

## MINUTES

The Spalding County Board of Commissioners held their Regular Meeting in Room 108 in the Courthouse Annex, Monday, October 7, 2013, beginning at 6:00 p.m. with Chairman Gwen Flowers-Taylor presiding. Commissioners Raymond Ray, Rita Johnson and Bart Miller were present. Also present were County Manager William P. Wilson, Jr., Attorney Stephanie Windham and County Clerk, Ex-Officio Ricky L. Clark Jr. to record the minutes. Vice Chairman Samuel Gardner was not present due to illness.

- I. OPENING (CALL TO ORDER) – Chairman, Gwen Flowers-Taylor
- II. INVOCATION – Randy Valimont, Senior Pastor, First Assembly of God
- III. PLEDGE TO FLAG – led by Commissioner Raymond Ray

*Motion/Second by Ray/Johnson to amend agenda by adding the following items enumerated as numbers 10, 11 & 12 respectively:*

- 10. Consider amendment to the Spalding County Parks & Recreation Resolution establishing Rules & Regulations by adding Appendix V- Concussion Policy.*
- 11. Consider transfer of approved surplus vehicle to the Program Challenge Program.*
- 12. Consider changing unpaid holiday originally approved for January 1, 2014 (New Year's Day) to May 26, 2014 (Memorial Day).*

*Motion carried by a vote of 4-0.*

- IV. PRESENTATIONS/PROCLAMATIONS – NONE
- V. PRESENTATIONS OF FINANCIAL STATEMENTS- NONE
- VI. CITIZEN COMMENT

Speakers must sign up prior to the meeting and provide their names, addresses and topic in which they will speak on. Speakers must direct all comments to the Board only. Speakers will be allotted three (3) minutes to speak on their chosen topics and relate to matters pertinent to the jurisdiction of the Board of the Commissioners. No questions will be asked by any of the commissioners during citizen comments. Outbursts from the audience will not be tolerated. Common courtesy and civility are expected at all times during the meeting.

**Jean Hannon- 319 Horseshoe Bend Griffin, Georgia**

Ms. Hannon advised that she has been a resident for over 40 years and is concerned about the new proposed airport in the eastern portion of the county. Ms. Hannon has been told that there as and widening project for McDonough Road and she would like to know the plan.

**Rose Postell- 304 Horseshoe Bend Circle Griffin, Georgia**

Ms. Postell stated that she has been a resident since 1973 and her main concern is finding out more information about the proposed airport.

VII. MINUTES –

- 1. Consider approval of Minutes of the following meetings: September 16, 2013 Extraordinary Session; September 23, 2013 Public Hearing (1); September 23, 2013 Public Hearing (2); September 26, 2013 Special Called Meeting; September 26, 2013 Zoning Public Hearing; October 1, 2013 Public Hearing; October 1, 2013 Special Called Meeting (Adoption of Tax Levy).

*Motion/Second by Ray/Johnson to approve aforementioned minutes. Motion carried by a vote of 4-0.*

VIII. CONSENT AGENDA –

- 1. Consider approval, on second reading, Ordinance #2013-13 to amend the Spalding County Code of Ordinances, Part VI, Licensing and Regulation, Chapter 1, Business and Occupations by deleting Article A: Sale of Malt Beverages and Wine, Article B: Retail Liquor Package Stores, and Article C: Sale of Alcoholic

**Beverages for Consumption on Premises in their entirety and adding a new  
Article A: Sale of Alcoholic Beverages.**

**RESOLUTION AMENDING  
THE CODE OF ORDINANCES OF SPALDING COUNTY, GEORGIA**

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County, Georgia;

WHEREAS, the Board of Commissioners of Spalding County have determined that it is in the best interests of the citizens of Spalding County, Georgia for certain amendments to be made to the Spalding County Code of Ordinances;

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Spalding County Code of Ordinances is of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

WHEREAS, it is found by the Board of Commissioners of Spalding County, Georgia that there are within Spalding County, Georgia businesses which manufacture, distribute, sell, handle, or otherwise deal in or possess alcoholic beverages;

WHEREAS, the businesses of manufacturing, distributing, selling, handling, and otherwise dealing in or possessing alcoholic beverages are declared to be privileges and not rights under O.C.G.A. § 3-3-1;

WHEREAS, the law of the state of Georgia requires that such privilege shall not be exercised in any county of this state without a permit or license from the governing authority of said county;

WHEREAS, it is found by the Board of Commissioners of Spalding County, Georgia that a public necessity exists for the regulation of businesses engaged in manufacture, distribution, selling, handling and otherwise dealing in alcoholic beverages;

WHEREAS, it is the intention of the Board of Commissioners of Spalding County, Georgia to fully exercise its power to regulate such businesses as required by O.C.G.A. § 3-3-1, *et seq.*;

NOW THEREFORE, it shall be and is hereby RESOLVED by the Board of Commissioners of Spalding County, Georgia that the Spalding County, Georgia Code of Ordinances shall be and is hereby amended, as follows:

Section 1: The following provisions shall be deleted from the Spalding County, Georgia Code of Ordinances: "Part VI, Chapter 1, Articles A, B and C.

Section 2: The following provision shall be added to the Spalding County, Georgia Code of Ordinances to appear as "Part VI, Chapter 1, Article A: Spalding County Alcoholic Beverages:"

**Alcoholic Beverages**

**Article I. General**

**A. Title.**

This article shall be known and referred to as the "Spalding County Alcoholic Beverages Ordinance."

## **B. 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:

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

2. *Alcoholic beverage* means all alcoholic, distilled spirits, beer, malt beverage, wine, or fortified wine.

3. *Bar* means an establishment that is primarily devoted to selling and dispensing alcoholic beverages by the drink for on-premises consumption and that does not meet the definition of a restaurant, lounge, hotel, or brewpub. The bar must make food available to its patrons.

4. *Bona fide nonprofit civic organization* means a nonprofit corporation or entity which is exempt from federal income tax pursuant to the provisions of subsections (c), (d) or (e) of 26 U.S.C. § 501.

5. *Brewpub* means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form.

6. *Brown bagging* means the act of patrons entering any restaurant, private club, or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patron's own alcoholic beverage therein.

7. *Caterer* means any person who prepares food and furnishes non-alcoholic beverages for consumption off the premises of a food service facility or restaurant for a special event.

8. *Close corporation* means a domestic corporation which does not have:

- a. More than five stockholders;
- b. A corporation as a shareholder; or
- c. More than one class of stock.

9. *County* means Spalding County, Georgia, a political subdivision of the state of Georgia.

10. *Distilled spirits* means any alcoholic beverage obtained by distillation and containing more than 21 percent alcohol by volume, including but not limited to all fortified wines.

11. *Eating establishment* means, for purposes of this chapter, an establishment which is licensed to sell distilled spirits, malt beverages, or wine and which derives at least

50% (fifty percent) of its total annual gross food and beverage sales from the sale of prepared meals or food.

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

13. *Governing Authority* means the Board of Commissioners of the County.

14. *Growler* means glass or plastic bottle or jug, not less than 12 ounces or more than 64 ounces, used to hold specialty malt beverages such as beer and hard cider, which are dispensed from a tap and sealed airtight before being sold to the customer for off-premise consumption.

15. *Hotel or motel* means any building or other structure maintained and held out to the public at which sleeping accommodations are offered for adequate pay to travelers and guests, whether transient or permanent.

16. *Individual* means a natural person, not a corporation.

17. *In-room service* means:

a. The delivery of alcoholic beverages in unbroken packages by an employee of a hotel or motel to a registered guest's room when such alcoholic beverages have been ordered by the guest and when the guest shall be responsible for payment; or

b. The provision of a cabinet or other facility located in a hotel or motel guest room which contains alcoholic beverages and which is provided to the guest and which is accessible by lock and key only to the guest for the sale of the alcoholic beverages contained therein.

18. An individual has an *Interest in license* if he/she:

a. Is the owner of the license.

b. Is the co-owner of the license.

c. Is a partner in any partnership that owns an interest in the license.

d. Is a stockholder in any corporation which owns an interest in the license.

e. Shares in any income or corpus of any trust fund having any interest in the license.

19. *License* means the grant of authority by the County to sell or for consumption on the premises of the alcoholic beverage specified in the license.

20. *License representative* means a resident of Georgia and a manager of the business operated by the Licensee who is on the premises on a regular basis.

21. *Licensee* means a person holding a license issued under the provisions of this article. If the business applying for the license is:

a. a sole proprietorship, the licensee shall be that individual.

b. to be operated by a partnership, the licensee shall be an individual who is a partner; or, if all partners are nonindividuals, then the licensee shall be an individual who is an officer of any corporation which is a partner, or an individual who is an officer, manager or agent of any unincorporated entity which is a partner.

c. to be operated by a corporation or similar business entity, the licensee shall be an officer of that entity.

If no potential licensee under the requirements of this section is a resident of the state of Georgia and a manager of the business who is on the premises on a regular basis, the licensee may be the license representative of the business.

22. *Liquor* means distilled spirits, as defined herein.

23. *Lounge* means a separate room(s) adjacent and connected to a restaurant, hotel, or private club which constitutes a part thereof. A lounge must meet the following development requirements:

a. All booths, stools and tables shall be unobstructed and open to view;

b. Each lounge shall be air conditioned;

c. It shall have a seating capacity for at least twenty-five people to be served simultaneously;

d. A lounge operated on a different floor in a hotel or in a separate hotel building that is not connected to and adjacent to a hotel restaurant shall be considered a separate establishment and the licensee thereof shall pay an additional annual license fee for each class of alcoholic beverages sold or served therein.

24. *Malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than six percent (6%) alcohol by volume, and including but not limited to ale, porter, brown, stout, lager beer, malt liquor, small beer and strong beer.

25. *Minor* means any person under the age of 21 years.

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

27. *Permitted location* means a building, premises or location for which a permit is required pursuant to this chapter and shall include a premises as defined herein.

28. *Person* means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit. For purposes of this chapter, the term "person" shall include all members of a licensee's family; and the term "family" shall include any person related to the licensee within the first degree of consanguinity and affinity as computed according to the canon law.

29. *Premises* means a definite enclosed interior or outside area with controlled ingress and egress where distilled liquors, alcoholic beverages, malt beverages or wine shall be sold and consumed, or sold by the package to be consumed elsewhere. If the license is for consumption on the premises, no sales, distribution or consumption shall be permitted within any area open to view from any residence located on a public street or road unless the view is obstructed by opaque fencing or landscaping.

30. *Private club* means a nonprofit corporation organized and existing under the laws Georgia, which

a. Has been actively in operation within the County for at least one year immediately prior to the application for a license hereunder,

b. Has at least seventy-five (75) members regularly paying dues monthly, quarterly, semiannually or annually,

c. Is organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any shareholder or member,

d. Owns, hires or leases a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment, and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests, and

e. Has no member or officer, agent or employee of the club who is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages to the club, or its members or guests, beyond the amount of such salary, as may be fixed by its members or its governing board, out of the general revenue of the club.

31. *Private golf club* means a private club as defined herein, which, in addition to those requirements, owns, hires or leases a clubhouse, building or space therein and at least forty acres of land lying and being in Spalding County, Georgia, with at least a nine-hole golf course having grass, trees, fairways, and greens being laid out and constructed on

such land, all for the reasonable use of its members or shareholders.

32. *Private residence* means an occupied house, dwelling or structure in a residential zoning district wherein families reside.

33. *Restaurant*, for purposes of this article, means an established place of business:

a. Where meals with substantial entrees selected by the patron from a full menu are served;

b. Which has adequate facilities and sufficient employees for cooking or preparing and serving such meals for consumption at tables in dining rooms on the premises;

c. Which is licensed to sell distilled spirits, malt beverages, or wine for consumption on the premises; and

d. Which derives at least 50% (fifty percent) of its gross income from the sale of such meals prepared, served, and consumed on the premises.

34. *Retail consumption dealer* means any person who sells alcoholic beverages for consumption on the premises at retail.

35. *Retail package dealer* means any person who sells alcoholic beverages in unbroken packages for consumption off the premises at retail.

36. *Special event or private function* means any organized activity having as its purpose entertainment, recreation and/or education, such as a festival, party, reception, celebration or assembly which occurs or takes place on private or public property.

37. *Wholesaler or wholesale dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail package dealers, or to retail consumption dealers.

38. *Wine* means any alcoholic beverage containing not more than 21 percent (21%) alcohol by volume made from fruits, berries, grapes, or other natural products by natural fermentation. Wine includes but is not limited to all sparkling wines, champagnes, combinations of such beverages, vermouths, sake, natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

### **C. Purpose of chapter.**

The purpose of this chapter is to promote the health and general welfare of the County's citizens; to regulate and control the licensing and sale by the package and by the drink of malt beverages, wine, and distilled spirits; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, and residential areas from the negative secondary effects attributable to establishments that sell malt beverages, wine, and distilled spirits; and to ensure

that only qualified persons obtain licenses for the sale, manufacture or distribution of malt beverages, wine, and distilled spirits.

**D. Compliance with chapter.**

No person shall sell or offer for sale any alcoholic beverages at wholesale, by the package, or for consumption on the premises within the County without first having complied with the provisions of this chapter.

**E. Violations; penalty.**

Any person found guilty of or entering a plea of guilty or nolo contendere to the offense of failing to pay the tax due pursuant to this chapter, either in whole or in part, shall, upon conviction thereof, be punished as provided in Section 1-1007.

**Article II. Licensing**

**A. General.**

1. No person shall engage in the manufacture, sale or distribution of alcoholic beverages in the County without first having obtained a license therefor, provided that wholesalers and distributors maintaining no fixed place of business, warehouse or other facility in the County and possessing a valid state license may make sales and deliveries to licensed package dealers and on-premises consumption dealers without obtaining a license.

2. Except as specifically authorized in this chapter, no person licensed for the sale of a particular class of alcoholic beverages may sell other classes of alcoholic beverages without obtaining the license required therefor.

