STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2010-__

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF DORAVILLE, GEORGIA, TO ADOPT CHAPTER 3 ALCOHOLIC BEVERAGES; TO PROVIDE SEVERABILITY; TO PROVIDE PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

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

WHEREAS, pursuant to O.C.G.A. § 3-3-1, the manufacturing, distributing and selling by wholesale or retail of alcoholic beverages shall not be conducted in any incorporated municipality of Georgia without a permit or license from the governing authority of the municipality;

WHEREAS, O.C.G.A. § 3-3-2 holds that local governments are fully empowered to adopt reasonable regulations licensing alcoholic beverages in their jurisdictions;

WHEREAS, the Official Code of Georgia Annotated ("O.C.G.A.") § 3-3-2, et seq. provides minimal procedures and regulations for the regulation of alcoholic beverages;

WHEREAS, each such local governing authority is given discretionary powers within the guidelines of due process set forth in O.C.G.A. § 3-3-2 et seq., as to the granting or refusal, suspension, or revocation of the permits or licenses;

WHEREAS, the duly elected governing authority of the City of Doraville, Georgia are the Mayor and Council thereof;

WHEREAS, historically places that sold alcoholic beverages and where such beverages were consumed were often havens for prostitution, gambling, sex offenses and felony crimes and as such, higher regulation and scrutiny of such facilities has been allowed under law;

WHEREAS, the business of alcoholic beverages is the business of sale, distribution, transport and manufacture of a mind altering substance and as such, the conviction, nolo plea or plea of guilty to any of the offenses set out in Section 3-14 are deemed by the Mayor and Council, after due consideration, to clearly be connected with the regulatory purpose of the license and the same offenses are clearly related to the use and sale of drugs or alcohol warranting particular consideration in the application process and in the maintenance of an issued license or permit;

WHEREAS, the City staff and Council regularly try to review and update ordinances as needed as cases and laws are issued;

WHEREAS, the Mayor and Council have deemed it appropriate to amend the ordinance in keeping with current statutes, regulations and case law;

WHEREAS, the Mayor and Council wish to clarify the City's local regulations on the alcoholic beverage industry as part of the regular and ongoing process of review and adjustment to local ordinances based on updated state laws; and

WHEREAS, the health, safety, welfare and aesthetics of the citizens of the City of Doraville shall be improved and protected by adoption and implementation of this Ordinance.

THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1.

That the Code of Ordinances, City of Doraville, Georgia is hereby amended by adding a Chapter 3 Alcoholic Beverages to be numbered Section 3-1 through 3-69, which said section reads as follows:

"Chapter 3. Alcoholic Beverages.

Article I. In General.

Sec. 3-1. Definitions.

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

Alcoholic beverage – means malt beverages, distilled spirits and wine for human consumption as further defined in this chapter.

Applicant – means any person who submits a complete and accurate application for an alcohol beverage license. The term is inclusive of both license and employee permit application filers.

Applicant's designee – means a citizen of the United States who has been a citizen for a period of three (3) continuous years prior to the date of the application or who has had the status of a resident alien for a minimum of three (3) years prior to the date of the application who shall be responsible for the license. Each applicant's designee must have resided continuously for a period of one (1) year in the state of Georgia prior to making application for such license.

Brown bagging - means possession of an open glass bottle, can, or other container containing an alcoholic beverage or consumption of an alcoholic beverage on premises:

1. *For which a consumption on the premises license has not been issued; or*
2. *Which occurs at a location different from where said alcoholic beverage was purchased.*

BYOB – means bring your own bottle and no such activity shall be allowed at any location which would require a license for the sale of alcoholic beverages.

Chief of Police – means the head of the City of Doraville, Georgia Police Department.

City – means the City of Doraville, Georgia.

City Clerk – means the appointed staff member of the City of Doraville responsible for the administration of this ordinance and/or their designee.

Corporation – means a limited liability company, and stockholder shall include a member.

Distilled spirits – means any alcoholic beverage obtained by distillation or containing more than 21 percent (21%) alcohol by volume, including, but not limited to, all fortified wines.

Election day – means that period of time beginning with the opening of the polls and ending with the closing of the polls. As used in this section, the term "election" is defined as any statewide primary election and the statewide general election of any runoff held for such primary or general election. The term also includes "local elections" in which the citizens of the City or any portion thereof vote either as residents of the county or as residents of the City.

Employee permit – means an authorization issued by the City that allows persons to be employed by a licensee.

