

DIVISION 2. - APPLICATION

Sec. 6-40. - Separate application and separate license for each location of sale and for each license category.

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

Sec. 6-41. - Application information.

- (a) Every applicant for a license for the operation of a farm winery or for sales or manufacturing of wine and malt beverages shall make written application on forms furnished by the county and shall furnish all certificates, affidavits, bonds and other supporting data required.
- (b) All applications for licenses under this article shall be made by the applicant to the business license office, or other county office designated by the board of commissioners, in writing under oath and verified on forms furnished by the county, and all requested information thereon shall be provided. Any misstatement or concealment of fact in the application shall be grounds for denial or revocation of the license issued and shall make the applicant liable to prosecution for perjury under the laws of the state. An application containing false information or false statements may result in disapproval, revocation, suspension or failure to renew the license applied for.
- (c) Such application shall be filed with the business tax office, or other county office designated by the board of commissioners, and contain the following information:
 - (1) The names, ages, addresses and length of residency of all persons who have an ownership interest in the business; and
 - (2) The license category for which the applicant is applying; and
 - (3) The names and addresses of all persons and immediate family members having an ownership interest in the business who have an interest in any other business licensed to sell or manufacture malt or vinous beverages; and
 - (4) The name of the owner, landlord or lessor of the proposed location and whether rent for the premises is to be paid to the landlord or lessor on a percentage of the receipts of the business or contingent upon the amount of business done; and
 - (5) The names and addresses of all entities having any whole, partial, beneficial or other interest in and to the land and building on and in which the store is located; and

- (6) The trade name, address and description of the premises or place of business, which is to be operated under the license; and
 - (7) A statement of whether the applicant, or any entity with an interest in the application, has made application at any previous time for any alcoholic beverage license and the disposition of such application; and
 - (8) A statement of whether a previous license issued to the applicant or any entity with an interest in the application has been revoked or suspended by or surrendered to any federal, state or local authority and the reason therefore.
- (d) The following documents shall be attached to each application:
- (1) Evidence of ownership of the premises where the proposed business is to be located or a copy of the lease if the applicant is leasing the building or premises; and
 - (2) A certified or cashier's check payable to the county; and
 - (3) A drawing to scale showing the nearest church, residence, and school or an affidavit from a registered surveyor indicating that the proposed location of the business premises complies with section 6-100 or 6-146 herein; and
 - (4) If **malt alcoholic** beverages are to be sold in packages or for consumption on the subject premises (including manufacturing tasting rooms), a copy of the advertisement from two consecutive issues of the county legal organ stating the purpose of the application, the location of the business and the owner or owners of the business, along with a publisher's affidavit verifying the dates of advertisement. The notice must contain:
 - a. The name of the applicant(s); or
 - b. If a partnership, the names of all the partners, both general and limited; or
 - c. If a corporation, the names of the officers and board of directors; and
 - d. The license category applied for; and
 - e. The location.
 - (5) Photograph(s) of the principal officers; and
 - (6) A full disclosure of any interest in establishments, which sell wholesale or retail malt and vinous beverages; and
 - (7) Three character references; and
 - (8) For newly constructed buildings, a copy of certificate of occupancy issued by the county building inspection department indicating that the building in which the business will be located is complete for the purposes set out in the application, along with detailed plans of such building and outside premises; and
 - (9) If retail consumption dealer license is applied for, a copy of current food service permit and a current inspection from the county health department; and
 - (10) Upon a license being granted, an affidavit signed by each employee, manager, server, cashier or other person handling the sale or service of alcoholic beverages in any way, including owners who work in any premises selling alcoholic beverages, shall be filed with the alcohol board, attesting that the person has received the required training, is

familiar with this article, and has read and agrees to follow the written policies and procedures provided to each such person; and

(11) Any other information requested by the alcoholic beverage commission.

Sec. 6-42. - Qualifications of applicant.

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

person must be a resident of the county. The licensee shall file the name of such agent, along with the written, notarized consent of such agent with the county on such form as may be prescribed.

- (6) A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
 - (7) The written application for the license shall be a permanent record which the licensee must maintain current as required by this chapter. Failure to maintain a current application shall be grounds for revocation of the license.
 - (8) In the event the "managing agent" changes, the licensee shall notify the county within five days of the change. A fee of \$100.00 will be charged for the processing of an application for the change of the "managing agent," and such applicant must be approved by the alcoholic beverage commission.
 - (9) In the event the "registered agent" changes, the licensee shall notify the county within five days of the change. A fee of \$25.00 will be charged for the processing of a change in the "registered agent."
- (c) The alcoholic beverage commission may in its discretion require a personal statement of any employee of any licensed establishment for licensing purposes.
- (d) When contrary to the public interest and welfare no license to sell or manufacture alcoholic beverages of any kind shall be issued by the alcohol beverage commission to or for:
- (1) Any entity as determined by the alcoholic beverage commission by reason of such entity's business experience, financial standing, trade associations, personal associations, record of arrest, or reputation in any community in which the entity has been located, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
 - (2) Any person, managing agent, registered agent, or anyone holding a five percent interest or more in the business who has been convicted under any federal, state or local law of any felony or a misdemeanor involving moral turpitude.
 - (3) Any person, managing agent, registered agent, or anyone holding a five percent interest or more in the business who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten years immediately preceding the filing of application for such license.
 - (4) Any person, managing agent, registered agent, or anyone holding a five percent interest or more in the business who has been convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

- (5) Any person, managing agent, registered agent, or anyone holding a five percent interest or more in the business which the granting of such license would constitute a violation of state law or regulations.
- (6) Any person, entity, managing agent, registered agent, or anyone holding a five percent interest or more in the business which has remaining any delinquent ad valorem taxes due the county or has any outstanding fines, assessments, liens, fi. fas., penalties, or judgments due to the county or is currently in any violation of any the county ordinance or resolution.
- (7) Any person, entity, managing agent, registered agent, or anyone holding a five percent interest or more in the business who seeks the license for an adult entertainment establishment.

Sec. 6-43. - Financial interests restricted.

- (a) No person shall have any ownership, interest in, share in the profits or participate in the business of any licensee unless such person furnishes a description of such to the alcoholic beverage commission at the time of the application or prior to obtaining an interest.
- (b) It shall be the duty of the licensee to present any proposed changes in the interest holders to the alcoholic beverage commission for approval.
- (c) The alcoholic beverage commission shall notify the licensee of the approval or objection to the ownership or interest and the grounds for such objection within 30 days.
- (d) Upon receipt of the alcoholic beverage commission's objection, the licensee and/or the interest holders shall have 30 days to request a hearing to respond to the objections or 90 days to dispose of such interest. The licensee and/or interest holders shall notify the alcoholic beverage commission within 30 days of their choice.
- (e) Failure to disclose at application any existing interest, notify the alcoholic beverage commission of any change in interest or failure to dispose of such interest if so required shall result in revocation of the license.
- (f) It shall be unlawful for the holder of any retail license to accept or receive financial aid or assistance from the holder of any wholesaler's license.

Sec. 6-44. - Investigation of applicant.

- (a) Prior to accepting applications, background investigations from the county sheriff's office must be filed with the county business tax office, or other designated county office. Background investigations must be completed on any person, entity, managing agent, registered agent, and anyone holding a five percent interest or more in the business which seeks a license under the alcoholic beverage ordinance. The fee for each background investigation is \$50.00 and must be paid to the county business tax office, or other county designated office, prior to the investigation process. After payment of the \$50.00 fee, the person seeking the background investigation must present the receipt for the fee and a completed background investigation and criminal history consent form to the county sheriff's office for fingerprinting and further background checks. The results of the background investigation will be forwarded from the sheriff's office to the county business tax office or other designated office.

- (b) The alcoholic beverage commission or designated agent shall investigate all applications for new licenses and applications for renewals.
- (c) Applicants agree to submit under oath to interrogation by the alcoholic beverage commission as to any facts considered pertinent to the application. Applicants also agree to produce for oral interrogation by the alcoholic beverage commission any entity requested as being important in the ascertainment of the facts relative to the granting of the license. Failure to furnish this data, information, records or entities within 30 days from the date of the request shall automatically serve to dismiss the application.
- (d) At the meeting at which the issuance of a license is being considered by the alcoholic beverage commission, the applicant or managing agent of the subject applicant must be present.

Sec. 6-45. - Processing of application.

- (a) Upon completion of the application and upon receiving the results from the fingerprint search, the county business tax department, or other designated office, shall submit the application to the alcoholic beverage commission and notify the applicant of the date, time and place of the meeting. The alcoholic beverage commission shall act within 60 days from the date of the filing of the completed application or a change in any relationship declared in section 6-148.
- (b) Upon consideration of an application, renewal, revocation or suspension, which the alcoholic beverage commission deems subject to additional investigation, the applicant or licensee shall be given notice in writing to "show cause" why the license should not be denied, revoked or suspended. Such action shall occur at a time and place specified and not more than 30 days from the date of service of the notice.
- (c) This notice shall set forth objections to the application or reapplication and any possible grounds on which a denial of the application, reapplication, revocation or suspension of the license shall be based.
- (d) At the appointed time and place the applicant or licensee shall have an opportunity to present evidence, call witnesses, cross-examine witnesses, make statements and otherwise show cause why the alcoholic beverage commission should not deny an application, reapplication, revocation or suspension.
- (e) The alcoholic beverage commission shall take such action, as deemed warranted under the facts. All decisions approving, denying, suspending, or revoking the permits or licenses shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant.
- (f) In all instances in which an application is denied under the provisions of this chapter or a license revoked, the applicant may not reapply for a license for at least six months from the final date of such denial or revocation.

Sec. 6-46. - Refund.

- (a) The license fee is refundable as set out below if the applicant withdraws the application before alcoholic beverage commission action.

- (b) If the applicant withdraws the application before alcoholic beverage commission action or if the alcoholic beverage commission denies the application for a license, the applicant shall be entitled to a refund of the license fee less any investigative expense and less an additional charge of one hundred fifty dollars (\$150.00) to cover the clerical costs of initiating the application process.
- (c) In the event a license is revoked, surrendered or suspended, there shall be no refund whatsoever.

Secs. 6-47—6-49. - Reserved.

DIVISION 3. - RULES GENERALLY

Sec. 6-50. - Knowledge; responsibility of the licensee.

Every licensee under this article shall maintain at all times on the premises for which the license has been issued, a list of all persons currently employed by such license at such premises, which list shall show the current full legal name, alias, date of birth, current address, current home telephone number, and social security number of each employee.

Sec. 6-51. - Display of license number.

