COUNTY AGENDA REQUEST

Department:	Planning and Zoning	Presenter(s):	Pete Frisina / Scott Bennett
Meeting Date:	Thursday, August 23, 2012	Type of Request:	Old Business

Wording for the Agenda:

Consideration of staff's recommendation to adopt Ordinance 2012-11 approving proposed amendments to the Fayette County Code of Ordinances, Part II County Code, Chapter 3 Alcoholic Beverages.

Background/History/Details:

On April 26, 2012, the Fayette County Board of Commissioners adopted Resolution 2012-09 which authorized a referendum to be held on July 31, 2012 to determine whether or not the package sales by retailers of package malt beverages, wine, and distilled spirits in unincorporated Fayette County should be allowed on Sundays. On July 31, 2012, Fayette County's voters passed the referendum to allow package sales in unincorporated Fayette County on Sundays with 65.09% of the vote.

In order to effect the voter's decision, Fayette County's current ordinance must be amended to allow for Sunday sales of package beer and wine.

Furthermore, the Fayette County Administrator is proposing additional amendments to the ordinance that will remove references to the "Business License Department" and will place administration of alcoholic beverage applications and licenses with Fayette County's Marshal's Office.

It is also proposed to change the tax reporting and payment requirements from the "Business License Department" to the Finance Department.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt Ordinance 2012-11 approving proposed amendments to the Fayette County Code of Ordinances, Part II County Code, Chapter 3 Alcoholic Beverages.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	Yes	If so, when?	Thursday, April 26, 2012
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

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

Staff Notes:

Sec. 3-47. - Application—Contents.

(a) All applications for licenses, both original and renewal, shall be submitted to the marshal's office and must be accompanied by a full and complete statement under oath of information relative to any and all interests (as defined in section 3-26) in retail packaged vinous liquor stores. This shall include:

(1) The names and addresses of all persons interested in the ownership of the business of selling at retail packaged vinous liquor, together with any interest each person or any member of his immediate family has in any other retail packaged spirituous liquor store or vinous liquor store.

(2) The ownership of the land and building where such retail business is operated.

(3) The amount of rental paid for the land and building and the manner in which the same is determined, and to whom and at what intervals it is paid.

(4) The names and addresses (by affidavit from the owner, lessor or sublessor of such land and building) of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the retail packaged vinous liquor store is located.

(5) Any other information called for by the board of commissioners.

(b) Any change in any relationship herein declared must be filed with the ~~business license department~~marshal's office when such change is made, and failure to so file within a period of thirty (30) days after such change is made shall be grounds for cancellation by the board of commissioners.

Sec. 3-51. - Investigation of applicant; cooperation by applicant.

(a) All applications for new licenses for sale of packaged vinous liquor at retail and all applications for renewal of such new licenses shall be investigated by the ~~business license department~~marshal's office. No such new or renewal license shall be acted upon by the board of commissioners or issued by the ~~business license department~~marshal's office until the county attorney has indicated in writing that in his opinion, upon the facts as stated and ascertained by the ~~business license department~~marshal's office, no violation exists as to any ordinance in effect as of the date of the rendering of such opinion. All applicants for new or renewal licenses shall furnish to the ~~business license department~~marshal's office all data, information and records requested of them by the ~~business license department~~marshal's office. Failure of the applicant to furnish such data, information and records within thirty (30) days from the date of the request by the ~~business license department~~marshal's office shall automatically serve to dismiss with prejudice the application of any such applicant.

(b) Applicants, by filing for a license to sell package vinous liquor at retail, agree to furnish the data, information and records as called for herein and also agree to submit under oath to interrogation by the ~~business license department~~marshal's office or the county attorney as to any facts considered pertinent to such application. Applicants, by filing such application, also agree to produce for oral interrogation by the ~~business license department~~marshal's office or the county attorney any person requested by the ~~business license department~~marshal's office and considered as being important in the ascertainment of the facts relative to the license. Failure to produce such persons within thirty (30) days after being requested to do so shall result in the automatic dismissal of any application for license.

Sec. 3-56. - Procedure when license denied by state.

In the event the applicant for a license required by this division is denied a license by the state, upon the proof of such refusal, he shall be entitled to a refund of the license fee, less the investigative fee as required in section 3-54(a)(2), plus an additional charge of twenty-five dollars ($25.00) to cover clerical cost of granting the license. Such refund may be made by the ~~business license director~~county marshal without the necessity of any action by the board of commissioners.

Sec. 3-79. - Business hours and days.

(a) Retail dealers in vinous liquors shall not engage in the sale of such liquors except between the hours of 7:00 a.m. and 11:45 p.m. ~~on weekdays~~ and shall not permit their places of business to be opened for the sale of vinous liquors on ~~Sundays,~~ election days and Christmas Day.

(b) An "election day", for the purposes of the sale of vinous liquors, means that period of time beginning with the opening of the polls and ending with the closing of the polls

Sec. 3-82. - Employees; reports to police; investigation; fees.

(a) No retail licensee shall employ any minor, except as provided by state law, in his store, or in the department of a store where vinous liquors are sold. No retail licensee shall employ in any premises used for the sale of vinous liquors any person in any capacity whatsoever who has been convicted within ten (10) years of the date of employment of a felony, or any violation of the laws of this state, any other state or of the United States relating to the sale of alcoholic beverages.

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell vinous liquors to file with the ~~business license director~~county marshal the names of all employees, with their home addresses, home telephone numbers and places of employment. Changes in the list of employees, with the names of new employees, must be filed with the ~~business license director~~county marshal within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and

regulations as may be deemed necessary from time to time by the ~~business license department~~county marshal. A ten-dollar investigative fee shall be paid by all applicants.

(c) At the time of application or at the time a licensee hires a new employee, the licensee shall submit a current one-square-inch photograph of such employee for placement upon that employee's identification card. Photographs shall not be required for any licensed premises which employs fifteen (15) or more employees.

(d) No licensee shall allow any person to engage in the sale of vinous liquors prior to the completion of a satisfactory investigation by the business license department. Licensees in violation of this section shall be liable for a fine of two hundred fifty dollars ($250.00) per employee engaged in such practice. Subsequent offenses may subject licensee to suspension or revocation of his license.

Sec. 3-84. - Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.

(a) All premises licensed under this article shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption.

(b) It shall be unlawful to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices on the premises.

(c) The fire department shall, upon request of the ~~business license department~~marshal's office, inspect such premises and report their findings to the county. All premises licensed hereunder shall conform at all times with all fire regulations of the county.

Sec. 3-127. - Application—Contents.

(a) All applications for licenses, both original and renewal, shall be submitted to the marshal's office and must be accompanied by a full and complete statement under oath of information relative to any and all interests (as defined in section 3-106) in retail packaged malt beverage stores. This shall include:

(1) The names and addresses of all persons interested in the ownership of the business of selling at retail packaged malt beverages, together with any interest each person or any member of his immediate family has in any other retail packaged malt beverage store.

(2) The ownership of the land and building where such retail business is operated.

(3) The amount of rental paid for the land and building and the manner in which the same is determined, and to whom and at what intervals it is paid.

(4) The names and addresses (by affidavit from the owner, lessor or sublessor of such land and building) of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the retail packaged malt beverage store is located.

(5) Any other information called for by the board of commissioners.

(b) Any change in any relationship herein declared must be filed with the ~~business license department~~marshal's office when such change is made, and failure to so file within a period of thirty (30) days after such change is made shall be grounds for cancellation by the board of commissioners.

Sec. 3-131. - Investigation of applicant; cooperation by applicant.

(a) All applications for new licenses for sale of packaged malt beverages at retail and all applications for renewal of such new licenses shall be investigated by the ~~business license department~~marshal's office. No such new or renewal license shall be acted upon by the board of commissioners or issued by the ~~business license department~~marshal's office until the county attorney has indicated in writing that in his opinion, upon the facts as stated and ascertained by the ~~business license department~~marshal's office, no violation exists as to any ordinance in effect as of the date of the rendering of such opinion. All applications for new or renewal licenses shall furnish to the ~~business license department~~marshal's office all data, information and records requested of them by the ~~business license department~~marshal's office. Failure of the applicant to furnish such data, information and records within thirty (30) days from the date of the request by the ~~business license department~~marshal's office shall automatically serve to dismiss with prejudice the application of any such applicant.

(b) Applicants, by filing for a license to sell package malt beverages at retail, agree to furnish the data, information and records as called for herein and also agree to submit under oath to interrogation by the ~~business license department~~marshal's office or the county attorney as to any facts considered pertinent to such application. Applicants, by filing such application, also agree to produce for oral interrogation by the ~~business license department~~marshal's office or the county attorney any person requested by the ~~business license department~~marshal's office and considered as being important in the ascertainment of the facts relative to the license. Failure to produce such persons within thirty (30) days after being requested to do so shall result in the automatic dismissal of any application for license.

Sec. 3-136. - Procedure when license denied by state.

In the event the applicant for a license required by this division is denied a license by the state, upon the proof of such refusal he shall be entitled to a refund of the license fee, less the investigative fee as required in section 3-134(a)(2), plus an additional charge of twenty-five dollars ($25.00) to cover clerical cost of granting the license. Such refund

may be made by the ~~business license director~~county marshal without the necessity of any action by the board of commissioners.

Sec. 3-159. - Business hours and days.

(a) Retail dealers in malt beverages shall not engage in the sale of said beverages except between the hours of 7:00 a.m. and 11:45 p.m. ~~on weekdays~~ and shall not permit their places of business to be opened for the sale of malt beverages on ~~Sundays,~~ Christmas Day or election days.

(b) An "election day", for the purposes of the sale of malt beverages, means that period of time beginning with the opening of the polls and ending with the closing of the polls.

Sec. 3-162. - Employees; reports to ~~business license director~~county marshal; investigation; fees.

(a) No retail licensee shall employ any minor, except as provided by state law, in his store, or in the department of a store where malt beverages are sold. No retail licensee shall employ in any premises used for the sale of malt beverages any person in any capacity whatsoever who has been convicted within ten (10) years of the date of employment of a felony, or any violation of the laws of this state, any other state or of the United States relating to the sale of alcoholic beverages.

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell malt beverages to file with the ~~business license director~~county marshal the names of all employees, with their home addresses, home telephone numbers and places of employment. Changes in the list of employees, with the names of new employees, must be filed with the ~~business license director~~county marshal within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and regulations as may be deemed necessary from time to time by the ~~business license department~~county marshal. A ten-dollar investigative fee shall be paid by all applicants.

(c) At the time of application or at the time a licensee hires a new employee, the licensee shall submit a current one-square-inch photograph of such employee for placement upon that employee's identification card. Photographs shall not be required for any licensed premises which employs fifteen (15) or more employees.

(d) No licensee shall allow any person to engage in the sale of malt beverages prior to the completion of a satisfactory investigation by ~~the business license department~~marshal's office. Licensees in violation of this section shall be liable for a fine of two hundred fifty dollars ($250.00) per employee engaged in such practice. Subsequent offenses may subject licensee to suspension or revocation of his license.

Sec. 3-164. - Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.

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(a) All premises licensed under this article shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption.

(b) It shall be unlawful to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices on the premises.

(c) The fire department shall, upon request of the ~~business license department~~marshal's office, inspect such premises and report their findings to the county. All premises licensed hereunder shall conform at all times with all fire regulations of the county.

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.

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~~marshal's office 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.

Sec. 3-180.7. - Holiday sales.

(a) Sales on Christmas Day prohibited. Licensees under this article shall not permit the sale of any alcoholic beverages on Christmas Day.

(b) Sales ~~on Sunday~~ following New Year's Eve ~~Day~~. ~~In years in which New Year's Eve falls on Saturday,~~ Sales may continue until 1:00 a.m. on ~~Sunday,~~ New Year's Day.

Sec. 3-180.9. - Prices and charges to be displayed; filed with ~~business license department~~the marshal's office.

Any licensee under this article, except private clubs, shall display in prominent places the current prices of alcoholic beverages by the drink; the volume of alcohol to be served from each alcoholic beverage container; admission and cover charges. The licensee shall file a copy of such prices with the ~~investigating office of the business license department~~marshal's office and shall furnish to any customer that so desires an itemized bill of charges which shall not exceed the price list furnished to the ~~business license department~~marshal's office. Upon any increase or decrease of prices, a new list must be filed with the ~~business license department~~marshal's office.