Entertainment facility – means an establishment with all booths and tables unobstructed and open to view, ***~~depriving~~ deriving*** *its primary income from the sales of alcoholic beverages and providing to its patrons recorded music, televised events or a band and/or other professional live entertainment performed on site, including, but not limited to, music, comedy, readings, dancing or acting and having seating facilities for not less than one hundred (100) patrons. All such entertainment facilities shall be equipped with air conditioning and shall maintain an adequate kitchen with a sufficient number of servants and employees for cooking, preparing and serving food and meals for their patrons.*

Food – means all edible substances appropriate for human consumption as determined by the health department inspecting the City's restaurants as sold or provided to the public in a restaurant as defined in this chapter. Food shall not be construed to mean: olives, cherries, limes, lemons, salt, pepper, pineapples, celery, tomato juice, or any other fruit, vegetable or dairy product such as ice cream, cream, yogurt, milk or soft drinks, water, tonic water, other non-alcoholic carbonated or non-carbonated beverages when such items are used in alcoholic beverages or mixed drinks as an essential part of the beverage, mixed drink, or as a garnish thereon.

High-rise apartment of office buildings – means structures in excess of three (3) stories, containing apartments, rooms, suites or offices where business is conducted or which contain rooms or suites offered to the general public for use as apartment residences.

Hotel ***~~or motel~~*** *– means an establishment offering to the general public rooms for overnight lodging, for a general rate, offering no less than* ***fifty (50) rooms*** *which is continuously operating and licensed by the City as a hotel* ***~~or motel~~****, and providing services incidental to the operating of overnight lodging for the comfort and convenience of its guests such as are commonly and customarily offered by hotels* ***~~and motels~~.***

Licensee – means a holder of a current City of Doraville alcohol license.

Lounges in restaurants, hotels, motels, high-rise apartment buildings and high-rise office buildings – means a lounge or place where distilled spirits, malt beverages or wine or other intoxicants are offered for sale, by the drink, to patrons for consumption on the premises located within or adjacent to or physically adjoining a restaurant, hotel, motel, high-rise office or apartment building, and which lounge is operated incident to and is owned and operated by the restaurant, hotel, motel, high-rise office or apartment building, or the owners or management thereof. When a lounge is located within such an establishment, every entrance to the lounge shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use establishment or structure.

Malt beverage – means any alcoholic beverage obtained by any fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination of such products in water containing not more than six percent (6%) alcohol by volume and including ale, porter, brown, stout, lager, beer, small beer and strong beer. The terms do not include sake, known as Japanese rice wine.

Mayor and Council – means the duly elected governing authority of the City. This term shall be used synonymously with the City, City Council or Council.

On duty – means all time spent working at a licensed establishment.

Partnership – means limited partnerships and limited liability partnerships.

Person – means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary or other group or combination acting as a unit, body politic or political subdivision, whether public, private or quasipublic. This term shall also include applicant, licensee, permittee, Applicant's Designee and Resident Agent as defined in this chapter.

Premises – means the space or area owned, leased or controlled by the licensee and used by him for the purpose of operating under a license. It shall be limited to one location for each license and there shall be a separate license for each premises outlet, except that in the case of hotels and motels, "premises" shall include only the portion of the property where alcoholic beverages are sold, and except that in the case of private clubs, "premises" shall include any swimming pool, which is in the immediate vicinity of the main building of the private club and which is open to members only and their guests and not the general public. Such swimming pool must have a minimum of 2,500 square feet of water surface and have required lifeguards. The term "premises" is further defined as one physically identifiable place of business consisting of one room, or two or more contiguous rooms operating under the same trade name where alcoholic beverages are sold. Any premises outlet which cannot be determined as one identifiable place of business shall require additional licenses regardless of such establishments having the same trade name, ownership, or management; provided nothing herein shall require additional licenses for service bars, or portable bars used exclusively for the purpose of

fixing or preparing alcoholic beverages when such bars are accessible only to employees of the licensed establishment and from which malt beverages or wine are prepared to be served in the licensed premises. Where a golf course is located adjacent to and contiguous with a restaurant, "premises" shall include the playing area of the golf course.

Proper identification – means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. § 40-5-100, et seq. "Proper identification" shall not include a birth certificate.