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

Sec. 6-52. - Prohibited conduct for all licensees under this chapter.

- (a) A licensee, managing agent or employee shall not:
 - (1) Make or allow to be made any false statement on any application, reapplication or other documents required by federal, state or local law; or
 - (2) Have any federal, state or local felony convictions; or
 - (3) Possess, sell, manufacture, furnish any kind of alcoholic beverage not authorized under the license; or
 - (4) Sell or furnish malt beverages, **distilled spirits** or wine to a minor; or
 - (5) Sell or furnish malt beverages, **distilled spirits** or wine to any individual in an intoxicated condition; or
 - (6) Store or make deliveries of any malt beverage, **distilled spirits** or wine beyond the boundaries of the premises covered by the license; or
 - (7) Sell or offer for sale malt beverages, **distilled spirits** or wine by use of vending machines; or
 - (8) Make any sale through any "drive through" or "curb service"; all sales must be made over the counter inside the licensed premises, except at licensed golf courses; or
 - ~~(9) Make any sale or deliver any distilled spirits to any person within the county; or~~

- (10) Make any sales of alcoholic beverages at any premises where adult entertainment activities are occurring; or
 - (11) Allow anyone who is under the age of 18 years to sell or serve any alcoholic beverages.
 - (12) Receive any alcoholic beverages other than by a conveyance owned and operated by a wholesale dealer with a license from the county or with a license from the county wherein its principal place of business is located to make such deliveries; or
 - (13) Violate any of the terms of this chapter.
- (b) The conduct prohibited under this subsection as to general employees of licensee must be related to the operation of the licensed business.
 - (c) After a formal accusation, the alcoholic beverage commission shall make the determination of whether any violation has occurred that necessitates suspension or revocation of the license.

Sec. 6-53. - Prohibited conduct specifically pertaining to retail package dealers.

In addition to the other prohibited acts set out in section 6-52, the licensee(s) or employees of a retail package sales license shall not:

- (1) Permit the consumption of malt beverages, wine or any other alcoholic beverages on the premises unless the premises is licensed as a retail consumption site; or
- (2) Allow single malt beverages or beer to be sold at retail package stores in containers of less than 22 ounces, with the exception of a growler as defined by this chapter; or
- (3) Allow packages of beer, malt beverages, or wine to be purchased and carried from the sales site uncovered.
- (4) Allow display of malt beverages or wine outside of the building, inside within 20 feet of an entrance door, in any ice-filled open display container or cooler.

Sec. 6-54. - Prohibited conduct specifically pertaining to retail consumption dealers.

- (a) In addition to the other prohibited acts set out in section 6-52, the licensee(s) or employees of an on premise consumption license shall not:
 - (1) Permit any disturbance, obscenity or conduct or practice considered lewd, immoral or improper in connection with the operation of the licensed premises; or
 - (2) Add to the contents of a bottle, refill empty bottles or in any other manner misrepresent the quantity, quality or brand name of any malt beverage or wine; or
 - (3) Receive or cause to be delivered any alcoholic beverages other than by a conveyance owned and operated by a wholesale dealer with a permit and license from the county, or from the county in which its principal place of business is located, to make such deliveries.
- (b) It shall be unlawful for any entity operating places licensed for the sale of malt beverages and wine for consumption on the premises to control or store any other alcoholic beverages for which the owner holds no license.

- (c) This shall not infringe on the right of any owner, operator or employee who resides on the property to store personal alcoholic beverages on the property and serve alcoholic beverages to family and friends if such alcoholic beverages would, except for location on the premises, be legal. This personal right shall not extend to a privilege of service to paying guests.
- (d) As of July 1, 2009, the consumption of malt beverages, beer or wine, or any combination thereof, in places of public accommodation is expressly prohibited and banned in the unincorporated area of the county unless purchased (or provided as a sample in a tasting room by the licensee operating a farm winery) from a properly licensed sales by the drink for consumption on the premises license holder. The term "place of public accommodation" as used in this chapter shall include the premises within the unincorporated areas of the county of any restaurants, coffee shops, cafes, caterers, motels, hotels, inns, bed-and-breakfast establishments, golf courses, antique shops, curio shops, art exhibits, art and crafts shops, frame shops, furniture stores, and other business establishments selling goods or services to the general public. This section is expressly designed to prohibit "brown bagging" at places of public accommodation within the unincorporated area of the county. Notwithstanding any other provision of this chapter, nothing contained in this chapter shall be interpreted as banning or prohibiting the serving of wine as a part of a religious sacrament or ceremony (including weddings and wedding receptions). **at the premises of any church or house of worship.**

Sec. 6-55. - Prior convictions.

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

Sec. 6-56. - Licensed premises—Fire, health regulations, inspections.

- (a) All premises licensed under this chapter shall conform to all fire regulations and health regulations of the county and state.
- (b) Upon request of the alcoholic beverage commission, the building inspections department, code enforcement department, fire department or health department shall inspect the premises and report its findings to the alcoholic beverage commission. The alcoholic beverage commission may request additional inspections by the state fire marshal as deemed appropriate.

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

Sec. 6-57. - Severability.

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

Secs. 6-58, 6-59. - Reserved.

DIVISION 4. - LICENSES

Sec. 6-60. - Duration.

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

Sec. 6-61. - Renewal.

- (a) Licensees shall file renewal applications prior to November 15 of each year.
- (b) Any renewal application not filed prior to November 15 shall be assessed a late filing penalty of ten percent of the cost of the license. Renewal applications may be filed up to ninety days in advance of the November 15 deadline.
- (c) All renewal applications shall automatically renew so long as the renewal applicant meets all terms for renewal under this chapter, with those terms being the same as an application for a new license except that the renewal application need not be advertised again. Renewal applications must have attached a copy of the state license or a copy of the state license application. Fingerprints are required on the owners every three years, or as requested by the board of commissioners or sheriff, or for reasonable cause.
- (d) If a renewal application contains a change in ownership or interested parties, the application process shall be the same as a new application.

Sec. 6-62. - Transfer.

- (a) Licenses issued for a specific location are not transferable to another location without a new application, fee and license.

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

Sec. 6-63. - Examination of books, records, etc.

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

Sec. 6-64. - Inspection of premises.

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

Sec. 6-65. - Limitations on total number of licenses issued.

The total number of licenses within each class that may be operative simultaneously may be limited by the board of commissioners. Should there be a sufficient number of current licenses to meet the needs and desires of the inhabitants of the county, no new licenses shall be issued. In determining the needs and desires of the inhabitants, the county commissioners shall consider the best interest of the county citizens, based on factors affecting the local peace, health, and welfare.

Secs. 6-66—6-69. - Reserved.

DIVISION 5. - EXCISE TAXES

Sec. 6-70. - Levy.

- (a) The board shall levy excise taxes at the maximum rate permitted by state law.
- (b) Malt beverages. There is hereby levied and imposed upon each wholesale dealer selling malt beverages within the unincorporated areas of the county an excise tax as provided under the state alcoholic beverage code.
 - (1) The initial tax rate on the sale of barrels or bulk containers shall be \$6.00 per 15½-gallon container, with a proportionate tax at the same rate of all fractional parts of 15½ gallons.
 - (2) The initial tax rate on the sale of containers other than barrel or bulk containers shall be \$0.05 per 12 ounces, with a proportionate tax at the same rate of all fractional parts of 12 ounces.
 - (3) The initial tax rate for all beer or malt beverages produced by a brewpub shall be \$6.00 per one-half barrel (15½ gallons) and \$12.00 per barrel (31 gallons), with proportionate tax rate at the same rate of fractional parts of 15½ gallons.

- (c) Wine. There is hereby levied and imposed upon each wholesale licensee selling wine within the unincorporated areas of the county an excise tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (d) **Excise tax on sale of distilled spirits by the drink.**

In addition to all other taxes or license fees imposed upon retail consumption dealers engaged in the sale of distilled spirits by the drink there is imposed an excise tax upon the sale of said drinks in the amount of three percent (3%) of the total cost of such drink which is charged to the public. Such taxes shall be collected by the licensee under this chapter and any such licensees shall remit the same to the county clerk on or before the tenth day of the succeeding month along with the appropriate returns showing a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink. Gross sales shall include, all credit card sales and those sales shall be reported and taxes collected thereon shall be submitted to the county clerk or designee to the same extent as required of cash sales.

It shall be duty of each licensee required to make a report and pay any tax levy hereunder to keep and preserve suitable records of the sales taxable under this section, and such other books or accounts as may be necessary to determine the amount of the tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years and to provide such returns and reports as may be required by the county clerk or designee. Licensees collecting the tax provided for in this section shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of deduction should be the same rate authorized for deductions from state tax under chapter 8 of title 48 as provided in O.C.G.A. § 3-4-133. The county clerk is hereby authorized to create such reports and returns as may be necessary to adequately provide for the collection of the excise tax provided in this section.

In the event the county clerk or designee deems it necessary to verify the excise tax submitted to the county pursuant to this section, for any month, he or she shall notify the licensee of such need for verification and the licensee shall submit a verified comprehensive report to the county clerk or designee, prepared by an auditor, reflecting all sales under this section by the licensee and the taxes submitted to the county. The licensee shall have 30 days to submit such a report to the county clerk or designee following such a request.

Regional economic assistance project or REAP shall have the same meaning as in O.C.G.A. § 50-8-190 and shall specifically include any certified project or facility locate in a REAP. White County shall levy and collect any local taxes on any sale of alcoholic beverages to include distilled spirits made within its jurisdiction by a licensee as are otherwise authorized by law to include regional economic assistance projects.

In addition to the penalties set forth under Section 6-90 of this Code, licensees failing to remit excise taxes due and payable to the county as outlined in of this section shall be charged a ten percent penalty and interest shall accrue at the rate of one percent per month (12 percent per annum) until all fees are collected by the county.

- (e) The wholesaler shall pay taxes before the tenth day of the month following the calendar month in which the sale of the beverages occurred.
- (f) Each licensee responsible for the payment of the excise tax shall file a report itemizing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, sold during the month within the county.
- (g) The wholesale dealer shall provide the name and the exact quantity sold to each retail dealer on a summary of sales with each monthly report. Any misstatement or concealment of fact in reports or applications shall be grounds for revocation of the license issued and shall make the applicant or licensee liable to prosecution for perjury under the laws of the state. Entities selling malt beverages to retail package and/or consumption on the premises licensees shall substitute "state form ATT-122" for the summary of sales.

Secs. 6-71—6-79. - Reserved.

DIVISION 6. - SUSPENSION OR REVOCATION

Sec. 6-80. - Notice of violation.