Sec. 3-180.60. - Form; data requested.

The board of commissioners shall have authority to prescribe forms for new or renewal applications under this division. All applicants shall furnish all data, information and records requested of them by the board of commissioners or the ~~business license department~~ marshal's office, and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve to dismiss, with prejudice, the application. Applicants, by filing an application, agree to produce for oral interrogation any person requested by the board of commissioners, ~~sheriff's department~~marshal's office or the county attorney and considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within thirty (30) days after being requested to do so shall result in the automatic dismissal of such application.

Sec. 3-183. - Payment of taxes by wholesale dealers.

(a) The special or excise tax imposed upon sales under this article shall be paid by the wholesale dealer to the ~~business license~~finance director by the tenth of each month, based upon volume sold or distributed in the county limits during the previous month.

(b) The wholesale dealer herein referred to shall be subject to all the conditions set forth in this article and shall in all respects comply with this article, particularly with reference to the keeping of true and correct records of all sales and shipments and the rendering of a sworn statement of the same as is provided.

Sec. 3-184. - Wholesale dealers required to collect taxes from retail dealers; monthly reports.

Wholesale dealers and distributors of products regulated by this article shall make a report to the ~~business license~~ finance department within ten (10) days following the end of each calendar month of the total of such products sold or distributed within the county limits during the previous month, and shall accompany such report with the payment of the tax due at the above rate based upon the quantities of such products so sold the previous month. Each monthly report shall be accompanied by a sworn statement that the report is a true and correct report of all sales and shipments made within the county.

Sec. 3-185. - Wholesale dealers and distributors—Records and reports.

(a) The license tax imposed in this article shall be computable and payable monthly.

(b) Each wholesale dealer or distributor selling, shipping or delivering malt beverages, wines or spirituous liquor to any retail dealer in the county, whether delivered to the retail dealer's place of business in the county, or elsewhere for resale in the county, shall, as a condition to the privilege of carrying on such business in the county, make a true and correct record of all sales, shipments or deliveries of such products to each retail dealer in

the county and immediately transmit a true and correct copy of such record to the ~~business license~~finance department. Such record shall show the name of each retail dealer to whom a sale, shipment or delivery is made, the quantity, and such other information as may be called for by the county.

Chapter 3 - ALCOHOLIC BEVERAGES [10]

ARTICLE I. - IN GENERAL
ARTICLE II. - WINE
ARTICLE III. - MALT BEVERAGES
ARTICLE IV. - ON-PREMISES CONSUMPTION DEALERS
ARTICLE V. - EXCISE TAXES

FOOTNOTE(S):

(10) ***Cross reference—*** *Motor vehicles and traffic, Ch. 10; occupational licenses, Ch. 11; offenses and miscellaneous provisions, Ch. 12; recreation and parks, Ch. 14.* *(Back)*

(10) ***State Law reference—*** *Local alcoholic beverage licenses, O.C.G.A. § 3-3-2 et seq.; local regulation of distilled spirits, O.C.G.A. § 3-4-40 et seq.; local regulation of malt beverages, O.C.G.A. § 3-5-40 et seq.; local regulation of wine, O.C.G.A. § 3-6-40; public drunkenness, O.C.G.A. § 16-11-41; ordinances on drinking or intoxication generally, O.C.G.A. §§ 37-8-11, 37-8-53.* *(Back)*

ARTICLE I. - IN GENERAL

Secs. 3-1—3-25. - Reserved.

Secs. 3-1—3-25.- Reserved.

ARTICLE II. - WINE [11]

DIVISION 1. - GENERALLY
DIVISION 2. - LICENSE
DIVISION 3. - OPERATING REGULATIONS

FOOTNOTE(S):

(11) ***State Law reference—*** *Wine, O.C.G.A. § 3-6-1 et seq.* *(Back)*

DIVISION 1. - GENERALLY

Sec. 3-26. - Definitions.
Sec. 3-27. - Purpose of article.
Sec. 3-28. - Penalties for violation of article or application irregularities.
Sec. 3-29. - Retail licensee prohibited from having first direct financial interest in wholesale liquor business.
Sec. 3-30. - Personal restrictions on interest in retail license.
Sec. 3-31. - Distance requirements from churches, schools, etc.; distance requirements from private residences.
Sec. 3-32. - Reserved.
Sec. 3-33. - Zoning requirements for business location.
Sec. 3-34. - Possession of open containers of alcoholic beverages in vehicles prohibited; penalties.
Secs. 3-35—3-45. - Reserved.

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:

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.

(Code 1983, § 3-2; Ord. No. 91-09, §§ 1, 2, 9-18-91)
Cross reference— *Definitions and rules of construction generally, § 1-2.*
State law reference— *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 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. 3-28.- Penalties for violation of article or application irregularities.

(a) Any person who acquires a license or a renewal of same in violation of this article by any misrepresentation or fraudulent statement shall be deemed guilty of an offense and upon conviction thereof shall be punished in accordance with this Code.

(b) Any untrue or misleading information contained in, or material omission left out of, an original, renewal or transfer application for a retail vinous liquor license shall be cause for the denial thereof. If any license has been granted under these circumstances, there shall be cause for the revocation of same.

(Code 1983, § 3-3)

State law reference— *Violations of alcoholic beverage law, O.C.G.A. §§ 3-1-4, 3-3-9.*

Sec. 3-29.- Retail licensee prohibited from having first direct financial interest in wholesale liquor business.

No person shall hold a retail license who also has any direct financial interest in any wholesale liquor business.

(Code 1983, § 3-4)

Sec. 3-30.- Personal restrictions on interest in retail license.

(a) For the purposes of this section, the word "family" shall be deemed to include any person related to the holder of such license within the first degree of consanguinity or affinity as computed according to the civil law.

(b) It shall be unlawful for any elected or appointed official, or employee of the county, to have any whole, partial or beneficial interest in any license to operate retail vinous liquor stores in the county.

(Code 1983, § 3-5)

Sec. 3-31.- Distance requirements from churches, schools, 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, 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, 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 reference— *Recreation and parks, Ch. 14.*

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

Sec. 3-32.- Reserved.

Editor's note— Ordinance No. 92-13, § 2, adopted November 11, 1992, deleted section 3-32 in its entirety. Formerly, such section pertained to location near private residence; distance requirements; "private residence" defined and derived from § 3-7 of the 1983 Code.

Sec. 3-33.- Zoning requirements for business location.

No license to engage in the sale of vinous liquors shall be issued within the areas described in this article unless the location has been zoned in compliance with the zoning laws of the county.

(Code 1983, § 3-8)

Sec. 3-34.- Possession of open containers of alcoholic beverages in vehicles prohibited; penalties.

(a) It shall be unlawful for any person to possess an open container of an alcoholic beverage while operating a vehicle in the county or while a passenger in or on a vehicle being operated in the county.

(b) As used in this section, the term "open container" means any container which is immediately capable of being consumed from, or the seal of which has been broken.

(c) An open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger and is not located in a locked glove compartment, locked trunk, or other locked nonpassenger area of the vehicle.

(d) An open container shall be considered to be in the possession of a passenger of a vehicle if the container is in the physical control of the passenger.

(e) This section shall not apply to:

(1) A passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid chauffeur's license pursuant to the law of Georgia or any other state;

(2) A passenger of a bus in which the driver holds a valid chauffeur's license pursuant to the law of Georgia or any other state; or

(3) A passenger of a self-contained motor home which is in excess of twenty-one (21) feet in length.

(f) Any person, operator of a vehicle, or passenger who violates this section shall be subject to the jurisdiction of the magistrate court of the county and subject to fines and/or imprisonment as provided by this Code and the laws of the state.

(Ord. No. 89-14, 9-28-89)

Secs. 3-35—3-45.- Reserved.

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DIVISION 2. - LICENSE [12]

Sec. 3-46. - Qualifications of applicant.
Sec. 3-47. - Application—Contents.
Sec. 3-48. - Surveyor's certificate required.

Sec. 3-49. - Physical requirements of applicant's premises.
Sec. 3-50. - Notice of application for license.
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Sec. 3-54. - Annual license fee schedule.
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Sec. 3-58. - Business to be opened within nine months from license issuance; effect of failure.
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Sec. 3-60. - Transfer of license.
Sec. 3-61. - Suspension or revocation of license.
Sec. 3-62. - Renewal of license.
Secs. 3-63—3-75. - Reserved.

Sec. 3-46.- Qualifications of applicant.

(a) No retail license required by this article shall be granted to any applicant who is not a citizen of the United States or a permanent resident alien, as defined by the immigration and nationality laws of the United States, and who has not resided continuously in this state for one (1) year next preceding the year for which application is made. Where the applicant is a corporation, it must be licensed to conduct business in the state for a period of one (1) year, and the license shall be issued to the corporation. If the applicant is a partnership, the within requirements shall apply to all the partners.

(b) All applicants for licenses must attach to their application evidence of their good character. No original license shall be issued to any person, partnership or corporation organized for pecuniary gain where any individual having an interest either as owner, partner, stockholder, directly or indirectly beneficial or absolute, or his spouse, shall have been convicted or shall have taken a plea of nolo contendere within ten (10) years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or any county ordinance, except traffic violations.

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

Sec. 3-47.- Application—Contents.

(a) All applications for licenses, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interests (as defined in section 3-26) in retail packaged vinous liquor stores. This shall include:

(1) The names and addresses of all persons interested in the ownership of the business of selling at retail packaged vinous liquor, together with any interest each person or any member of his immediate family has in any other retail packaged spirituous liquor store or vinous liquor store.

(2) The ownership of the land and building where such retail business is operated.

(3) The amount of rental paid for the land and building and the manner in which the same is determined, and to whom and at what intervals it is paid.

(4) The names and addresses (by affidavit from the owner, lessor or sublessor of such land and building) of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the retail packaged vinous liquor store is located.

(5) Any other information called for by the board of commissioners.

(b)

Any change in any relationship herein declared must be filed with the business license department when such change is made, and failure to so file within a period of thirty (30) days after such change is made shall be grounds for cancellation by the board of commissioners.

(Code 1983, § 3-10)

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, library, alcoholic treatment center and private residence.

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

Sec. 3-49.- Physical requirements of applicant's premises.

(a) No license shall be granted to a retailer, under provisions of this division, unless the front entrance to the premises is clearly visible from a public street; however, this restriction shall not apply where the licensee is a hotel, motel, private club, location in a shopping center or multiple-story business building.

(b) Where a building in which a retailer intends to operate under the provisions of this article is, at the time of the application for such license, not in existence or not yet completed, a license may be issued for such location provided the plans for the proposed building clearly show a compliance with the other provisions of this article. No sales shall be made from such establishment until it has been completed in accordance with the plans and is in conformity with all the other provisions of this article.

(Code 1983, § 3-12)

Sec. 3-50.- Notice of application for license.

All persons desiring to engage in the sale of vinous liquors at retail in the county shall give notice of the purpose of making such application by advertisement, after a date for a public hearing is set pursuant to section 3-52, in at least two (2) consecutive issues of the legal organ of the county, which notice shall contain a particular description of the location of the proposed vinous liquor business and shall give the name of the applicant, and if a partnership, the names of the partners, and if a corporation, the names of the officers and all stockholders. The advertisement referred to herein shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch two-column advertisement.

(Code 1983, § 3-13)

Sec. 3-51.- Investigation of applicant; cooperation by applicant.

(a) All applications for new licenses for sale of packaged vinous liquor at retail and all applications for renewal of such new licenses shall be investigated by the business license department. No such new or renewal license shall be acted upon by the board of commissioners or issued by the business license department until the county attorney has indicated in writing that in his opinion, upon the facts as stated and ascertained by the business license department, no violation exists as to any ordinance in effect as of the date of the rendering of such opinion. All applicants for new or renewal licenses shall furnish to the business license department all data, information and records requested of them by the business license department. Failure of the applicant to furnish such data, information and records within thirty (30) days from the date of the request by the business license department shall automatically serve to dismiss with prejudice the application of any such applicant.