3. A person licensed to sell distilled spirits for on-premises consumption shall have the right to serve wine and malt beverages by the drink on the premises during the same hours as are permitted under this chapter for the serving of distilled spirits by the drink.

**B. Classification.**

1. Licenses for the sale of alcoholic beverages shall be issued by the County at an annual license fee to be established by the Board of Commissioners for the following:

- a. Retail consumption dealer - distilled spirits;
- b. Retail package dealer - distilled spirits;
- c. Wholesale dealer - distilled spirits;
- d. Retail consumption dealer - malt beverage;

- e. Retail package dealer - malt beverage;
- f. Wholesale dealer - malt beverage;
- g. Retail consumption dealer - wine;
- h. Retail package dealer - wine;
- i. Wholesale dealer - wine.

2. All licenses issued in this article shall constitute a mere grant of a privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this chapter and related laws, applicable provisions of this code and other ordinances and resolutions of the county relating to such business.

3. Both the licensee and any license representative shall be the authorized and duly constituted agent for service of all notices and processes required to be served on or given under this article for any action or proceeding or uses of any nature whatsoever permitted under the provisions of this chapter or under any other provisions of this code.

**C. Nonprofit civic organizations; temporary permits.**

1. Nonprofit civic organizations may qualify for a temporary permit from the Commissioner of the Department of Revenue to sell alcoholic beverages for consumption on the premises for a period not to exceed three days. No more than six permits may be issued to a non-profit organization in any calendar year.

2. An authorized representative of a nonprofit civic organization may apply to the County for a letter certifying the date, time and event location as a condition for seeking a temporary permit from the Commissioner of the Department of Revenue. The County shall not impose a fee or charge for such letter.

**D. Qualifications of applicants.**

1. All licenses shall be subject to the following:

a. Corporations shall apply for a license in the name of the corporation, and the license shall be issued to the corporation. Corporate applicants shall attach to the application a certificate showing compliance with the annual registration requirements from the Secretary of State, corporate division, and showing the name and address of a registered agent for service within the state. For any corporate applicant whose primary business is the operation of an alcoholic beverage package store, the majority stockholder must meet the requirements of an individual applicant under this subsection at the time application is made and at all times during which the license is in effect. For any corporate applicant whose primary business is other than the operation of an alcoholic beverage package store, an agent involved in the active management of the business to be licensed, as designated by corporate resolution, shall meet the requirements of individual applicants under this subsection at the time application is made and at all times during which the license is in effect. Partnerships shall apply for a license in the name of one of the partners, who is a resident of this state, and the license shall be issued in the name of the applicant.

b. In addition to meeting all qualifications for a license under state law, all applicants for licenses, whether original or renewal, must attach to their applications evidence of their good character. No license, whether original or renewal, shall be issued to any person, partnership or corporation organized for pecuniary gain if any individual having an interest either as owner, partner or stockholder, directly or indirectly, beneficial or absolute, or such person's spouse shall have been convicted of or shall have taken a plea of guilty or nolo contendere, once within five years immediately prior to filing, or twice within ten years immediately prior to the filing of the application, to any felony or any violation of any law or administrative regulation regulating the sale, manufacture or distribution of alcoholic beverages, gambling or narcotics. Where the application, whether original or renewal, is for a license to sell alcoholic beverages for on-premises consumption, conviction of an offense for or the taking of the plea of guilty or nolo contendere, once within five years immediately prior to filing, or twice within ten years immediately prior to the filing of the application, to any sex offense as defined by O.C.G.A. § 16-6-1 et seq. shall also disqualify the applicant for license under this section. No license, whether original or renewal, shall be issued to any person, partnership or corporation where an individual having an interest as owner, partner or stockholder, directly or indirectly, beneficial or absolute, shall have been convicted of or shall have taken a plea of guilty or nolo contendere once within five years immediately prior to filing, or twice within ten years immediately prior to the filing of the application, to the offense of driving a motor vehicle under the influence of intoxicating liquor or drugs. The restrictions of this subsection as to stockholders shall apply only to stockholders of privately owned corporations and to stockholders of publicly owned corporations who hold in excess of ten percent of outstanding stock.

c. On-premises consumption licenses shall be issued only to hotel/motels, restaurants, lounges, bars, brewpubs, public clubs, private clubs or private golf clubs.

d. Applicants for renewal licenses must meet all qualifications of applicants for original licenses. Loss of qualifications during the term of a license shall be grounds for revocation or for denial of renewal. Licenses in suspension on the date of expiration shall not be subject to renewal until the terms of the suspension have been lifted.

## **2. Contents of application for license.**

a. All persons desiring to obtain a license under this chapter for the sale of alcoholic beverages shall apply to the County upon forms to be prepared and provided by the Department of Community Development. Such applications shall state:

- i. The location of the proposed business;
- ii. The nature and character of the proposed business;

iii. If the business is to be operated by one or more individuals, the names and address of those individuals;

iv. If the business is to be operated by a partnership, the names and addresses of all partners, the licensee and the license representative;

v. If the business is to be operated by a close corporation, the names and addresses of all officers, directors, stockholders, the licensee and the license representative;

vi. If the business is to be operated by a corporation other than a close corporation, the names and addresses of the registered agent for service of process for the corporation, the licensee and the license representative;

vii. The type of license applied for;

viii. The names and addresses for all persons that have or will have a direct or indirect interest in the business for which the license is sought; and

ix. Such other appropriate information as may be required by the County.

b. The truth of the contents of an application for a license shall be sworn to by licensee and license representative.

c. The application, when filed with the Department of Community Development, shall be accompanied by a processing fee determined by a fee schedule adopted by the Governing Authority. This processing fee is separate from and shall not be credited to the license fee. If an applicant for licensee or license representative has an unsatisfactory background as determined by the Sheriff's Department and an application is submitted for a different licensee or license representative, an additional processing fee must be paid. The processing fee will not be refunded if the requested license is not granted.

### **3. Supporting documentation to be filed with application.**

a. Each applicant under this article shall submit the following documents:

i. The Alcoholic Beverage License application must be completed in its entirety; signed, notarized and submitted in person.

ii. The Business Registration and Occupation Tax Return must be completed.

iii. The Affidavit verifying status of County Public Benefit application must be completed for each application submitted. If the applicant is a permanent resident, a copy of the Permanent Resident Card is needed.

iv. The Private Employer Affidavit must be completed for each application.

v. A copy of the application's identification, which may be a passport, military identification card, driver's license, or any identification card authorized by O.C.G.A. § 40-5-100.

vi. A copy of deed or lease for the premises.

vii. A copy of the Responsible Alcohol Sales and Service Certificate for Owner and Manager (excluding Wholesale Dealer).

viii. The Responsible Alcohol Sales and Service Training Affidavit.

ix. Copy of Environmental Health Report (for Retail Consumption Dealer only).

x. Copy of all form ATT-17, Personnel Statements, filed with the state.

xi. Each application for a license to sell alcoholic beverages shall be accompanied by a certificate from a registered land surveyor showing a scale drawing of the location of the proposed premises and the shortest straight line distance from the premises to any church building, school building, educational building, school grounds, college campus, governmentally owned and operated alcohol treatment center or housing authority property and the property line of any branch of any public library within a radius of 600 feet of the premises. The drawing shall also show the distance to any residentially used structure located within 300 feet of the premises, unless such residence is in a commercial district. Applications for package dealers in distilled spirits shall also show the distance to the nearest distilled spirits package dealer, if any.

b. Each applicant shall also submit the following additional documentation and data in support of the application for license:

i. A fingerprint and background check must be completed at time the initial application is submitted. An updated background check must be completed every two years thereafter, during the license renewal process. The background check for renewal shall coincide with the RASS renewal every two years. New businesses or change of ownership are required to have a new fingerprint and background check. The fingerprint application and background check are performed at the Spalding County Sheriff's Department.

ii. The Building Official and the Fire Marshal will inspect each business at time of application. All Retail Consumption businesses shall be inspected annually.

iii. Upon approval for an alcoholic beverage license from Spalding County, the licensee or license representative must apply for a State of Georgia

alcoholic beverage license providing a copy of the County issued license prior to the sale of alcohol.

b. False information in application.

Any material omission from, or untrue or misleading information in, an original, renewal or transfer application for a license under this chapter shall be cause for the denial or refusal of a license, or for the revocation of a license previously granted. Any failure to notify the Department of Community Development director of the change in any relationship as specified in section II. D (10), ante, within thirty (30) days after such change is made shall likewise constitute due cause for cancellation, revocation or suspension of a license.

#### **4. Denial of license - Hearing**

a. If for any reason the applicant does not satisfy the requirements for a license, the County shall notify the applicant in writing within fifteen (15) days of its decision, stating the reason for the denial and advising the applicant that he may be afforded a hearing with an opportunity to present evidence that such application should be granted.

b. The applicant must notify the County, in writing to the County Manager, of his request for a hearing within ten (10) calendar days.

c. Within ten (10) calendar days of the date of the applicant's request for a hearing, the County shall give notice of the time and place of said hearing to the applicant. Said notice shall be given not less than fifteen (15) days prior to the hearing date.

d. At the hearing, the applicant shall be afforded an opportunity to present evidence and cross-examine witnesses.

e. If the County, after the hearing, is still of the opinion that said applicant is not entitled to a license hereunder, the applicant shall be advised in writing within fifteen (15) days of the decision of the findings upon which such denial is based, and no license shall be granted hereunder to the applicant.

f. The hearing will be held before the Governing Authority.

#### **5. Prohibited distances - Sale of alcoholic beverages near churches, schools, or other sites.**

a. No original retail or wholesale license shall be granted hereunder to any person unless the premises of the proposed location is situated:

i. Six hundred (600) feet or more from the property line from any school ground or college campus;

schools and colleges shall include not only such state, county, city, church and other schools as teach the subjects commonly taught in the common schools and colleges of this state, and shall not include private schools or colleges wherein only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations, karate and other martial arts, performing arts, and other special subjects are taught; or

ii. Three hundred (300) feet or more from any private residence, unless such residence is itself in a commercial district; or

iii. Two hundred (200) feet or more from the property line of any branch of any public library, or

iv. Six hundred (600) feet or more from the property line of any church, synagogue, shrine, or other place used exclusively for religious services, including the chapel of a mortuary or cemetery.

b. The provisions of this section shall not apply to any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the twelve (12) months immediately preceding such application.

c. The provisions of this subsection shall not apply to premises located within any Village Node zoning district when the type license sought is for consumption on the premises.

#### **6. Prohibited distances - Retail consumption near adult entertainment establishments**

No original license shall be granted hereunder to any person for the sale of alcoholic beverages for consumption on the premises unless the property upon which such premises is to be located is one thousand (1,000) feet or more from any parcel of land upon which an adult entertainment establishment, as defined by Spalding County's Ordinance Regulating Sexually Oriented Businesses, is located. For purposes of this section, all distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point of the building or structure used as part of the premises to the closest point on the property line of the parcel of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

#### **7. Prohibited location - Retail Consumption**

No license shall be granted hereunder to any person for the sale of alcoholic beverages for consumption on premises for any premises (including for any other place of business on the property upon which such premises is located):

a. For which a license issued under this chapter has been revoked or for which a license has not been renewed by the County during the twelve-month period preceding the date the application is submitted. The twelve-month period begins on the latter of:

i. The date that the county revoked the license, or the date the County did not renew the license; or

ii. The date of any stay, supersedes or similar court order is lifted or terminated, thereby allowing enforcement of the revocation or the nonrenewal.

b. For which a business is operated for which a license is required pursuant to Spalding County's Ordinance regulating an adult entertainment establishment, whether or not such business has applied for or received a license pursuant to Spalding County's Ordinance regulating an adult entertainment establishment;

c. For which a license issued pursuant to the Georgia Alcoholic Beverage Code O.C.G.A. §§ 3-1-1 through 3-14-1, et seq. has been revoked during the twelve (12) months preceding the date the application is submitted;

d. For which there is a current license issued to a different licensee or for which an application is pending on behalf of another applicant.

## **8. Review of application.**

In reviewing an application under this chapter, the County may utilize the sheriff and other officials with respect to matters within their areas of expertise. All applicants shall furnish such additional data, information and records as may be requested as would be useful in determining whether to approve or reject the application. By filing an application, the applicant agrees to produce for oral interrogation any person who is to have a beneficial interest in the business for which the license is sought or who is to be employed by such business. The failure to provide requested data, information and records or to make those persons specified available for interrogation within a reasonable time shall be grounds for denial of an application.

## **9. Ownership of premises.**

Unless the applicant under this chapter will own the premises from which the business will be conducted, the application shall also disclose the name of each person owning a beneficial interest in the premises and shall state the amount of rental or other fee to be paid, the manner in which the rental or other fee is to be determined, and to whom and at what intervals the rental or other fee is to be paid. The applicant shall also attach a copy of the proposed lease. Applicant shall verify in writing that such lease contains the entire agreement between the parties. No license

shall be issued to an applicant who leases premises under a variable rent system whereby the landlord shares in the profits from the business.

**10. Limitations on interest in licenses.**

No person shall have, own or enjoy any ownership interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage license unless a full description of such interest shall have been furnished to the County at the time of application. The licensee shall have the continuing duty to report to the Community Development Director, in writing, within ten days, any change in any interest in such licensee's business. Failure to report such change in interest shall be grounds for suspension or revocation of the license. A person owning less than ten percent (10%) of the shares of a corporation whose stock is publicly traded shall not, on the fact of stock ownership alone, be deemed to have a beneficial interest in a license held by a corporation.

