COUNTY DEPARTMENT AGENDA REQUEST

Department:	Planning & Zoning	Presenter(s):	Peter A. Frisina
Meeting Date:	Thursday, February 10, 2011	Type of Request:	Consent

Wording for the Agenda:

Approval of Ordinance No. 2011-02 amending the Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, which enacts distance requirements as related to child care facilities.

Background/History/Details:

Under the current ordinance, a child care facility is not addressed. Staff is proposing to amend the ordinance to include a definition for a child care facility and to require an alcohol location to be located a minimum of 300 feet from a child care facility. Currently, the ordinance requires any private residence (house, dwelling, condominium or duplex), church, school, library or alcoholic treatment center to be a minimum of 300 feet from any alcohol location; however, it does not include a child care facility.

On February 2, 2011, the Board of Commissioners approved for the proposed amendments to be placed on the February 10, 2011, Agenda. The Board of Commissioners also instructed staff to begin review of the Alcoholic Beverages chapter, in its entirety.

What action are you seeking from the Board of Commissioners?

Motion to approve Ordinance 2011-02 approving amendments to the Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, enacting distance requirements for child care facilities.

If this item requires funding, please describe:

Funds to pay the cost of including these amendments/ordinances in the Fayette County Code are a part of an overall review and recodification project currently underway. Funds will reside elsewhere in the County's budget.

Has this issue come before the Commissioners in the past?	Yes	If so, when?	Wednesday, February 2, 2011
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

02/02111 -- BOC Wkshop
0211 0111 - BOC Public Meeting

PROPOSED AMENDMENTS TO THE
FAYETTE COUNTY CODE OF ORDINANCES
CHAPTER 3 ALCOHOLIC BEVERAGES

Article II. Wine

Sec. 3-26. Definitions.

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

Child Care Facility. An [illegible] *organization. or individual providing care for four* (4) *or more children not related by blood or marriage or not the legal wards of the attendant adult.*

Interest in a license shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of the license, or a partner in a partnership which owns all or any part of a license. However, a stockholder shall not be deemed to have an interest in a retail vinous liquor store where he owns stock in a motel or hotel having two hundred (200) or more rooms with a retail vinous liquor store located on the premises of such motel or hotel and owned by such motel or hotel.

Vinous liquors shall include and be limited to those beverages that fit within the definition of "wine" as defined herein.

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

(Code 1983, § 3-2; Ord. No. 91-09, §§ 1,2,9-18-91)

Cross references: Definitions and rules of construction generally, § 1-2.

State law references: Definitions relating to alcoholic beverages, O.C.G.A. § 3-1-2; definitions relating to wine, O.C.G.A. § 3-6-1.

Sec. 3-27. Purpose of Article.

This article has been enacted in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and sales of vinous liquors, to protect and preserve schools. *child care facilities.* and churches, to give effect to existing land use and to preserve certain residential areas with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values.

(Code 1983, § 3-1)

Sec. 3-31. Distance requirements from churches, schools, *child care facilities.* etc.; distance requirements from private residences.

(a) No license shall be issued under this article for any retail location which is within three hundred (300) feet of any church, school, *child care facility,* library or alcoholic treatment center. Such distance shall be measured from the nearest building wall of the proposed retail vinous liquor store to the nearest point of such church, school, *child care facility,* library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or 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 or other special subjects are taught.

(b) No license shall be issued under this article for any retail location which is within three hundred (300) feet of any private residence. Such distance shall be measured from the nearest building wall of the proposed retail vinous liquor store to the nearest point of the residential building along the closest and most reasonable public access. A "private residence, "for the purposes of this section, is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

(Code 1983, § 3-6; Ord. No. 92-13, § 1, 11-11-92)

Cross references: Recreation and parks, Ch. 14.

State law references: Sales of alcoholic beverages near churches, school buildings, etc., O.e.G.A. § 3-3-21.

Sec. 3-48. Surveyor's certificate required.

All original applications for new licenses shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed or existing premises, and stating both the straight line distance and the distance measured along the closest and most reasonable public access from the proposed or existing premises to the building and property line of the nearest church, school, *child care facility,* library, alcoholic treatment center and private residence.

(Code 1983, § 3-11; Ord. No. 92-13, § 3, 11-11-92)

Article III. Malt Beverages

Sec. 3-106. Definitions.

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

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

Child Care Facility. All agency. organization. or individual providing care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.