(b) Applicants, by filing for a license to sell package vinous liquor at retail, agree to furnish the data, information and records as called for herein and also agree to submit under oath to interrogation by the business license department or the county attorney as to any facts considered pertinent to such application. Applicants, by filing such application, also agree to produce for oral interrogation by the business license department or the county attorney any person requested by the business license department and considered as being important in the ascertainment of the facts relative to the license. Failure to produce such persons within thirty (30) days after being requested to do so shall result in the automatic dismissal of any application for license.

(Code 1983, § 3-14)

Sec. 3-52.- Public hearing on application.

All applications for licenses for the retail sale of vinous liquors shall be acted upon by the board of commissioners after a public hearing after advertisement as required by law, such advertisement to be made as provided in section 3-50, and proof of same furnished to the board of commissioners prior to the hearing.

(Code 1983, § 3-15)

Sec. 3-53.- Grant of application.

All applications to engage in the sale at retail of vinous liquors meeting the standards of this division shall be granted unless some specific cause related to location, traffic condition or other environmental condition shall justify refusal. In such case, the applicant shall be entitled to file a new application for a license at an eligible location without loss of any part of his application or license fee.

(Code 1983, § 3-16)

Sec. 3-54.- Annual license fee schedule.

(a) The annual license fee for the privilege of engaging in the business of selling vinous liquors at retail as described herein shall be as follows:

(1) The sum of two hundred fifty dollars ($250.00) per annum. Should a license be originally applied for and granted during the course of a calendar year, the fee will be pro-rated based on the following formula: The total license fee shall be divided by twelve (12). The resulting number shall then be multiplied by the number of full months remaining in the calendar year, at the time the license is granted.

(2) The sum of seventy-five dollars ($75.00) shall be paid at the time an original application is filed to cover investigative costs, which shall be credited against the first annual license fee upon grant of a license. This fee is not refundable.

(b) Retailer license fees shall be paid between January first and January twentieth, without proration, each year; unless said fee accompanies an original application for a license when said application is made after January of the calendar year. In such case, the fee shall be paid when the license is granted.

(Code 1983, § 3-17; Ord. No. 2004-19, §§ 1, 2, 8-26-04)

Sec. 3-55.- Issuance of license.

(a) All licenses must be obtained and fees paid not later than two (2) weeks from the date of the approval of the application by the board of commissioners; and, if not so obtained, the permit granted by the board of commissioners shall be void.

(b) When a license has been approved, the required fee shall be paid to the county and a license issued.

(Code 1983, § 3-18)

Sec. 3-56.- Procedure when license denied by state.

In the event the applicant for a license required by this division is denied a license by the state, upon the proof of such refusal, he shall be entitled to a refund of the license fee, less the investigative fee as required in section 3-54(a)(2), plus an additional charge of twenty-five dollars ($25.00) to cover clerical cost of granting the license. Such refund may be made by the business license director without the necessity of any action by the board of commissioners.

(Code 1983, § 3-19)

Sec. 3-57.- Terms of license.

In case of the revocation or the surrender of a license before the expiration of the calendar year, the holder thereof shall not be entitled to receive any refund whatsoever.

(Code 1983, § 3-20; Ord. No. 2004-19, § 3, 8-26-04)

Sec. 3-58.- Business to be opened within nine months from license issuance; effect of failure.

(a) All holders of licenses for the retail sale of vinous liquors must, within nine (9) months after the issuance of the license, open for business the establishment referred to in the license and begin the sale of the product or products authorized by the license.

(b) Failure to open the establishment and begin the sale as referred to above within the nine-month period shall serve as automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

(Code 1983, § 3-21)

Sec. 3-59.- Effect of failure to operate business for nine consecutive months.

Any holder of a license for the retail sale of vinous liquors who shall begin the operation of the business and sale of the product or products as authorized in the license but who shall, for a period of nine (9) consecutive months thereafter, cease to operate the business and sale of the product or products authorized in the license shall, upon completion of the nine-month period, automatically forfeit his license, which license shall, by virtue of failure to operate, be cancelled without the necessity of any further action of the board of commissioners.

(Code 1983, § 3-22)

Sec. 3-60.- Transfer of license.

(a) Licenses issued under this division may be transferred as provided below; however, the prior approval of the board of commissioners shall be required. In case of the death of any person holding such a license, or any interest therein, the same may, in the discretion of the board of commissioners, be transferred to the administrator, executor, or lawful heirs of the deceased person. In all cases, a prospective transferee must meet all of the requirements as specified herein for a license.

(b) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one (1) or more of the partners who are partners at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership.

(c)

A transfer of a location may be approved in the discretion of the board of commissioners; however, there shall be no pro rata return of any license fee and the new location shall be considered and meet the requirements of the new license hereunder. Where a transfer of an existing location is approved and there is no change in the ownership of the business, the license fee paid for the old location shall be applied to the new location.

(d) A licensee may take in partners or additional stockholders. Under this section, an additional partner or new principal stockholder must be approved by the board of commissioners.

(e) A transfer of ownership of the license may be approved in the discretion of the board of commissioners, provided that the new owner meets with the necessary requirements for a license. There shall be no pro rata return of any license fee and the business shall continue to operate at the same location.

(f) There shall be a fee of two hundred fifty dollars ($250.00) for the transfer of any license.

(Code 1983, § 3-23; Ord. No. 91-09, § 4, 9-18-91)

Sec. 3-61.- Suspension or revocation of license.

(a) Whenever the state shall revoke any permit or license to sell at retail any vinous liquors, the county license to deal in such products shall thereupon be automatically revoked without any action by the board of commissioners or any county officer.

(b) No license which has been issued or which may hereafter be issued by the county to any person as a retail dealer in vinous liquors shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon at least a three-day written notice to the holder of such.

(c) "Due cause" for the suspension or revocation of such license shall consist of the violation of any laws or ordinances regulating such businesses, or violation of regulations made pursuant to authority granted for the purpose of regulating such businesses, or the violation of any state or federal law, or the violation of any county ordinances, other than traffic ordinances, which the board of commissioners deems to render the licensee improper to hold such license.

(d) Such hearings shall be conducted by the board of commissioners.

(e) In the event of revocation, no refund of any portion of the license shall be paid.

(Code 1983, § 3-24)

Sec. 3-62.- Renewal of license.

(a) The renewal of an existing alcoholic beverage license at the expiration of the term of the license shall be dependent upon proof that the licensee meets all requirements upon which the original application for license was granted.

(b) Licensees must provide at the time of application for renewal of license an affidavit substantiating their compliance with the residency requirements set forth in this article.

(Code 1983, § 3-25)

Secs. 3-63—3-75.- Reserved.

FOOTNOTE(S):

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[12] ***State Law reference—*** *Local powers as to alcoholic beverage licenses, O.C.G.A. § 3-3-2; local wine license, O.C.G.A. § 3-6-40.* (Back)

DIVISION 3. - OPERATING REGULATIONS

Sec. 3-76. - Front window display.
Sec. 3-77. - Exterior advertisement of price of vinous liquor prohibited.
Sec. 3-78. - Interior visibility required; license prohibited in restaurant, etc.
Sec. 3-79. - Business hours and days.
Sec. 3-80. - Wholesale deliveries of vinous liquors.
Sec. 3-81. - Price lists or tags.
Sec. 3-82. - Employees; reports to police; investigation; fees.
Sec. 3-83. - Sales to minors and certain other persons prohibited; minor misrepresenting age, drinking or possessing alcoholic beverages; posting of sign by licensee.
Sec. 3-84. - Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.
Sec. 3-85. - Consumption or opening on premises; posting of sign.
Sec. 3-86. - Sales on certain premises; excepted.
Sec. 3-87. - Drinking in public.
Secs. 3-88—3-105. - Reserved.

Sec. 3-76.- Front window display.

Each person licensed to sell vinous liquor at retail shall have printed on the front window of the licensed premises the inscription "County Retail License No. _____" in uniform letters not less than four (4) inches in height; however, if a licensee so desires he may have his name displayed on the inside of the window in like manner or in neon or other electric lights. Such sign shall be parallel with the window and so constructed as not to extend more than six (6) inches from the window.

(Code 1983, § 3-26)

Sec. 3-77.- Exterior advertisement of price of vinous liquor prohibited.

No sign of any kind, painted or electric, advertising any price of vinous liquor shall be permitted on the exterior of any licensed premises. No placard or sign of any kind which is visible from the exterior of the licensed premises shall make reference to the price of any vinous liquors sold therein; however, tags showing the prices of individual bottles or containers may be affixed to each such bottle or container or to the edge of the shelf whereon such bottles or containers are located.

(Code 1983, § 3-27)

Sec. 3-78.- Interior visibility required; license prohibited in restaurant, etc.

(a) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the window or upon the doors of any retail vinous liquor store, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such retail store shall be so lighted that the interior of the store is visible day and night.

(b) No retail vinous liquor license shall be allowed in, or in connection with, any restaurant, cafe or eating place, nor in the same room where a bar or soda fountain is maintained for the dispensing and sale of soft drinks or other beverages.

(Code 1983, § 3-28)

Sec. 3-79.- Business hours and days.

(a) Retail dealers in vinous liquors shall not engage in the sale of such liquors except between the hours of 7:00 a.m. and 11:45 p.m. on weekdays and shall not permit their places of business to be opened for the sale of vinous liquors on Sundays, election days, and Christmas Day.

(b) An "election day", for the purposes of the sale of vinous liquors, means that period of time beginning with the opening of the polls and ending with the closing of the polls.

(Code 1983, § 3-29; Ord. No. 91-09, §§ 5, 6, 9-18-91)

State law reference— *Sale of alcoholic beverages on Sundays, election days and Christmas day, O.C.G.A. § 3-3-20.*

Sec. 3-80.- Wholesale deliveries of vinous liquors.

It shall be unlawful to make wholesale deliveries of vinous liquors except in the store or department of the store in which such beverages are sold. Such deliveries may only be made between the hours of 7:00 a.m. and 7:00 p.m.

(Code 1983, § 3-30; Ord. No. 91-09, § 7, 9-18-91)

State law reference— *Persons to whom wine may be sold by wholesale dealers, O.C.G.A. § 3-6-23.*

Sec. 3-81.- Price lists or tags.

Each retail licensee under this article shall have conspicuously displayed within the interior of the licensed premises not less than four (4) copies of a printed price list of the vinous liquors offered for sale and one (1) printed copy of the penal sections of this article; however, a licensee, in lieu of having four (4) copies of a printed price list, may have the price placed on the bottles or on the bottom of the shelf where vinous liquors are exhibited for sale.

(Code 1983, § 3-31)

Sec. 3-82.- Employees; reports to police; investigation; fees.

(a) No retail licensee shall employ any minor, except as provided by state law, in his store, or in the department of a store where vinous liquors are sold. No retail licensee shall employ in any premises used for the sale of vinous liquors any person in any capacity whatsoever who has been convicted within ten (10) years of the date of employment of a felony, or any violation of the laws of this state, any other state or of the United States relating to the sale of alcoholic beverages.

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell vinous liquors to file with the business license director the names of all employees, with their home addresses, home telephone numbers and places of employment. Changes in the list of employees, with the names of new employees, must be filed with the business license director within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and regulations as may be deemed necessary from time to time by the business license department. A ten-dollar investigative fee shall be paid by all applicants.

(c) At the time of application or at the time a licensee hires a new employee, the licensee shall submit a current one-square-inch photograph of such employee for placement upon that employee's identification card. Photographs shall not be required for any licensed premises which employs fifteen (15) or more employees.

(d) No licensee shall allow any person to engage in the sale of vinous liquors prior to the completion of a satisfactory investigation by the business license department. Licensees in violation of this section shall be liable for a fine of two hundred fifty dollars ($250.00) per employee engaged in such practice. Subsequent offenses may subject licensee to suspension or revocation of his license.

(Code 1983, § 3-32; Ord. No. 91-09, §§ 8, 9, 9-18-91)

State law reference— *Dispensing, serving, selling, etc., of alcoholic beverages by persons under eighteen years of age, O.C.G.A. § 3-3-24.*

Sec. 3-83.- Sales to minors and certain other persons prohibited; minor misrepresenting age, drinking or possessing alcoholic beverages; posting of sign by licensee.