**11. Privilege nature of license.**

a. All licenses issued under this chapter shall constitute a grant of privilege to carry on or conduct a business covered by such license during the term of the license, subject to the terms and conditions imposed by this chapter and other applicable ordinances of the County and the constitution, laws and regulations of the state and of the United States of America applicable thereto.

b. All licenses issued under this chapter shall have printed on the face the following words:

THIS LICENSE IS A PRIVILEGE CONDITIONAL ON THE HOLDER MEETING ALL STANDARDS FOR SUCH LICENSE AND OPERATING REGULATIONS APPLICABLE THERETO SET OUT IN COUNTY ORDINANCES AND GEORGIA LAW. FAILURE TO MEET SUCH STANDARDS OR TO COMPLY WITH SUCH OPERATING REGULATIONS SHALL SUBJECT THE HOLDER TO THE LICENSE BEING REVOKED FOLLOWING NOTICE AND HEARING.

c. All licenses shall be conspicuously posted in the place of business.

**12. Transferability of licenses.**

a. *Generally.* Licenses issued pursuant to this chapter shall not be transferable except as otherwise provided in this section.

b. *Death.* In case of the death of any person owning a license, or any interest therein, the same may, with the approval of the County and subject to the terms of this chapter, be transferred to the administrator, executor or personal representative of the deceased person, or to the devisees or heirs at law of the deceased person, if such devisees or heirs meet the qualifications contained in this chapter. The license of a deceased person shall be held by his administrator, executor, or personal representative only for the time necessary to complete administration of his estate and to dispose of the license or interest therein. One transfer may be made by the administrator, executor, or personal representative of a deceased license holder to a person meeting the qualifications of this chapter.

c. *Partnerships.* Nothing in this section shall prohibit a partner in a partnership holding a license to withdraw from the partnership and to assign his interest to one or more of the partners who were partners at the time of the issuance of the license. Withdrawal shall not bring any new owners into the partnership, unless each new owner applies for a license and complies with all provisions of this chapter, and then only upon the approval of the County.

d. *Transfer of locations.* Should a transfer of location be approved, there shall be no new license fee.

**13. Purchases to be made from licensed wholesalers or distributors.**

Licensees shall purchase alcoholic beverages only from wholesalers or distributors licensed by the state. All sales must be to the establishment designated on the license. No transfers, borrowing or internal sales or transfers from one licensed retailer to another shall be permitted.

**14. Sale, distribution and other dealing in alcoholic beverages by officials and employees; exemptions.**

No employee of the County whose official duties involve issuance and regulation of alcoholic beverage licenses or the enforcement of alcoholic beverage laws shall hold any interest, direct or indirect, in any alcoholic beverage license issued by the County or in any establishment licensed by the County to engage in the sale or distribution of alcoholic beverages. The County Manager, upon advice and consent of the Governing Authority, may exempt employees from the provisions of this section upon written finding that such employee's involvement, direct or beneficial, in any business licensed by the County to engage in the sale or distribution of alcoholic beverages would pose no conflict of interest or interference with the performance by the employee of his/her official duties for the County.

**15. Standard for new license at existing location.**

An application for a new alcoholic beverage license for an existing licensed location shall be subject to all the requirements for the granting of an original application for a new license.

**16. Indebtedness to county.**

a. No license under this chapter shall be issued to any applicant if any person holding a beneficial interest in the business to be licensed owes any delinquent taxes or assessments to the county.

b. No license under this chapter shall be issued to any applicant for any premises on which delinquent taxes or assessments are owed.

**17. Revocation of license.**

a. *Investigations.* The County Manager shall have the right to conduct an investigation as is reasonably necessary to determine compliance with this chapter. The investigation

may include, but is not limited to, calling licensees for examination under oath, obtaining evidence under oath from other persons; the procurement of documents and records including records of the licensee, and inspection and examination of records and documents from whatever source obtainable.

b. *Hearing.* Any alcoholic beverage license issued under this article may be revoked or suspended by the Governing Authority for cause shown, after a hearing, unless waived by the licensee, of which at least three (3) days written notice shall be given to the licensee. Such notice shall specify the time, place and purpose of the hearing, and a statement of the charges upon which such hearing shall be held. The licensee shall have the right to appear in person and by attorney, and both the County and the licensee shall have the right to present evidence under oath, introduce documentary evidence, cross-examine witnesses and generally present evidence of violation of this chapter or absence thereof. The hearing will be conducted by the Governing Authority.

c. *Grounds for suspension or revocation of license.*

The following may be considered just cause for the suspension or revocation of a license issued under this article:

i. The performance of any act prohibited by this chapter or the failure to perform any act required by this chapter as well as the violation of any law, state or federal, relating to the business of the licensee. If such act, omission or violation is done by an agent, servant, employee, or officer of the licensee, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense.

ii. The entry of a plea of guilty or nolo contendere, or the conviction of any licensee, partner, or any officer, director or stockholder of a licensee corporation with respect to a charge of violation of any of the laws of the United States or of the state relating to alcohol control.

iii. The occurrence on the licensed premises on two (2) or more occasions within any twelve-month period of fights, disorderly conduct, drunkenness, breach of the peace, and other similar conduct whether the same be committed by the licensee or by customers or others.

d. *Basis of determination.* The Governing Authority shall have the right for cause shown to revoke or to suspend an alcoholic beverage license for a specified period of time.

e. *Violation.* For violation of this article or for a violation of any law, state or federal, pertaining to the conduct of the license holder's business, the following punishment shall be imposed:

i. For the first offense, a fine of one thousand dollars (\$1,000.00).

ii. For the second offense within five (5) years of any other offense, the license holder shall be fined the sum of one thousand dollars (\$1,000.00) and shall lose the privilege of selling alcohol in his establishment for ninety (90) days.

iii. For the third offense within five (5) years of any other offense, the license holder shall be fined the sum of one thousand dollars (\$1,000.00) and his license shall be revoked and there shall be no further sales of alcohol by that licensee until the licensee has reapplied for and been granted a new license.

iv. Failure by the licensee to pay any fine assessed under this subsection within fifteen (15) days shall cause the license to be revoked. Failure by the licensee to pay any fine assessed under this subsection shall constitute a misdemeanor.

f. *Reapplication.* Any license holder who has had his license revoked pursuant to the provisions of subsection (e) above shall have the right to reapply for a license any time after his license has been revoked for more than twenty-four (24) months.

**18. No refunds following suspension or revocation.**

If a license issued under this chapter is suspended or revoked, the licensee shall not be entitled to a refund of any portion of the application or license fees previously remitted.

**19. Short-term emergency suspension for violation involving licensed business.**

a. The County Manager has authority to suspend a license for not more than ten calendar days. The County Manager's decision shall be in writing, with the term of the suspension and the reasons stated, and shall be mailed or delivered to the licensee.

b. A short-term suspension by the County Manager must be for a third or subsequent violation by the same licensee or the licensee's agents on the same premises within a two-year period of any state or federal laws, administrative regulations of the state or county ordinances regulating such business holding a license, including those prohibiting gambling, regulating the sale, manufacture, distribution, handling, dealing in, and possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in an unlawful manner, and the manufacture, sale, or distribution of any controlled substance which puts the county and the health and safety of its citizens at such risk that an immediate suspension is necessary until a hearing as provided for in Section 17, above, can be held.

**20. Emergency suspension of all alcoholic beverage licenses.**

The Governing Authority is authorized to suspend the sale of alcoholic beverages under all licenses issued pursuant to this chapter during any state of emergency declared by the governor or any local emergency as defined by O.C.G.A. § 36-69-2, or for any other serious emergency situation when the Governing Authority deems such immediate suspension necessary for the protection of the health and

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welfare of the citizens of the County. Such suspension may be made effective immediately and shall remain in force until the Governing Authority determines the emergency is over or until the next meeting of the Governing Authority, at which time the suspension shall cease unless the same is extended by affirmative action of the Governing Authority.

## **21. Enforcement**

a. Any person who shall do anything prohibited by this article or who shall fail to do anything required by this article is hereby declared to be in violation of this article and the regulations or county ordinances herein set forth.

b. Failure of the licensee, his agents, employees, associates or joint owners of such licensee's business, to comply with any rule or regulation of the Revenue Commissioner of the State of Georgia or any provision of the Georgia Alcoholic Beverage Code, being Title 3 of the Official Code of Georgia Annotated, shall constitute a violation of this article.

c. Any license issued hereunder shall be a mere grant of the privilege, and not a right, to carry on such licensed business during the term of such license or permit, subject to compliance with all the terms and conditions imposed by this article, or imposed by any other ordinance, resolution or code provision of the County pertaining thereto, or by any pertinent law or statute of the State of Georgia; and any such license shall be subject to revocation or suspension at any time or times by the County without the refund of any license fee paid by the licensee; and the violation of any provision of this article shall be grounds for immediate revocation or suspension of any license or permit issued hereunder.

d. Each and every day that any such violation exists shall be deemed a separate offense.

e. Any such violation of this article, upon conviction thereof shall be punishable by a fine or imprisonment, or both, not to exceed the maximum fine or the maximum imprisonment, or both, as prescribed by the pertinent laws of Georgia and as more particularly set out in Section 1-1007 of the Code of Spalding County, Georgia, which such section is incorporated herein and made a part hereof by reference.

f. The imposition of any such fine or imprisonment, or both, for any violation shall not excuse the violation or permit it to continue; and all such violators shall be required to correct or remedy such violations or defects within the time as prescribed by a court having jurisdiction of such matter, and, in the absence of any such completion time being fixed by the court, within a reasonable time after such violations occur.

g. The application of any fine, imprisonment or other penalty shall not be construed to prevent the enforced removal of prohibited conditions or to postpone any action required.

h. The remedies herein set out for the purpose of enforcing the provisions of this article shall not be deemed to be exclusive, but shall be cumulative of all other

remedies, civil or criminal, provided by the laws of Georgia, or by County ordinances.

**ARTICLE III: License Fees**

**A. General**

1. All applications will be assessed a nonrefundable \$100.00 administrative fee in addition to the license fee.

2. All licenses granted hereunder shall expire on December 31<sup>st</sup> of each year unless renewed as herein provided.

3. Licensees who desire to renew their license shall file an application with required license fee at the Department of Community Development for such renewal on or before September 15<sup>th</sup> of each year. Such application shall be reviewed by the Department of Community Development for renewal compliance and then placed on the next available Board of Commissioners agenda of the Governing Authority for formal notice for the ensuing year. Where any agency or county department required to inspect the premises presents reports of noncompliance with applicable laws, rules or regulations, the licensee shall correct any and all such noncompliance before the renewal license is presented to the Board of Commissioners.

4. All such license fees shall be tendered in cash, or by a cashier's check or certified check, at the time of the application for such license is filed. No such license shall be issued for more than one (1) calendar year and all such licenses shall terminate on the last day of the calendar year for which same were issued.

**B. License Fees**

1. The annual license fees for permits or licenses issued under this article shall be as follows:

Wholesale: malt beverages	\$200.00
Wholesale: wine	\$200.00
Wholesale: distilled spirits	\$2,500.00
Retail package: malt beverages	\$500.00
Retail package: wine	\$500.00
Retail package: distilled spirits	\$2,500.00
On-premises consumption: malt beverages	\$400.00
On-premises consumption: wine	\$400.00
On-premises consumption: distilled spirits	\$2,500.00

2. The license fees imposed by this section are regulatory fees intended to offset the County's cost in administering and enforcing this chapter. In addition thereto, licensees are subject to payment of an occupational tax in accordance with Section 6-1082.

3. When a license is issued on or after July 1, the license fee is prorated by one-half.

**C. Payment of fee; renewal.**

All alcoholic beverage licenses are annual licenses that run from January 1 to December 31 of each year. Holders of existing licenses in good standing shall apply to the Department of Community Development for renewal for the next calendar year between September 15 and October 1 by filing a renewal application in proper form and tendering the required fees. The State of Georgia Department of Revenue shall be promptly notified of all licenses which were not renewed on or before January 1, and all privileges to carry on and conduct a business governed by this chapter shall be immediately suspended due to license expiration.

#### **ARTICLE IV - EXCISE TAX**

##### **A. Generally**

In addition to the license fees required in this chapter and in addition to the excise taxes levied by the state, all licensees under this chapter shall pay to the County the taxes imposed in this article.

##### **B. Unlawful retail sales.**

No person shall sell any alcoholic beverage at retail by the package or for consumption on the premises within the County on which the taxes imposed by this chapter have not been paid.

##### **C. Administration and enforcement authority; recordkeeping; confidentiality of reports.**

1. *Authority of tax collector.* The County Manager, subject to the approval of the Governing Authority shall designate an excise tax collector, who shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.

2. *Rules and regulations.* The excise tax collector shall have the power and authority to make and publish reasonable rules and regulations, subject to the approval of the Governing Authority, not inconsistent with this article or other laws of the County and the state, or the constitution of the state or the United States for the administration and enforcement of the provisions of this article and the collection of the taxes under this article.

3. *Records required from licensee; form.* Every licensee for the sale of alcoholic beverages in the County shall keep all invoices relating to each purchase of alcoholic beverages and such other records, receipts, invoices and other pertinent papers in such form as the tax collector may require.

4. *Authority to require reports; contents.* In the administration of the provisions of this article, the excise tax collector may require the filing of reports by the licensee having in such person's possession or custody information relating to sales of alcoholic beverages which are subject to the tax. The reports shall be filed with the excise tax collector and shall set forth the price charged for each sale, the date or dates of sales, and such other information as the tax collector may require.

5. *Wholesale records.* Every distributor, wholesale dealer and manufacturer required to make reports under this article shall keep accurate and complete records of all sales of distilled spirits, malt beverages and wine to any package sales licensee or retail consumption licensee and of all reports made to the County for a period of four years from the time the tax to which they relate becomes due or the date the tax is paid, whichever is later, which records shall be made available for inspection by the excise tax collector or the County Manager at all reasonable times and places.

**D. Examination of records; audits.**

The excise tax collector or any person authorized in writing by the County Manager may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. If a county audit discloses a deficiency of more than three percent over what has been returned and remitted, the licensee shall reimburse the County for all costs of the audit, including but not limited to accountant's fees and out of pocket expenses, the value of time expended by county employees in the investigation, including reasonable cost of overhead, and all attorneys' fees and costs of collection if action must be instituted by the county.