Upon a charge that there has been a violation of this chapter and after notice to the licensee, the county manager shall submit the violation to the alcoholic beverage commission.

Sec. 6-81. - Suspension of license.

- (a) The alcoholic beverage commission or its designated agent shall have the right to suspend any license issued under this chapter subject to a hearing where in the judgment of the alcoholic beverage commission such action is necessary to protect the public health, safety, or welfare of the community.
- (b) Any suspension shall not exceed 30 days unless the licensee requests a continuance of the hearing before the alcoholic beverage commission in which case the suspension will stay in effect until the time of the hearing.
- (c) The alcoholic beverage commission shall have the right to suspend any license issued under this chapter when the:
 - (1) License holder or employees violate any of the terms of this chapter. A violation by an employee must be found to be in connection with the licensed premises to warrant the suspension of the license from the holder; or
 - (2) License holder or employees are charged with the felony violation of any federal or state law or a misdemeanor violation of any federal, state, or county law, ordinance or regulation involving an alcohol-related violation in the operation of the business licensed to sell alcoholic beverages; or

- (3) License holder or employees permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practice on the licensed premises or from failing to report such conduct to the county sheriff; or
- (4) Health, safety, or welfare of the public demand the suspension of such license.
- (d) Upon a suspension, the alcoholic beverage commission shall call for a hearing within ten working days before the alcoholic beverage commission, at which time the alcoholic beverage commission shall decide whether to reinstate the license, continue the suspension for a period or revoke the same upon such terms and conditions as the alcoholic beverage commission may deem fit and proper.
- (e) Adequate notice of a hearing shall consist of the issuance of at least a five day written notice stating the time, place and purpose of the hearing and a statement of the charge upon which the hearing shall be held.
- (f) When the state revokes an alcoholic beverage permit or license issued to an entity licensed under this chapter, the alcoholic beverage commission shall automatically revoke the county license without any action.

Sec. 6-82. - Revocation of license.

- (a) The alcoholic beverage commission shall have the right to revoke any license issued under this chapter when the:
 - (1) License holder or employees violate any of the terms of this chapter. A violation by an employee must be found to be in connection with the licensed premises to warrant the revocation of the license from the holder.
 - (2) License holder or employees are charged with the felony violation of any federal or state law or a misdemeanor violation of any federal, state, or county law, ordinance or regulation involving an alcohol-related violation in the operation of the business licensed to sell alcoholic beverages; or
 - (3) License holder or employees permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practice on the licensed premises or from failing to report such conduct to the county sheriff; or
 - (4) Health, safety, or welfare of the public demand the revocation of such license.
- (b) Upon a revocation, the alcoholic beverage commission shall call for a hearing within ten working days before the alcoholic beverage commission, at which time the alcoholic beverage commission shall decide whether to reinstate the license, or continue the revocation.
- (c) When the state revokes an alcoholic beverage permit or license issued to an entity licensed under this chapter, the alcoholic beverage commission shall automatically revoke the county license without any action.
- (d) No license shall be revoked, except for due cause and after a hearing.
- (e) Adequate notice of a hearing shall consist of the issuance of at least a five day written notice stating the time, place and purpose of the hearing and a statement of the charge upon which the hearing shall be held.

Secs. 6-83—6-89. - Reserved.

DIVISION 7. - PENALTIES

Sec. 6-90. - Penalties.

- (a) Civil penalties. Any person violating any of the provisions of this chapter shall be deemed guilty of an offense and upon conviction thereof shall be punished up to the maximum penalties as allowed under general state law for violations of county ordinances, or as allowed by local act and as determined by the alcoholic beverage commission or the board of commissioners. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the subsection is committed, continued or permitted by such person, and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the county or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.
- (b) In addition to the other penalties referred to in this chapter, the alcoholic beverage commission, after a hearing and finding of any license holder to be guilty of sales by the licensee or any employee of alcoholic beverages to a minor in connection with the operation of the licensed business, the penalties shall be as follows:
 - (1) For the first offense by the licensee, a 14-day suspension of the license and a fine of \$500.00 against the licensee and the employee committing the offense;
 - (2) For the second offense by the licensee within a 12-month period, a suspension of the license for 180 days and a fine of \$1,000.00 against the licensee and the employee committing the offense;
 - (3) Further offenses shall result in a fine of \$1,000.00 against licensee and server and revocation of the current license and disqualification to receive future licenses for up to three years and as determined by the alcoholic beverage commission.
- (c) The alcoholic beverage commission or the board of commissioners, after a hearing and finding of any license holder to be in violation of any other provisions of this chapter, may take one or more of the following actions depending on the severity of the violation: revocation of license; suspension of license for a period of time; fine the license holder; place the license holder on suspension; warn the license holder; take no action.
- (d) Whenever a fine is imposed by the alcoholic beverage commission, and such fine is not paid within 30 days from the date the fine is imposed, the license shall automatically lapse and be invalid pending payment of the fine and reapplication, along with all application fees.
- (e) All penalties assessed against a license holder may also or instead be assessed against the managing agent.
- (f) Upon the failure of any licensee to furnish any report required by the county or state or to pay any tax due promptly, there shall be assessed a penalty of 10 percent of the amount of tax due in addition to the tax due. Should the delinquency remain after one month from the

due date, in addition to the ten percent penalty, there shall be a one and one-half percent monthly penalty imposed.

Secs. 6-91—6-99. - Reserved.

ARTICLE IV. - REGULATIONS SPECIFICALLY AFFECTING RETAIL PACKAGE DEALER, RETAIL CONSUMPTION DEALER, WHOLESALER, MANUFACTURER AND CATERERS OF WINE AND MALT BEVERAGES, BUT EXCLUDING FARM WINERY LICENSEES AND TASTING ROOMS OF A FARM WINERY

DIVISION 1. - GENERAL

Sec. 6-100. - Location restrictions.

- (a) No entity may sell, manufacture, or offer to sell any alcoholic beverage, nor shall the alcoholic beverage commission issue a license, to any location:
- (1) Not accessed and immediately adjacent to a state or U.S. Highway or within 1,000 feet of a state or U. S. Highway; however, business operations existing at the time of the passage of this chapter shall be grandfathered in and shall not be required to comply with this subsection;
 - (2) Within 500 feet of an educational building, college campus, private school or public school, with the distance limitations being measured in a straight line from the nearest point of the proposed licensed building to the nearest point of the property line of any educational building, college campus, private school, or public school;
 - (3) Within either:
 - a. 300 feet of a church, with the distance limitations being measured in a straight line from the nearest point of the proposed licensed building to the nearest point of the property line of any church building; or
 - b. 500 feet of a church, with the distance limitations being measured in a straight line from the nearest point of the proposed licensed building to the nearest point of any church building;whichever is greater;
 - (4) The distance limitations set out in subsection 6-100(a)(3) of this article shall be applicable only if the church or church organization is the owner of the property upon which the church building is situated;
 - (5) Within 150 feet of any private residential building with the distance measured from the nearest point of each building to building; or
 - (6) Within 500 feet of the property line of any adult entertainment establishment.
- (b) The location restrictions shall not include private schools or colleges wherein only specialized subjects such as art, business, dentistry, law, medicine, music, stenography, vocational occupations or other special subjects are taught.

- (c) The alcoholic beverage commission shall not issue a license at a location where:
 - (1) The operation of the proposed business would be in violation of any land use control ordinance of the county; or
 - (2) The granting of a license would constitute a violation of state law or local regulations; or
 - (3) An adult entertainment establishment operates; or
 - (4) The location thereof would be contrary to the public interest and welfare of the community.
- (d) Subsections (a) and b) of this section shall not apply to on premises consumption at a bed & breakfast or hotel located on a site which equals or exceeds three contiguous acres.
- (e) The location restrictions provided for by section 6-100 of this chapter shall not apply:
 - (1) To any premises or location where alcoholic beverages are being sold or dispensed in compliance with the other provisions of this chapter and a school or church is built or erected within the minimum distance provided for in this section.
 - (2) To any premises or location licensed as an importer, so long as the same is allowed by the state; provided, however, no signs or other forms of advertisement shall be placed on or near the licensed premises which directly or indirectly advertise that alcoholic beverages are stored or warehoused on the premises.
- (f) In determining whether or not any license applied for under this article shall be granted, in addition to all provisions of this article, the following shall be considered by the alcohol beverage commission in the public interest and welfare:
 - (1) Each building in which a business will be located shall be complete and in good repair constructed of permanent exterior materials, and be neat, clean and well maintained not only at the time of application, but continuously maintained at all times a premises is licensed.
 - (2) Any exterior lighting shall be aimed at and around the premises so as to minimize any negative effects on neighboring properties.
 - (3) All parking areas must be paved and maintained in good repair in a neat and clean manner
 - (4) Each location at which a business will be located shall front on a highway or a paved roadway.
 - (5) The suitability of the premises for the conduct of alcohol beverage business including its appearance, state of repair, maintenance standards, location, traffic problems and the difficulty or absence thereof of policing by law enforcement agencies.

Sec. 6-101. - Days and hours of sale.

- (a) ~~Malted beverages or wine shall not be sold on Sundays or Christmas Day.~~

The hours of sale for package sales of malt beverages and wine, the consumption on the premises of distilled spirits, and the consumption on the premises of malt beverages and wine shall be 7:00 a.m. to 11:59 p.m. Monday through Saturday; and, 12:30 p.m. to 11:30

p.m. on Sundays. No distilled spirit beverages, malted beverages or wine shall be sold on Christmas Day. No package sales of malted beverage or wine shall be sold on Christmas Day.

- (b) ~~On all other days the sale of malted beverages and wine shall cease at 11:59 p.m. and not be resumed before 7:00 a.m. on the next day when sales are permitted.~~

In the event that a licensed business is open for less than the hours stated in the preceding paragraph, then sales of malt beverages and wines shall be restricted to those regular store hours; however, in no event shall sales be made during hours other than described in the preceding paragraph.

Sec. 6-102. - License categories.