(a) No retail licensee shall sell any vinous liquors to any person under the age of twenty-one (21) years, or to any person in an intoxicated condition, or to any person known to such licensee or his employees to be an habitual drunkard, or to any person known to such licensee or his employees to be of intemperate habits or of unsound mind.

(b) It shall be unlawful for any minor to purchase or possess any vinous liquors on any licensed premises.

(c) It shall be unlawful for any minor to misrepresent his age in any manner whatsoever to a licensee hereunder.

(d) The retail licensee shall post in a conspicuous place where the actual transaction takes place within the licensed premises a sign stating that no vinous liquors shall be sold to or purchased by any person under twenty-one (21) years of age and that it shall be unlawful for any minor to misrepresent his or her age in any manner whatsoever to a licensee. Such sign shall be printed in uniform letters not less than one (1) inch in height.

(Code 1983, § 3-33; Ord. No. 91-09, §§ 10, 11, 9-18-91)

State law reference— *Furnishing to, purchase of or possession by persons under twenty-one years of age of alcoholic beverages, use of false identification, O.C.G.A. § 3-3-23.*

Sec. 3-84.- Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.

(a) All premises licensed under this article shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption.

(b) It shall be unlawful to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices on the premises.

(c) The fire department shall, upon request of the business license department, inspect such premises and report their findings to the county. All premises licensed hereunder shall conform at all times with all fire regulations of the county.

(Code 1983, § 3-34)

Cross reference— *Fire prevention and protection, Ch. 9.*

Sec. 3-85.- Consumption or opening on premises; posting of sign.

(a) It shall be unlawful to consume any alcoholic beverages or to open any container of alcoholic beverages on the premises licensed under this article or any parking area associated or identified with the licensed premises.

(b) The license holder shall display at any entrances or exits to the licensed premises a sign which shall state that it is unlawful to consume any alcoholic beverages or to open any container of alcoholic beverages on the licensed premises or any parking area adjacent thereto. Further, such sign or signs which are necessary shall also be placed in such a manner as to be visible from any parking area adjacent to the licensed premises.

(c) It shall be unlawful for any license holder to permit, allow or acquiesce in the consumption of any alcoholic beverages or the opening of any container of alcoholic beverages on the licensed premises or any parking area associated or identified with the licensed premises.

(Code 1983, § 3-35)

Sec. 3-86.- Sales on certain premises; excepted.

It shall be unlawful to sell vinous liquor on any business-licensed premises wherein less than fifty (50) percent of the total gross revenue for any year is derived from staple foodstuffs, household supplies, meats, produce and dairy products. Specifically, gasoline and other petroleum products shall not be included in the term "household supplies."

(Code 1983, § 3-36)

Sec. 3-87.- Drinking in public.

It shall be unlawful for any person to consume any vinous liquors or alcoholic beverages in or upon any street, alley, sidewalk, park or other public way or public place within the county or within any public building thereon.

(Code 1983, § 3-37; Ord. No. 91-09, § 12, 9-18-91)

Secs. 3-88—3-105.- Reserved.

ARTICLE III. - MALT BEVERAGES [13]

DIVISION 1. - GENERALLY
DIVISION 2. - LICENSE
DIVISION 3. - OPERATING REGULATIONS

FOOTNOTE(S):

(13) ***State Law reference—*** *Malt beverages, O.C.G.A. § 3-5-1 et seq.* *(Back)*

DIVISION 1. - GENERALLY

Sec. 3-106. - Definitions.
Sec. 3-107. - Purpose of article.
Sec. 3-108. - Penalties for violation of article or application irregularities.
Sec. 3-109. - Retail licensee prohibited from having first direct financial interest in wholesale malt beverage business.
Sec. 3-110. - Personal restrictions on interest in retail license.
Sec. 3-111. - Distance requirements from churches, schools, etc.; distance requirements from private residences.
Sec. 3-112. - Reserved.
Sec. 3-113. - Zoning requirements for business location.
Sec. 3-114. - Possession of open containers of alcoholic beverages in vehicles prohibited; penalties.
Secs. 3-115—3-125. - Reserved.

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.

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 reference— *Definitions and rules of construction generally, § 1-2.*

State law reference— *Definitions relating to alcoholic beverages, O.C.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 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. 3-108.- Penalties for violation of article or application irregularities.

(a) Any person who acquires a license or a renewal of same in violation of this article by any misrepresentation or fraudulent statement shall be deemed guilty of an offense and upon conviction thereof shall be punished in accordance with the laws, rules and regulations of the county.

(b) Any untrue or misleading information contained in, or material omission left out of, an original, renewal or transfer application for a retail malt beverage license shall be cause for the denial thereof. If any license has been granted under these circumstances, there shall be cause for the revocation of same.

(Code 1983, § 3-40)

State law reference— *Violations of alcoholic beverage law, O.C.G.A. §§ 3-1-4, 3-3-9.*

Sec. 3-109.- Retail licensee prohibited from having first direct financial interest in wholesale malt beverage business.

No person shall hold a retail license who also has any direct financial interest in any wholesale malt beverage business.

(Code 1983, § 3-41; Ord. No. 91-11, § 3, 9-18-91)

Sec. 3-110.- Personal restrictions on interest in retail license.

(a) For the purposes of this section, the word "family" shall be deemed to include any person related to the holder of such license within the first degree of consanguinity or affinity as computed according to the civil law.

(b) It shall be unlawful for any elected or appointed official, employee of the county, to have any whole, partial or beneficial interest in any license to operate retail malt beverage stores in the county.

(Code 1983, § 3-42)

Sec. 3-111.- Distance requirements from churches, schools, 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, 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, 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 reference— *Recreation and parks, Ch. 14.*

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

Sec. 3-112.- Reserved.

Editor's note— *Ordinance No. 92-13, § 5, adopted November 11, 1992, deleted section 3-112 in its entirety. Formerly, such section pertained to location near private residence; distance requirements; "private residence" defined and derived from § 3-44 of the 1983 Code.*

Sec. 3-113.- Zoning requirements for business location.

No license to engage in the sale of malt beverages shall be issued within the areas described in this article unless the location has been zoned in compliance with the zoning laws of the county.

(Code 1983, § 3-45)

Sec. 3-114.- Possession of open containers of alcoholic beverages in vehicles prohibited; penalties.

(a) It shall be unlawful for any person to possess an open container of an alcoholic beverage while operating a vehicle in the county or while a passenger in or on a vehicle being operated in the county.

(b) As used in this section, the term "open container" means any container which is immediately capable of being consumed from, or the seal of which has been broken.

(c) An open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger and is not located in a locked glove compartment, locked trunk, or other locked nonpassenger area of the vehicle.

(d) An open container shall be considered to be in the possession of a passenger of a vehicle if the container is in the physical control of the passenger.

(e) This section shall not apply to:

(1) A passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid chauffeur's license pursuant to the law of Georgia or any other state;

(2) A passenger of a bus in which the driver holds a valid chauffeur's license pursuant to the law of Georgia or any other state; or

(3) A passenger of a self-contained motor home which is in excess of twenty-one (21) feet in length.

(f) Any person, operator of a vehicle, or passenger who violates this section shall be subject to the jurisdiction of the magistrate court of the county and subject to fines and/or imprisonment as provided by this Code and the laws of the state.

(Ord. No. 89-14, 9-28-89)

Secs. 3-115—3-125.- Reserved.

DIVISION 2. - LICENSE [14]

Sec. 3-126. - Qualifications of applicant.
Sec. 3-127. - Application—Contents.
Sec. 3-128. - Surveyor's certificate required.
Sec. 3-129. - Physical requirements of applicant's premises.
Sec. 3-130. - Notice of application for license.
Sec. 3-131. - Investigation of applicant; cooperation by applicant.
Sec. 3-132. - Public hearing on application.
Sec. 3-133. - Grant of application.
Sec. 3-134. - Annual license fee schedule.
Sec. 3-135. - Issuance of license.
Sec. 3-136. - Procedure when license denied by state.
Sec. 3-137. - Terms of license.
Sec. 3-138. - Business to be opened within nine months from license issuance; effect of failure.
Sec. 3-139. - Effect of failure to operate business for nine consecutive months.
Sec. 3-140. - Transfer of license.

Sec. 3-141. - Suspension or revocation of license.
Sec. 3-142. - Renewal of license.
Secs. 3-143—3-155. - Reserved.

Sec. 3-126.- Qualifications of applicant.

(a) No retail license required by this article shall be granted to any applicant who is not a citizen of the United States or a permanent resident alien, as defined by the immigration and nationality laws of the United States, and who has not resided continuously in this state for one (1) year next preceding the year for which application is made. Where the applicant is a corporation, it must be licensed to conduct business in the state for a period of one (1) year, and the license shall be issued to the corporation. If the applicant is a partnership, the within requirements shall apply to all the partners.

(b) All applicants for licenses must attach to their application evidence of their good character. No original license shall be issued to any person, partnership or corporation organized for pecuniary gain where any individual having an interest either as owner, partner, stockholder, directly or indirectly beneficial or absolute, or his spouse, shall have been convicted or shall have taken a plea of nolo contendere within ten (10) years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or any county ordinance, except traffic violations.

(Code 1983, § 3-46)

Sec. 3-127.- Application—Contents.

(a) All applications for licenses, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interests (as defined in section 3-106) in retail packaged malt beverage stores. This shall include:

(1) The names and addresses of all persons interested in the ownership of the business of selling at retail packaged malt beverages, together with any interest each person or any member of his immediate family has in any other retail packaged malt beverage store.

(2) The ownership of the land and building where such retail business is operated.

(3) The amount of rental paid for the land and building and the manner in which the same is determined, and to whom and at what intervals it is paid.

(4) The names and addresses (by affidavit from the owner, lessor or sublessor of such land and building) of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the retail packaged malt beverage store is located.

(5) Any other information called for by the board of commissioners.

(b) Any change in any relationship herein declared must be filed with the business license department when such change is made, and failure to so file within a period of thirty (30) days after such change is made shall be grounds for cancellation by the board of commissioners.

(Code 1983, § 3-47)

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, library, alcoholic treatment center and private residence.

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

Sec. 3-129.- Physical requirements of applicant's premises.

(a) No license shall be granted to a retailer, under provisions of this division, unless the front entrance to the premises is clearly visible from a public street; however, this restriction shall not apply where the licensee is a hotel, motel, private club, location in a shopping center or multiple-story business building.

(b) Where a building in which a retailer intends to operate under the provisions of this article is, at the time of the application for such license, not in existence or not yet completed, a license may be issued for such location provided the plans for the proposed building clearly show a compliance with the other provisions of this article. No sales shall be made from such establishment until it has been completed in accordance with the plans and is in conformity with all the other provisions of this article.

(Code 1983, § 3-49)

Sec. 3-130.- Notice of application for license.

All persons desiring to engage in the sale of malt beverages at retail in the county shall give notice of the purpose of making such application by advertisement, after a date for a public hearing is set pursuant to section 3-132, in at least two (2) consecutive issues of the legal organ of the county, which notice shall contain a particular description of the location of the proposed malt beverage business and shall give the name of the applicant, and if a partnership, the names of the partners, and if a corporation, the names of the officers and all stockholders. The advertisement referred to herein shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch two-column advertisement.

(Code 1983, § 3-50)

Sec. 3-131.- Investigation of applicant; cooperation by applicant.

(a) All applications for new licenses for sale of packaged malt beverages at retail and all applications for renewal of such new licenses shall be investigated by the business license department. No such new or renewal license shall be acted upon by the board of commissioners or issued by the business license department until the county attorney has indicated in writing that in his opinion, upon the facts as stated and ascertained by the business license department, no violation exists as to any ordinance in effect as of the date of the rendering of such opinion. All applications for new or renewal licenses shall furnish to the business license department all data, information and records requested of them by the business license department. Failure of the applicant to furnish such data, information and records within thirty (30) days from the date of the request by the business license department shall automatically serve to dismiss with prejudice the application of any such applicant.

(b) Applicants, by filing for a license to sell package malt beverages at retail, agree to furnish the data, information and records as called for herein and also agree to submit under oath to interrogation by the business license department or the county attorney as to any facts considered pertinent to such application. Applicants, by filing such application, also agree to produce for oral interrogation by the business license department or the county attorney any person requested by the business license department and considered as being important in the ascertainment of the facts relative to the license. Failure to produce such persons within thirty (30) days after being requested to do so shall result in the automatic dismissal of any application for license.