**E. Excise Taxes**

**1. Malt beverages; wine.**

There is hereby assessed a prorated excise tax, based on sales, in the following amounts:

a. Malt beverages: Five cents (\$.05) per 12 ounces, or proportionately thereof, so as to graduate the tax on bottles, cans and containers of various sizes. Tap or draft beer: \$6.00 for each container containing not more than 15 ½ gallons and at a like rate for fractional parts, where the beverage is sold in or from a barrel or bulk container.

b. Wine: (Regardless of the size of the container): Eighty cents (\$.80) per wine gallon and a proportionate tax at the same rate on all fractional parts of a wine gallon.

c. No retail dealer or licensee shall accept delivery of malt beverage and/or wine from any wholesale dealer unless the tax has been paid herein required. No malt beverage and/or wine shall be delivered or turned over, as a gift or otherwise, by any wholesaler or retail licensee to any person, unless the tax has been paid as herein required.

**2. Distilled spirits.**

Eighty cents (\$.80) per gallon, being the Standard United States Wine-Gallon, which shall be paid to the governing authority on distilled spirits sold, displayed or stored in any unincorporated area of the county; prorated down on one-half pints, pints, one-fifth gallons ("fifths"), quarts, half gallons and any other quantity so that each

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bottle or each individual size container shall be taxed on the basis of eighty cents (\$.80) per wine gallon.

**3. Report; payment.**

a. Each wholesaler of wine and distilled spirits responsible for payment of the excise tax shall file a report with the County itemizing for the preceding calendar month the exact quantities of alcoholic beverages, by location, by size and type of container, sold during the preceding month in the County. Each wholesaler of malt beverages responsible for payment of the excise tax shall file with the County Ga. Rev. Dept. form ATT-122, showing the exact quantities of malt beverages, by size and type of the container, sold during the preceding month.

b. The wholesale dealer shall remit the tax imposed under this division to the County on the tenth day of the month following the calendar month in which the alcoholic beverages are sold or dispensed.

c. It shall be unlawful and a violation of this article for any wholesale distributor to sell, ship or deliver in any manner whatever any malt beverages, wine or distilled spirits to a retailer without having collected such tax.

d. It shall be unlawful and a violation of this article for any retailer licensed under this article to possess own, hold, store, display, sell or deliver any malt beverages, wine or distilled spirits on which such tax has not been collected for payment to the County.

**F. Additional Taxes for Consumption on Premises**

**1. Distilled spirits; additional tax imposed; amount.**

There is imposed an excise tax upon the sale of distilled spirits by the drink, which tax shall be three percent (3%) of the charge to the public, members or guests for the beverages. This tax does not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage, nor to wines for which an excise tax has already been paid under this article. Each retail consumption licensee shall collect, report and remit the tax in the manner described herein.

**2. Itemized billing by licensee; liability for payment of tax.**

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

**3. Collection of tax by licensee.**

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

#### **4. Payment and collection procedures.**

a. *Due date of taxes.* All taxes collected by any licensee or agent under this division shall be due and payable to the County on or before the tenth day of every month next succeeding each respective calendar month, as set forth in this section.

b. *Return; time of filing; persons required to file; execution.* On or before the tenth day of the month, a return for the preceding calendar month shall be filed with the excise tax collector, in such form as the excise tax collector may prescribe, by every licensee or agent liable for the payment of tax under this division.

c. *Contents of return.* All returns shall show the gross receipts from the sale of distilled spirits by the drink, amount of tax collected or authorized due for the related period, and such other information as may be required by the excise tax collector.

d. *Delivery of return and remittance.* The person required to file the return shall deliver the return, together with the remittance of the net amount of tax due to the excise tax collector.

e. *Collection fee allowed licensees.* Licensees collecting the tax 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 the deduction shall be the same rate authorized for deductions from state sales tax allowed for dealers for collecting tax under O.C.G.A. § 48-8-50.

f. *Failure to transmit any such return or to remit any such tax due within thirty (30) calendar days of the due date shall be a violation of this section and shall be punishable as set forth in section 1-1007.*

g. *Accurate records of sales taxable hereunder and adequate books of account sufficient to determine the amount of tax due shall be made and maintained by the licensee. All such records shall be open to examination at all reasonable hours by the County or its authorized agent.*

#### **5. Additional Reporting Requirements.**

In addition to the reporting requirements hereinabove, each licensee shall forward each month to the County a copy of his Georgia sales and use tax report as submitted to the state revenue commissioner.

#### **G. Payment and Collection**

**1. Determinations of deficiencies or in absence of return; overpayments; delinquency and fraud.**

a. *Recomputation of tax; authority to make; basis of recomputation.* If the excise tax collector is not satisfied with the return of the tax or the amount of the tax or the amount of the tax required to be paid to the County by any person, the tax collector may compute and determine the amount required to be paid upon the basis of any information within his possession or that may be made of the amount due for one or more than one calendar month.

b. *Estimate of gross receipts in absence of return.* If any licensee fails to make a return, the excise tax collector shall make an estimate of the amount of the gross receipts of the licensee or, as the case may be, of the amount of the total sales which are subject to the tax. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the excise tax collector. Upon the basis of this estimate, the excise tax collector shall compute and determine the amount required to be paid to the governing authority. One or more determinations may be made for one or for more than one period.

c. *Offsetting of overpayments.* In making a determination, the excise tax collector may offset overpayments, for a period or periods, against underpayments, for another period or periods, against penalties and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in subsection F(4), ante.

d. *Time within which notice of deficiency determination to be mailed.* Promptly after making his determination, the excise tax collector shall give to the licensee written notice to be served personally or by mail in the manner prescribed for service of notices in subsection F(4), ante. Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

**2. Delinquent tax collection; duty of assignees to withhold taxes; liability; offsetting of erroneous collections.**

a. *Action for tax; time therefor.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the governing authority may bring an action in the courts of the state, or of the United States, to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, costs of collection and other legal fees incident thereto.

b. *Duty of successors or assignees of operator to withhold tax from purchase money.* If any licensee liable for any amount under this article sells his business or quits the business, his successors or assigns shall withhold sufficient funds from the purchase price to cover such amount until the former owner produces a receipt from the excise tax collector showing that the County has been paid, or a certificate stating that no amount is due.

c. *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold the necessary amount from the purchase price as required in this section, the purchaser shall be personally liable for the payment of the amount required to be withheld by it to the extent of the purchase price valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the excise tax collector shall either issue the certificate or mail notice to the purchaser at his/her address as it appears on the County records of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall begin at the time the licensee sells his/her business or at the time that the determination against the licensee becomes final, whichever event occurs later.

### **3. Tax credit penalty or interest paid more than once or illegally collected.**

Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the County under this article, it may be offset as provided in subsection F(1)c, supra. If the licensee determines that it has overpaid or paid more than once, which fact has not been determined by the excise tax collector, the licensee will have three years from the date of payment to file a claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the County, the excess amount paid to the County may be credited on amounts then due and payable from the licensee by whom it was paid or the licensee's administrators or executors.

### **4. Failure to pay tax; penalties and interest.**

a. *Delinquent penalty.* Any person who fails to pay the tax imposed in this article, or fails to pay any amount of such tax as required within the time required shall pay a civil penalty of fifteen percent (15%) of the tax or amount of the tax, in addition to the tax or the amount of the tax, plus interest on the unpaid tax or any portion thereof as set forth in subsection (b) of this section.

b. *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent (1%) per month, or fraction thereof, from the tenth day after the close of the monthly period for which the amount or any portion thereof should have been returned, until the date of payment.

c. *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to gross

negligence or disregard of rules and regulations, a penalty of fifteen percent (15%) of the amount of such deficiency shall be added thereto, in addition to the fifteen percent (15%) prescribed by subsection (a) of this section.

d. *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination has been made is due to fraud or an intent to evade any provision of this chapter or other authorized rules and regulations, a penalty of twenty-five percent (25%) of the deficiency shall be added thereto, in addition to the fifteen percent (15%) prescribed by subsection (a) of this section.

e. *Civil Penalty.* Failure to timely pay any taxes assessed pursuant to this subsection shall result in the additional assessment of a civil penalty in the amount of \$500.00.

**Article V. REGULATIONS FOR ALL ESTABLISHMENTS AND MISCELLANEOUS PROVISIONS**

**A. Days when sales prohibited**

1. No retail package dealer shall open his place of business, or furnish, sell or offer for sale or distribution any liquor at any of the following times:

a. At any time in violation of a local ordinance or regulation or special order of the governing authority; or

b. On any day before 8:00 a.m. and after 11:45 p.m.;

or

c. On Sundays before 12:30 p.m. and after 11:30 p.m.

2. A licensee hereunder shall not be permitted to furnish, serve, sell or offer for sale or distribution alcohol beverages by the drink for consumption on premises at any of the following times:

a. At any time in violation of a local ordinance or regulation or special order of the governing authority; or

b. On any day between 3:00 a.m. and 10:00 a.m.

**B. Inspection authority of County.**

The governing authority reserves the right to inspect premises from which alcoholic beverages are licensed to be sold at all reasonable times.

**C. Employees.**

1. No licensee under this chapter shall permit any person under the age of 18 within his employment to dispense, serve, sell, or take orders for alcoholic beverages;

provided, however, this provision shall not prohibit employees under the age of 18 who are employed in supermarkets, convenience stores, or drugstores from handling or carrying sealed packages of alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities so long as such employees under age 18 do not dispense, serve, sell, or take orders for any alcoholic beverage.

2. No licensee under this chapter shall permit any person to sell, dispense, serve or take orders for alcoholic beverages while that person is currently serving a criminal sentence, including probation or parole, based upon a conviction in any state or federal court or the United States or in any foreign country for any felony, or any misdemeanor or ordinance violation relating to the manufacture, sale, use or distribution of alcoholic beverages or narcotics or controlled substances, gambling, or any sex offense as defined by O.C.G.A. § 16-6-1, *et seq.* No licensee shall employ within its business for the purpose of selling or dispensing alcoholic beverages any person convicted within five years immediately prior to the application for employment of any felony or within two years immediately prior to the application for employment of any misdemeanor or ordinance violation relating to the manufacture, sale, use or distribution of alcoholic beverages or narcotics or controlled substances, gambling, or any sex offense as defined by O.C.G.A. § 16-6-1, *et. seq.* This provision shall not prohibit employees who have been convicted or have a criminal history, when employed in supermarkets, convenience stores or drugstores, from handling or carrying alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities.

3. It shall be the duty of the licensee to ascertain that all employees are eligible for employment under this chapter. The County reserves the right to obtain fingerprints from and conduct a criminal history check of any licensee's employees at any time. Upon request by the County, the licensee shall cause the employee to appear at the sheriff's department and shall pay the requisite fee.

4. It shall be the duty of the licensee to train all employees whose duties shall include the sale, dispensing, serving or taking of orders for alcoholic beverages in the requirements of this chapter and applicable state laws and regulations. Each licensee shall establish written policies, a copy of which shall be posted within the licensed premises, governing the sale and dispensing of alcoholic beverages in accordance with state law and this chapter. Licensees are encouraged to adopt disciplinary sanctions for employees who fail to meet the standards of law, as violations by employees may constitute grounds for revocation, suspension or denial of a license under this chapter. The degree of training, supervision and discipline of employees by the licensee may be considered in determining any action on any license.

#### **D. Sales on licensed premises**

Only those individuals who are agents, clerks or employees of the licensee shall handle, sell or serve alcoholic beverages on a licensed premises.

**E. Sale to intoxicated person forbidden**

Alcoholic beverage licensees and their agents, clerks and employees are prohibited from selling, bartering, exchanging, giving, providing or furnishing any alcoholic beverage to any person who is in a noticeable state of intoxication.

**F. Minimum age for taking alcoholic beverage orders or check-out**

1. No person may allow or require any person under 18 years of age to take an order for alcoholic beverages for on-premises consumption or to accept alcoholic beverages for check-out for off-premises consumption.

2. No person under 18 years of age may take an order for alcoholic beverages for on-premises consumption or to accept alcoholic beverages for check-out for off-premises consumption.

**G. Furnishing to, purchase of, or possession by persons under 21 years of age of alcoholic beverages; use of false identification.**

1. Except as otherwise authorized by law:

a. No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.

b. No person under 21 years of age shall purchase, drink, sell or possess alcoholic beverages.

c. No person under 21 years of age shall misrepresent such person's age in any manner whatsoever for the purpose of obtaining any alcoholic beverage.

d. No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.

e. No person under 21 years of age shall misrepresent his identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.

2. The prohibitions contained in subsection (a) of this section shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state, at a religious ceremony, or when the parent or guardian of the person under age 21 gives the alcoholic beverage to such person when possession is in the home of the parent or guardian while such parent or guardian is present.

3. It shall be the duty of every person seeking to purchase or possess alcoholic beverages from a licensee to furnish, upon request, proper identification showing that the

person is 21 years of age or older. For purposes of this section, the term "proper identification" means any document issued by a governmental agency containing a physical description of the person, such person's photograph, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized by O.C.G.A. § 40-5-100.

4. It shall be a violation of this chapter for any licensee, or any agent, officer or employee of a licensee, to fail to check the proper identification of any patron when selling or otherwise providing any alcoholic beverage, which failure results in an underage person being sold or served, or to have in such underage person's possession while on the licensee's premises, any alcoholic beverage.

**H. Purchases to be made only from licensed wholesalers.**

Package dealers in alcoholic beverages and on-premises consumption dealers shall not buy nor accept deliveries from any person other than a wholesaler, dealer or distributor licensed by the state Department of Revenue.

**I. Wholesale licensee prohibited from owning retail license**

Any person having any financial interest in a wholesale license for the sale of alcoholic beverages shall be prohibited from having any interest in any other license under the terms of this chapter.