- (a) The alcoholic beverage licenses issuable under this article IV are:
- (1) Retail package dealer who sells beer, malt beverage, or wine in unbroken packages at retail only and not for resale.
 - (2) Retail consumption dealer who sells beer, malt beverage, **distilled spirits**, or wine for consumption on the premises to consumers and not for resale.
 - a. Brewpub license may be issued to retail consumption dealer for a restaurant in which beer or malt beverages are manufactured or brewed for retail consumption on the premises and in accordance with all requirements of the retail consumption dealer license.
 - b. Alcoholic beverage caterer license may be issued to a retail consumption dealer for off premises sale of beer, malt beverage, or wine in accordance with division 7 of this chapter at a permitted temporary special event.
 - (3) Wholesaler of wine and malt beverages whose principal place of business is located in the county. Any wholesaler in malt beverages or wine licensed by the state or the agent of such wholesale dealer may be granted a license to operate a wholesale business in the county. Any wholesaler whose principal place of business is located in another county (and who is licensed in that county), and who desires only to deliver into the county shall not be required to obtain an additional license from the county. A copy of the license issued in the county wherein the principal place of business is located must be filed with the county. Such deliveries shall be made only to businesses licensed under this chapter.
 - (4) Manufacturer license may be issued to any maker, producer, or bottler of an alcoholic beverage. Manufacturer also means; in the case of malt beverage, any brewer; in the case of wine, any wine maker.
 - (5) Alcoholic beverage caterer license may be issued to a licensed caterer, who is otherwise qualified under the provisions of O.C.G.A. § 3-11-1 et seq., and who obtains a license to sell beer, malt beverages, **distilled spirits** or wine at authorized temporary special events under this chapter.

In addition to the above-mentioned license, a temporary special use permit may be issued as hereinafter defined.

- (b) The alcoholic beverage commission shall not issue an alcoholic beverage license for the sale of distilled spirits including but not limited to fortified wine.

DIVISION 2. - LICENSE FEES

Sec. 6-103. - Fees.

- (a) The board shall establish license fees for each category of license specified in section 6-102 by a schedule of fees passed by resolution adopted from time to time by the board of commissioners in a public meeting.
- (b) A schedule of the currently authorized fees shall be available for reference in the office of the county clerk.
- (c) In the event that an application is for less than a calendar year period, the license fee shall be prorated down to the current month.

DIVISION 3. - RETAIL PACKAGE SALES

Sec. 6-104. - License for retail package sales required.

No entity shall sell any packaged malt beverage or wine unless said entity holds a valid and current retail package sales of malt beverages and wine license issued by the county or unless the entity is properly licensed as a farm winery.

Malt beverages and wine may be sold by the package in grocery stores, convenience stores, and gift stores.

Upon the date of the passage of the above-stated amendments, all existing licensed entities shall be grandfathered, thereby being exempt from the above stated requirements. The grandfathered status of these entities does not exempt the entity from any requirements imposed prior or subsequent to adoption of County Resolution No. 2011-12.

Package malt beverage licensees may fill growlers with draft beer at the licensed location subject to the following requirements:

- (1) A growler shall not exceed 72 ounces and shall be no less than 12 ounces.
- (2) Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler.
- (3) Only sanitized and sealed growlers may be filled and made available for retail sale.
- (4) Each growler must be securely sealed and labeled and removed from the premises in its original sealed condition.
- (5) Consumption of a growler on the premises is strictly prohibited.
- (6) Samples (tasting) of malt beverage or hard cider may be made available for those licensees holding a retail package sales license, but not for those licensees who offer for sale vehicular fuel.
- (7) Sampling shall be conducted at a separate counter space. Such counter space area shall not constitute no more than ten percent of the entire floor area of the premises.

- (8) Sampling for customers provided in a sanitized glass or cup. Samples shall not exceed two ounces per glass, with no more than four samples per customer within a calendar day.

Sec. 6-105. - Required sales ratio.

- (a) The gross income from the sale of malt beverages and wine shall not exceed 40 percent of the gross income from the total retail sales.
- (b) The licensee shall report to the alcoholic beverage commission monthly total gross sales, gross sales of malt beverages and wine figures and sales ratios before the twentieth of the month following the month of sales for the initial year and thereafter on an annual basis and submitted as a part of the renewal application. Notwithstanding the foregoing, the code enforcement officer for White County, at anytime during the licensed year, can request to inspect the records of licensee as to the required sales ratio, and shall be given full and complete access to such records by the licensee.
- (c) Two consecutive months of ratios in excess of the limits allowed by subsection (a) of this section shall prompt an investigation as to the legitimacy of the license. Monthly reports that are late more than 30 days after they are due shall be subject to a fine of \$50.00. Monthly reports that are late more than 60 days after they are due shall be subject to a fine of \$100.00. The alcohol beverage commission may consider revocation of an alcohol license if a licensee has not submitted a monthly report more than 90 days after it is due.
- (d) This section shall not apply to farm wineries.

Secs. 6-106—6-109. - Reserved.

DIVISION 4. - ON PREMISE CONSUMPTION SALES

Sec. 6-110. - License for on premise consumption required.

Only the follow types of licenses shall be issued for on premise consumption:

(1) Beer, malt beverages and wine for consumption on the premises.

(2) Distilled spirits, by the drink for consumption on the premises.

(3) Alcoholic beverages in connection with a temporary special event as authorized by this chapter for consumption on the premises.

Each license for the sale of **distilled spirits**, wine and malt beverages for consumption on the premises shall require that the licensed premises meet the requirements of this chapter for a "bed and breakfast," hotel (to include lodge, resort or motel), golf course, **or** restaurant, **event facility or farm winery**.

Sec. 6-111. - Required sales ratio.

- (a) The gross income from the sale of malt beverages, **distilled spirits**, and wine shall not exceed 40 percent of the gross income from the total sales.

- (b) The licensee shall report to the alcoholic beverage commission monthly total gross sales, gross sales of malt beverages, **distilled spirits**, and wine figures and sales ratios before the twentieth of the month following the month of sales for the initial year and thereafter on an annual basis and submitted as a part of the renewal application. Notwithstanding the foregoing, the code enforcement officer for the county, at anytime during the licensed year, can request to inspect the records of licensee as to the required sales ratio, and shall be given full and complete access to such records by the licensee.
- (c) Two consecutive months of ratios in excess of the limits allowed by subsection (a) of this section shall prompt an investigation as to the legitimacy of the license. Monthly reports that are late more than 30 days after they are due shall be subject to a fine of \$50.00. Monthly reports that are late more than 60 days after they are due shall be subject to a fine of \$100.00. The alcohol beverage commission may consider revocation of an alcohol license if a licensee has not submitted a monthly report more than 90 days after it is due.
- (d) This section shall not apply to farm wineries.

Sec. 6-112. - License for brewpubs.

- (a) No person shall be issued a brewpub license without first obtaining a retail consumption dealer license.
- (b) A brewpub license authorizes the holder of such license to manufacture on the licensed premises not more than 1,500 barrels of beer (46,500 gallons) in a calendar year (approximately 149 gallons per business day) solely for retail sale on premises and solely in draft form.
- (c) Distribution of any malt beverages produced by a brewpub licensed under this article to any wholesaler is prohibited. Such distribution shall require an additional manufacturing license of malt beverage.
- (d) Every brewpub located within the unincorporated county shall file a monthly report with the alcohol beverage commission, no later than the 20th day of each month, on such forms as the county may prescribe, setting forth all malt beverages produced during such preceding calendar month, to include beginning and ending inventories. Such report shall also indicate the total production of malt beverages during the report period and the proper tax remittance for such production. Failure to properly complete or submit the required reports shall subject the licensee to a late filing penalty not to exceed an amount as provided in the county fee schedule for each deficient reporting period.

Secs. 6-113—6-119. - Reserved.

DIVISION 5. - WHOLESALE SALES

Sec. 6-120. - License as wholesaler required.

No entity shall sell any wholesale **distilled spirits**, malt beverage or wine unless said entity holds a valid and current wholesale sale of **distilled spirits**, malt beverages and wine license from the state and from the county in which the principal place of business of the wholesaler is located. Licensed wholesalers shall only make deliveries in the unincorporated areas of the county to businesses licensed under this chapter.

Secs. 6-121—6-129. - Reserved

DIVISION 6. - LICENSE FOR MANUFACTURING REQUIRED

Sec. 6-130. - Manufacturing license application.

- (a) Any manufacture of malt beverages or wine licensed by the state may be granted a license to manufacture such beverages in the county upon application for such license to the business license office or designed office.
- (b) All appropriate and pertinent parts of this chapter and article shall be applicable to any applicant or holder of a manufacturing license to sell and/or distribute malt beverages and/or wine under this chapter.
- (c) The application shall require the applicant to provide, the information requested on the application form, including, but not limited to, name, address, business name and address, interested persons in the business, and other information as listed on said form, and any other requirements found in this chapter.

Sec. 6-131. - Issuance of license limited to designated areas.

Manufacturer's license. No manufacturer's license shall be issued to a manufacturer engaged in distilling or blending alcoholic beverages except where allowed within the location requirements of this chapter.

Sec. 6-132. - Reserved.

DIVISION 7. - CATERING LICENSE

Sec. 6-133. - License for catering off premises required for licensed retail consumption dealers.

- (a) Any alcoholic beverage caterer who possesses a valid catering license from the county or another city or county in Georgia and possesses a valid license from the State of Georgia to sell **distilled spirits**, beer, malt beverages, or wine by the drink at a fixed location may be issued by White County an alcoholic beverage catering license authorizing such sale off premises and in connection with a temporary special event authorized by this chapter.
- (b) The applicant shall hold a valid state license to sell **distilled spirits**, malt beverages, beer, or wine by the drink for consumption on-premises.
- (c) The applicant shall hold a valid local county license to sell **distilled spirits**, malt beverages, beer, or wine by the drink for consumption on-premises.
- (d) The applicant must be a licensed alcoholic beverage caterer pursuant to O.C.G.A. § 3-11-1 et seq.
- (e) The applicant must hold all required food service permits required by the county environmental health office.
- (f) A licensed alcoholic beverage caterer may only sell that beverage which is authorized by the local/state alcoholic beverage license; however at no time shall beverages other than **distilled spirits**, beer, malt beverages or wine be served.

- (g) An alcoholic beverage caterer shall be listed on and sign off on an application for the associated off premises special event permit.
- (h) It is unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off premises and in connection with a catered event or function without first having obtained a license and permit as provided herein.

Sec. 6-134. - License for catering off premises required for food caterers.

- (a) Any food caterer, as defined herein, operating within the county may apply for an alcoholic beverage caterer's license in order to distribute or sell any **distilled spirits**, malt beverages, beer, or wine off premises of the food caterer's business in accordance with division 8 of this chapter.
- (b) The applicant must be a licensed alcoholic beverage caterer pursuant to O.C.G.A. § 3-11-1 et seq.
- (c) The applicant must hold all required food service permits required by the county environmental health office.
- (d) A licensed alcoholic beverage caterer may only sell that beverage which is authorized by the local/state alcoholic beverage license; however at no time shall beverages other than **distilled spirits**, beer, malt beverages or wine be served.
- (e) An alcoholic beverage caterer shall be listed on and sign off on an application for the associated off premises special event permit.
- (f) It is unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off premises and in connection with a catered event or function without first having obtained a license and permit as provided herein.