(Code 1983, § 3-51)

Sec. 3-132.- Public hearing on application.

All applications for licenses for the retail sale of malt beverages shall be acted upon by the board of commissioners after a public hearing after advertisement as required by law, such advertisement to be made as provided in section 3-130, and proof of same furnished to the board of commissioners prior to the hearing.

(Code 1983, § 3-52)

Sec. 3-133.- Grant of application.

All applications to engage in the sale at retail of malt beverages meeting the standards of this division shall be granted unless some specific cause related to location, traffic condition or other environmental condition shall justify refusal. In such case, the applicant shall be entitled to file a new application for a license at an eligible location without loss of any part of his application or license fee.

(Code 1983, § 3-53)

Sec. 3-134.- Annual license fee schedule.

(a) The annual license fee for the privilege of engaging in the business of selling malt beverages at retail as described herein shall be as follows:

(1) The sum of five hundred dollars ($500.00) per annum. Should a license be originally applied for and granted during the course of a calendar year, the fee will be pro-rated based on the following formula: The total license fee shall be divided by twelve (12). The resulting number shall then be multiplied by the number of full months remaining in the calendar year, at the time the license is granted.

(2) The sum of one hundred dollars ($100.00) shall be paid at the time an original application is filed to cover investigative costs, which shall be credited against the first annual license fee upon grant of a license. This fee is not refundable.

(b) The annual license fee for the privilege of engaging in the wholesale malt beverage business within the county shall be one hundred dollars ($100.00) per annum.

(c) Retailer license fees shall be paid between January first and January Twentieth, without proration, each year; unless said fee accompanies an original application for a license when said application is made after January of the calendar year. In such case, the fee shall be paid when the license is granted.

(Code 1983, § 3-54; Ord. No. 2004-19, §§ 5, 6, 8-26-04)

State law reference— *Restriction on amount of license fee, O.C.G.A. § 3-5-43.*

Sec. 3-135.- Issuance of license.

(a) All licenses must be obtained and fees paid not later than two (2) weeks from the date of the approval of the application by the board of commissioners; and, if not so obtained, the permit granted by the board of commissioners shall be void.

(b) When a license has been approved, the required fee shall be paid to the county and a license issued.

(Code 1983, § 3-55)

State law reference— *Issuance of county malt beverage license, O.C.G.A. § 3-5-41.*

Sec. 3-136.- Procedure when license denied by state.

In the event the applicant for a license required by this division is denied a license by the state, upon the proof of such refusal he shall be entitled to a refund of the license fee, less the investigative fee as required in section 3-134(a)(2), plus an additional charge of twenty-five dollars ($25.00) to cover clerical cost of granting the license. Such refund may be made by the business license director without the necessity of any action by the board of commissioners.

(Code 1983, § 3-56)

Sec. 3-137.- Terms of license.

In case of the revocation or the surrender of a license before the expiration of the calendar year, the holder thereof shall not be entitled to receive any refund whatsoever.

(Code 1983, § 3-57; Ord. No. 2004-19, § 7, 8-26-04)

Sec. 3-138.- Business to be opened within nine months from license issuance; effect of failure.

(a) All holders of license for the retail sale of malt beverages must, within nine (9) months after the issuance of the license, open for business the establishment referred to in the license and begin the sale of the product or products authorized by the license.

(b) Failure to open the establishment and begin the sale as referred to above within the nine-month period shall serve as automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

(Code 1983, § 3-58)

Sec. 3-139.- Effect of failure to operate business for nine consecutive months.

Any holder of a license for the retail sale of malt beverages who shall begin the operation of the business and sale of the product or products as authorized in the license but who shall, for a period of nine (9) consecutive months thereafter, cease to operate the business and sale of the product or products authorized in the license shall, upon completion of the nine-month period, automatically forfeit his license, which license shall, by virtue of failure to operate, be cancelled without the necessity of any further action of the board of commissioners.

(Code 1983, § 3-59)

Sec. 3-140.- Transfer of license.

(a) Licenses issued under this division may be transferred as provided below; however, the prior approval of the board of commissioners shall be required. In case of the death of any person holding such a license, or any interest therein, the same may, in the discretion of the board of commissioners, be transferred to the administrator, executor, or lawful heirs of the deceased person. In all cases, a prospective transferee must meet all of the requirements as specified herein for a license.

(b) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one (1) or more of the partners who are partners at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership.

(c) A transfer of a location may be approved in the discretion of the board of commissioners; however, there shall be no pro rata return of any license fee and the new location shall be considered and meet the requirements of the new license hereunder. Where a transfer of an existing location is approved and there is no change in the ownership of the business, the license fee paid for the old location shall be applied to the new location.

(d) A licensee may take in partners or additional stockholders. Under this section, an additional partner or new principal stockholder must be approved by the board of commissioners.

(e) A transfer of ownership of the license may be approved in the discretion of the board of commissioners, provided that the new owner meets with the necessary requirements for a license. There shall be no pro rata return of any license fee and the business shall continue to operate at the same location.

(f) There shall be a fee of two hundred fifty dollars ($250.00) for the transfer of any license.

(Code 1983, § 3-60)

Sec. 3-141.- Suspension or revocation of license.

(a) Whenever the state shall revoke any permit or license to sell at retail any malt beverages, the county license to deal in such products shall thereupon be automatically revoked without any action by the board of commissioners or any county officer.

(b) No license which has been issued or which may hereafter be issued by the county to any person as a retail dealer in malt beverages shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon at least a three-day written notice to the holder of such.

(c) "Due cause" for the suspension or revocation of such license shall consist of the violation of any laws or ordinances regulating such businesses, or violation of regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law, or for the violation of any county ordinances, other than traffic ordinances, which the board of commissioners deems to render the licensee improper to hold such license.

(d) Such hearings shall be conducted by the board of commissioners.

(e) In the event of revocation, no refund of any portion of the license shall be paid.

(Code 1983, § 3-61)

Sec. 3-142.- Renewal of license.

(a) The renewal of an existing alcoholic beverage license at the expiration of the term of the license shall be dependent upon proof that the licensee meets all requirements upon which the original application for license was granted.

(b) Licensees must provide at the time of application for renewal of license an affidavit substantiating their compliance with the residency requirements set forth in this article.

(Code 1983, § 3-62)

Secs. 3-143—3-155.- Reserved.

FOOTNOTE(S):

[14] ***State Law reference—*** *Local powers as to alcoholic beverage licenses, O.C.G.A. § 3-3-2; local malt beverage license, O.C.G.A. § 3-5-40 et seq.* *(Back)*

DIVISION 3. - OPERATING REGULATIONS

Sec. 3-156. - Front window display.
Sec. 3-157. - Exterior advertisement of price of malt beverages prohibited.
Sec. 3-158. - Interior visibility required; license prohibited in restaurant, etc.
Sec. 3-159. - Business hours and days.
Sec. 3-160. - Wholesale deliveries of alcoholic beverages.
Sec. 3-161. - Price lists or tags.

Sec. 3-162. - Employees; reports to business license director; investigation; fees.
Sec. 3-163. - Sales to minors and certain other persons prohibited; minor misrepresenting age, drinking or possessing alcoholic beverages; posting of sign by licensee.
Sec. 3-164. - Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.
Sec. 3-165. - Consumption or opening on premises; posting of signs.
Sec. 3-166. - Sales on certain premises; excepted.
Sec. 3-167. - Drinking in public.
Secs. 3-168—3-180. - Reserved.

Sec. 3-156.- Front window display.

Each person licensed to sell malt beverages at retail shall have printed on the front window of the licensed premises the inscription "County Retail License No. _____" in uniform letters not less than four (4) inches in height; however, if a licensee so desires he may have his name displayed on the inside of the window in like manner or in neon or other electric lights. Such sign shall be parallel with the window and so constructed as not to extend more than six (6) inches from the window.

(Code 1983, § 3-63)

Sec. 3-157.- Exterior advertisement of price of malt beverages prohibited.

No sign of any kind, painted or electric, advertising any price of malt beverages shall be permitted on the exterior of any licensed premises. No placard or sign of any kind which is visible from the exterior of the licensed premises shall make reference to the price of any malt beverages sold therein; however, tags showing the prices of individual bottles or containers may be affixed to each such bottle or container or to the edge of the shelf whereon such bottles or containers are located.

(Code 1983, § 3-64)

Sec. 3-158.- Interior visibility required; license prohibited in restaurant, etc.

(a) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the window or upon the doors of any retail malt beverage store, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such retail store shall be so lighted that the interior of the store is visible day and night.

(b) No retail malt beverage license shall be allowed in, or in connection with, any restaurant, cafe or eating place, nor in the same room where a bar or soda fountain is maintained for the dispensing and sale of soft drinks or other beverages.

(Code 1983, § 3-65)

Sec. 3-159.- Business hours and days.

(a) Retail dealers in malt beverages shall not engage in the sale of said beverages except between the hours of 7:00 a.m. and 11:45 p.m. on weekdays and shall not permit their places of business to be opened for the sale of malt beverages on Sundays, Christmas Day or election days.

(b) An "election day", for the purposes of the sale of malt beverages, means that period of time beginning with the opening of the polls and ending with the closing of the polls.

(Code 1983, § 3-66; Ord. No. 91-11, §§ 4, 5, 9-18-91)

State law reference— *Sale of alcoholic beverages on Sundays, election days and Christmas day, O.C.G.A. § 3-3-20.*

Sec. 3-160.- Wholesale deliveries of alcoholic beverages.

It shall be unlawful to make wholesale deliveries of malt beverages except in the store or department of the store in which such beverages are sold. Such deliveries may only be made between the hours of 7:00 a.m. and 7:00 p.m.

(Code 1983, § 3-67; Ord. No. 91-11, § 6, 9-18-91)

State law reference— *Persons to whom malt beverages may be sold by wholesale dealers, O.C.G.A. § 3-5-26.*

Sec. 3-161.- Price lists or tags.

Each retail licensee under this article shall have conspicuously displayed within the interior of the licensed premises not less than four (4) copies of a printed price list of the malt beverages offered for sale and one (1) printed copy of the penal sections of this article; however, a licensee, in lieu of having four (4) copies of a printed price list, may have the price placed on the bottles or on the bottom of the shelf where malt beverages are exhibited for sale.

(Code 1983, § 3-68)

Sec. 3-162.- Employees; reports to business license director; investigation; fees.

(a) No retail licensee shall employ any minor, except as provided by state law, in his store, or in the department of a store where malt beverages are sold. No retail licensee shall employ in any premises used for the sale of malt beverages any person in any capacity whatsoever who has been convicted within ten (10) years of the date of employment of a felony, or any violation of the laws of this state, any other state or of the United States relating to the sale of alcoholic beverages.

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell malt beverages to file with the business license director the names of all employees, with their home addresses, home telephone numbers and places of employment. Changes in the list of employees, with the names of new employees, must be filed with the business license director within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and regulations as may be deemed necessary from time to time by the business license department. A ten-dollar investigative fee shall be paid by all applicants.

(c) At the time of application or at the time a licensee hires a new employee, the licensee shall submit a current one-square-inch photograph of such employee for placement upon that employee's identification card. Photographs shall not be required for any licensed premises which employs fifteen (15) or more employees.

(d) No licensee shall allow any person to engage in the sale of malt beverages prior to the completion of a satisfactory investigation by the business license department. Licensees in violation of this section shall be liable for a fine of two hundred fifty dollars ($250.00) per employee engaged in such practice. Subsequent offenses may subject licensee to suspension or revocation of his license.

(Code 1983, § 3-69; Ord. No. 91-11, §§ 7, 8, 9-18-91)

State law reference— *Dispensing, serving, selling, etc., of alcoholic beverages by persons under eighteen years of age, O.C.G.A. § 3-3-24.*

Sec. 3-163.- Sales to minors and certain other persons prohibited; minor misrepresenting age, drinking or possessing alcoholic beverages; posting of sign by licensee.