Private club – means any bonafide nonprofit association organized under the laws of the state which:

1. *Has been in existence at least one (1) year prior to the filing of its application for a license to be issued pursuant to this article.*

2. *Has at least 75 regular dues-paying members.*

3. *Owns, hires, or leases a building or space within a building for the reasonable use of its members.*

4. *Has no other member, officer, agent, or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.*

5. *Has a full kitchen in its facility, space or building.*

6. *Has dining facilities onsite.*

7. *Is staffed as necessary to prepare meals for its members and guests.*

8. *Has a minimum membership age of 21.*

9. *Provides to the City Clerk a complete and up-to-date membership list whenever such private club is open to its members.*

10. *Has tax-exempt status under section 501(c), (d) or (e) of the United States Internal Revenue Code.*

11. *Does not have the primary purpose of its organization or operation the service of beer or wine to its members and guests.*

12. *Includes fraternal organizations and lodges whose memberships are comprised of persons with common political, social or cultural ideals and goals and whose facilities are not open to regular patronage by the public.*

Private clubs associated with any golf course, apartment development or any private club permitted within a planned development as authorized by the City's zoning ordinance include clubs or social organizations whose membership is not open to the general public, which are organized and operated in conjunction with, and incidental to a golf course, apartment development, or private club permitted within a planned development authorized by the City's zoning ordinance, as amended from time to time.

Residence – means the act or fact of living or regularly staying at or in some place for discharge of duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

Resident – means a person whose primary residence is within the territorial limits of the City.

Resident Agent – means any person as defined in Section 3-1 who has continuous residency in the City of Doraville ***and/or DeKalb County****, Georgia who shall be a United States citizen for a period of three (3) years or an alien lawfully admitted for permanent residency, who can also be the resident license holder's designee, and who must have lived in the state of Georgia for a period of one (1) year prior to any relevant alcoholic beverage application wherein the Resident Agent is listed upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee may be served. This person must be a resident of DeKalb County* ***and/or*** *the City of Doraville who shall be responsible for any matter relating to a license granted under this chapter.*

Restaurant – means an eating establishment open to the general public, advertised and represented to be an establishment where prepared meals are regularly prepared and served to guests, where at least one (1) meal per day is served at least six (6) days per week (Sundays, holidays and days when such establishments are closed for business being excluded), with the exception of federally recognized holidays, vacations of the Resident Agent of the restaurant not exceeding thirty (30) days, and periods of redecoration, repair or remodeling, not exceeding thirty (30) days total in a single calendar year; three (3) days written notice sent to the City Clerk shall be required before any repair, redecoration or remodeling occurs, deriving at least sixty percent (60%) of its gross revenues from the sale of prepared meals to the general public, maintaining a full-service, functional and sanitary kitchen where meals are regularly prepared for service to guests, maintaining chairs, tables and counters to seat and serve meals to fifty (50) or more persons, and which employs personnel to prepare, cook and serve meals to the patrons of the establishment. Additionally, such establishment must be located in a zoning district in which such uses are permitted and shall be in full and complete compliance with all state, county and City regulations governing restaurants. The maximum number of persons which any facility may service shall be the occupancy load as may be determined by the DeKalb County fire marshal. 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.

Retail package – means sales of malt beverages or wine packaged to go and not for consumption on the premises.

Sales – means for purposes of this chapter, the words "sale," "sell," or "sold" shall also include the transfer of wine, malt or distilled beverages for any consideration, or in exchange for anything of value, directly or indirectly.

Wine – means any alcoholic beverage containing not more than 21 percent (21%) 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 chapter.

Year – means a calendar period beginning January 1 and ending December 31.

Article II. License and Permit Applications.

Sec. 3-2. License – issuance; privilege.

Wholesale, retail, storage, consumption on the premises and manufacturing for the sale of alcoholic beverage licenses within the corporate limits of the City will be issued by the Mayor and City Council pursuant to rules, regulations ***and text of forms*** *set forth* ***and made exhibits to*** *in this chapter. Holding any said license is declared to be a privilege, not a right.*

Sec. 3-3. License – required.

No person shall engage in the business of wholesaling, retailing, storing, consumption on the premises service or manufacturing, handling, for sale, or otherwise providing for sale alcoholic beverages of any kind within the corporate limits of the City without first obtaining a license and/or employee permit, as relevant, therefor under this chapter.

Sec. 3-4. License – prominently displayed.

All licenses and employee permits under this chapter shall be prominently displayed in a publicly accessible location.

Sec. 3-5. License – classifications.

The following classes of licenses shall be authorized.