Sec. 6-135. - Permitted activities.

Only a licensed alcoholic beverage caterer is authorized to sell alcoholic beverages off premises. Licensed alcoholic beverage caterers are authorized to engage in, carry on or conduct the sale or distribution of alcoholic beverages off premises under the following conditions:

- (1) The distribution of alcoholic beverages is in connection with an "authorized temporary special event" for which a special event alcohol permit has been granted authorizing said event. The requirements for special event alcohol permits are detailed in division 8 of this chapter.
- (2) A licensed alcoholic beverage caterer may sell only that type of alcoholic beverage authorized by the caterer's local alcoholic beverage license.
- (3) The licensed alcoholic beverage caterer shall not employ any person under 21 years of age to dispense, serve, sell or handle alcoholic beverages in accordance with O.C.G.A. § 3-11-4 et seq.

- (4) The licensed alcoholic beverage caterer complies with the requirements of O.C.G.A. § 3-11-1 et seq.
- (5) The licensed alcoholic beverage caterer complies with the requirements contained in this chapter of the county code.

Sec. 6-136. - Restaurants.

Eating establishments which hold an occupational tax license and an alcohol by the drink license in accordance with this chapter may cater events within the unincorporated areas of White County so long as said establishments comply with this article.

Sec. 6-137. - Exceptions.

For events where alcoholic beverages are furnished by the host, which are not open to the public and at which no admittance fee, cup fee, or by the drink fee is required, the event holder shall be exempt from the requirements of this chapter, unless required by state law. However, if alcoholic beverages are to be provided at such an event by a licensed alcoholic beverage caterer, then the requirements of this chapter must be met.

DIVISION 8. - TEMPORARY SPECIAL EVENT LICENSE

Sec. 6-138. - Temporary special event license.

- (a) Any person, firm, corporation or bona fide nonprofit civic organizations desiring to sell alcoholic beverages may apply and submit completed forms furnished by the commissioner of the state department of revenue and a permit from the commissioner authorizing the organization to sell or distribute alcoholic beverages for consumption only on the premises, or to sell wine at retail for off premises consumption, or to auction wine in sealed containers, or any combination thereof, for a period not to exceed three days (which cannot include ~~any Sunday or Christmas Day of the year~~), and subject to the rules and regulations of the state department of revenue.
- (b) The person, firm, corporation or bona fide nonprofit civic organization must have a registered or managing agent located within the county for one year or more prior to the application.
- (c) The temporary special use permits to be issued to any person, firm, corporation or bona fide non-profit civic organization shall be subject to the rules and regulations in other applicable sections of this chapter relating to the sale and distribution of alcoholic beverages, as follows:
 - (1) The licensing requirements under sections 6-32 and 6-40;
 - (2) The distance prohibitions of section 6-100;
 - (3) The penalty for false information within an application as set by section 6-41;
 - (4) That the special use temporary permit is a privilege and conditional upon the holder meeting the requirements of this chapter;
 - (5) The inspection authority as provided by this chapter;
 - (6) The employee requirements as to age and criminal history as provided in this chapter;

- (7) The days and hours of operation requirements as provided by section 6-101;
 - (8) The prohibitions against furnishing or providing alcoholic beverages to any person under 21 years of age as provided by section 6-52.
- (d) A duly authorized person, firm, corporation or agent or bona fide non-profit civic organization shall file an application with the county for a temporary special use permit upon the application form provided the county, and shall provide a copy of the non-profit designation from the state, if applicable. An applicant for a temporary special use permit may apply for an event license for an individual event or may apply for a license for all planned events in the calendar year. At the time of the filing of the application form, the applicable fee must be paid. The application shall identify the person, firm, corporation or bona fide non-profit civic organization, the dates for which the permit is to be applicable (which cannot include ~~any Sunday or~~ Christmas Day ~~of the year~~), the premises where the alcoholic beverages will be served; the event or type of function for the person, firm, corporation or bona fide non-profit civic organization, and such other information as may be required by the county. The alcoholic beverage commission may issue a permit authorizing the person, firm, corporation or bona fide non-profit civic organization to sell alcoholic beverages for consumption on the premises, or to sell wine at retail for off premises consumption, or to auction wine in sealed containers, or any combination thereof, for a period not to exceed three days, and subject to any law regulating the time and date for selling such beverages. The temporary special use permit shall also be conditioned upon the commissioner for the state department of revenue issuing said department's permit for a temporary special use permit for a person, firm, corporation or bona fide non-profit civic organization.
- (e) No more than 15 permits may be issued to an organization in any one calendar year pursuant to this chapter.
 - (f) Permits issued pursuant to this section shall be valid only for the place specified in the permit.
 - (g) All applications must have the licensed alcoholic beverage caterer listed and the caterer must sign off on the application attesting they are catering the event - bona fide non-profit civic organizations are exempt from this requirement.
 - (h) The special event must receive approval from the county sheriff's office on crowd control and security measures. The sheriff may require security personnel to be furnished by his department at the applicant's expense for the event as he deems necessary.
 - (i) The special event must receive approval from the county sheriff's office and county public works department on traffic control measures and parking.
 - (j) The location at which the special event is to take place must be approved in writing by the owner of the property.
 - (k) The premises at which the special event is to take place must be approved by the alcoholic beverage commission.
 - (l) The sheriff or his designee may immediately revoke any temporary permit for a special event if it is determined continued alcohol sales may endanger the health, welfare or safety of the public.

- (m) As a condition on the issuance of a temporary special event permit, the licensee shall indemnify and hold the county harmless from claims, demand or cause of action which may arise from activities associated with the special event. The licensee shall ensure by written documentation satisfactory to the board of commissioners that such insurance as may be required for the event has been issued; no event may be held until ten business days after the copy of the policy has been recorded with the county, therefore failure to deliver such policy shall act to automatically cancel the alcoholic beverage license for the event.

Sec. 6-139. - Reserved.

ARTICLE V. - REGULATIONS SPECIFICALLY AFFECTING FARM WINERIES

DIVISION 1. - GENERAL

Sec. 6-140. - License required.

- (a) No entity shall engage in the business of a farm winery of any kind in the unincorporated area of the county without first obtaining a license therefore under this chapter and a license to operate a farm winery issued by the commissioner. It shall also be unlawful for any entity to sell or make deliveries beyond the boundaries of the premises covered by the license except at tasting rooms licensed as provided herein and by the commissioner.
 - (1) Certain alcoholic beverages may be sold by a farm winery in the unincorporated area of the county under a license granted by the alcoholic beverage commission or board of commissioners upon the terms and conditions provided in this chapter and by state law.
 - (2) All licenses in this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this Code and the state law.
 - (3) All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances which may be enacted."
 - (4) Any holder of a license for a farm winery issued pursuant to this chapter is required to apply for and obtain a farm winery license from the state before any sales commence. Additionally, county licensees are required to abide by all applicable state regulations and laws.
- (b) A farm winery which is qualified and licensed by the state shall be allowed to manufacture wine or to distribute such wine at wholesale and at retail at its tasting room, provided that the farm winery has given the board of commissioners 60 days' written notice of its intentions to commence operations and filed, through the alcoholic beverage commission, an application with copies of its license and permits from the state, along with the license fees and other requirements as hereinafter set out. A farm winery may also sell at retail in packages or for consumption on the premises or at additional licensed tasting rooms wine manufactured by other wineries.

- (c) Retail sales of wine and malt beverages for consumption on the premises licenses shall require that all consumption be at the farm winery site or approved tasting rooms, which includes wedding or dining facilities associated with the farm winery.
- (d) In addition to the license for the farm winery operation, the alcoholic beverage commission may, upon application, issue additional licenses to the farm winery as to malt beverages as follows:
 - (1) Retail package dealer who sells malt beverages, including but not limited to beer, lager and stout, in unbroken packages at retail only and not for resale.
 - (2) Retail consumption dealer who sells malt beverages, including but not limited to beer, lager and stout, for consumption on the premises to consumers and not for resale.
 - (3) The farm winery must make application for the sale of malt beverages as provided by article III, but shall not be subject to any location restrictions, any of the required sales ratios, or to any other restriction of article IV.
- (e) The alcoholic beverage commission may also issue a farm winery license for additional tasting rooms on or off the primary premises if the additional tasting room(s) are owned or leased by the primary farm winery owner and said rooms have been licensed by the commissioner.
- (f) The alcoholic beverage commission may also issue a separate license to a farm winery for the consumption of distilled spirits.

Sec. 6-141. - Grandfathering of current state licensed farm wineries.

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

Sec. 6-142. - License fees.

- (a) *Farm wineries.* The first license at the primary farm winery site shall cost \$1,500.00, which shall cover the operation of the farm winery under the state farm winery laws. In addition to the primary farm winery operation, the farm winery may apply for the following license:
 - (1) To sell beer, malt beverages or wine in unbroken packages on the farm winery premises at retail and not for resale, which license fee shall be an additional \$1.00;
 - (2) To sell at retail beer, malt beverage or wine for consumption on the farm winery premises to consumers, which license fee shall be an additional \$1.00.

For each additional tasting room location on the primary farm winery premises, there shall be an additional license fee in the amount of \$100.00 per additional tasting room.

For a licensed entity to obtain an additional license for a tasting room owned or leased by the licensed entity and which is located off of the primary farm winery premises, there shall be an additional license fee in the amount of \$750.00 for each such off-site locations.

- (b) *Retail package dealer.* The fee for the retail package dealer shall be \$800.00.
- (c) *Retail consumption dealer for malted beverages and wine.* The fee for the retail consumption dealer for malted beverages and wine shall be \$1,200.00.
 - (1) Alcoholic beverage caterer for off premises catering fee shall be \$100.00; or
 - (2) Brewpub fee shall be \$600.00.
- (d) *Retail consumption dealer for distilled spirits.* The fee for the retail consumption dealer for distilled spirits beverages shall be \$2,500.00.
- (e) *Not retail licensed alcoholic beverage caterer.* The alcoholic beverage caterer (not retail licensed) shall be \$800.00 or per event shall be \$250.00.
- (f) *Wholesale dealer.* The fee for the license for the wholesale dealer shall be \$800.00.
- (g) *Manufacturer.* The fee for the manufacturer shall be \$3,000.00.
 - (1) The on-premises manufacturer tasting room fee shall be \$1,000.00.
 - (2) Application fee:
 - a. For each license applied for shall be \$150.00 per calendar year.
 - b. Fingerprinting fees shall be \$50.00 to be paid to the White County Business Tax Office or other designated county office for each required applicant, owner, partner, etc.
- (h) *Temporary special user.* The temporary special user permit fee (per event) shall be:
 - (1) For a bona fide non-profit civic organization, the fee shall be \$50.00;
 - (2) For a person, firm, or corporation, the fee shall be \$150.00.
- (i) *Change of managing agent.* The change of managing agent fee shall be \$100.00.
- (j) *Change of registered agent.* The change of registered agent shall be \$25.00.
- (k) *Variance review fee.* The variance review fee shall be \$100.00.
- (l) *Appeal.* The appeal fee shall be \$100.00.