(a) No retail licensee shall sell any malt beverages to any person under the age of twenty-one (21) years, or to any person believed to be in an intoxicated condition, or to any person known to such licensee or his employees to be an habitual drunkard or to any person known to such licensee or his employees to be of intemperate habits or of unsound mind.

(b) It shall be unlawful for any minor to purchase or possess any malt beverages on any licensed premises.

(c) It shall be unlawful for any minor to misrepresent his age in any manner whatsoever to a licensee hereunder.

(d) The retail licensee shall post in a conspicuous place where the actual transaction takes place within the licensed premises a sign stating that no malt beverages shall be sold to or purchased by any person under twenty-one (21) years of age and that it shall be unlawful for any minor to misrepresent his or her age in any manner whatsoever to a licensee. Such sign shall be printed in uniform letters not less than one (1) inch in height.

(Code 1983, § 3-70; Ord. No. 91-11, §§ 9, 10, 9-18-91)

State law reference— *Furnishing to, purchase of or possession by persons under twenty-one years of age of alcoholic beverages, use of false identification, O.C.G.A. § 3-3-23.*

Sec. 3-164.- Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.

(a) All premises licensed under this article shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption.

(b) It shall be unlawful to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices on the premises.

(c) The fire department shall, upon request of the business license department, inspect such premises and report their findings to the county. All premises licensed hereunder shall conform at all times with all fire regulations of the county.

(Code 1983, § 3-71)

Cross reference— *Fire prevention and protection, Ch. 9.*

Sec. 3-165.- Consumption or opening on premises; posting of signs.

(a) It shall be unlawful to consume any malt beverages or to open any container of malt beverages on the premises licensed under this article or any parking area associated or identified with the licensed premises.

(b) The license holder shall display at any entrances or exits to the licensed premises a sign which shall state that it is unlawful to consume any malt beverages or to open any container of malt beverages on the licensed premises or any parking area adjacent thereto. Further, such sign or signs which are necessary shall also be placed in such a manner as to be visible from any parking area adjacent to the licensed premises.

(c) It shall be unlawful for any license holder to permit, allow or acquiesce in the consumption of any malt beverages or the opening of any container of malt beverages on the licensed premises or any parking area associated or identified with the licensed premises.

(Code 1983, § 3-72; Ord. No. 91-11, § 11, 9-18-91)

Sec. 3-166.- Sales on certain premises; excepted.

It shall be unlawful to sell malt beverages on any business-licensed premises wherein less than fifty (50) percent of the total gross revenue for any year is derived from staple foodstuffs, household supplies, meats, produce and dairy products. Specifically, gasoline and other petroleum products shall not be included in the term "household supplies."

(Code 1983, § 3-73)

Sec. 3-167.- Drinking in public.

It shall be unlawful for any person to consume any malt or alcoholic beverages in or upon any street, alley, sidewalk, park or other public way or public place within the county or within any public building thereon.

(Code 1983, § 3-74; Ord. No. 91-11, § 12, 9-18-91)

Secs. 3-168—3-180.- Reserved.

ARTICLE IV. - ON-PREMISES CONSUMPTION DEALERS

DIVISION 1. - GENERALLY
DIVISION 2. - LICENSE

DIVISION 1. - GENERALLY

Sec. 3-180.1. - Authority and definitions.
Sec. 3-180.2. - Scope.
Sec. 3-180.3. - Penalty for violation.
Sec. 3-180.4. - Copy of article maintained on premises.
Sec. 3-180.5. - Excise tax.
Sec. 3-180.6. - Closing hours.
Sec. 3-180.7. - Holiday sales.
Sec. 3-180.8. - Reuse of bottles prohibited.
Sec. 3-180.9. - Prices and charges to be displayed; filed with business license department.
Sec. 3-180.10. - Drinks to be served by employees.
Sec. 3-180.11. - No sales outside building.
Sec. 3-180.12. - Employment of certain persons prohibited.
Sec. 3-180.13. - Employment of minors.
Sec. 3-180.14. - Maximum seating capacity of lounges.
Sec. 3-180.15. - Serving of standing customers at bars prohibited.
Sec. 3-180.16. - Disturbances, obscenity, etc., prohibited.
Sec. 3-180.17. - Conditions of premises.
Sec. 3-180.18. - Temporary or flashing signs to identify licensed premises prohibited; extinguishing lighted signs on Sundays.
Sec. 3-180.19. - Nudity prohibited.
Sec. 3-180.20. - Sale to incapacitated persons prohibited.
Sec. 3-180.21. - Minors prohibited on licensed premises unless accompanied by parent or guardian.
Sec. 3-180.22. - Service in back rooms prohibited; exceptions.
Sec. 3-180.23. - Reserved.
Sec. 3-180.24. - Leaving premises without payment.
Sec. 3-180.25. - Hotels-in room service.
Secs. 3-180.26—3-180.40. - Reserved.

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.

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.

(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. 3-180.2.- Scope.

Except as otherwise provided in this article, this article applies to the sale of alcoholic beverages for on-premises consumption (sales by the drink).

(Ord. No. 91-12, § 3-82, 9-18-91)

Sec. 3-180.3.- Penalty for violation.

Violation of any of the provisions of this article by the holder of a license hereunder shall subject the holder of such license to revocation of the license.

(Ord. No. 91-12, § 3-83, 9-18-91)

Sec. 3-180.4.- Copy of article maintained on premises.

It shall be the duty of the management of the premises licensed under this article to maintain a copy of this article on such premises and to instruct each and every employee of the terms thereof.

(Ord. No. 91-12, § 3-84, 9-18-91)

Sec. 3-180.5.- Excise tax.

Any licensee shall be required to pay a county excise tax, in addition to the required state excise tax, to the county for the sale of all alcoholic beverages by the drink in the maximum amount as allowed or required by state law.

(Ord. No. 91-12, § 3-85, 9-18-91)

Sec. 3-180.6.- Closing hours.

No licensee under this article shall sell, give away or otherwise dispense alcoholic beverages between the hours of 11:55 p.m. Saturday and 9:00 a.m. Monday and between the hours of 11:55 p.m. and 9:00 a.m. on other days.

(Ord. No. 91-12, § 3-86, 9-18-91)

Sec. 3-180.7.- Holiday sales.

(a) *Sales on Christmas Day prohibited.* Licensees under this article shall not permit the sale of any alcoholic beverages on Christmas Day.

(b) *Sales on Sunday following New Year's Day.* In years in which New Year's Eve falls on Saturday, sales may continue through 1:00 a.m. on Sunday, New Year's Day.

(Ord. No. 91-12, § 3-87, 9-18-91; Ord. No. 2004-19, § 9, 8-26-04)

Sec. 3-180.8.- Reuse of bottles prohibited.

It shall be illegal for any licensee under this article to add the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverages.

(Ord. No. 91-12, § 3-88, 9-18-91)

Sec. 3-180.9.- Prices and charges to be displayed; filed with business license department.

Any licensee under this article, except private clubs, shall display in prominent places the current prices of alcoholic beverages by the drink; the volume of alcohol to be served from each alcoholic beverage container; admission and cover charges. The licensee shall file a copy of such prices with the investigating office of the business license department and shall furnish to any customer that so desires an itemized bill of charges which shall not exceed the price list furnished to the business license department. Upon any increase or decrease of prices, a new list must be filed with the business license department.

(Ord. No. 91-12, § 3-89, 9-18-91; Ord. No. 2004-19, § 10, 8-26-04)

Sec. 3-180.10.- Drinks to be served by employees.

Drinks sold under this article shall only be served by the employees of the establishment.

(Ord. No. 91-12, § 3-90, 9-18-91)

Sec. 3-180.11.- No sales outside building.

It shall be unlawful for any sales to be made outside of the building, premises or place of business licensed for such sale except as permitted in this article. Such sales shall only be allowed on an attached deck or patio, provided such deck or patio is located on the ground floor and located in the side or rear yard of such premises.

(Ord. No. 91-12, § 3-91, 9-18-91)

Sec. 3-180.12.- Employment of certain persons prohibited.

It shall be unlawful for any premises in which alcoholic beverages are served by the drink under this article to employ any person in any capacity whatsoever, including performers, entertainers and musicians, who has been convicted, by this or any other state or by the United States or any other country, of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses, or any charge relating to the manufacture or sale of intoxicating liquors. This section shall not apply to private clubs.

(Ord. No. 91-12, § 3-92, 9-18-91)

Sec. 3-180.13.- Employment of minors.

No licensee under this division shall employ any minor in his establishment; provided, however, that this section shall not apply to private clubs, nor to minor musicians and other entertainers who may provide professional entertainment on the premises with permission of the board of commissioners. In restaurants and hotels, minors may be employed provided their duties are not in any way involved with the preparation of or the sale or service of any alcoholic beverages by the drink. Furthermore, any persons delivering alcoholic beverages to customers shall be at least eighteen (18) years of age. Any person dispensing such beverages shall be at least twenty-one (21) years of age.

(Ord. No. 91-12, § 3-93, 9-18-91)

Sec. 3-180.14.- Maximum seating capacity of lounges.

No establishment holding a license under this article as a lounge shall have a seating capacity in excess of two hundred fifty (250) persons irrespective of any other provisions of this Code.

(Ord. No. 91-12, § 3-94, 9-18-91)

Sec. 3-180.15.- Serving of standing customers at bars prohibited.

No licensee for the sale of alcoholic beverages for consumption on the premises may serve any customer who is not seated, it being the purpose of this section to prohibit being served while standing at a bar or while standing in any area of the establishment.

(Ord. No. 91-12, § 3-95, 9-18-91)

Sec. 3-180.16.- Disturbances, obscenity, etc., prohibited.

It shall be unlawful for any person to permit any disturbances of the peace, obscenity, or any lewd, immoral or improper entertainment, conduct or practices on or about the premises of establishments regulated by this article.

(Ord. No. 91-12, § 3-96, 9-18-91)

Sec. 3-180.17.- Conditions of premises.

All premises licensed under this article shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the conditions of premises used for the storage and sale of food for human consumption.

(Ord. No. 91-12, § 3-97, 9-18-91)

Sec. 3-180.18.- Temporary or flashing signs to identify licensed premises prohibited; extinguishing lighted signs on Sundays.

No temporary sign, mobile sign, including window signs, or flashing sign shall be permitted to identify the premises of a licensee, and any lighted sign identifying such premises must be fully extinguished on Sunday. Further, no sign advertising alcoholic beverages of any kind shall be permitted.

(Ord. No. 91-12, § 3-98, 9-18-91)

Sec. 3-180.19.- Nudity prohibited.

No person or establishment engaged in entertaining at licensed premises nor any employees of an establishment holding a license for consumption of alcoholic beverages on the premises shall appear on the premises at any time in clothing where the display of the human mammary glands or buttocks occurs or is thinly disguised, nor shall any pasties or "g-strings" be permitted.

(Ord. No. 91-12, § 3-99, 9-18-91)

Sec. 3-180.20.- Sale to incapacitated persons prohibited.

No person or establishment that holds a license to sell alcoholic beverages by the drink shall sell or give any such beverages to, or permit the sale, gift or procurement of any such beverages for, any person who is physically or mentally incapacitated due to the consumption of intoxicating beverages.

(Ord. No. 91-12, § 3-100, 9-18-91)

Sec. 3-180.21.- Minors prohibited on licensed premises unless accompanied by parent or guardian.

No person who holds a license to sell alcoholic beverages by the drink shall allow any minor to be in, frequent or loiter about the licensed premises of a lounge unless such minors are accompanied by a parent or legal guardian; provided, however, that such minors shall be permitted in restaurants or private clubs without being accompanied by a parent or legal guardian. This section shall not apply to minors who are employees under the terms of this article.

(Ord. No. 91-12, § 3-101, 9-18-91)

Sec. 3-180.22.- Service in back rooms prohibited; exceptions.

The sale of alcoholic beverages for consumption by persons in any back room or side room which is not open to general public use is prohibited, except that private parties or conventions, which have been scheduled in advance, may be served in public or private dining rooms or meeting rooms. This prohibition shall not apply to the sale of alcoholic beverages for consumption hereunder to the registered guests of any hotel or motel in their designated rooms.

(Ord. No. 91-12, § 3-102, 9-18-91)

Sec. 3-180.23.- Reserved.