(a) Malt beverage:

1. *Wholesale;*
2. *Retail package;*
3. *Consumption on the premises.*

(b) Wine:

1. *Wholesale;*
2. *Retail package;*
3. *Consumption on the premises.*

(c) Distilled spirits:

1. *Wholesale;*
2. *Retail package;*
3. *Consumption on the premises.*

(d) Combination malt beverage and wine:

1. *Malt beverage and wine wholesale;*
2. *Malt beverage and wine retail package;*
3. *Malt beverage and wine for consumption on the premises.*

(e) Combination malt beverage and distilled spirits:

1. *Malt beverage and distilled spirits wholesale;*
2. *Malt beverage and distilled spirits retail package;*
3. *Malt beverage and distilled spirits for consumption on the premises.*

(f) Combination wine and distilled spirits:

1. *Wine and distilled spirits wholesale;*
2. *Wine and distilled spirits retail package;*
3. *Wine and distilled spirits for consumption on the premises.*

(g) Combination malt beverage, wine and distilled spirits:

1. *Malt beverage, wine and distilled spirits wholesale;*
2. *Malt beverage, wine and distilled spirits retail package;*
3. *Malt beverage, wine and distilled spirits for consumption on the premises.*

(h) Manufacturing of malt beverages, wine and/or distilled spirits for sale.

(i) Temporary off-premise and special event.

(j) Sunday sales permit.

Sec. 3-6. License application.

(a) No license for the sale of alcoholic beverages shall be issued to any person or establishment until such person or establishment has made application to the City Clerk on a form prescribed by the Clerk.

(b) Each applicant for a license shall fully complete an application under oath or affirmation.

(c) Each applicant for an employee permit shall fully complete an application under oath or affirmation.

(d) No application shall be deemed complete until the City Clerk has determined that all required information has been submitted, including any background check. No time frame set out in this application shall begin to run until the application is deemed complete by the City Clerk. Applicants may appeal the Clerk's decision of completeness pursuant to Sec. 3-19. A survey detailing all required distances is required.

(e) Renewals may use the form described in (a) above or another form as provided by the City Clerk. New surveys will not be required; however, a letter from a registered surveyor noting that no substantial change in condition triggering any distance prohibition in Sec. 3-20 has occurred shall be required.

(f) Upon receipt by the City Clerk of any application for an alcoholic beverage license or employee permit, he shall forward the same to the Chief of Police for investigation who, following such investigation, shall attach thereto the entire police record of every person named in the application. The City Clerk shall then submit a complete application with such report to the City Council. If the City Clerk determines an application is not complete, the City Clerk shall notify the

applicant in writing of any deficiencies within ten (10) business days. Appeals from a decision of incompleteness may be appealed as set out in Sec. 3-19.

(g) It shall be unlawful for any person to hold an alcoholic beverage license (package or consumption) who also has any direct financial interest in any wholesale alcoholic beverage business. It shall be unlawful for the holder of any alcoholic beverage license (package of consumption) to accept or receive financial aid or assistance from the holder of any alcoholic beverage manufacturer's or wholesale dealer's license.

(h) A license will entitle the licensee to sell alcoholic beverages at one location only, and only in the original and unopened manufacturer's container, and shall not permit the opening of containers in the package store where sold.

(i) A consumption on the premises license will entitle the licensee to sell wine, malt beverages or distilled spirits only and only poured or served from the manufacturer's original container.

(j) A wholesaler's or manufacturer's license will entitle the licensee to sell alcoholic beverages at one location only, and only in the original and unopened container.

(k) All alcoholic beverages for sale shall be stored only on the premises for which the license is issued.

Sec. 3-7. License Fees.

(a) Fees are paid on a calendar year, January 1 to December 31 basis. No fee shall be prorated. Applicants who apply after January 1 in each calendar year shall pay the entire fee. No fee shall be returned if a license is surrendered via closure or disciplinary action prior to December 31 in each calendar year. Temporary licenses shall be issued only for a limited duration as shown on the license.

(b) The license fee imposed by subsection (a) above shall be paid by each calendar year upon submission of license application and by ~~November 15~~ ***December 31*** *for each renewal application. Interest shall accrue on late payments at the rate of nine percent (9%) per annum.*

1. *Licensees shall keep true and correct records of all sales and shipments, and shall render a sworn statement of the same accompanying the monthly report to the City Clerk.*

2. ~~***Licensees shall post a performance bond with the City Clerk equal to one and one-half (1 ½) times the estimated highest monthly payment made in a calendar year of the prorated license fees based on sales. The bond provided for in this subsection shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the City Clerk.***~~

2. ***Licensees shall post a performance bond with the City Clerk equal to one and one-half times the fee paid by the licensee or applicant for license. The bond may be retained by the City if there is either an administrative or criminal violation of the provisions of this chapter by the licensee or applicant. The bond provided for in this subsection shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the City Clerk.***

3. *Each person licensed to do business in the City shall submit his books and records for such audit thereof as may be requested by the City Clerk at any reasonable time during normal City business hours.*

Sec. 3-8. License schedule of fees.