Interest in a license shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of the license, or a partner in a partnership which owns all or any part of a license. However, a stockholder shall not be deemed to have an interest in a retail malt beverage store where he owns stock in a motel or hotel having two hundred (200) or more rooms

with a retail malt beverage store located on the premises of such motel or hotel and owned by such motel or hotel.

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 fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

(Code 1983, § 3-39; Ord. No. 91-11, §§ 1, 2,9-18-91; Ord. No. 2004-19, § 4, 8-26-04)

Cross references: Definitions and rules of construction generally, § 1-2.

State law references: Definitions relating to alcoholic beverages, O.e.G.A. § 3-1-2; definitions relating to malt beverages, O.C.G.A. § 3-5-1.

Sec. 3-107. Purpose of Article.

This article has been enacted in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and sales of malt beverages, to protect and preserve schools, *child care facilities,* and churches, to give effect to existing land use and to preserve certain residential areas with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values.

(Code 1983, § 3-38)

Sec. 3-111. Distance requirements from churches, schools, *child care facilities,* etc.; distance requirements from private residences.

(a) No license shall be issued under this article for any retail location which is within three hundred (300) feet of any church, school, *child care facility,* library or alcoholic treatment center. Such distance shall be measured from the nearest building wall of the proposed retail malt beverage store to the nearest point of such church, school, *child care facility,* library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or 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 or other special subjects are taught.

(b) No license shall be issued under this article for any retail location which is within three hundred (300) feet of any private residence. Such distance shall be measured from the nearest building wall of the proposed retail malt beverage store to the nearest point of the residential building along the closest and most reasonable public access. A "private residence," for the purposes of this section, is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

(Code 1983, § 3-43; Ord. No. 92-13, § 4, 11-11-92)

Cross references: Recreation and parks, Ch. 14.

State law references: Sales of alcoholic beverages near churches, school buildings, etc., O.C.G.A. § 3-3-21.

Sec.3-128. Surveyor's certificate required.

All original applications for new licenses shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed or existing premises, and stating both the straight line distance and the distance measured along the closest and most reasonable public access from the proposed or existing premises to the building and property line of the nearest church, school, *child care facility.* library, alcoholic treatment center and private residence.

(Code 1983, § 3-48; Ord. No. 92-13, § 6, 1]-11-92)

Article IV. On-Premise Consumption Dealers

Sec. 3-180.1. Authority and definitions.

(a) *Authority.*

(1) The provisions of this article pertaining to the sale of malt beverages by the drink for on-premises consumption are enacted pursuant to the authority granted to the Board of Commissioners of Fayette County by the State of Georgia.

(2) The provisions of this article pertaining to the sale of wine by the drink for on-premise consumption are enacted pursuant to the authority granted to the Board of Commissioners of Fayette County by the State of Georgia.

(3) The provisions of this article pertaining to the sale of distilled spirits, by the drink, for on-premise consumption are enacted pursuant to the authority granted to the Fayette County Board of Commissioners through a special election held July 20, 2004 pursuant to O.e.G.A. § 3-4-92 in which the qualified voters of Fayette County elected to permit such sale of distilled spirits by the drink within the unincorporated boundaries of the County of Fayette and O.e.G.A. § 3-4-110 authorizing the board to adopt reasonable rules and regulations regarding licensing for such sales.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means all wines, malt beverages, beers, distilled spirits, and fortified wines as each is defined herein.

Child Care Facility. An agency. organization, or individual providing care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.

Distilled spirit means any alcoholic beverage obtained by distillation or any alcoholic beverage containing more than twenty one (21) percent alcohol by volume, including but not limited to fortified wine.

Fortified wine means any alcoholic beverage containing more than twenty-one (2]) percent alcohol by volwlle and made from fruits, berries, or grapes either by natural fermentation or with brandy added. Fortified wine shall include but not be limited to the brandy.

Golf course means a large tract of land laid out with a minimum of eighteen (18) holes over a distance of at least five thousand five hundred (5,500) yards, and used exclusively for playing golf.

Hotel means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential; and in which fifty (50) or more rooms are used for sleeping accommodations of such guests; and having one (1) or more public dining rooms, with an adequate and sanitary kitchen and a seating capacity of at least forty (40), where meals are served at least once a day to such guests; and where the sleeping accommodations and dining rooms are being conducted in the same building or in separate buildings or structures used in connection

therewith that are in the same premises and are a part of the hotel operations. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge or restaurant in their premises and the holder of such franchise shall be included in the definition of hotel hereunder.

Intoxicating beverage means and includes any beverage containing any percentage of alcohol whatsoever.