**J. Wholesale dealer qualifications**

The wholesale dealer shall likewise be required to obtain a license hereunder before selling or distributing any alcoholic beverages in the unincorporated areas of the County. Such licenses shall be issued only to those parties who are licensed by the state to sell and distribute alcoholic beverages as a wholesale dealer of such products. Any such dealer, before obtaining a license hereunder, shall first make verified application under oath to the County for the issuance of same on such forms as may from time to time be prescribed by the County and the applicant shall present evidence to the County showing that he has knowledge of the pertinent laws of the state and regulations of the County pertaining to the sale or distribution, as a wholesale dealer or alcoholic beverages in the unincorporated areas of the County, and that he will comply with all such laws and regulations.

**K. Sale of alcoholic beverage without County license**

It shall be unlawful for any person to manufacture for sale, or possess for the purpose of sale, any alcoholic beverage where such person does not have a license from the County to sell or possess for sale such alcoholic beverage.

**L. Unlawful consumption and/or possession of alcoholic beverages**

It shall be unlawful for any person to consume or possess alcoholic beverages at any establishment within twelve (12) months of that establishment having had its license for the consumption of alcohol on premises revoked or

suspended, unless a new license for consumption of alcoholic beverages on premises has been issued.

**M. Growlers**

The filling of Growlers by means of a tapped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or other provisions of this ordinance. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler. Only professionally sanitized and sealed Growlers may be filled and made available for retail sale. Each Growler must be securely sealed and removed from the premises in its original sealed condition. Consumption on premises is strictly prohibited. However, samples of tap beers may be made available, but shall not exceed one ounce (1 oz.) nor shall any one individual be offered more than three (3) samples within a twenty-four (24) hour period.

**N. Storage of alcoholic beverages at retail.**

All package dealers and on-premises consumption dealers shall store all alcoholic beverages on the premises for which the license was issued and at no other place. All stock shall be available at all times for inspection by any duly authorized representative of the County. Any alcoholic beverages found in any licensee's stock which was not sold or distributed by a wholesaler licensed in accordance with laws of the state to make sales and deliveries in the County shall be subject to immediate confiscation.

**O. In-room sales in hotels.**

Licenses obtained by hotels/motels shall include the right to serve alcoholic beverages by the drink to registered guests in their hotel rooms as well as to deliver alcoholic beverages in unbroken packages to registered guests' rooms when such beverages have been ordered by such guests and/or to provide a cabinet or other facility in a hotel guest's room which contains alcoholic beverages for which the hotel/motel is licensed, and which is accessible by lock and key only to the guest, and for which the sale of the alcoholic beverages contained therein is final at the time requested, except for a credit which may be given to the guest for any unused and unopened portion. All alcoholic beverages sold or distributed under this section shall be obtained by the hotel/motel directly from a licensed wholesaler or distributor and shall be stored on the premises of the hotel/motel until sold or served.

**P. Responsible Alcohol Sales and Services (RASS)**

1. Effective October 1, 2012, any application seeking to obtain an alcoholic beverage license, under this article as a result of starting a new business, change of ownership or change of licensee must provide proof of attendance and completion of a responsible alcohol sales and service (RASS) workshop that has been approved by the Governing Authority prior to the issuance of any such license. Licensees holding a valid alcoholic beverage license issued by the County as of the effective date of this amendment shall have six (6) months from the date of this amendment within which to come into compliance with these requirements.

2. If the license is issued in the name of a corporation, limited liability company or partnership, proof of attendance by an owner, member or partner will satisfy the requirements of this section. However, such owner, member or partner must maintain his/her status with the licensed entity in order for the certificate to remain valid for purposes of satisfying this section. If such owner, member or partner no longer has an ownership interest in the licensed entity, such change constitutes a change of ownership and a new license must be obtained.

3. All alcoholic beverage licenses and one (1) manager of each establishment under this chapter shall be required to attend and complete an approved responsible alcohol sales and service (RASS) workshop every two (2) years. Proof of attendance at and completion of, an approved RASS workshop within the previous two (2) years must be attached to any renewal application. No alcoholic beverage license will be renewed or issued unless this requirement has been satisfied.

4. Attendance by the licensee at the responsible alcohol sales and service workshop as set forth above shall be at the licensee's expense.

5. If, at the time an alcohol beverage license application or renewal is considered by the Board of Governing Authority, the licensee has not provided evidence to the Department of Community Development that the licensee has satisfied the requirements of subsections (1) and (2) requiring successful completion of an approved responsible alcohol sales and service workshop, the application or renewal shall be denied.

6. The Governing Authority shall not approve any RASS workshop that does not meet the following minimum requirements:

a. Each workshop must include a discussion of legal issues associated with the sale of alcoholic beverages; types of liability; sign posting requirements; restrictions on sales; age of employees; prohibited sales; legal rights and obligations of licensees; criminal, civil and administrative consequences to the owner, licensee and seller; local laws and regulations; policy drafting and implementation; documented best practices for employee training and components of such; and best practices for monitoring and supervision.

b. The class size shall not exceed thirty (30) attendees; attendees must be required to provide legal identification sufficient to confirm that certificates are issued only in the name of those in attendance; attendees who do not attend the full substantive portions of the workshop must not be provided a certificate; the portion of the workshop addressing legal issues must be presented by an attorney licensed in the State of Georgia; only instructional materials approved by the Governing Authority may be used; class time (not including breaks) must be at least two (2) hours and the workshop must be delivered by a live presentation.

7. The Department of Community Development shall not have authority to waive the workshop or training provisions set forth in this Code section.

8. Effective October 1, 2012, within sixty (60) days of the issuance of any new license, or prior to any license renewal, the licensee must provide proof that all employees and managers involved in the sale or service of alcoholic beverage have, within the previous two (2) year(s) satisfactorily completed a comprehensive alcohol compliance training course approved by the Governing Authority. Employees and managers must complete such training within sixty (60) days of commencing work or being hired (whichever is shorter) and again every two (2) years thereafter. Documentation of each employee's and manager's date of hire and proof of training must be attached to all renewal applications and maintained on the premises posted in a prominent location and available for public inspection at all times during which the location is open for business and engaged in alcohol sales. Employees and managers who directly serve alcoholic beverages to patrons for on-premises consumption shall be required to keep on their person while at work documentation verifying that they have completed their annual RASS training as required under this article. All employees and managers subject to this subsection must attend an approved training course at least once every two (2) years. Such training shall be at the expense of the licensee, the licensed establishment or the employee.

9. If, at the time an alcoholic beverage license renewal is being considered, or at any other time more than sixty (60) days after the license has been issued, the licensee has not provided evidence to the Department of Community Development that the employees and management of the licensed establishment have complied with the training requirements as set forth in subsection (1), the license may be suspended or revoked.

10. Licensees and or managers shall operate an "in-house" training program for their employees using the same material that the licensees and managers used when taking the mandated RASS workshop. Each employee, upon satisfactory completion of the training program, shall confirm in writing that they have had the training that they have understood the contents therein and shall be issued a certificate of completion. All employees, who have received the required RASS training shall be listed on a roster which shall be maintained upon the premises at all times.

**ARTICLE VI:        ADDITIONAL REGULATIONS FOR PACKAGE DEALERS**

**A.     General**

**1.     Merchandise and sales restrictions in supermarkets and convenience stores.**

a. Where malt beverage or wine sales are licensed in conjunction with a supermarket or convenience store, no licensee shall sell or offer to sell any firearms, ammunition, or weapons of any character.

b. During those hours and on those days when alcoholic beverages are not permitted to be sold, it shall be the duty of the licensee to remove all alcoholic beverages from its shelves or otherwise secure the inventory in such manner as to notify customers that these products are not available for sale at that time.

## **2. Package sales prohibited in certain establishments**

The sale of alcoholic beverages by the package to be carried off the premises shall be prohibited in any restaurant, eating establishment, lounge, bar, brewpub, hotel, private club or in any establishment other than a retail store or grocery store owning a retail license for the sale of alcoholic beverages to be consumed off the premises.

## **3. Sale or delivery to unlicensed premises.**

No package dealer shall make or allow to be made any deliveries of alcoholic beverages beyond the boundaries of the premises covered by the license.

## **4. Name of liquor licensee to be displayed.**

Each premises licensed for the package sale of alcoholic beverages shall have printed on the front window thereof the name of the licensee in uniform letters, not less than four nor more than eight inches in height and the words "Liquor," "Liquor Store" or "Package Store."

## **5. Liquor prices to be conspicuously displayed.**

Each package dealer of alcoholic beverages shall conspicuously display within the interior of the licensed premises not less than four copies of a printed price list of the alcoholic beverages offered for sale or, in lieu thereof, shall place the price of each item on the container or on the shelf where the container is exhibited for sale.

## **6. Portable signs prohibited.**

No licensee for the package sale of alcoholic beverages shall be permitted to utilize a lighted portable sign outside the building.

## **7. Games of chance; coin-operated devices on premises.**

Gambling, betting, or the operation of games of chance, punchboards, slot machines, lotteries or tickets or chances (other than official games of the Georgia Lottery Commission), or other such scheme or device involving the hazarding of money or any other thing of value in any licensed place of business, or in any room adjoining or connected with the same and owned, leased or controlled by the alcohol beverage licensee, shall be cause for suspension or revocation of the license; provided that licensed coin-operated amusement devices and vending machines for dispensing soft drinks and tobacco products are permitted.

**8. Premises to have glass front.**

Each establishment licensed for the package sale of alcoholic beverages shall have an open glass front and shall be well lighted for clear vision from the outside. No signs or advertising shall be posted on the glass which will obstruct the view.

**9. Purchase delivered in paper bag or wrapped.**

All alcoholic beverages, except prepackaged beer, purchased in a package store must be put in a paper or plastic bag or otherwise wrapped in any opaque cover before delivery to the purchaser.

**ARTICLE VII. - ADDITIONAL REGULATIONS FOR ON-PREMISES CONSUMPTION**

**A. Additional licensee qualification.**

No license shall be granted for any business for which a license is required pursuant to Spalding County's Ordinance Regulating Sexually Oriented Businesses.

**B. Separate Licenses.**

A separate license shall be required for each place of business. A separate license shall be required for the sale or serving and consumption on the premises of each of the following named alcoholic beverages: (1) For distilled spirits, which said license may be designated as a "liquor pouring license," (2) For wine and fortified wines, which said license may be designated as a "wine pouring license," and (3) For malt beverages, which said license may be designated as a "beer pouring license."

**C. Posting of license; inspection.**

1. Each license granted hereunder shall be posted in the licensee's place of business and shall be subject to inspection at any time by the governing authority or by any law enforcement officer having jurisdiction of the licensee or his place of business.

2. Each licensee hereunder shall post in his place of business a valid food service permit issued by the county health department; and said food service permit shall be subject to inspection at any time by the health department, or by the governing authority or its designee, or by any law enforcement officer having jurisdiction of the licensee or his place of business.

**D. Building regulations.**

1. No license shall be issued hereunder to any person unless the building or premises in which the business will be located has been completely constructed and detailed drawings or plans of such building and premises are attached to the application. The completed building or premises shall comply with the pertinent regulations of the state revenue commissioner and with all applicable laws of the state. Each

applicant hereunder for a license shall attach to his application evidence of ownership of the premises, or a copy of his lease or franchise license if such applicant is leasing the premises or has a franchise for such business, the term or duration of which such lease or franchise license shall not be less than the expiration date of the license under this article for which such application is made. Any such premises shall meet all requirements and comply with all regulations as promulgated by the health departments of the state and of the County.

2. The building or premises in which the business will be located must meet minimum standards established by the Spalding County Fire Code. Compliance with those standards, and certification of compliance must be determined by physical inspection of buildings and premises by the county fire marshal, fire chief, or other qualified inspector designated by the fire marshal or fire chief, prior to the issuance of a business license.

3. The building or premises, including kitchen and dining areas, in which the business will be located must meet minimum standards established by the county board of health for food service activities. Compliance with those standards and certification of compliance must be determined by physical inspection of buildings and premises by the county health department prior to the issuance of a business license. Further, said buildings and premises must maintain compliance with those standards following issuance of a business license, as determined by periodic physical inspections of buildings and premises as deemed necessary and advisable by the health department.

**E. Sales by package prohibited.**

No alcoholic beverages may be sold by the package from premises licensed for on-premises consumption; provided that this provision shall not prohibit the serving of a single can or bottle of malt beverage or wine to any patron for consumption on the premises where such sale is otherwise lawful.

**F. Other mercantile businesses prohibited.**

An on-premises consumption licensee shall not operate such establishment in connection with any other mercantile business, trade, or profession, except a hotel, eating establishment, restaurant, bar, lounge, public club, or private club as defined in this chapter. It shall be a violation of this section for any on-premises consumption licensee to sell, offer to sell, or keep on the premises with intention to sell, any item not commonly associated with such type establishment, including but not limited to guns, ammunition, knives, weapons of any character, gambling paraphernalia including playing cards or dice, and non-immediately consumable food items including groceries. Non-alcoholic beverages, packaged chips, snacks, tobacco products and accessories, and merchandise with logos, including clothing, shall be considered commonly associated items for sale in such establishments.

**G. Premises to be well lighted.**

The exterior of each building in which alcoholic beverages are sold for on-premises consumption shall contain

sufficient lighting so that all sides of the buildings and all entrances thereto are clearly visible at all times when the premises are open for business. Also, the lounge and restaurant area, including all tables, booths, and other areas where customers are served, and all passageways for customers shall be sufficiently well illuminated so that they may be viewed by those in the premises.

**H. Disturbances of the peace; security of premises.**

No licensee shall knowingly permit any disturbance of the peace, or act of obscenity or public indecency on its premises. It shall be the responsibility of the licensee to provide reasonable measures to safeguard patrons and employees while on their premises.

**I. Building regulations.**

No license shall be granted hereunder unless the completed building in which such sales of alcoholic beverages hereunder will be made shall comply with the pertinent zoning and building regulations and fire code of the county, and the food service permit requirements of the county board of health, and the pertinent regulations of the state revenue commissioner and all applicable laws of the state.