(a) Each licensee under this article shall pay ***an annual*** *license fee in an amount determined by the City Council and listed in the schedule of fees and charges.*

Administrative fee for application for license or renewal - $100.

Administrative fee for application for employee permit - $100.

Background check fee - $100.

Malt Beverage:

1. *Wholesale - $1,000*
2. *Retail package - $1,000*
3. *Consumption on the premises - $1,500*

Wine:

1. *Wholesale - $1,000*
2. *Retail package - $1,000*
3. *Consumption on the premises - $1,500*

Distilled Spirits:

1. *Wholesale - $3,000*
2. *Retail package - $3,000*
3. *Consumption on the premises - $3,000*

Combination malt beverage, wine and/or distilled spirits:

1. *Malt beverage and wine - $2,000*
2. *Malt beverage and distilled spirits - $4,000*
3. *Malt beverage, wine and distilled spirits - $5,000*
4. *Wine and distilled spirits - $4,000*

Retail:

1. *Malt beverage and wine - $2,000*
2. *Malt beverage and distilled spirits - $4,000*
3. *Malt beverage, wine and distilled spirits - $5,000*

Consumption on the premises:

1. *Malt beverage and wine - $2,000*
2. *Malt beverage and distilled spirits - $4,000*
3. *Malt beverage, wine and distilled spirits - $5,000*
4. *Wine and distilled spirits - $4,000*

Temporary off-premises and special event licenses: $300

Employee permit fee: $100

Sunday sales: $2,000

Sec. 3-9. Unlicensed sales prohibited.

It shall be unlawful for any person to sell or possess for the purpose of sale any malt beverages, wine or distilled spirits in the City limits where such person does not have a license from the City to sell or possess for sale such malt beverages, wine or distilled spirits.

Sec. 3-10. Reserved

Sec. 3-11. Places of sale restricted.

No malt beverages, wine or distilled spirits shall be sold at retail except in:

1. *Retail establishments devoted to the retail sale of malt beverages, wine or distilled spirits by the package;*

2. *Establishments licensed for consumption of malt beverages, wine and/or distilled spirits by the drink.*

Sec. 3-12. Separate license for separate locations.

A separate application must be made for a license required by this article for each location of sale, except as otherwise provided in this chapter.

Sec. 3-13. Employee permits.

(a) No person shall be employed to dispense, sell, serve, stock, handle, take orders or mix alcoholic beverages, or in any managerial position, by an establishment holding an alcoholic beverage license unless such person has been investigated by the Chief of Police or his designee by making application to the City Clerk on a form prescribed by the City Clerk.

(b) Upon investigation by the Chief of Police and approval by the City Clerk or his designee, such person shall be issued an employee permit. Such employee permit shall remain the property of the City and shall be in the possession of the employee at any time he is working at any licensed establishment, and shall be produced upon the request of any law or Quality of Life Officer of the City. The permit shall be worn by the employee on their person while working.

(c) While on duty (as defined in section 3-1) every person required to hold an employee permit under subsection (a), whether or not an employee of the business, shall have their employee permit displayed on their person at all times.

The card must be displayed in such a manner as to be clearly visible to any authorized City official observing the same. Upon request by the Resident Agent, employee permits may be issued in duplicate. However, no more than two permits shall be issued for any handler per any location. The purpose of the second permit shall be solely for the Resident Agent's convenience as a backup if the employee fails to arrive at work with a permit.

(d) Employees who require permits shall make themselves available for photographing, fingerprinting and such other investigating as may be required by the Police Department in accordance with state law and local ordinance.

(e) No person shall be granted an employee permit if he has been the holder of an alcoholic beverage license or employee permit which has been revoked within five (5) years of the date of the application.

(f) Falsifying or failing to disclose any information required by this chapter shall be grounds for denial or revocation of the employee permit.

(g) An employee permit shall be valid for one (1) year. The employee permit may be renewed upon the submission of a renewal application, the payment of any applicable fee, and upon determination that such individual remains qualified under this chapter.