Sec. 6-143. - Days and hours of sale.

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

Sec. 6-144. - License categories.

- (a) The alcoholic beverage licenses issuable under article V of this chapter are:
 - (1) Farm wineries;
 - (2) Tasting rooms of farm wineries;
 - (3) Retail package dealer who sells malt beverages, including but not limited to beer, lager and stout, in unbroken packages at retail only and not for resale;

- (4) Retail consumption dealer who sells **distilled spirits**, malt beverages, including but not limited to beer, lager and stout for consumption on the premises to consumers and not for resale;

~~(b) The alcoholic beverage commission shall not issue an alcoholic beverage license for the sale of distilled spirits including but not limited to fortified wine to a farm winery.~~

Sec. 6-145. - Revocation of state license.

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

Sec. 6-146. - Location restrictions.

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

- (1) Where an adult entertainment establishment operates or within 500 feet of the property line of an adult entertainment establishment; or
- (2) Where the operation of the proposed business would be in violation of any land use control ordinance of the county; or
- (3) Where the granting of a license would constitute a violation of state law or local regulations; or
- (4) Where the location thereof would be contrary to the public interest and welfare of the community.

Secs. 6-147—6-149. - Reserved.

DIVISION 2. - RESERVED

ARTICLE VI. - ALCOHOLIC BEVERAGE COMMISSION

Sec. 6-151. - Established; composition.

- (a) The board of commissioners hereby creates the alcoholic beverage commission which shall be composed of three members appointed by the board of commissioners.
- (b) The alcoholic beverage commission shall select a chair from the members of the alcoholic beverage commission; and
- (c) The county clerk or designee shall be the secretary of the alcoholic beverage commission.

Sec. 6-152. - Qualifications.

Appointees shall:

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

Sec. 6-153. - Appointment of members; terms of office.

- (a) Each member shall serve for a term of two years and until their successors are appointed, subject to earlier removal as provided for herein;
- (b) All appointments to the alcoholic beverage commission serve at the pleasure of the board of commissioners and are subject to removal at any time.

Sec. 6-154. - Powers and duties.

The alcoholic beverage commission shall have all of the powers, duties, responsibilities provided under this chapter and state law.

Sec. 6-155. - Meetings of the alcoholic beverage commission.

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

Sec. 6-156. - Reporting.

- (a) The county clerk or designee shall make a record of the proceedings of all meetings of the alcoholic beverage commission.
- (b) The record shall be a public record and shall contain at least the:
 - (1) Date of each meeting; and
 - (2) Names of the commission members present and absent; and
 - (3) Names of the members introducing and seconding motions; and
 - (4) Statement of each motion presented; and
 - (5) Vote of each member thereon; and
 - (6) Provisions of each alcoholic beverage license or temporary special use permit issued.
- (c) The county clerk or designee shall keep a record of all the proceedings, original applications and a duplicate of each license or permit issued.

- (d) The county clerk or designee shall upon the filing of any application, revocation or suspension of an alcoholic beverage license or any decision concerning same ensure the timely distribution of a copy of same to the board of commissioners, county manager, sheriff and code enforcement officer. The county attorney shall be given a copy of documents pertaining to revocation or suspension or any other applications or documents as may be determined by the alcoholic beverage commission.
- (e) The alcoholic beverage commission shall perform such other duties and have such other power and authority provided by statute and this chapter.

Sec. 6-157. - Compensation.

All members of the alcoholic beverage commission shall be paid such compensation as is established by the board of commissioners and may also be reimbursed for actual expenses incurred in connection with their official duties.

Secs. 6-158—6-159. - Reserved.

ARTICLE VII. - VARIANCES

Sec. 6-160. - Variances.

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

- (2) To allow the use of property in a manner or for a purpose not authorized by the statutes, codes or policies.
- (e) *Application requirements.* The applicant or duly authorized agent shall file an application for variances with the alcoholic beverage commission on the prescribed form. A complete application shall consist of:
 - (1) Variance request form;
 - (2) Copy of code section from which the variance is being requested;
 - (3) Correspondence clearly stating the basis for the variance request;
 - (4) Supporting documentation necessary to give the alcoholic beverage commission a clear understanding of the request.
 - (5) A review fee of \$100.00.
- (f) *Appeal to the board of commissioners.* Decisions or actions of the alcoholic beverage commission are subject to an appeal to the board of commissioners. However, the alcoholic beverage commission's action or decision shall remain in full force and effect pending such appeal.
- (g) *Conditions.*
 - (1) Reasonable conditions may be imposed in connection with the granting of a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this chapter.
 - (2) Guarantees and evidence shall be required that such conditions are and will continue to be in compliance.
- (h) *Compliance with conditions approval.* Adherence to the approved plans and compliance with conditions imposed in the variance are required. Any departure from conditions of approval constitutes a violation of this chapter.
- (i) *Vested interest in approved variances.* A valid variance supersedes conflicting provisions or amendments unless specifically provided by the provisions of this chapter or the conditions.
- (j) *Investigations and reports.* The alcoholic beverage commission shall make an investigation to provide necessary information to insure that the action on each application is consistent with the variance criteria. Any report of such investigation shall be included in the application file.
- (k) *Revocation.* Variances shall become invalid if not exercised within one year of the date of approval or if there is a change in ownership not otherwise noted and approved at the time of the granting of the variance.
- (l) *Limitations on reapplication.* The alcoholic beverage commission shall not hear denied applications for the same or substantially similar variance application until a period of six months has elapsed.

ARTICLE VIII. - APPEALS

Sec. 6-161. - Appeals.

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

-End of Resolution 2016-20-

Mr. Tom O'Bryant presented proposed revisions to the White County Soil Erosion Sedimentation and Pollution Control Ordinance (White County Code, Chapter 30, Article II). He stated that the revisions had been made to the State of Georgia's model ordinance and were required to be adopted by the County in order to maintain the County's ENS permitting authority.

Upon a motion made by Commissioner Bryant, seconded by Commissioner Nix there was a unanimous vote to adopt the following revisions to the White County Soil Erosion Sedimentation and Pollution Control Ordinance (County resolution No. 2016-22).

**WHITE COUNTY BOARD OF COMMISSIONERS
ORDINANCE NO. 2016-22**

**AN ORDINANCE TO AMEND THE OFFICIAL CODE OF WHITE COUNTY,
GEORGIA,
CHAPTER 30 – ENVIRONMENTAL
ARTICLE II – SOIL EROSION SEDIMENTATION AND POLLUTION CONTROL**

WHEREAS, the White County Board of Commissioners wishes to revise portions of the Official Code of White County as it related to various section of the Soil Erosion Sedimentation and Pollution Control regulations.

NOW THEREFORE, BE IT RESOLVED by the County Commissioners of White County it is hereby resolved by authority of the same that the regulations be revised as follows.

The effective date of this amendment shall be January 1, 2017.

ADOPTED, this 28th day of November, 2016.

WHITE COUNTY BOARD OF COMMISSIONERS

s/Travis C. Turner
Travis C. Turner, Chairman

s/Terry D. Goodger
Terry D. Goodger, District 1

s/Lyn Holcomb
Lyn Holcomb, District 2

s/Edwin Nix
Edwin Nix, District 3

s/Craig Bryant
Craig Bryant, District 4

Attest:

s/Shanda Murphy
Shanda Murphy, County Clerk

ARTICLE II. – SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

Sec. 30-31. – Title.

This article will be known as “White County Soil Erosion, Sedimentation and Pollution Control Ordinance.”

Sec. 30-32. – Definitions.

The following definitions shall apply in the interpretation and enforcement of this article, unless otherwise specifically stated:

Best management practices (BMPs). These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the “Manual for Erosion and Sediment Control in Georgia,” published by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

Board. The board of natural resources.

Buffer. The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

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Coastal Marshlands. Shall have the same meaning as in O.C.G.A. 12-5-282.

Certified personnel. A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Commission. The Georgia Soil and Water Conservation Commission (GSWCC).

CPESC. Certified professional in erosion and sediment control with current certification by **EnviroCert, Inc. Certified Professional in Erosion and Sediment Control Inc., a corporation registered in North Carolina**, which is also referred to as CPESC or CPESC, Inc.

Cut. A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as “excavation.”

Department. The department of natural resources.

Design professional. A professional licensed by the State of Georgia in the field of: Engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by **EnviroCert, Inc. Certified Professional in Erosion and Sediment Control Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.**

Director. The director of the environmental protection division of the department of natural resources or an authorized representative.

District. The Upper Chattahoochee River Soil and Water Conservation District, Cleveland, White County, Georgia.

Division. The environmental protection division (EPD) of the department of natural resources.

Drainage structure. A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

Erosion. The process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion, sedimentation and pollution control plan. A plan required by the Erosion and Sedimentation Act, O.C.G.A. ch. 12-7, that includes, as a minimum, protections at least as stringent as the state general permit, best management practices, and requirements in subsection 30-34© of this article.

Fill. A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.

Final stabilization. All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, **or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding crop of annual vegetation and seeding of target crop perennials appropriate for the region). Or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: Planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region.** Final stabilization applies to each phase of construction.

Finished grade. The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Grading. Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Ground elevation. The original elevation of the ground surface prior to cutting or filling.

Land-disturbing activity. Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging,

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grading, excavating, transporting, and filling of land but not including agricultural practices as described in subsection 30-33(5).

Larger common plan of development or sale. A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Local issuing authority. The governing authority of White County, Georgia as certified pursuant to O.C.G.A. § 12-7-8(a). Also sometimes referred to as “issuing authority.”

Metropolitan River Protection Act (MRPA). A state law referenced as O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Natural ground surface. The ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU). Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely-divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.

NOI. A notice of intent form provided by EPD for coverage under the state general permit.

NOT. A notice of termination form provided by EPD to terminate coverage under the state general permit.

Operator. The party or parties that have: (1) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (2) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.