**J. Nudity and partial nudity prohibited.**

The following types of entertainment, attire and conduct are prohibited upon the premises of any establishment licensed to sell, serve, dispense or distribute alcoholic beverages for consumption on such premises:

1. The employment or use of any person, in any capacity, in the sale or service of alcohol beverages while such person is exposing any of his/her "specified anatomical areas" as defined in the County's Ordinance Regulating Sexually Oriented Businesses;

2. Live entertainment where any person appears in the manner described in paragraph (1) of this section or where such person(s) perform(s) or simulates the performance of, and "specified sexual activity" as defined in the County's Ordinance Regulating Sexually Oriented Businesses (§ 6-3001 et seq.);

3. The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) above; provided, however, that nothing contained in subsection (2) shall apply to the premises of any mainstream performance house, museum or theatre which derives less than 20 percent of its gross annual income from the sale of alcoholic beverages.

Section 3: Article B and Article C of Chapter 1 of Part VI shall be reserved.

Section 4: It is the intent of the Board of Commissioners of Spalding County, Georgia that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Spalding County, Georgia, and that the

sections of this Ordinance be numbered to accomplish such intent.

Section 5: The within and foregoing amendments to the Spalding County, Georgia Code of Ordinances shall become effective immediately upon adoption of this Ordinance.

Section 6: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

2. Consider approval, on second reading, Ordinance #2013-12 to amend the Spalding County Code of Ordinances, Part VI: Licensing and Regulation, Chapter 1: Businesses and Occupations, Article D: General Business and Occupation Tax by deleting in its entirety Section 6-1104 Penalty of Ordinance Violation and adding a new section 6-1104 entitled: Penalty of Ordinance Violation.

**RESOLUTION TO AMEND SECTION 6-1104. PENALTY OF ORDINANCE VIOLATION.**

**ARTICLE D. General Business and Occupation Tax of Chapter 1- Businesses and Occupations.**

BE IT RESOLVED TO AMEND Section 6-1104 by striking said section in its entirety and inserting a new section to be denominated as Section 6-1104 to read as follows:

Section 6-1104. Penalty of Ordinance Violation.

- (a) Any person who shall do anything prohibited by this Article as it exists or as it may be amended or who shall fail to do anything required by this Article as it now exists or as it may hereafter be amended is hereby declared to be in violation of this Article and the regulations or county ordinances set forth herein.
- (b) Each and every day that any such violation exists shall be deemed a separate offense.
- (c) Any such violation of this article, upon conviction thereof, as prescribed by the laws of Georgia, shall be punishable by a fine or imprisonment, or both, not to exceed the maximum fine or the maximum imprisonment, or both, as prescribed by the pertinent laws of Georgia and as more particularly set out in section 1-1007 of this Code, which such section is incorporated herein and made a part hereof by reference.
- (d) The imposition of any such fine or imprisonment, or both, for any violation shall not excuse the violation or permit it to continue; and all such violators shall be required to correct or remedy such violations or defects within the time as prescribed by the court having jurisdiction of such matter, and, in the absence of any such completion time being fixed by the court, within a reasonable time after such violations occur.
- (e) The application of any fine, imprisonment or other penalty shall not be construed to prevent the enforced removal of prohibited conditions or to postpone any action required.
- (f) The remedies herein set out for the purpose of enforcing the provisions of this article shall not be deemed to be exclusive, but shall be cumulative of all other remedies, civil or criminal, provided by the laws of Georgia, or by the ordinances of Spalding County.

BE IT RESOLVED THIS \_\_\_\_\_ DAY OF SEPTEMBER, 2013.

SPALDING COUNTY BOARD  
OF COMMISSIONERS

\_\_\_\_\_  
CHAIRMAN

Attest: \_\_\_\_\_  
Clerk

3. Consider approval, on second reading, Ordinance #2013-11 amending the Spalding County Code of Ordinances, Part VI: Licensing and Regulation, Chapter 1: Business and Occupations, Article G: Excise Tax on Hotels to add a Section 6-1176 entitled Enforcement.

RESOLUTION TO AMEND ARTICLE G EXCISE TAX ON HOTELS

BE IT RESOLVED TO AMEND Article G- Excise Tax on Hotels by adding a new section to be denominated as Sec. 6-1176 to read as follows:

Section 6-1176. Enforcement.

- (a) Any person who shall do anything prohibited by this Article as it exists or as it may be amended or who shall fail to do anything required by this Article as it now exists or as it may hereafter be amended is hereby declared to be in violation of this Article and the regulations or county ordinances set forth herein.
- (b) Each and every day that any such violation exists shall be deemed a separate offense.
- (c) Any such violation of this article, upon conviction thereof, as prescribed by the laws of Georgia, shall be punishable by a fine or imprisonment, or both, not to exceed the maximum fine or the maximum imprisonment, or both, as prescribed by the pertinent laws of Georgia and as more particularly set out in section 1-1007 of this Code, which such section is incorporated herein and made a part hereof by reference.
- (d) The imposition of any such fine or imprisonment, or both, for any violation shall not excuse the violation or permit it to continue; and all such violators shall be required to correct or remedy such violations or defects within the time as prescribed by the court having jurisdiction of such matter, and, in the absence of any such completion time being fixed by the court, within a reasonable time after such violations occur.
- (e) The application of any fine, imprisonment or other penalty shall not be construed to prevent the enforced removal of prohibited conditions or to postpone any action required.
- (f) The remedies herein set out for the purpose of enforcing the provisions of this article shall not be deemed to be exclusive, but shall be cumulative of all other remedies, civil or criminal, provided by the laws of Georgia, or by the ordinances of Spalding County.
- (g) After the first citation for violation of this Article, failure to remit the excise tax as required by this Article may lead to the revocation of that person's business registration which will terminate their right to do business in Spalding County.

BE IT RESOLVED THIS \_\_\_\_\_ DAY OF SEPTEMBER, 2013.

SPALDING COUNTY BOARD  
OF COMMISSIONERS

\_\_\_\_\_  
CHAIRMAN

Attest: \_\_\_\_\_  
Clerk

4. Consider approval, on second reading, Ordinance #2013-10 to amend the Spalding County Code of Ordinances, Part VI: Licensing and Regulation, Chapter 2: Street and Sidewalk Use and Regulation, Section 6-2004: Route of Travel Thru Trucks, Item (e), to provide for no thru trucks on Maloy Road, from Georgia Hwy 16 to Rover-Zetella Road

**SPALDING COUNTY, GEORGIA  
STREET USE ORDINANCE  
ORDINANCE NO. 2013-10**

**AN ORDINANCE  
TO AMEND THE CODE OF SPALDING COUNTY, GEORGIA, TO PROVIDE FOR  
NO  
THROUGH TRUCKS ON CERTAIN COUNTY ROADS.**

BE IT RESOLVED AND ORDAINED by the Board of Commissioners of Spalding County, Georgia, as the governing authority of said County, as follows:

**Section 1.** That the Code of Spalding County, Georgia be amended in Part VI, Chapter 2, Section 6-2004, Item (e), relating to no through trucks on streets, by adding paragraph (60) as follows:

(60) Maloy Road, from Georgia Hwy 16 to Rover-Zetella Road

**Section 2.** The within ordinance shall be and become effective immediately upon its adoption by the affirmative vote of a majority of the members of the Board of Commissioners of Spalding County, Georgia, present at two meetings, as provided in Section 2-1005 of the Code of Spalding County, Georgia; and upon the erection of signs as required herein by the public works forces of Spalding County, Georgia.

**Section 3.** All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

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Approved on first reading this sixteenth day of September, 2013

Approved on second reading this seventh day of October, 2013.

\_\_\_\_\_  
Chairman

Gwen Flowers-Taylor,

\_\_\_\_\_  
Clerk

William P. Wilson, Jr., County

5. Consider approval, on second reading, **Amendment to UDO #A-13-03:** Article 15. C-2 Manufacturing – Section 1503:A(34) - delete Commercial Livestock Processing as principal use; Section 1503:B(9) – add Commercial Livestock Processing as special exception use.

IN RE:

34. *Text Amendment #A-13-03*

AMENDMENT TO THE ZONING ORDINANCE OF SPALDING COUNTY

**RESOLUTION AMENDING  
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA**

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and has amended said Ordinance subsequently; and

WHEREAS, the Zoning Administrator, in conjunction with the Planning Commission, has deemed it advisable to recommend amendment to a portion or portions of the Zoning Ordinance of Spalding County; and

WHEREAS, such proposed text amendment to the Zoning Ordinance of Spalding County was reviewed by the Spalding County Planning Commission, and a hearing on the text amendment was conducted by the Board of Commissioners of Spalding County, Georgia on September 26, 2013, pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia, is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia, that the Zoning Ordinance of Spalding County, Georgia shall be and is hereby amended as follows:

Section 1: The following provision shall be deleted from the Zoning Ordinance of Spalding County, Article 15. C-2 Manufacturing; Section 1503.A.34

35. Commercial livestock processing

Section 2: The following provision shall be added to the Zoning Ordinance of Spalding County, Article 15. C-2 Manufacturing; Section 1503.B.9

9. Commercial livestock processing:
- a. Compliance with all federal and state laws regarding meat processing and inspection.
  - b. Minimum lot size: 50 acres.
  - c. All structures must be setback 200 feet from all property lines.

Section 3: The Chairman of the Board of Commissioners of Spalding County, Georgia is directed and authorized to execute such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia.

Section 4: The Zoning Administrator is authorized and directed to enter such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia accordingly.

Section 5: The foregoing amendment of the Zoning Ordinance of Spalding County, Georgia shall become effective immediately upon adoption of this resolution.

Section 6: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

6. Consider approval, on second reading, **Amendment to UDO #A-13-04:** Article 15. C-2 Manufacturing- Section 1503:A(42) – delete Poultry Processing Plant as principal use; Section 1503:B(10) – add Poultry Processing Plant as special exception use.

IN RE:

**IV. Text Amendment #A-13-04**

AMENDMENT TO THE ZONING ORDINANCE OF SPALDING COUNTY

**RESOLUTION AMENDING  
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA**

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and has amended said Ordinance subsequently; and

WHEREAS, the Zoning Administrator, in conjunction with the Planning Commission, has deemed it advisable to recommend amendment to a portion or portions of the Zoning Ordinance of Spalding County; and

WHEREAS, such proposed text amendment to the Zoning Ordinance of Spalding County was reviewed by the Spalding County Planning Commission, and a hearing on the text amendment was conducted by the Board of Commissioners of Spalding County, Georgia on September 26, 2013, pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia, is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia, that the Zoning Ordinance of Spalding County, Georgia shall be and is hereby amended as follows:

Section 1: The following provision shall be deleted from the Zoning Ordinance of Spalding County, Article 15. C-2 Manufacturing; Section 1503.A.42

42. Poultry processing plant

Section 2: The following provision shall be added to the Zoning Ordinance of Spalding County, Article 15. C-2 Manufacturing; Section 1503.B.10

10. Poultry processing plant

- d. Compliance with all federal and state laws regarding meat processing and inspection.
- e. Minimum lot size: 50 acres.
- f. All structures must be setback 200 feet from all property lines.

Section 3: The Chairman of the Board of Commissioners of Spalding County, Georgia is directed and authorized to execute such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia.

Section 4: The Zoning Administrator is authorized and directed to enter such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia accordingly.

Section 5: The foregoing amendment of the Zoning Ordinance of Spalding County, Georgia shall become effective immediately upon adoption of this resolution.

Section 6: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

- 7. Consider approval, on second reading, **Amendment to UDO #A-13-06:** Appendix A. Subdivision Ordinance – Article 5. Required Development Standards – Section 501 – add provision requiring a lot and foundation survey prior to the issuance of building permit.

IN RE:

**V. Text Amendment #A-13-06**

AMENDMENT TO THE ZONING ORDINANCE OF SPALDING COUNTY

**RESOLUTION AMENDING  
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA**

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and has amended said Ordinance subsequently; and

WHEREAS, the Zoning Administrator, in conjunction with the Planning Commission, has deemed it advisable to recommend amendment to a portion or portions of the Zoning Ordinance of Spalding County; and

WHEREAS, such proposed text amendment to the Zoning Ordinance of Spalding County was reviewed by the Spalding County Planning Commission, and a hearing on the text amendment was conducted by the Board of Commissioners of Spalding County, Georgia on September 26, 2013, pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia, is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia, that the Zoning Ordinance of Spalding County, Georgia shall be and is hereby amended as follows:

Section 1: The following provision shall be added to the Zoning Ordinance of Spalding County, Appendix A, "Subdivision Ordinance," Article 5, "Required Development Standards," to appear as Section 501-J:

**Section 501 (J): Lot and Foundation Survey.**

1. Prior to the issuance of a Building Permit for the construction of a building pursuant to Section 408 of the Unified Development Ordinance, a survey of the lot and foundation shall be provided to the Building Official to verify that the building or structure will be located within the designated setbacks and within the buildable area of the lot.
2. The foundation surveys shall be submitted to and approved by the Spalding County Community Development Department and approval by the Department shall be designated in writing on the survey.
3. It shall be unlawful to commence any construction work on any building or structure until the foundation survey has been approved by the Building Official and filed with the Spalding County Community Development Department.
4. Violations of this provision may be subject to a stop work order and/or citation for a violation of this regulation.

Section 2: The Chairman of the Board of Commissioners of Spalding County, Georgia is directed and authorized to execute such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia.

Section 3: The Zoning Administrator is authorized and directed to enter such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia accordingly.

Section 4: The foregoing amendment of the Zoning Ordinance of Spalding County, Georgia shall become effective immediately upon adoption of this resolution.

Section 5: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

***Motion/Second by Ray/Johnson to approve Consent Agenda.  
Motion carried unanimously by all.***

**IX. OLD BUSINESS –**

1. Consider adoption of Lighting Policy as recommended by Parks & Recreation Advisory Commission.

Mr. Wilson advised that when this policy was first brought forth, the Commission recommended adding language that dealt with practices, tournaments, etc. Furthermore, Mr. Wilson advised that this policy now incorporates all of their concerns.