Licensee means an establishment holding a license to engage in the sale of distilled spirits, wines, or malt beverages by the drink, for consumption on the premises.

Lounge means a separate room connected with, a part of and adjacent to a restaurant, or located in a hotel, as defined herein with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least forty (40).

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 fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

Premises means the definite closed or partitioned-in locality, whether room, shop or building wherein alcoholic beverages are sold by the drink. For the purposes of this article only, premises shall also mean all real property upon which a golf course is constructed.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where food is regularly served, and having no sleeping accommodations. Such place shall be provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least forty (40) people, and shall have employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served for each day the premises are open, with the exception of holidays, vacations, and periods of redecorating. The serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto; provided, however, at least sixty (60) percent of the annual gross income must be derived from the sale of such meals served for consumption on the premises. Such receipts shall be certified by the owner of the premises and reported to the business license department on a quarterly basis.

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

(Ord. No. 91-12, § 3-81, 9-18-91; Ord. No. 94-17, §§ 1,2,10-19-94; Ord. No. 2004-19, § 8, 8-26-04)

Sec.3-180.42. Surveyor's certificate **required.**

All original applications for new licenses shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed or existing premises, and stating both the straight line distance and the distance measured along the closest and most reasonable public access from the proposed or existing premises to the building and property line of the nearest church, school, *child care facility,* library, alcoholic treatment center and private residence.

(Ord. No. 91-12, § 3-106,9-18-91; Ord. No. 92-13, § 7,11-11-92)

Sec. 3-180-45. Renewal of license.

(a) All licensees under this division shall be required to renew their licenses annually, by January 1 of each year, on fonus prescribed by the board of commissioners. Renewals shall be pennitted from July 20, 2004, through December 31, 2004, to pennit licensees as of July 20, 2004 (the date that the sale of distilled spirits by the drink was authorized in Fayette County) to expand their licenses to include distilled spirits sales. Renewals from July 20, 2004 to December 31, 2004 shall require submission of only the licensee's current application on file accompanied by a notarized letter of intent to expand licensure to include distilled spirits sales, a surveyor surveyor's letter as described in subpart (b) below and the appropriate fee.

(b) Any licensee submitting an application for annual renewal of a license for the sale of alcoholic beverages by the drink whom is in good standing as a licensee at the time of renewal shall be pennitted to apply for an expansion of that license to include an additional license for sales by the drink of distilled spirits, beer, or wine (whichever is not pennitted under the licensees) being renewed). The renewal application shall include a notarized letter from the licensee expressing intent to receive said expansion and shall be marked on its face to indicate intent to expand current licensing to include additional licenses and shall include the fee for said additional licensees) as stated in section 3-180.55 hereof. Licensee's application will be reviewed for confonnity with all conditions required for the expansion to the additional license, to detennine eligibility for the receipt of the requested expansion to include the additional license. The licensed premises shall be specifically reviewed for confonnity with section 3-180.51 hereof. As such, a survey (perfonned within the past year and as described in section 3-180.42 hereof) or a letter signed and sealed by a registered surveyor which indicates the name, address, and distance (as measured in accordance with [section] 3-180.51 hereof) of the closest school, *child care facility,* and any school within six hundred (600) feet of the place where distilled spirits are proposed to be sold, shall be submitted with the request for expansion to include an additional license, if said addition is of a distilled spirits license. Otherwise, all infonnation obtained from licensee's original license application and renewal application is hereby deemed sufficient for the grant of expansion to include the additional license, however, further information may be requested and shall be provided where needed. An original application and the procedure for licensing thereunder is not required to receive expansion of a license to include additional licenses for on-premise alcohol sales.

(Ord. No. 91-12, § 3-109, 9-18-91; Ord. No. 2004-19, § 12,8-26-04)

Sec. 3-180.51. Distance requirements from churches, schools, *child care facilities,* etc.; distance requirements from private residences.

(a) No license shall be issued under this article for any location which is within three hundred (300) feet of any church, school, *child care facility,* library or alcoholic treatment center, if distilled spirits are to be sold, said distance from any school building, educational building, school growlds, *child care facilities,* or college campus shall be at least six hundred (600) feet. Such distance shall be measured from the nearest building wall of the proposed location to the nearest point of such church, school, *child care facility,* library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or 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 any specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations or other special subjects are taught.