(h) An employee permit may be suspended, probated, or revoked by the City Clerk if it is determined, using the standards set out above, that the individual has violated any provision of this chapter or committed any offense which would make him ineligible to hold such a permit as set out in this chapter.

(i) Notification of any denial, suspension or revocation of any employee permit shall be in writing and served either in person or by mail and shall contain the reasons for action and the notice of the right to appeal the decision.

(j) Decisions of the City Clerk that adversely affect or aggrieve any applicant or permit holder under this chapter may be appealed to the City Council pursuant to Sec. 3-19.

(k) It shall be unlawful for a handler whose card has been revoked, and upon whom demand for surrender of said permit is made, to fail to surrender the permit and/or to use the permit after revocation.

(l) No licensee shall allow any employee or manager required to hold an employee permit to work on the premises unless the employee or manager has in their possession a current valid employee permit.

(m) It shall be the duty of the alcoholic beverage license holder to file with the City on a monthly basis a report which lists all employees currently employed in a capacity which would require an employee permit. such report shall include the name and date of birth of all such individuals, as well as the same information on all such individuals who have terminated employment during the reporting period. Failure to submit said report to the City Clerk by the tenth day of each month shall be a violation of this Code.

(n) If said employee's employment terminates for any reason, he shall destroy the employee identification permit or return the same to City Hall within 24 hours of discharge.

Sec. 3-14. Qualifications of applicants for licenses and permits.

(a) Any applicant for a license or employee permit shall give written permission or get permission from any person as needed to the City and execute such other documentation as the City may require to acquire a ten-year criminal history on any person necessary in the processing of the application. The applicant shall prepay all costs incidental thereto or make such initial deposit as may be required so the City may obtain a criminal history for a ten-year period prior to the date of such application. The criminal history may be in any of the following forms or combinations thereof, but the histories must cover the entire required ten years:

1. *An NCIC report certified by a federal or state law enforcement agency;*
2. *A GCIC report if the applicant has resided in the State of Georgia for any portion of the ten-year period (or a similar report of other state agencies if the applicant resided in other states during the ten-year period);*
3. *An exemplified copy of the applicant's criminal history from every foreign country in which the applicant resided;*
4. *A certified copy of the applicant's criminal history furnished by Interpol; and*
5. *First offender status will be recognized only upon satisfactory completion of the terms of any sentence which may be imposed.*

(b) Each application for a license under this chapter shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in an amount determined by the City Council and listed in the schedule of fees and charges maintained in the City Clerk's office to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to it being submitted to the City Council, the deposit representing the license fee shall be refunded but the fee paid for investigation shall be retained.

(c) *No person shall be granted an alcoholic beverage license or employee permit unless it shall appear to the satisfaction of the City Council that such person, partners in the firm, officers and directors of the corporation and any other party with a financial interest in the business or prospective permittee, shall be of good moral character. In no event shall any license be granted to any person who has been convicted of or has pled guilty to or entered a plea of nolo contendere to any felony involving the following offenses within a period of ten (10) years immediately prior to the filing of such application:*

1. *Crimes of moral turpitude*
2. *Lottery law violations*
3. *Gambling*
4. *Gaming violations*
5. *Possession, distribution or sale of illegal narcotics or alcoholic beverages*
6. *Pandering, solicitation for lewd purposes, prostitution or other sex-related offenses*
7. *Tax offenses.*
8. ***Financial transaction card fraud.***
9. ***Forgery.***
10. ***Identity theft.***

(d) *No person shall be granted an alcoholic beverage license or employee permit unless it shall appear to the satisfaction of the City Council that such person, partners in the firm, officers and directors of the corporation and any other party with a financial interest in the business or prospective permittee, shall be of good moral character. In no event shall any license be granted to any person who has been convicted of or has pled guilty to or entered a plea of nolo contendere to any*

misdemeanor involving the following offenses within a period of two (2) years immediately prior to the filing of such application:

1. *The offenses listed in (c)1 – 7, above.*
2. *Noise*
3. *Sign code offenses*
4. *DUI*
5. *Fighting words / abusive language*
6. *Providing false identification*
7. *Indecency*
8. *Harassment*
9. *Assault, battery or other crimes of violence*
10. *Obscenity*
11. *Theft, embezzlement, extortion*
12. *Littering, graffiti*
13. *Illegal drug offenses or improper use of prescription drugs*
14. *Nuisance*
15. *Bad checks*
16. *Stalking*

~~***16. Forgery***~~

~~***17. Stalking***~~

~~***18. Identity theft***~~

(e) Offenses listed in sections (c) and (d) are deemed to be reasonable, clearly articulated and ascertainable standards which are substantially related to the business of alcoholic beverage sales, handling, manufacturing and distribution, and are connected to the regulatory purpose of the license. Convictions or pleas of nolo contendere to the offenses listed in (c) and (d) above are deemed to indicate that the applicant will not maintain and utilize the operation or permit

which he is seeking in conformity with federal, state, local laws, rules and regulations.