**APPENDIX VI**

**Spalding County Parks and Recreation Lights Use Policy**

(September 12, 2013)

This policy applies to all Parks and Recreation facility sports lights usage and includes practices, games, tournaments and other related events.

1. Each Association should select a representative and an alternate representative to operate field lights.
2. Association representative shall have the responsibility of making sure the lights are not turned on before 30 minutes prior to dusk dark.
3. Association representative shall have the responsibility of making sure the lights are turned off 30 minutes after the official end of the last game.
4. In the event that a lights use violation has been found the Association President will be notified by Parks and Recreation and the appropriate fine will be expected to be paid within 5 working days from the date of the violation.
5. If a lighting use violation has occurred fines will be as follows per field:
  - AMBUCS Park - \$50
  - Tyus Baseball - \$80
  - Tyus Soccer - \$120
  - Volunteer Park Softball - \$40
6. If the fine is not paid by the Association then there will be no access to lights until fine is paid.

***Motion/Second by Johnson/Ray to approve adoption of Lighting Policy as recommended by Parks & Recreation Advisory for incorporation into the Spalding County Parks & Recreation Rules & Regulations. Motion carried by a vote of 4-0.***

**X. NEW BUSINESS -**

1. Consider approval of Financial Policies & Procedures Manual.

Mr. Wilson advised that the proposed Financial Policies & Procedures Manual incorporates all of the recommend changes at the Workshop.

Commissioner Miller stated that after reading the newspaper article regarding this policy, he would recommend tabling the item until further questions can be answered.

***Motion/Second by Miller/Johnson to table approval of Financial Policies & Procedures Manual. Motion carried by a vote of 3-1 with Commissioner Ray opposing.***

2. Consider request from the Golden Age Club to utilize "Big Blue" for a trip to Nashville, Tennessee on December 2<sup>nd</sup> and 3<sup>rd</sup>, 2013.

Mr. Wilson stated that the Golden Age Club is requesting to utilize Big Blue for a trip to Nashville, Tennessee.

Commissioner Miller stated that he had heard from several seniors that the bus could not go out of state any longer. Mr. Wilson stated that this information was not true and that all out of state trips had to be approved by the Commission.

Commissioner Miller also questioned if there was a distance limitation on how far Big Blue could travel. Mr. Wilson stated that the limit was out to Biloxi.

***Motion/Second by Ray/Miller to approve request from the Golden Age Club to utilize "Big Blue" for a trip to Nashville, Tennessee on December 2<sup>nd</sup> and 3<sup>rd</sup>, 2013. Motion carried by a vote of 4-0.***

3. Consider ratification of Parks & Recreation fee schedule for FY 2014.

Mr. Wilson stated these fees were incorporated in the FY' 14 Budget and have been approved by the Parks & Recreation Advisory Board.

Commissioner Miller questioned when the fees would become effective. Mr. Wilson advised that the fee schedule was effective July 1, 2013 for the FY' 14 Budget.

***Motion/Second by Ray/Miller to approve Parks & Recreation fee schedule for FY 2014. Motion carried by a vote of 4-0.***

4. Consider approval of contract for Inmate Medical Services for the Spalding County Correctional Institute with Dr. Mark Crump.

Mr. Wilson stated that Dr. Crump has been the County Physician for the Correctional Institute for the past 14-15 years. In his current contract it states that he will be paid semi-monthly. This revised contract changes the pay schedule from semi-monthly to bi-weekly so that his contract is in line with the way county employees will be paid effective January 1, 2014.

Chairman Flowers-Taylor questioned how long Dr. Crump has held the contract for the County Physician. Mr. Wilson advised that Dr. Crump has been the County Physician since the previous doctor. The previous doctor, Dr. Williams, died and had been the county physician for 37 years.

Chairman Flowers-Taylor also questioned has Dr. Crump had any pay increases. Mr. Wilson stated that Dr. Crump gets the same increase as county employees. In the past five years he has only received a 2% increase.

Commissioner Johnson questioned if the contract is negotiable. Mr. Wilson explained that the contract automatically renews unless there is objection. For the first ten years, the contract did not call for any increases. When it was redone in either 2006 or 2008, a cost of living increase was added.

**CONTRACT FOR INMATE MEDICAL SERVICES  
FOR SPALDING CORRECTIONAL INSTITUTE**

This contract is entered into this 1<sup>st</sup> day of January, 2014, by and between Spalding County, a political subdivision of the State of Georgia (hereinafter referred to as "Spalding County"), and Dr. Mark Crump, (hereinafter sometimes referred to as "Inmate Physician").

For and in consideration of the mutual benefits flowing to the parties hereto, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

-1-

Spalding County agrees to contract with Dr. Mark Crump to provide medical care for inmates of the Spalding County Correctional Institute, under the terms and conditions set forth in this contract.

-2-

#### TERM OF CONTRACT

The initial term of this contract shall become effective on January 1, 2014 and shall terminate as of 12:00 midnight, December 31, 2014. Either party hereto may terminate this contract in its entirety upon giving thirty (30) days written notice to the other party of its intent to terminate. In the event that neither party desires to terminate this contract, then it shall be automatically renewed for an additional one (1) year period beginning on January 1, 2015 and each successive year thereafter until terminated as aforesaid.

-3-

#### DESCRIPTION OF SERVICES

Inmate Physician shall provide the following medical care for inmates of the Spalding County Correctional Institute:

(1) Dr. Crump shall conduct a "sick call" at the Spalding County Correctional Institute two (2) days per week with a variable schedule normally being on Tuesday and Thursday of each week, however the days shall not be consecutive in the same week unless authorized by the Correctional Institute personnel. The length of this "sick call" shall be determined by the number of inmates who report for "sick call". Inmate Physician agrees that the medical doctor who conducts the "sick call" will be on-site at the Spalding County Correctional Institute for whatever length of time is necessary to render competent medical attention to all inmates who present themselves for "sick call".

(2) Inmate Physician also agrees to provide the following emergency service:

(a) Inmate Physician agrees that he will be on call in case of an emergency. On Monday through Friday, if the Licensed Practical Nurse on duty evaluates a patient and decides that the inmate needs to be treated by a physician, then and in such event, if Dr. Crump is available then the inmate will be seen by Dr. Crump at his office at 708 South 8<sup>th</sup> Street, Griffin, Georgia 30224. These services will be billed independently of salary benefits.

(b) If it is necessary that an inmate be taken to the emergency room of Spalding Regional Hospital, then and in such event, Dr. Crump agrees, if available, to provide treatment to the inmate in the emergency room. These services will be billed independently of salary benefits.

-4-

#### COST OF SERVICES

Spalding County agrees to pay and Dr. Crump agrees to accept the sum of \$29,440.32 per annum which shall be payable not later than the 28<sup>th</sup> of each month in the amount of \$2,453.36. In addition, Spalding County agrees to make health, dental and vision insurance available to Inmate Physician on the same basis as provided to county employees. It is agreed between the parties that the compensation paid to Inmate Physician will increase by the same percentage as any cost of living increases approved for county employees by the Board of Commissioners.

-5-

#### REPORTS AND LICENSES

Dr. Crump shall be responsible for the production and filing of any forms required by Spalding County, the State of Georgia, any agency of the State of Georgia or any federal agency. Inmate Physician shall also be responsible for maintaining all necessary licenses with any agency of the State of Georgia and/or any federal agency.

-6-

#### INSURANCE

Dr. Crump shall provide his own malpractice coverage. Additionally, Dr. Crump shall also provide general commercial liability insurance. Said general commercial liability

policy shall provide a minimum of \$1,000,000 coverage with Spalding County as an additional insured.

-7-

INDEMNIFICATION

Dr. Crump agrees to hold Spalding County harmless as to the claims of third parties which arise out of the performance of this contract or of any duty or obligation under this contract.

-8-

SEVERABILITY

If, for any reason, any paragraph or other portion of this document is deemed inapplicable, invalid or unconstitutional for any reason, the other portions of the aforesaid shall remain in full force and effect.

-9-

TERMS

All terms contained herein shall have the definition afforded them by the laws and regulations of the State of Georgia, the Georgia Department of Corrections, Spalding County and the Spalding County Correctional Institute.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal, by their duly authorized officers as of the date and year first written above.

SPALDING COUNTY

\_\_\_\_\_  
MARK CRUMP, M.D.

\_\_\_\_\_  
Chairman, County Commissioner

ATTEST: \_\_\_\_\_

***Motion/Second by Ray/Johnson to approve contract for Inmate Medical Services for the Spalding County Correctional Institute with Dr. Mark Crump. Motion carried by a vote of 4-0.***

5. Consider approval of annual contracts for programs and services under the FY 2014 Community Services Block Grant (CSBG).

Mr. Wilson stated that \$119,190 was budgeted and approved within the FY' 2014 for the CSBG program. This contract operates on the federal fiscal year and has been the same amount for the past two years. Furthermore, Mr. Wilson explained that this contract provides funding for the Council on Aging, Salvation Army and the Meals on Wheels program.

Chairman Flowers-Taylor questioned if the Federal shutdown would affect the funding of these programs. Mr. Wilson stated that the money is paid in increments. Furthermore, Mr. Wilson noted that he has heard that there is enough money for food but the program is in desperate need of drivers to deliver the home meals.

***Motion/Second by Flowers-Taylor/Ray to approve annual contracts for programs and services under the FY' 2014 Community Services Block Grant. Motion carried by a vote of 4-0.***

6. Consider approval of agency contract with the City of Orchard Hill for Fire Protection Services for the period October 1, 2013- September 30, 2014.

Mr. Wilson stated that both the City of Orchard Hill & the City of Sunny Side Fire Protection contracts are based off their digest values as calculated for the 2014 year. Contracts have gone about and correspondently both have made adjustments to their contracts.

Commissioner Miller questioned why the Cities of Orchard Hill & Sunny Side have to pay for fire services and they live in Spalding County. Mr. Wilson explained that their residents live in incorporated municipalities and do not pay the County Fire District Tax.

**AGENCY CONTRACT FOR FIRE PROTECTION SERVICES**

**STATE OF Georgia  
COUNTY OF Spalding**

**THIS AGREEMENT** made and entered into on this the first day of October 2013, by and between the City of Orchard Hill, hereinafter sometimes referred to as the "Municipality", a municipal corporation of the State of Georgia, and the "COUNTY OF SPALDING", hereinafter sometimes referred to as the "County" a political subdivision of the State of Georgia,

**W I T N E S S E T H:**

THAT WHEREAS, the Municipality now deems it in the best interest of the City of Orchard Hill and its citizens for the Municipality to furnish fire protection services in the exercises of a governmental function of the Municipality, and has requested the County to aid and assist it in furnishing such fire protection services within the corporate limits of the Municipality; and

WHEREAS, the County has now established a Fire Protection District comprising all of the unincorporated area of Spalding County and is presently furnishing fire protection services for such Fire Protection District and is willing to serve as an agent of the Municipality in providing the equipment, personnel and supplies for furnishing such fire protection services within the corporate limits of the Municipality for the consideration hereinafter set out; and

WHEREAS, the County deems it in the best interest of both parties hereto to enter into the within agency contract;

NOW, THEREFORE, for and in consideration of the premises and the respective benefits to be derived by each party hereto and in consideration of the covenants and agreements hereinafter set forth and payments of money by the Municipality to the County, as hereinafter set out, it is hereby mutually understood and agreed by and between the parties hereto, as follows:

-1-

Beginning at 12:00 o'clock Noon on October 1, 2013, the County shall serve as an agent of the Municipality in providing fire protection services within the fire district of the Municipality, being within the corporate limits of the Municipality, for a term of twelve (12) months ending at 12:00 o'clock Noon on October 1, 2014, which such fire protection services furnished hereunder shall be comparable to the fire protection services that the County is now furnishing its aforesaid Fire Protection District, being the unincorporated area of Spalding County, and all such services furnished hereunder shall be done and furnished by the County as the agent of the Municipality, who shall be the principal furnishing such fire protection services to the people and property, residing and located, within the corporate limits of the Municipality in the Municipality's exercises of a governmental function, and not a ministerial function, and at no time shall the County be acting hereunder in the capacity or role of an independent contractor.

-2-

During the term of the within contract the Municipality shall pay the County the sum of Two Thousand, Three Hundred, Seventy-Two Dollars and five cents (\$2,372.05) per month for providing such fire protection services, which sum shall be due and payable by the Municipality to the County on the 10th day of each calendar month, beginning October 10, 2013, and continuing in monthly succession thereafter on the 10th day of each successive month with the last such payment being due and payable on September 10, 2014, or until this contract is sooner terminated as hereinafter provided.

-3-

Time is of the essence of this contract and each of its provisions.

-4-

Notwithstanding anything herein contained to the contrary the within agreement may be terminated by either party hereto on the first day of any calendar month during the aforesaid twelve month term by giving notice in writing of such termination to the other party hereto at least thirty days in advance of the designated date of such termination, and thereafter this contract shall be terminated and neither party hereto shall be obligated to furnish fire protection services to the other party hereto, and no further monthly payments shall become due and payable thereafter by the Municipality.

-5-

Any notice contemplated or required by this contract shall be deemed effectively given when mailed by United States registered or certified mail, with the required postage prepaid, and addressed as follows:

If to the Municipality, address to:

City of Orchard Hill  
P. O. Box 448  
Orchard Hill, Georgia 30266

If to the County, address to:

County of Spalding  
P. O. Box 1087  
Griffin, Georgia 30224-1087

The parties hereto have respectively caused the within agreement to be duly executed in duplicate originals by and through their authorized officers and under their respective hands and seals on the day and year first above written.

CITY OF ORCHARD HILL  
(Seal of Municipality affixed hereto)

By: \_\_\_\_\_  
As Mayor of its Board of Councilmen

Attest: \_\_\_\_\_  
As Clerk of said Board

COUNTY OF SPALDING  
(Seal of County affixed hereto)

By: \_\_\_\_\_  
as Chairman of its Board of Commissioners

Attest: \_\_\_\_\_  
as Clerk of said Board

***Motion/Second by Ray/Johnson to approve agency contract with the City of Orchard Hill for Fire Protection Services for the period October 1, 2013 – September 30, 2014. Motion carried by a vote of 4-0.***

7. Consider approval of agency contract with the City of Sunny Side for Fire Protection Services for the period October 1, 2013 – September 30, 2014.