Editor's note— *Ordinance No. 94-17, § 3, adopted October 19, 1994, repealed section 3-180.23 in its entirety. Formerly, such section pertained to opened original packages on licensed premises prohibited and derived from Ord. No. 91-12, § 3-103, 9-18-91.*

Sec. 3-180.24.- Leaving premises without payment.

Any person leaving the premises of a licensee under this article without paying his charges shall be in violation of the law. This section shall not apply to private clubs or restaurants as defined herein.

(Ord. No. 91-12, § 3-104, 9-18-91)

Sec. 3-180.25.- Hotels-in room service.

Any hotel licensed to sell malt beverages and/or wine by the package; and/or distilled spirits, malt beverages, and/or wine by the drink for on-premise consumption; may provide in-room service in accordance with the provisions of O.C.G.A. §§ 3-9-10, 3-9-11, 3-9-12, (including licensure by the state revenue commissioner) in unbroken packages.

(Ord. No. 2004-19, § 11, 8-26-04)

Secs. 3-180.26—3-180.40.- Reserved.

DIVISION 2. - LICENSE

Sec. 3-180.41. - Required.
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Sec. 3-180.61. - Misleading or omitted information.
Sec. 3-180.62. - Revocation of license; due cause.

Sec. 3-180.41.- Required.

It shall be unlawful for any person to sell alcoholic beverages for use or consumption on the premises without a license required in this division.

(Ord. No. 91-12, § 3-105, 9-18-91)

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, 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. 3-180.43.- Application by hotels, motels.

Hotel and motel corporations and their franchise restaurant corporations operating as contemplated by the definition of hotel are authorized to apply for and to hold a license under this division in their corporate names, and shall name on such application an agent and/or manager actively employed in the operation of such hotel, motel or franchise restaurant who shall be responsible for operation under such license as is provided for in this article, and who shall qualify in all respects as to character and moral fitness under the provisions of this article. Should the manger and/or agent leave the employment of the hotel or motel corporation or its franchise restaurant corporation in the county, a new agent and/or manager will be named by the license holder within ten (10) days thereafter.

(Ord. No. 91-12, § 3-107, 9-18-91)

Sec. 3-180.44.- Privilege.

Licenses under this division shall be mere grants or privileges, and the board of commissioners shall have the discretion to approve or deny any application for a license to sell alcoholic beverages by the drink subject to the requirements of due process of law.

(Ord. No. 91-12, § 3-108, 9-18-91)

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 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 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. 3-180.46.- Factors considered in issuing.

In determining whether or not any license applied for under this division shall be granted, the following shall be considered in the public interest and welfare:

(1) If applicant is a previous holder of a license to sell alcoholic beverages, whether or not he has violated any law, regulation or ordinance relating to such business.

(2) If applicant is a previous holder of a license to sell alcoholic beverages, the manner in which he conducted the business thereunder, as to the necessity for unusual law enforcement observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.

(3) The location for which the license is sought as to traffic congestion, general character of the neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values. When the number of alcoholic beverage on-premises consumption licenses issued and in effect shall number more than one (1) for each five thousand (5,000) persons residing in the county, no further licenses of such nature shall be permitted. If a licensee shall go out of business and the number of such licenses in effect shall exceed one (1) for each five thousand (5,000) persons residing in the county, such license may not continue.

(4) The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.

(5) If dancing is to be permitted upon the premises for which the license is sought, and applicant has previously permitted dancing upon any premises controlled or supervised by him, the manner in which he controlled or supervised such dancing to prevent any violation of law, regulation or ordinance.

(6) Whether a licensee has had a license issued under the police powers of the county suspended or revoked.

(Ord. No. 91-12, § 3-110, 9-18-91)

Sec. 3-180.47.- Conviction of felony or misdemeanor.

No original license shall be issued to any person or entity organized for pecuniary gain where any individual or his spouse having an interest therein, either as owner, partner or principal stockholder, whether directly or indirectly beneficial, shall have been convicted or shall have taken a plea of nolo contendere within ten (10) years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or for any municipal ordinance except traffic violations. The term "conviction" shall include and adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime. Where the violation is for a

misdemeanor, resulting in a forfeiture of a bond required by a county ordinance, the board of commissioners may, after investigation, waive same as a disqualification.

(Ord. No. 91-12, § 3-111, 9-18-91)

Sec. 3-180.48.- Required citizenship.

No license under this division shall be granted to any applicant who is not a citizen of the United States or a permanent resident alien. If the applicant is a partnership, the requirements of this section shall apply to all the partners.

(Ord. No. 91-12, § 3-112, 9-18-91)

Sec. 3-180.49.- Wholesalers holding licenses prohibited.

No person shall hold a license under this division who also has any direct financial interest in any wholesale intoxicating beverage business. No financial aid or assistance to any licensee hereunder from any wholesaler or manufacturer of intoxicating beverages shall be permitted; provided, however, that this section shall not be applicable to private clubs.

(Ord. No. 91-12, § 3-113, 9-18-91)

Sec. 3-180.50.- Eligibility.

No license shall be issued under this division to any applicant whose establishment does not meet the requirements of a restaurant, hotel or lounge.

(Ord. No. 91-12, § 3-114, 9-18-91)

Sec. 3-180.51.- Distance requirements from churches, schools, 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, 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, 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."

(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)

Sec. 3-180.52.- Compliance with zoning regulations.

(a) No license shall be issued under this division unless the location is located in the C-C or C-H zoning districts pursuant to the provisions of the zoning ordinance of the county.

(b) Regulation eighteen-hole golf courses shall also be permitted locations regardless of zoning district, provided they comply with all other requirements of this article.

(Ord. No. 91-12, § 3-116, 9-18-91)

Sec. 3-180.53.- Compliance with fire regulations.

Where minimum sleeping or seating capacity is prescribed in this article, the same shall be judged by reasonable standards. The fire department shall, upon request of the board of commissioners, inspect such premises and report its findings to the committee. All premises licensed hereunder shall conform at all times with all fire regulations of the county.

(Ord. No. 91-12, § 3-117, 9-18-91)

Sec. 3-180.54.- Time limit on obtaining license and paying fees after approval.

All licenses under this article must be obtained and fees therefor paid not later than four (4) weeks from the date of the approval of the application by the board of commissioners. If not so obtained, the license shall be void.

(Ord. No. 91-12, § 3-118, 9-18-91)

Sec. 3-180.55.- Fee.

A beer, wine and distilled spirits on-premises consumption license fee shall be one thousand five hundred dollars ($1,500.00) annually. Should an applicant desire only a license for sales of beer by the drink, on premises, or wine by the drink on-premises, the fee shall be seven hundred fifty dollars ($750.00) for both or three hundred seventy five dollars ($375.00) for either beer or wine. A fee of seven hundred fifty dollars ($750.00) shall be charged to obtain only a distilled spirits license. All license fees hereunder shall be paid in advance on or before January 1 of each year, and for any license granted hereunder during a calendar year, the licensee shall pay a prorated portion of the fee(s) based upon the following formula: The total license fee due shall be divided by twelve (12). This number shall be multiplied by the number of months remaining in the year at the time the license(s) are granted.

(Ord. No. 91-12, § 3-119, 9-18-91; Ord. No. 2004-19, § 14, 8-26-04)

Sec. 3-180.56.- Issued for calendar year.

No license shall issue for less than a calendar year period, or the remainder thereof, and in case of the revocation or surrender of such license before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.

(Ord. No. 91-12, § 3-120, 9-18-91)

Sec. 3-180.57.- Nontransferable; application to decedent's estate and partnerships.

(a) Licenses under this division shall not be transferable, except as otherwise provided herein. In case of the death of any person holding such a license, or any interest therein, the same may, in the discretion of the board of commissioners, be transferred to the administrator, executor or the lawful heirs of the deceased person.

(b)

Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one (1) or more of the partners who were partners at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership.

(c) A licensee may take in partners or additional stockholders where it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanding the facilities and where it appears that the licensee himself received directly none of the additional capital invested. Under this section an additional partner or new principal stockholder must be approved by the board of commissioners.

(Ord. No. 91-12, § 3-121, 9-18-91)

Sec. 3-180.58.- Business to be opened within six months of receiving license.

All holders of licenses under this division must, within a six-month period after the issuance of the license, open for business the establishment referred to in the license and begin the sale of the product or products authorized by the license. Failure to open the establishment and begin the sale as referred to above within the six-month period shall serve as automatic forfeiture and cancellation of the unused license and no refund of license fees shall be made to the license holder.

(Ord. No. 91-12, § 3-122, 9-18-91)

Sec. 3-180.59.- Discontinuation of operation for six months automatic forfeiture.

Any holder of a license under this division who shall begin the operation of the business and sale of the product or products as authorized in the license, but who shall, for a period of six (6) consecutive months thereafter, cease to operate the business and sale of the product or products authorized in the license shall, upon completion of the six-month period, automatically forfeit his license, which license shall, by virtue of the failure to operate, be canceled without the necessity of any further action by the board of commissioners.

(Ord. No. 91-12, § 3-123, 9-18-91)

Sec. 3-180.60.- Form; data requested.

The board of commissioners shall have authority to prescribe forms for new or renewal applications under this division. All applicants shall furnish all data, information and records requested of them by the board of commissioners or the business license department, and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve to dismiss, with prejudice, the application. Applicants, by filing an application, agree to produce for oral interrogation any person requested by the board of commissioners, sheriff's department or the county attorney and considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within thirty (30) days after being requested to do so shall result in the automatic dismissal of such application.

(Ord. No. 91-12, § 3-124, 9-18-91)

Sec. 3-180.61.- Misleading or omitted information.

Any untrue or misleading information contained in or material omission left out of an original, renewal or transfer application for a license under this division shall be cause for the denial thereof. If any license has been granted under these circumstances, there shall be cause for revocation of same.

(Ord. No. 91-12, § 3-125, 9-18-91)

Sec. 3-180.62.- Revocation of license; due cause.

No license which has been or which may be issued by the county under this division shall be suspended or revoked, except for due cause as hereinafter defined, and only after a hearing and upon the prior three-day written notice to the holder of such license of the time, place and purpose of such hearing and a statement of the charge upon which such hearing shall be held. "Due cause" for the suspension or revocation of such license shall consist of the violation of any laws or ordinances regulating such businesses, or violation of regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any county ordinance other than the traffic ordinances.

(Ord. No. 91-12, § 3-126, 9-18-91)

ARTICLE V. - EXCISE TAXES [15]

Sec. 3-181. - Tax on sales of malt beverages.
Sec. 3-182. - Tax on wholesale sales of vinous liquors.
Sec. 3-183. - Payment of taxes by wholesale dealers.
Sec. 3-184. - Wholesale dealers required to collect taxes from retail dealers; monthly reports.
Sec. 3-185. - Wholesale dealers and distributors—Records and reports.
Sec. 3-186. - Same—Failure to make reports.
Sec. 3-187. - Tax on sales of distilled spirits by the drink.
Sec. 3-188. - Collection of tax on sales of distilled spirits by the drink.
Sec. 3-189. - Payment of tax by licensee; collection fee.
Sec. 3-190. - Deficiency determinations.
Sec. 3-191. - Determination if no return made.
Sec. 3-192. - Penalties and interest for failure to pay tax.
Sec. 3-193. - Administration; enforcement; rules; records; confidentiality of reports.
Sec. 3-194. - Penalties.

Sec. 3-181.- Tax on sales of malt beverages.

In addition to all other taxes or license fees heretofore imposed upon dealers in the county engaged in the business of selling malt beverages under state law, there is imposed and levied upon all such dealers within the county an excise tax to be based, computed and collected as follows:

(1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of six dollars ($6.00) on each container sold containing not more than fifteen and one-half (15½) gallons and a proportionate tax at the same rate on all fractional parts of fifteen and one-half (15½) gallons;

(2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of five cents ($0.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces.

(Code 1983, § 3-75)

Sec. 3-182.- Tax on wholesale sales of vinous liquors.

In addition to all other taxes or excise fees, there is hereby imposed and levied a special or excise tax upon the wholesale sales of vinous liquors, the amount of such special or excise tax to be computed on the following basis:

Wholesale dealers in vinous liquors, per liter, $0.22.