(b) No license shall be issued W1der this article for any location which is within three hW1dred (300) feet of any private residence. Such distance shall be measured from the nearest building wall of the proposed location to the nearest point of the residential building along the closest and most reasonable public access. A "private residence," for the purposes of the section is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

(Ord. No. 91-12, § 3-115,9-18-91; Ord. No. 92-13, § 8, 11-11-92; Ord. No. 2004-19, § 13,8-26-04)

State of Georgia;
County of Fayette

ORDINANCE NO. 2011 - 02

AN ORDINANCE TO AMEND THE FAYETTE CODE OF ORDINANCES, AS AMENDED, SPECIFICALLY CHAPTER 3 ALCOHOLIC BEVERAGES, SO AS TO ADD CHILD CARE FACILITY STANDARDS SET FORTH THEREIN; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of Fayette County is the Board of Commissioners thereof;

WHEREAS, the governing authority desires to amend the provision that provides for the regulation of land development as allowed by the State of Georgia;

WHEREAS, the health, safety, and welfare of the citizens of Fayette County, Georgia shall be improved and protected by adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-26. Definitions, in its entirety, and in lieu thereof, enacting a new Sec. 3-26. Definitions to read as follows:

Sec. 3-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
Child Care Facility means an agency, organization, or individual providing care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.
Interest in a license shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of the license, or a partner in a partnership which owns all or any part of a license. However, a stockholder shall not be deemed to have an interest in a retail vinous liquor store where he owns stock in a motel or hotel having two hundred (200) or more rooms with a retail vinous liquor store located on the premises of such motel or hotel and owned by such motel or hotel.
Vinous liquors shall include and be limited to those beverages that fit within the definition of "wine" as defined herein.
Wine shall mean any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this article.

Section 2. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as

amended, is hereby further amended by deleting Sec. 3-27. Purpose of Article, in its entirety, and in lieu thereof, enacting a new Sec. 3-27. Purpose of Article to read as follows:

Sec. 3-27. Purpose of Article.

This article has been enacted in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and sales of vinous liquors, to protect and preserve schools, child care facilities, and churches, to give effect to existing land use and to preserve certain residential areas with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values.

Section 3. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-31. Distance requirements from churches, schools, etc.; distance requirements from private residences, in its entirety, and in lieu thereof, enacting a new Sec. 3-31. Distance requirements from churches, schools, child care facilities, etc.; distance requirements from private residences to read as follows:

Sec. 3-31. Distance requirements from churches, schools, child care facilities, etc.; distance requirements from private residences.

a. No license shall be issued under this article for any retail location which is within three hundred (300) feet of any church, school, child care facility, library or alcoholic treatment center. Such distance shall be measured from the nearest building wall of the proposed retail vinous liquor store to the nearest point of such church, school, child care facility, library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or 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 or other special subjects are taught.
b. No license shall be issued under this article for any retail location which is within three hundred (300) feet of any private residence. Such distance shall be measured from the nearest building wall of the proposed retail vinous liquor store to the nearest point of the residential building along the closest and most reasonable public access. A "private residence, "for the purposes of this section, is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

Section 4. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-48. Surveyor's certificate required, in its entirety, and in lieu thereof, enacting a new Sec. 3-48. Surveyor's certificate required to read as follows:

Sec. 3-48. Surveyor's certificate required.

All original applications for new licenses shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed or existing premises, and stating both the straight line distance and the distance measured along the closest and most reasonable public access from the proposed or existing premises to the building and property line of the nearest church, school, child care facility, library, alcoholic

treatment center and private residence.

Section 5. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-106. Definitions, in its entirety, and in lieu thereof, enacting a new Sec. 3-106. Definitions to read as follows:

Sec. 3-106. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.
Child Care Facility means an agency, organization, or individual providing care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.
Interest in a license shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of the license, or a partner in a partnership which owns all or any part of a license. However, a stockholder shall not be deemed to have an interest in a retail malt beverage store where he owns stock in a motel or hotel having two hundred (200) or more rooms with a retail malt beverage store located on the premises of such motel or hotel and owned by such motel or hotel.
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 fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

Section 6. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-107. Purpose of Article, in its entirety, and in lieu thereof, enacting a new Sec. 3-107. Purpose of Article to read as follows:

Sec. 3-107. Purpose of Article.

This article has been enacted in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and sales of malt beverages, to protect and preserve schools, child care facilities, and churches, to give effect to existing land use and to preserve certain residential areas with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values.