**AGENCY CONTRACT FOR FIRE PROTECTION SERVICES**

**STATE OF Georgia**  
**COUNTY OF Spalding**

**THIS AGREEMENT** made and entered into on this the first day of October, 2013 by and between the City of Sunny Side, hereafter sometimes referred to as the "Municipality", a municipal corporation of the State of Georgia, and the "COUNTY OF Spalding", hereinafter sometimes referred to as the "County" a political subdivision of the State of Georgia,

**WITNESSETH:**

THAT WHEREAS, the Municipality now deems it in the best interest of the City of Sunny Side and its citizens for the Municipality to furnish fire protection services in the exercises of a governmental function of the Municipality, and has requested the County to aid and assist it in furnishing such fire protection services within the corporate limits of the Municipality; and

WHEREAS, the County has now established a Fire Protection District comprising all of the unincorporated area of Spalding County and is presently furnishing fire protection services for such Fire Protection District and is willing to serve as an agent of the Municipality in providing the equipment, personnel and supplies for furnishing such fire protection services within the corporate limits of the Municipality for the consideration hereinafter set out; and

WHEREAS, the County deems it in the best interest of both parties hereto to enter into the within agency contract;

NOW, THEREFORE, for and in consideration of the premises and the respective benefits to be derived by each party hereto and in consideration of the covenants and agreements hereinafter set forth and payments of money by the Municipality to the County, as hereinafter set out, it is hereby mutually understood and agreed by and between the parties hereto, as follows:

-1-

Beginning at 12:00 o'clock Noon on October 1, 2013 the County shall serve as an agent of the Municipality in providing fire protection services within the fire district of the Municipality, being within the corporate limits of the Municipality, for a term of twelve (12) months ending at 12:00 o'clock Noon on October 1, 2014 which such fire protection services furnished hereunder shall be comparable to the fire protection services that the County is now furnishing its aforesaid Fire Protection District, being the unincorporated area of Spalding County, and all such services furnished hereunder shall be done and furnished by the County as the agent of the Municipality, who shall be the principal furnishing such fire protection services to the people and property, residing and located, within the corporate limits of the Municipality in the Municipality's exercises of a governmental function, and not a ministerial function, and at no time shall the County be acting hereunder in the capacity or role of an independent contractor.

-2-

During the term of the within contract the Municipality shall pay the County the sum of One Thousand Four Hundred and Thirty Three Dollars and Thirty Seven cents (\$1,433.37) per month for providing such fire protection services, which sum shall be due and payable by the Municipality to the County on the 10th day of each calendar month, beginning October 10, 2013, and continuing in monthly succession thereafter on the 10th day of each successive month with the last such payment being due and payable on September 10, 2014, or until this contract is sooner terminated as hereinafter provided.

-3-

Time is of the essence of this contract and each of its provisions.

-4-

Notwithstanding anything herein contained to the contrary the within agreement may be terminated by either party hereto on the first day of any calendar month during the aforesaid twelve month term by giving notice in writing of such termination to the other party hereto at least thirty days in advance of the designated date of such termination, and thereafter this contract shall be terminated and neither party hereto shall be obligated to furnish fire

protection services to the other party hereto, and no further monthly payments shall become due and payable thereafter by the Municipality.

-5-

Any notice contemplated or required by this contract shall be deemed effectively given when mailed by United States registered or certified mail, with the required postage prepaid, and addressed as follows:

If to the Municipality, address to:

City of Sunny Side  
P. O. Box 100  
Sunny Side, Georgia 30284

If to the County, address to:

County of Spalding  
P. O. Box 1087  
Griffin, Georgia 30224-1087

The parties hereto have respectively caused the within agreement to be duly executed in duplicate originals by and through their authorized officers and under their respective hands and seals on the day and year first above written.

CITY OF SUNNY SIDE  
(Seal of Municipality affixed hereto)

By: \_\_\_\_\_  
As Mayor of its Board of Councilmen

Attest: \_\_\_\_\_  
As Clerk of said Board

COUNTY OF SPALDING  
(Seal of County affixed hereto)

By: \_\_\_\_\_  
as Chairman of its Board of Commissioners

Attest: \_\_\_\_\_  
as Clerk of said Board

***Motion/Second by Johnson/Miller to approve agency contract with the City of Sunny Side for Fire Protection Services for the period***

**October 1, 2013 – September 30, 2014. Motion carried by a vote of 4-0.**

8. Consider appointment to the Council on Aging to fill the expired term of Jo Ann Cobb & Clara Kelly. Pursuant to bylaws, only one (1) appointment is necessary for a term to expire October 7, 2016.

Mr. Wilson stated that after some diligent research between Ricky Clark & Ruth Daniel, staff has noticed an error with these appointments. Mr. Wilson further explained that there was an error with the name. The only appointment in the book, Janie Clark was recommended by Ruth Daniels & other board members.

**Motion/Second by Ray/Johnson to appoint Janie Clark to the Council on Aging for a term to expire October 7, 2016. Motion carried by a vote of 4-0.**

9. Consider rescheduling the November 28<sup>th</sup> and December 26<sup>th</sup> Zoning Public Hearings due to observance of holidays.

Mr. Wilson stated that staff does not know yet if there will be items to approve at these meetings. On the county managers' report there will also be consideration to reschedule the November 18<sup>th</sup> and December 16<sup>th</sup> meeting. Historically, we have only held one meeting in November and December and would combine meetings with the zoning meetings.

Chairman Flowers-Taylor requested holding off with cancelling meetings until we were closer to that time.

**Motion/Second by Ray/Johnson to reschedule the November 28<sup>th</sup> & December 26<sup>th</sup> Zoning Meeting to coincide with the November 18<sup>th</sup> and December 16<sup>th</sup> Commissioners Meeting commencing at 6:00 pm. Motion carried by a vote of 4-0**

10. Consider amendment to the Spalding County Parks & Recreation Resolution establishing Rules & regulations by adding Appendix V- Concussion Policy.

Mr. Wilson stated that as a result of HB 48, new requirements were implemented to educated youth athletes and their parents on the dangers of concussions in youth athletic activities. All associations will be required to sign documentation that shows they have read and understand the danger of concussions. This amendment simply updates the Resolution that establishes the Rules & Regulations of Parks & Recreation.

**Motion/Second by Ray/Johnson to approve amendment to the Spalding County Parks & Recreation Resolution establishing Rules & Regulations by adding Appendix V- Concussion Policy. Motion carried by a vote of 4-0.**

11. Consider transfer of approved surplus vehicle to the Program Challenge Program.

Mr. Wilson stated that the Georgia National Guard Program Challenge Program is requesting transfer of one of the vehicles declared surplus at the September 16<sup>th</sup> meeting.

Commissioner Johnson questioned the amount of revenue generated for the vehicles. Mr. Wilson explained that typically we receive anywhere from \$300 to \$1,000 depending on the condition of the vehicle. Instead of buying new parts, sometimes the Sheriff's Department will utilized parts off of surplus vehicles.

Chairman Flowers-Taylor stated that typically when a transfer occurs, it's between a governmental entity only. She stated that she knows of at least 10 people that have sent kids to program challenge. This program takes kids through a boot camp program and about 85% of them end up attending college and/or joining the military. Chairman Flowers-Taylor stated that this transfer is for a good cause and to a organization that needs all the help they can receive.

Commissioner Ray stated that the kids are required to get a GED to graduate. So far, the graduation rate is at 90% and the program is funded mainly by the Georgia National Guard.

**Motion/Second by Ray/Johnson to approve transfer of surplus vehicle to the Georgia National Guard Youth Challenge Academy. Motion carried by a vote of 4-0.**

12. Consider changing unpaid holiday originally approved for January 1, 2014 (New Year's Day) to May 26, 2014 (Memorial Day).

Mr. Wilson stated that earlier this year, the Board approved changing to a bi-weekly pay system. Currently on semi-monthly pay, employees receive 24 checks per year and for bi-weekly they will receive 26 checks per year. This change was implemented to assist staff with some additional accounting requirements and an electronic time & attendance system. Mr. Wilson stated that there has been some confusion and some angst about implementation of the first unpaid holiday and going from 24 to 26 pay periods all at one time, effective January 1, 2014. Mr. Wilson stated that changing the unpaid holiday will allow us to still continue with implementing bi-weekly pay without detriment to the employee for an additional 8 hours without pay. Mr. Wilson stated that there will still be two unpaid holidays; Memorial Day & Good Friday.

Commissioner Johnson questioned if this change affects the budget. Mr. Wilson answered no, this change simply changes the date of the first unpaid holiday.

***Motion/Second by Johnson/Ray to approve changing the unpaid holiday from January 1, 2014 to May 26, 2014. Motion carried by a vote of 4-0.***

#### **XI. REPORT OF COUNTY MANAGER**

- A. The Spalding County Water & Sewerage Authority meeting originally scheduled for October 16<sup>th</sup> has been rescheduled for October 23<sup>rd</sup> beginning at 8:30 am.
- B. The Spalding County Parks & Recreation Festival of Lights will be held on November 26<sup>th</sup> at the Airport Road Track. The annual event will begin at 6:00 pm.
- C. The Parks & Recreation Annual Report has been submitted electronically to all Commissioners. This year to date report covers all of the activity of our Parks & Recreation Staff. We are fortunate to have such a great award winning department.
- D. The Georgia Recreation & Park Association Banquet & Awards Ceremony will be held on October 23<sup>rd</sup> at the Spalding County Senior Center. The Banquet will begin at 7:00 pm.
- E. The ACCG 4<sup>th</sup> District Meeting will be held on October 28, 2013 at the Coweta County Cooperative Extension Office. The Meeting will begin at 10:30 am.  
***Commissioner Miller recommended utilizing a van from Parks & Recreation for all commissioners to ride together to save on travel expenses.***
- F. Another round of In-Rem Hearings has been scheduled for October 24<sup>th</sup> beginning at 6:00 pm. Community Development to send listing by Commission District tomorrow. A notice was sent last month in reference to the cancellation of the October 24<sup>th</sup> Zoning Public Hearing due to no items submitted for approval.
- G. Congratulations to Battalion Chief Jamie Clark as Deputy Chief of Operations & Battalion Chief Glenn Polk as Deputy Chief of Administration. Historically, the position structure for the Fire Department consisted of a Fire Chief & an Assistant Fire Chief. After the promotion of Kenny West, the position of Assistant Chief was eliminated. These positions were created to enhance accountability in the various areas of operations and administration.
- H. After receiving general consensus from the Commission, staff will proceed with a meeting with the City of Griffin in reference to 800 Mhz. Chairman Gwen Flowers-Taylor & Commissioner Raymond Ray will accompany William Wilson, Jinna Garrison & Mike Windham.
- I. Staff was just notified that the Boiler at the Courthouse has to be replaced. The estimated cost of repair is between \$75,000 - \$85,000. This was not a budgeted expense. The boiler has been at the Courthouse since 1985 and has two leaking sections that cannot be repaired. Staff will be distributing an RFP for replacement of the boiler.
- J. The Spalding County Sheriff's Office Junior Deputy Program is sponsoring a fruit box fundraiser to help students out with the cost of their annual trip to Washington D.C. The Sheriff is requesting to utilize the current vacant Ceramics building on November 18<sup>th</sup> thru 25<sup>th</sup> for storage and distribution of the fruit.  
***Board consensus to allow the Junior Deputy Program to utilize the Ceramic Building.***
- K. Over the weekend there were several fires, intentionally set at the Wyomia Tyus Park. While the Fire Department was responding and putting them out, apparently the culprit was still setting other fires. There is minor damage to the Park: mulch

storage partially burned, plastic culvert under one of the trails was also burned. Fire Department & Sheriff's Department authorities are investigating. Chairman Flowers-Taylor requested placing additional camera's on the property. Mr. Wilson advised that the fires were not just around the facilities but in the woods as well.

- L. As of October 3<sup>rd</sup>, 535 appeals have been heard by the Board of Equalization. The percentage decrease in value is 5.9%. Mr. Wilson to send copy of the report to commissioners.

**XII. REPORT OF COMMISSIONERS**

**Miller-** Knows that we have tried to cut the budget but we need to stop spending on anything that is not an emergency. Anything that is not detrimental to the county does not need to be purchased. Commissioner Miller stated that he was not aware that the time clock in which the county spent \$70,000 would not work. Mr. Wilson advised that the system is no longer supported by our accounting software. Commissioner Miller stated that he was not aware of this when he was voted to approve transition to bi-weekly pay. Furthermore, Commissioner Miller stated that there are a lot of employees that live paycheck to paycheck and he wants the Board to reconsider bi-weekly pay. We are hitting them with furlough days and less pay. In closing, Commissioner Miller stated that all of these changes will be too hard on employees.

**Johnson-** None

**Ray-** Congratulations to the Kiwanis Club for a great fair. Furthermore, Commissioner Ray requested that Ricky Clark get with the Spalding County Hospital Authority for a demonstration for Novus Agenda.

**Flowers-Taylor-** The reason she voted to table the financial policy was because there was no language specific to mandating contractors to hire local subcontractors. Furthermore, Chairman Flowers-Taylor stated that she also did not vote for the financial policy because she does not see how we can achieve placing 18% into fund balance. In closing, Chairman Flowers-Taylor requested beginning to work on a financial strategic plan as requested by Commissioner Ray.

Mr. Wilson advised the Board that Commissioner Gardner was not able to make the meeting due to an illness.

**XIII. CLOSED SESSION - NONE**

**XIV. ADJOURNMENT**

***Motion/Second by Ray/Johnson to adjourn at 7:15 pm. Motion carried by a vote of 4-0.***

/s/  
Chairman

/s/  
County Clerk

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