(Code 1983, § 3-76)

Sec. 3-183.- Payment of taxes by wholesale dealers.

(a) The special or excise tax imposed upon sales under this article shall be paid by the wholesale dealer to the business license director by the tenth of each month, based upon volume sold or distributed in the county limits during the previous month.

(b) The wholesale dealer herein referred to shall be subject to all the conditions set forth in this article and shall in all respects comply with this article, particularly with reference to the keeping of true and correct records of all sales and shipments and the rendering of a sworn statement of the same as is provided.

(Code 1983, § 3-77)

State law reference— *Payment of local malt beverage tax by wholesale dealers, O.C.G.A. § 3-5-81.*

Sec. 3-184.- Wholesale dealers required to collect taxes from retail dealers; monthly reports.

Wholesale dealers and distributors of products regulated by this article shall make a report to the business license department within ten (10) days following the end of each calendar month of the total of such products sold or distributed within the county limits during the previous month, and shall accompany such report with the payment of the tax due at the above rate based upon the quantities of such products so sold the previous month. Each monthly report shall be accompanied by a sworn statement that the report is a true and correct report of all sales and shipments made within the county.

(Code 1983, § 3-78)

Sec. 3-185.- Wholesale dealers and distributors—Records and reports.

(a) The license tax imposed in this article shall be computable and payable monthly.

(b) Each wholesale dealer or distributor selling, shipping or delivering malt beverages, wines or spirituous liquor to any retail dealer in the county, whether delivered to the retail dealer's place of business in the county, or elsewhere for resale in the county, shall, as a condition to the privilege of carrying on such business in the county, make a true and correct record of all sales, shipments or deliveries of such products to each retail dealer in the county and immediately transmit a true and correct copy of such record to the business license department. Such record shall show the name of each retail dealer to whom a sale, shipment or delivery is made, the quantity, and such other information as may be called for by the county.

(Code 1983, § 3-79)

Sec. 3-186.- Same—Failure to make reports.

(a) If any wholesale dealer or distributor fails or refuses to make the reports provided for in this article, the county shall notify the party in writing; and, if the report is not made within five (5) days from the date of said notice, the county may withdraw from the wholesale dealer or distributor the privilege of doing business in the county by revoking his license.

(b) It shall be a violation of this article for any wholesale dealer or distributor to deliver any vinous liquor and/or malt beverages to any retail dealer in the county without making a report to the county as provided herein.

(Code 1983, § 3-80)

Sec. 3-187.- Tax on sales of distilled spirits by the drink.

In addition to all other taxes or excise fees heretofore imposed, there is hereby imposed and levied an excise tax upon the sale of distilled spirits by the drink of three (3) percent of the charge to the public for said drinks. Said tax shall not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage.

(Ord. No. 2004-19, § 15, 8-26-04)

Sec. 3-188.- Collection of tax on sales of distilled spirits by the drink.

Every holder of a license for the sale of distilled spirits by the drink for on-premise consumption is authorized and directed to collect the tax imposed under section 3-186 hereof, from the purchasers of said distilled spirits by the drink where said sale occurs under the authority granted to licensee by said license. Licensee shall furnish such information as may be requested by the county to facilitate collection of this tax.

(Ord. No. 2004-19, § 16, 8-26-04)

Sec. 3-189.- Payment of tax by licensee; collection fee.

(a) *Due date of taxes.* All taxes collected by any licensee or agent under this article shall be due and payable to the county finance department on or before the 10th day of every month next succeeding each respective monthly period as set forth in this article.

(b) *Return; time of filing; persons required to file; execution.* On or before the 10th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the county finance department in such form as the county finance department may prescribe, by every licensee or agent liable for the payment of tax under this article.

(c) *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 county finance department.

(d) *Collection fee allowed licensees or agents.* Licensees or agents 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 reduction shall be the same rate authorized by O.C.G.A. § 3-4-133.

(Ord. No. 2004-19, § 17, 8-26-04)

Sec. 3-190.- Deficiency determinations.

(a) *Recomputation of tax; authority to make; basis of recomputation.* If the county is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the County by any person, the county finance department may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One (1) or more than one (1) deficiency determinations may be made of the amount due for one (1) or more than one (1) monthly period.

(b) *Interest on deficiency.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one (1) percent per month, or fraction of a month, from the 10th day after the close of the monthly period for which the amount or any portion should have been returned, until the date of payment.

(c) *Offsetting of overpayments.* In making a determination, the county finance department 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 3-190(c).

(d)

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 (15) percent of the amount of such deficiency shall be added.

(e) *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 article or other authorized rules and regulations, a penalty of twenty-five (25) percent of the deficiency shall be added, in addition to the fifteen (15) percent penalty provided in subsection (d) of this section.

(f) *Notice of county finance department determination; service of.* The county finance department or his designated representative shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his address as it appears in the records of the county finance department. In the case of service by mail of any notice required by this article, the service is complete at the time of deposit in the United States Post Office.

(g) *Time within notice of deficiency determination to be mailed.* 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 (3) years after the 10th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

(Ord. No. 2004-19, § 18, 8-26-04)

Sec. 3-191.- Determination if no return made.

(a) *Estimate of gross receipts.* If any licensee fails to make a return, the county finance department shall make an estimate of the amount of the gross receipts of the license, or as the case may be, of the amount of the total sales in the county which are subject to the tax. The estimate shall be made for the 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 county finance department. Upon the basis of this estimate, the county finance department shall compute and determine the amount required to be paid to the county, adding to the sum thus determined a penalty equal to fifteen (15) percent. One (1) or more determinations may be made for one (1) or more than one (1) period.

(b) *Manner of computation; offsets; interest.* In making a determination, the county finance department may offset overpayments for periods against the interest, penalties or underpayments. The interest on underpayments shall be computed in the manner set forth in subsection (c) of this section.

(c) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one (1) percent per month, or fraction of a month, from the 10th day of the month following the monthly period, for which the amount or any portion should have been returned, until the date of payment.

(d) *Penalty for fraud or intent to evade.* If the failure of any person to file a return is due to fraud or an intent to evade this article or rules and regulations, a penalty of twenty-five (25) percent of the amount required to be paid by the person, exclusive of penalties, shall be added in addition to the fifteen (15) percent penalty provided in section 3-191.

(e) *Giving of notice; manner of service.* Promptly after making his/her determination, the county finance department shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(Ord. No. 2004-19, § 19, 8-26-04)

Sec. 3-192.- Penalties and interest for failure to pay tax.

Any person who fails to pay the tax imposed in this article to the county or fails to pay any amount of such tax required to be collected and paid to the county within the time required shall pay a penalty in the amount of fifteen (15) percent of the tax plus interest on the unpaid tax or any portion of the tax as set forth in subsection 3-190(c).

(Ord. No. 2004-19, § 20, 8-26-04)

Sec. 3-193.- Administration; enforcement; rules; records; confidentiality of reports.

(a) *Authority of the county finance department.* The county finance department shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.

(b) *Rules and regulations.* The county finance department shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the county finance department and the state, or the constitution of this 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.

(c) *Records required from licensee; form.* Every licensee for the sale of alcoholic beverages by the drink in the county shall keep such records, receipts, invoices and other pertinent papers in such form as the county finance department may require.

(d) *Examination of records; audits.* The county finance department or any person authorized in writing by the county 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.

(e) *Authority to require reports; contents.* In the administration of the provisions of this article, the county finance department may require the filing of reports by any person or class of persons having in such person's possession or custody information relating to the sales of alcoholic beverages which are subject to the tax. The reports shall be filed with the county finance department and shall set forth the price charged for each sale, the dates of such sales, and such other information as the county finance department may require.

(Ord. No. 2004-19, § 21, 8-26-04)

Sec. 3-194.- Penalties.

Any person found guilty of violating any of the provisions of this article shall be deemed guilty of a misdemeanor offense and upon conviction in the State Court of Fayette County shall be punished as provided in section 1-8. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by such person, and shall be punished accordingly.

(Ord. No. 2004-19, § 22, 8-26-04)

FOOTNOTE(S):

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[15] ***State Law reference—*** *Local malt beverage excise tax, O.C.G.A. § 3-5-80 et seq.; local wine excise tax, O.C.G.A. § 3-6-60.* (Back)

STATE OF GEORGIA
FAYETTE COUNTY

ORDINANCE NO. 2009-05

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, FAYETTE COUNTY, GEORGIA TO AMEND CHAPTER 3, ALCOHOLIC BEVERAGES, ARTICLE II. WINE, AND ARTICLE III. MALT BEVERAGES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; 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 adoption of alcoholic beverage ordinances 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, GEORGIA AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. That Chapter 3, Alcoholic Beverages, Article II. Wine, Section 3-87 of the Code of Ordinances, Fayette County, is hereby deleted in its entirety and replaced by a new Section 3-87 to read as follows:

Sec. 3-87. Drinking in public.

It shall be unlawful for any person to consume any vinous liquors or alcoholic beverages in or upon any street, alley, sidewalk, park or other public way or public place within the county or within any public building thereon, except that the Fayette County Chamber of Commerce, the Fayette County Economic Development Authority, and Fayette Senior Services may serve vinous liquors or alcoholic beverages within the buildings on their respective property leased from the County provided that:

1. the event is catered and the caterer is duly licensed by the City of Fayetteville;
2. alcohol is not served at an event more than four (4) times during any calendar year;
3. the event is solely related to the operation, fund raising, or raising awareness of the programs and services offered by the respective organization;
4. the organization notifies the Fayette County Marshall no later than two (2) days prior to the event; and
5. there are no direct sales of alcoholic beverages to the patrons of the event.

Section 2. That Chapter 3, Alcoholic Beverages, Article III. Malt Beverages, Section 3-167 of the Code of Ordinances, Fayette County, is hereby deleted in its entirety and replaced by a new Section 3-167 to read as follows:

Sec. 3-167. Drinking in public.

It shall be unlawful for any person to consume any malt or alcoholic beverages in or upon any street, alley, sidewalk, park or other public way or public place within the county or within any public building thereon, except that the Fayette County Chamber of Commerce, the Fayette County Economic Development Authority, and Fayette Senior Services may serve malt or alcoholic beverages within the buildings on their respective property leased from the County provided that:

1. the event is catered and the caterer is duly licensed by the City of Fayetteville;
2. alcohol is not served at an event more than four (4) times during any calendar year;
3. the event is solely related to the operation, fund raising, or raising awareness of the programs and services offered by the respective organization; and
4. the organization notifies the Fayette County Marshall no later than two (2) days prior to the event; and
5. there are no direct sales of alcoholic beverages to the patrons of the event.

Section 3. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 4. 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 5. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

Section 6. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

It is so ordained this 22nd day of October, 2009, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

Jack R. Smith, Chairman

ATTEST:

Carol Chandler, Clerk

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

HERBERT E. FRADY, CHAIRMAN

ATTEST:

Karen Morley

CLERK/DEPUTY CLERK

STATE OF GEORGIA;
COUNTY OF FAYETTE

ORDINANCE NO. 2012-08

AN ORDINANCE TO AMEND THE FAYETTE COUNTY CODE OF ORDINANCES, CHAPTER 3 ALCOHOLIC BEVERAGES, ARTICLE IV. ON-PREMISES CONSUMPTION DEALERS, DIVISION 1 GENERALLY, SO AS TO AMEND THE CLOSING HOURS OF SECTION 3-180-6. CLOSING HOURS TO ALLOW THE SUNDAY SALES OF BEER, WINE, AND/OR DISTILLED SPIRITS FOR ON-PREMISES CONSUMPTION DEALERS AS 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, as amended, is hereby further amended by deleting Section 3-180-6. Closing Hours, in its entirety, and in lieu thereof, enacting a new Section 3-180-6. Closing Hours to read as follows:

Sec. 3-180.6. – Closing hours.
No licensee under this article shall sell, give away, or otherwise dispense alcoholic beverages between the hours of 11:55 p.m. and 9:00 a.m., Monday through Sunday.

Section 2. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. **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 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed except those provided for herein.

Section 5. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

So ordained this 10th day of May, 2012, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

ROBERT HOGAN, VICE CHAIRMAN

ATTEST:

Carol Chandler

CLERK/DEPUTY CLERK