Section 7. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-111. Distance requirements from churches, schools, etc.; distance requirements from private residences, in its entirety, and in lieu thereof, enacting a new Sec. 3-111. Distance requirements from churches, schools, child care facilities, etc.; distance requirements from private residences to read as follows:

Sec. 3-111. Distance requirements from churches, schools, child care facilities, etc.; distance requirements from private residences.

a. No license shall be issued under this article for any retail location which is within three hundred (300) feet of any church, school, child care facility, library or alcoholic treatment center. Such distance shall be measured from the nearest building wall of the proposed retail malt beverage store to the nearest point of

such church, school, child care facility, library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or 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 or other special subjects are taught.
b. No license shall be issued under this article for any retail location which is within three hundred (300) feet of any private residence. Such distance shall be measured from the nearest building wall of the proposed retail malt beverage store to the nearest point of the residential building along the closest and most reasonable public access. A "private residence," for the purposes of this section, is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

Section 8. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-128. Surveyor's certificate required, in its entirety, and in lieu thereof, enacting a new Sec. 3-128. Surveyor's certificate required to read as follows:

Sec. 3-128. Surveyor's certificate required.

All original applications for new licenses shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed or existing premises, and stating both the straight line distance and the distance measured along the closest and most reasonable public access from the proposed or existing premises to the building and property line of the nearest church, school, child care facility, library, alcoholic treatment center and private residence.

Section 9. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers as amended, is hereby further amended by deleting Sec. 3-180.1. Authority and Definitions, in its entirety, and in lieu thereof, enacting a new Sec. 3-180.1. Definitions to read as follows:

Sec. 3-180.1. Authority and Definitions.

a. Authority.

(1) The provisions of this article pertaining to the sale of malt beverages by the drink for on-premises consumption are enacted pursuant to the authority granted to the Board of Commissioners of Fayette County by the State of Georgia.
(2) The provisions of this article pertaining to the sale of wine by the drink for on-premise consumption are enacted pursuant to the authority granted to the Board of Commissioners of Fayette County by the State of Georgia.
(3) The provisions of this article pertaining to the sale of distilled spirits, by the drink, for on-premise consumption are enacted pursuant to the authority granted to the Fayette County Board of Commissioners through a special election held July 20, 2004 pursuant to O.C.G.A. § 3-4-92 in which the qualified voters of Fayette County elected to permit such sale of distilled spirits by the drink within the unincorporated boundaries of the County of Fayette and O.C.G.A. § 3-4-110 authorizing the board to adopt reasonable rules and regulations regarding licensing for such sales.

b. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means all wines, malt beverages, beers, distilled spirits, and fortified wines as each is defined herein.
Child Care Facility means an agency, organization, or individual providing care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.
Distilled spirit means any alcoholic beverage obtained by distillation or any alcoholic beverage containing more than twenty one (21) percent alcohol by volume, including but not limited to fortified wine.
Fortified wine means any alcoholic beverage containing more than twenty-one (21) percent alcohol by volume and made from fruits, berries, or grapes either by natural fermentation or with brandy added. Fortified wine shall include but not be limited to the brandy.
Golf course means a large tract of land laid out with a minimum of eighteen (18) holes over a distance of at least five thousand five hundred (5,500) yards, and used exclusively for playing golf.
Hotel means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential; and in which fifty (50) or more rooms are used for sleeping accommodations of such guests; and having one (1) or more public dining rooms, with an adequate and sanitary kitchen and a seating capacity of at least forty (40), where meals are served at least once a day to such guests; and where the sleeping accommodations and dining rooms are being conducted in the same building or in separate buildings or structures used in connection therewith that are in the same premises and are a part of the hotel operations. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge or restaurant in their premises and the holder of such franchise shall be included in the definition of hotel hereunder.
Intoxicating beverage means and includes any beverage containing any percentage of alcohol whatsoever.
Licensee means an establishment holding a license to engage in the sale of distilled spirits, wines, or malt beverages by the drink, for consumption on the premises.
Lounge means a separate room connected with, a part of and adjacent to a restaurant, or located in a hotel, as defined herein with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least forty (40).
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 fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.
Premises means the definite closed or partitioned-in locality, whether room, shop or building wherein alcoholic beverages are sold by the drink. For the purposes of this article only, premises shall also mean all real property upon which a golf course is constructed.
Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where food is regularly served, and having no sleeping accommodations. Such place shall be provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least forty (40) people, and shall have employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served for each day the premises are open, with the exception of holidays, vacations, and periods of redecorating. The serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto; provided, however, at least sixty (60) percent of the annual gross income must be derived from the sale of such meals served for consumption on the premises. Such receipts shall be certified by the owner of the premises and reported to the business license department on a quarterly basis.
Wine means any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such

beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

Section 10. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers as amended, is hereby further amended by deleting Sec. 3-180.42. Surveyor's certificate required, in its entirety, and in lieu thereof, enacting a new Sec. 3-180.42. Surveyor's certificate required to read as follows:

Sec. 3-180.42. Surveyor's certificate required.