(f) At the time an application is submitted for an alcoholic beverage license or employee permit, the applicant shall, by a duly sworn or affirmed affidavit, certify that neither he nor any of the other owners of the establishment, nor the manager nor any agent of such establishment has been convicted or has pleaded guilty or entered a plea of nolo contendere to any of the offenses under the timelines provided in sections (c) and (d).

(g) A license application or permit may be denied where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the applicant is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(h) The written application for the license shall be a permanent record which the licensee must maintain current as required by this chapter. The applicant shall have the duty to keep said application current until denied or abandoned. Failure to maintain a current application shall be grounds for revocation of the license or permit.

(i) No person shall have, own, or enjoy any ownership or interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage licensee in the City unless a full description of such interest shall have been furnished the City Council either in the application or at the time such interest may arise. It shall be the duty of the licensee to report to the Clerk, within five (5) days, any change in any interest in such licensee's business, including, but not

limited to, any division of the profits, division of net or gross sales for any purpose whatsoever, change in the payment of rents or leases, change in the ownership of any lease or building or land used in such business, or change in the ownership of any corporation that has any interest in such business or the change of management of such corporation. For any entity which issues shares of stock, the change of ownership reporting requirement detailed herein shall not be effectuated until any person holds more than 20% of the issued stock.

1. *After receipt of such notice, the Council shall notify such person within a reasonable time of any objection to the ownership interest set forth therein, and it shall then be incumbent upon such person to dispose of such interest within thirty (30) days after the mailing of the notice to do so by the Council to such person at his address as shown on such notice of interest. In the event such interest is not disposed of within thirty (30) days after the mailing of the notice by the Council, or in the event no objection is filed within such 30-day period, or in the event such person fails to notify the Council of the transfer of any such interest within twenty (20) days after the acquisition thereof, then the license, as provided for herein, may be revoked by the Council until disposition of the interest has been made or notice given to the Council of the transfer.*

2. *The report required by this section shall be in the form required by the Clerk and shall be an amendment to the licensee's license application on file with the Clerk and as such, shall be under oath or affirmation and verified as otherwise required by license applications.*

(j) *The license issued shall be valid only for the calendar year indicated thereon. A licensee that desires to continue business during the next or subsequent calendar year must make a renewal application for such year on or before* ~~**November 15**~~ ***December 31*** *of the preceding year. Payment of license fees for renewal of a license may be made at the time of application* ~~**or by December 31**~~ *and upon approval of renewal by the Council and payment, the license will be issued. Renewals are new applications. There shall be no protected property interest in any license. The City Clerk may use a modified application that allows reports of*

changes in renewals rather than a full application. Changes in measured distances shall be reported in accordance with Section 3-17.

(k) All licenses issued pursuant to this chapter shall be valid only so long as the licensee is actively engaged in such business, with the exception of federally recognized holidays, vacations of the Resident Agent not exceeding thirty (30), and periods of repair, redecoration or remodeling, not exceeding thirty (30) days in a single calendar year where three (3) days written notice has been given in advance of such repair, redecoration, remodeling or vacation, is given to the City Clerk, the business shall be continuously opened as set out in this chapter, and in the event the licensee shall cease to be actively engaged in such business, such license shall be invalid and the licensee of such business shall immediately notify the City Clerk and return his license thereto.

(l) The City Council shall require a personal financial statement of any applicant for licensing purposes but not employment permitting.

Sec. 3-15. When building planned, under construction.

Where a building intended to hold a business where an alcoholic beverage license is issued, 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 show clearly a compliance with all provisions of this chapter and applicable provisions of this Code. However, no sales shall be allowed in such establishment until it has been completed in accordance with such plans and is inspected by the City Clerk, City Planner and Building Inspector to ensure compliance with this Code.

Sec. 3-16. Forfeiture of license or permit.

(a) All holders of licenses or permits under this chapter must open for business the establishment referred to in the license or utilize the permit within nine (9) months after issuance of such license. Failure to open the licensed establishment or utilize the permit within such time shall automatically forfeit and cancel the unused license and no refund of license fees shall be made to the license holder.