Outfall. The location where stormwater in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

Permit. The authorization necessary to conduct a land-disturbing activity under the provisions of this article.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

Phase or phased. Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

Project. The entire proposed development project regardless of the size of the area of land to be disturbed.

Properly designed. Designed in accordance with the design requirements and specifications contained in the “Manual for Erosion and Sediment Control in Georgia” (manual), published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the manual as approved by the commission up until the date of NOI submittal.

Roadway drainage structure. A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Sediment. Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.

Sedimentation. The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Soil and water conservation district-approved plan. An erosion and sedimentation control plan approved in writing by the Upper Chattahoochee River Soil and Water Conservation District.

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Stabilization. The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

State general permit. The National Pollution Discharge Elimination System (NPDES) general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state’s authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq., and O.C.G.A. § 12-5-30(f).

State waters. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural erosion and sedimentation control practices. Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps, etc. Such practices can be found in the publication “Manual for Erosion and Sediment Control in Georgia.”

Trout streams. All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq., and in the rules and regulations for water quality control, chapter 391-3-6 at www.gaepd.gov. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Vegetative erosion and sedimentation control measures. Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing longterm vegetative cover; or
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication “Manual for Erosion and Sediment Control in Georgia.”

Watercourse. Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 30-33. – Exemptions.

This article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. § 12-4-72, “The Georgia Surface Mining Act of 1968;”
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences and other related activities which result in minor soil erosion;

- (4) The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of O.C.G.A. § 12-7-6(b) and the buffer zones provided by this paragraph shall be enforced by the issuing authority;
- (5) Agricultural operations as defined in O.C.G.A. § 1-3-3, “definitions,” to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of subsection 30-34(c) of this article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the Natural resources conservation service (NRCS) of the United States Department of Agriculture;
- (8) Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, “state waters” excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by paragraphs (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section;
- (9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the Georgia Highway Authority, or the state road and tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of department of transportation or state tollway authority which disturb five or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the department of transportation, the Georgia Highway Authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority. The local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

- (10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power: except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- (11) Any public water system reservoir.

Sec. 30-34. – Minimum requirements for erosion, sedimentation, and pollution control using best management practices.

- (a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this article shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of subsections 30-34(b) and (c) of this article. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with the requirements of this article and the NPDES general permit.
- (b) *Minimum requirements/BMPs.*
 - (1) Best management practices as set forth in subsections 30-34(b) and (c) of this article shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the “Georgia Water Quality Control Act.” As used in this subsection, the terms “proper design” and “properly designed” mean designed in accordance with the hydraulic design specifications contained in the “Manual for Erosion and Sediment Control in Georgia” specified in O.C.G.A. § 12-7-6(b).
 - (2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the “Georgia Water Quality Control Act,” for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This paragraph shall not apply to any land-disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
 - (3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the “Georgia Water Quality Control Act,” for each day on which such failure occurs.

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- (4) The director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.
 - (5) The local issuing authority may set more stringent buffer requirements than stated in C. 15, 16 and in light of O.C.G.A. § 12-7-6(c).
- (c) The rules and regulations or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et seq., for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the “Manual for Erosion and Sediment Control in Georgia,” published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 - (2) Cut-fill operations must be kept to a minimum;
 - (3) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
 - (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
 - (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
 - (6) Disturbed soil shall be stabilized as quickly as practicable;
 - (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
 - (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
 - (9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;
 - (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
 - (11) Cuts and fills may not endanger adjoining property;
 - (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
 - (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
 - (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection 30-34(b)(2) of this article;
 - (15) Except as provided in paragraph (16) ~~and (17)~~ of this subsection, there is established a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; **or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair**; or along any ephemeral stream. As used in this

provision, the term “ephemeral stream” mean a stream: That under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year round; for which groundwater is not a source of water; and for which runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the “Georgia Water Quality Control Act,” shall remain in force unless a variance is granted by the director as provided in this paragraph. The following requirements shall apply to any such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) stream crossings for water lines; or (ii) stream crossings for sewer lines.
- (16) There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as “trout streams” pursuant to Article 2 of Chapter 5 of Title 12, the “Georgia Water Quality Control Act,” except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner’s property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities; provided that they occur at an angle; as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) stream crossings for water lines; or (ii) stream crossings for sewer lines.
- (d) Nothing contained in O.C.G.A. § 12-7-1 et seq. shall prevent the local issuing authority from adopting rules and regulations or resolutions which contain stream buffer requirements that exceed the minimum requirements in subsections 30-34(b) and (c) of this article.

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- (c) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

Sec. 30-35. – Application/permit process.

- (a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, subdivision ordinance, flood damage prevention ordinance, this article, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the property owner and/or operator are the only parties who may obtain a permit.
- (b) *Application requirements.*
 - (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of White County, Georgia without first obtaining a permit from the planning department to perform such activity and providing a copy of notice of intent submitted to EPD if applicable.
 - (2) The application for a permit shall be submitted to the planning department and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection 30-35© of this article. Soil erosion and sedimentation control plans shall conform to the provisions of subsections 30-34(b) and (c) of this article. Applications for a permit will not be accepted unless accompanied by two copies of the applicant's soil erosion and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with EPD Rule 391-3-7-.10.
 - (3) The following fees shall be charged for each application:
 - a. For projects involving five acres or less: \$100.00;
 - b. For projects involving more than five acres up to 25 acres: \$250.00;
 - c. For projects involving more than 25 acres; \$250.00 + \$10.00 per acre for each acre over 25 or fraction thereof, with a maximum fee being \$1,000.00.
 - (4) In addition to the local permitting fees; fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5) provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a) half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17(9) or (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
 - (5) Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. The district shall approve or disapprove a plan within 35 days of receipt. Failure of the district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the issuing authority. No permit will be issued unless the plan has been approved by the District, and any variances required by subsections 30-34(c)(15) and (16) and bonding, if required as per subsection 30-35(b)(7), have been obtained. Such review will not be required if the issuing authority and the district have entered into an agreement which allows the issuing authority to conduct such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.

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- (6) If a permit applicant has had two or more violations of previous permits, this article section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the local issuing authority may deny the permit application.
 - (7) The local issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this article or with the conditions of the permit after issuance, the local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the local issuing authority with respect to alleged permit violations.
- (c) *Plan requirements.*
- (1) Plans must be prepared to meet the minimum requirements as contained in subsections 30-34(b) and (c) of this article, or through the use of more stringent alternate design criteria which conform to sound conservation and engineering practices. The “Manual for Erosion and Sediment Control in Georgia” is hereby incorporated by reference into this article, with a copy of said manual available for inspection in the office of the planning department. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.
 - (2) Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.
- (d) *Permits.*
- (1) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the local issuing authority of a completed application, providing requirements as developed by the variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
 - (2) No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the district and the local issuing authority has affirmatively determined that the plan is in compliance with this article, any variances required by subsections 30-34©(15) and (16) are obtained, bonding requirements, if necessary, as per subsection 30-35(b)(7) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the local issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
 - (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this article, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
 - (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
 - (5) The permit may be suspended, revoked, or modified by the local issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

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- (6) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. § 12-7-7(f)(1).

Sec. 30-36. – Inspection and enforcement.

- (a) The county building inspector or other designated agent of the county will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate both primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article.
- (b) The county building inspector or other designated agent of the county shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (c) No person shall refuse entry or access to any authorized representative or agent of the issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (d) The district or the commission or both shall semi-annually review the actions of counties which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The district or the commission or both may provide technical assistance to any county for the purpose of improving the effectiveness of the county's erosion, sedimentation and pollution control program. The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.
- (e) The division may periodically review the actions of counties which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county certified pursuant to O.C.G.A. § 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7©, the division shall notify the governing authority of the county in writing. The governing authority of any county so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county as a local issuing authority.

Sec. 30-37. – Penalties and incentives.

- (a) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this article without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the issuing authority.
- (b) *Stop-work orders.*

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- (1) For the first and second violations of the provisions of this article, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the local issuing authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the director or local issuing authority shall issue an immediate stop-work order in lieu of a warning;
 - (2) For a third and each subsequent violation, the director or the local issuing authority shall issue an immediate stop-work order; and
 - (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred;
 - (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop-work order shall be issued by the local issuing authority or by the director or his or her designee. All such stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop-work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
- (c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection 30-35(b)(7). The issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- (d) *Monetary penalties.* Any person who violates any provisions of this article, or any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director or the issuing authority issued as provided in this article shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this article, notwithstanding any provisions in any local act regarding the county to the contrary, the White County Magistrate Court shall be authorized to impose a penalty not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

Sec. 30-38. – Education and certification.

- (a) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.
- (b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- (c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this article.

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- (d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in O.C.G.A. § 12-7-19(b)(4) and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

Sec. 30-39. – Administrative appeal.

- (a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the issuing authority through the planning department or other designated agent upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any article; is subject to appeal. The request for such appeal shall include specific information regarding the nature of the appeal, the basis for the appeal, statute or code references, and supporting documentation. The receipt of a notice of appeal shall entitle the person submitting the plan or holding the permit to a hearing before the board of commissioners within 30 days after receipt by the issuing authority of written notice of appeal.
- (b) *Judicial review.* Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his administrative remedies shall have the right to appeal de novo to the Magistrate’s Court of White County, Georgia by filing a notice of appeal with said court within 30 days of the board’s decision. The decision of the Magistrate’s Court may be appealed by writ of certiorari granted by the White County Superior Court within 30 days of the Magistrate Court judgment.

Sec. 30-40. – Effectivity, validity and liability.

- (a) *Effectivity.* This article shall become effective upon passage.
- (b) *Validity.* If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this article.
- (c) *Liability.*
 - (1) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the issuing authority or district for damage to any person or property.
 - (2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.
 - (3) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved hereunder or pollute any waters of the state as defined thereby.

Secs. 30-41—30-100. – Reserved.

-End of Resolution 2016-22-

Mr. David Murphy, Director of Public Safety, presented the bid results for a 6x6 All-Terrain Vehicle (ATV) – stating that following advertising and contacting several potential vendors only one (1) bid was received in the amount of \$16,047.85 from Gainesville Motor Sports. Mr. Murphy explained that the purchase of the vehicle would be paid for by Homeland Security Grant Funds.

Upon a motion made by Commissioner Nix, seconded by Commissioner Holcomb there was a unanimous vote to approve the purchase of a 6x6 ATV from Gainesville Motor Sports for the

White County Fire Department in the amount of \$16,047.85 – to be paid for with Homeland Security Grant Funding.

Upon a motion made by Commissioner Holcomb, seconded by Commissioner Bryant there was a unanimous vote to approve the following surplus resolution (County resolution No. 2012-23) for online auction of a 2004 Chevrolet 3500 Box Truck assigned to the White County Fire Department.

WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2016- 23

TO DECLARE CERTAIN PROPERTY OWNED BY WHITE COUNTY TO BE SURPLUS PROPERTY; TO PROVIDE FOR THE DISPOSAL OF SAID PROPERTY BY ON-LINE AUCTION THROUGH GOVDEALS; TO PROVIDE FOR ADVERTISING OF SAID DISPOSITION OF SAID PROPERTY; AND TO AUTHORIZE A REPRESENTATIVE OF WHITE COUNTY TO EXECUTE ANY TITLE TRANSFERS AND BILLS OF SALE ON THE PROPERTY.

WHEREAS, the Board of Commissioners of White County have determined that certain County-owned property is surplus; and

WHEREAS, the Board of Commissioners of White County desires to dispose of said property through the government on-line auction and to give public notice of said disposition;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of White County, Georgia, and it is hereby resolved by the authority of the same as follows:

-1-

The Board of Commissioners of White County hereby declares that the property described in Exhibit "A" attached hereto and incorporated herein by reference is surplus and shall be disposed of by the county by government on-line auction to the highest responsible bidder for each item. All surplus personal property will be sold "as is" and must be removed from the county property by the successful bidder within ten (10) days from the award of the bid, except as otherwise provided in Exhibit "A."

-2-

The Board of Commissioners of White County reserves the right to refuse any and all bids on said property.

-3-

The County Manager is hereby authorized to execute any title transfers and bills of sale to the successful bidders on the personal property.

ADOPTED, this 28th day of November, 2016.

Attest:
s/Shanda Murphy
County Clerk

WHITE COUNTY BOARD OF COMMISSIONERS
s/Travis C. Turner

Travis C. Turner, Chairman

WHITE COUNTY
SURPLUS PROPERTY
TO BE SOLD "AS IS/WHERE IS"
-Exhibit A-

0683	2004	CHEVROLET	EXPRESS CUTAWA BOX TRUCK	FIRE DEPT
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Upon a motion made by Commissioner Bryant, seconded by Commissioner Goodger there was a unanimous vote to approve a \$5,000.00 disbursement to the Sautee Nacoochee Community Association (SNCA) for marketing of the WinterFest Arts Tour in February 2017.

Chairman Turner stated that although the Board is in support of the events which are held throughout the year, going forward the disbursements from Hotel / Motel Tax needed to be programmed into the Fiscal Year budget since these funds reduce the amount transferred from the Hotel / Motel Tax Fund to General Fund.

Upon a motion made by Commissioner Goodger, seconded by Commissioner Nix there was a unanimous vote to approve the following resolution (County Resolution No. 2016-24) for an adjustment to the Fiscal Year 2017 Budget related to the previously proposed revisions to the Fair Labor Standards Act (FLSA) which were scheduled to be effective December 1, 2016.

WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2016- 24

A RESOLUTION

WHEREAS, there is a need to make year-end amendments to White County's Budget for Fiscal Year 2017.

NOW, THEREFORE, the Budget of White County is hereby amended to allow the changes as set out on the attached.

RESOLVED, this 28th day of November, 2016.

WHITE COUNTY BOARD OF COMMISSIONERS

s/Travis C. Turner

Travis C. Turner, Chairman

s/Terry D. Goodger

Terry D. Goodger, District 1

s/Lyn Holcomb

Lyn Holcomb, District 2

Attest: s/Shanda Murphy
County Clerk

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s/Edwin Nix

Edwin Nix, District 3

s/Craig Bryant

Craig Bryant, District 4

Fund 100 GENERAL FUND	Department 115 BUILDING MAINTENANCE	FY2017 Approved Budget	Expanded & New	Difference / Increase (Annual)	For Remaining FY17
Expenses					
115.51.1100.000	SALARIES & WAGES	187,395.00	198,945.24	\$11,550.24	\$6,737.64
115.51.1122.000	LIFE INSURANCE PREM	450.00	477.47	\$27.47	\$16.02
115.51.1124.000	SHORT TERM DISABILITY	727.00	771.30	\$44.30	\$25.84
115.51.1125.000	LONG TERM DISABILITY	693.00	736.10	\$43.10	\$25.14
115.51.1130.000	SOCIAL SECURITY	11,618.00	12,334.60	\$716.60	\$418.02
115.51.1140.000	MEDICARE	2,717.00	2,884.71	\$167.71	\$97.83
115.51.1150.000	RETIREMENT CONTRIBUTIONS	8,940.00	9,289.89	\$349.89	\$204.10
115.51.1170.000	WORKERS COMP PREM	7,718.00	8,194.13	\$476.13	\$277.74

Totals:

\$13,375.44

\$7,802.34

Fund 100 GENERAL FUND	Department 145 HUMAN RESOURCES	FY2017 Approved Budget	Expanded & New	Difference / Increase (Annual)	For Remaining FY17
Expenses					
145.51.1100.000	SALARIES & WAGES	37,936.00	39,852.80	\$1,916.80	\$1,118.13
145.51.1110.000	OVERTIME		2,000.00	\$2,000.00	\$2,000.00
145.51.1122.000	LIFE INSURANCE PREMIUM	92.00	95.96	\$3.96	\$2.31
145.51.1124.000	SHORT TERM DISABILITY	148.00	154.51	\$6.51	\$3.80
145.51.1125.000	LONG TERM DISABILITY	141.00	147.46	\$6.46	\$3.77
145.51.1130.000	SOCIAL SECURITY	2,353.00	2,594.87	\$241.87	\$141.09
145.51.1140.000	MEDICARE	551.00	606.87	\$55.87	\$32.59
145.51.1150.000	RETIREMENT CONTRIBUTIONS	2,200.00	2,200.00	\$0.00	\$0.00
145.51.1170.000	WORKERS COMP	269.00	296.08	\$27.08	\$15.80

Totals:

\$4,258.55

\$3,317.49

Fund 100 GENERAL FUND	Department 590 Park & Rec.	FY2017 Approved Budget	Expanded & New	Difference / Increase (Annual)	For Remaining FY17
Expenses					
590.51.1100.000	SALARIES & WAGES	300,218.00	303,778.84	\$3,560.84	\$2,077.16
590.51.1122.000	LIFE INSURANCE PREMIUM	484.00	492.49	\$8.49	\$4.95
590.51.1124.000	SHORT TERM DISABILITY	782.00	795.57	\$13.57	\$7.92
590.51.1125.000	LONG TERM DISABILITY	746.00	759.26	\$13.26	\$7.73
590.51.1130.000	SOCIAL SECURITY	18,613.00	18,834.29	\$221.29	\$129.09
590.51.1140.000	MEDICARE	4,353.00	4,404.79	\$51.79	\$30.21
590.51.1150.000	RETIREMENT CONTRIBUTIONS	3,108.00	3,108.00	\$0.00	\$0.00

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590.51.1170.000	WORKERS COMP PREM	8,802.00	8,906.44	\$104.44	\$60.92
Totals:				\$3,973.68	\$2,317.98

Grand Total General Fund Increase **\$21,607.67** **\$13,437.81**

Upon a motion made by Commissioner Bryant, seconded by Commissioner Goodger there was a unanimous vote to appoint Mr. Bill Schofield to the White County Board of Assessors for a three (3) year term to expire December 31, 2019 (previously held by Mr. Adrian Medley).

Upon a motion made by Commissioner Nix, seconded by Commissioner Holcomb there was a unanimous vote to reappoint Mr. Dickie Nix and Mr. Erford Harrison to the White County Alcohol Beverage Commission (ABC) and to appoint Mr. Howard Stoddard to the ABC (position previously held by Ms. Jane Ann Allison) all for a two (2) year term to expire January 30, 2019.

Upon a motion made by Commissioner Goodger, seconded by Commissioner Bryant there was a unanimous vote to reappoint Mr. Marc Greene to the White County Building Authority for a one (1) year term to expire December 31, 2017.

Upon a motion made by Commissioner Holcomb, seconded by Commissioner Bryant there was a unanimous vote to reappoint Mr. Emmett Shotts (Consumer Representative) and Dr. James Murphey (Physician) to the White County Board of Health for a six (6) year term.

Upon a motion made by Commissioner Nix, seconded by Commissioner Goodger there was a unanimous vote to reappoint Mr. Charlie Thomas and Mr. Buddy Bellflower to the White County Planning Commission for a three (3) year term to expire December 31, 2019.

The Board expressed their appreciation to all who are willing to serve on Boards and Commissions within the community.

Chairman Turner asked if Mr. Nathan Morgan or a designee had arrived related to the land use application filed by Mr. Nathan Morgan to request a conditional use permit in order to place a single family dwelling (a mobile home) at 176 Mount Scenic Drive Cleveland – Tax Map & Parcel 051A-086, being 1.875 acres in the C-2 Highway District. Mr. O’Bryant stated that no one was present.

Chairman Turner advised that the Board would proceed with the Public Hearing as advertised, however the application would not be considered for a vote until December 5, 2016 when a representative could be present.

Chairman Turner opened up the floor for any comments in support of the land use application filed by Mr. Nathan Morgan to request a conditional use permit in order to place a single family dwelling (a mobile home) at 176 Mount Scenic Drive Cleveland – Tax Map & Parcel 051A-086, being 1.875 acres in the C-2 Highway District. Following three (3) requests for any comments in support – it was determined no one had comments in support of the application.

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Chairman Turner opened up the floor for any comments in objection to the land use application filed by Mr. Nathan Morgan to request a conditional use permit in order to place a single family dwelling (a mobile home) at 176 Mount Scenic Drive Cleveland – Tax Map & Parcel 051A-086, being 1.875 acres in the C-2 Highway District. Following three (3) requests for any comments in objection – it was determined no one had comments in objection to the application. The Public Hearing was closed.

The agenda for the Monday, December 5, 2016 Regular Meeting was reviewed and approved.

Upon a motion made by Commissioner Holcomb, seconded by Commissioner Bryant there was a unanimous vote to adjourn the meeting.

The minutes of the November 28, 2016 Work Session and Called Meeting are hereby stated as approved this 5th day of December, 2016.

WHITE COUNTY BOARD OF COMMISSIONERS

s/Travis C. Turner
Travis C. Turner, Chairman

s/Terry D. Goodger
Terry D. Goodger, District 1

s/Lyn Holcomb
Lyn Holcomb, District 2

s/Edwin Nix
Edwin Nix, District 3

s/Craig Bryant
Craig Bryant, District 4

s/Shanda Murphy
Shanda Murphy, County Clerk