All original applications for new licenses shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed or existing premises, and stating both the straight line distance and the distance measured along the closest and most reasonable public access from the proposed or existing premises to the building and property line of the nearest church, school, child care facility, library, alcoholic treatment center and private residence.

Section 11. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers as amended, is hereby further amended by deleting Sec. 3-180.45. Renewal of license, in its entirety, and in lieu thereof, enacting a new Sec. 3-180.45. Renewal of license to read as follows:

Sec. 3-180-45. Renewal of license.

a. All licensees under this division shall be required to renew their licenses annually, by January 1 of each year, on forms prescribed by the board of commissioners. Renewals shall be permitted from July 20, 2004, through December 31, 2004, to permit licensees as of July 20, 2004 (the date that the sale of distilled spirits by the drink was authorized in Fayette County) to expand their licenses to include distilled spirits sales. Renewals from July 20, 2004 to December 31, 2004 shall require submission of only the licensee's current application on file accompanied by a notarized letter of intent to expand licensure to include distilled spirits sales, a survey or surveyor's letter as described in subpart (b.) below and the appropriate fee.

b. Any licensee submitting an application for annual renewal of a license for the sale of alcoholic beverages by the drink whom is in good standing as a licensee at the time of renewal shall be permitted to apply for an expansion of that license to include an additional license for sales by the drink of distilled spirits, beer, or wine (whichever is not permitted under the license(s) being renewed). The renewal application shall include a notarized letter from the licensee expressing intent to receive said expansion and shall be marked on its face to indicate intent to expand current licensing to include additional licenses and shall include the fee for said additional license(s) as stated in section 3-180.55 hereof. Licensee's application will be reviewed for conformity with all conditions required for the expansion to the additional license, to determine eligibility for the receipt of the requested expansion to include the additional license. The licensed premises shall be specifically reviewed for conformity with section 3-180.51 hereof. As such, a survey (performed within the past year and as described in section 3-180.42 hereof) or a letter signed and sealed by a registered surveyor which indicates the name, address, and distance (as measured in accordance with [section] 3-180.51 hereof) of the closest school, child care facility, and any school within six hundred (600) feet of the place where distilled spirits are proposed to be sold, shall be submitted with the request for expansion to include an additional license, if said addition is of a distilled spirits license. Otherwise, all information obtained from licensee's original license application and renewal application is hereby deemed sufficient for the grant of expansion to include the additional license, however, further information may be requested and shall be

provided where needed. An original application and the procedure for licensing there under is not required to receive expansion of a license to include additional licenses for on-premise alcohol sales.

Section 12. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers as amended, is hereby further amended by deleting Sec. 3-180.51. Distance requirements from churches, schools, etc.; distance requirements from private residences, in its entirety, and in lieu thereof, enacting a new Sec. 3-180.51. Distance requirements from churches, schools, child care facilities, etc.; distance requirements from private residences to read as follows:

Sec. 3-180.51. Distance requirements from churches, schools, child care facilities, etc.; distance requirements from private residences.

a. No license shall be issued under this article for any location which is within three hundred (300) feet of any church, school, child care facility, library or alcoholic treatment center, if distilled spirits are to be sold, said distance from any school building, educational building, school grounds or college campus shall be at least six hundred (600) feet. Such distance shall be measured from the nearest building wall of the proposed location to the nearest point of such church, school, child care facility, library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or 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 any specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations or other special subjects are taught.
b. No license shall be issued under this article for any location which is within three hundred (300) feet of any private residence. Such distance shall be measured from the nearest building wall of the proposed location to the nearest point of the residential building along the closest and most reasonable public access. A "private residence," for the purposes of the section is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

Section 13. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 14. a. It is hereby declared to be the intention of the Board of Commissioners that all Sections, paragraphs, sentences, clauses and phrases of this Article are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Article is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Article.

c. In the event that any phrase, clause, sentence, paragraph or section of this Article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences,

paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 15. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed except those provided for herein.

Section 16. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

So ordained this 10th day of February, 2011, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
HERBERT E. FRADY, CHAIRMAN

ATTEST:

_____
CLERK/DEPUTY CLERK