(b) Any holder of any license or permit under this chapter who shall cease to operate the business and sale of the products authorized or who ceases to use a permit issued for a period of three (3) consecutive months after the license or permit has been issued in the case of an existing business or in the case of a new business for three (3) consecutive months after the opening of the business, shall automatically forfeit the license or permit without the necessity of any further action

Sec. 3-17. Expiration; renewals.

All licenses granted under this chapter shall expire at midnight on December 31st of each year. Licensees who desire to renew their license shall file application with the required fee with the City Clerk on the form provided for renewal of license for the ensuing year. Applications for renewal ***and all fees*** *must be filed before* ~~***November 15***~~ ***December 31*** *of each year, otherwise no renewal license shall be granted. An application for renewal shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. All licenses granted hereunder shall be for the calendar year and the full license fee must be paid for a license issued prior to* ~~***November 15***~~ ***December 31*** *of each license year. All applications for alcoholic beverages shall be accompanied either by lawful money of the United States or by a certified check or cashier's*

check, payable to the City for the proper amount of the license fee. In the event the license is refused, the same shall be returned to the applicant except as otherwise provided in this chapter.

Sec. 3-18. No transfer of license or permit.

(a) Licenses and permits issued under this article shall not be transferable except as provided in this section.

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

(c) Nothing in this section shall prohibit one or more of the stockholders in a corporation or members in a limited liability company holding a license to withdraw from the corporation or limited liability company in favor of one or more of the stockholders or member who were stockholders or members at the time of the issuance of the license. However, such a withdrawal shall not serve to bring any new ownership into the corporation or the limited liability company.

(d) A licensee may take in partners, additional stockholders or members where it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanding the facilities of the business or for building new facilities and where the licensee receives directly none of the additional capital invested. Under this section, an additional partner, new stockholder or new member must be approved by the City Council in accordance with the requirements of this article.

(e) The license fees for which provision is made within this chapter are due and payable immediately. Any person who is doing business on or after January 1 shall pay the full annual license fee.

(f) No license shall issue for less than a calendar year, or remainder thereof, except as otherwise provided in this chapter and in case of the revocation or surrender of such license before the expiration of such calendar year, the holder shall not be entitled to receive any refund.

Sec. 3-19. License and permit approval disciplinary and appeal hearing procedures.

(a) The license application provided for in this chapter may be reviewed and considered by the Mayor and Council at the next regularly scheduled City Council meeting after the application has been submitted and certified as complete by the City Clerk.

(b) Notification of any denial, suspension, probation or revocation of any license or permit shall be in writing and served either in person or by mail and shall contain the reasons for action and the notice of the right to appeal the decision.

1. Appeals. Decisions by the City Clerk, Chief of Police or other City staff that adversely affect or aggrieve any license applicant, licensee, employee permit applicant, employee permittee or other applicant or permittee under this chapter, may be appealed to the City Council. All appeals shall be submitted in writing to the Mayor within ten (10) days after notification of the adverse decision.

2. Hearing. A hearing shall be conducted on each license approval, adverse license action, appealed adverse permit action or other appealable decision at the next regularly scheduled City Council meeting or within thirty (30) days of the date of the filing of the written appeal or complete application, unless a continuance of such hearing is agreed to by the applicant/appellant and the Mayor, or unless the hearing is rescheduled by the City Council. The applicant/appellant at such hearing shall have the right to be represented by an attorney at the expense of the applicant/appellant, and to present evidence and cross-examine witnesses.

3. *Notification. The applicant/appellant shall be notified in writing of the date and time of the hearing at least five (5) calendar days prior to the date of the hearing.*

4. *Findings of City Council Final. The findings of the City Council shall be final unless appealed within thirty (30) days of the date of the finding by certiorari to the Superior Court of DeKalb County.*

(c) *After denial, essentially the same application on a proposed location shall not be considered until six (6) months have passed since the preceding denial of a license for a property.*

(d) *Timing of Council action on applications and permits. If the Mayor and Council do not approve, deny or renew a license or permit within thirty (30) days of the receipt of a complete application, the same shall be considered approved until revoked or lapsed.*

Sec. 3-20. Distances.

(a) *No malt beverage and/or wine shall be offered for sale, sold or dispensed within 100 yards of any school building, college building, school grounds or college campus.*

(b) *No distilled spirits shall be sold within 100 yards of any church building, chapel mortuary or other place used for religious services, or within 200 yards of any school building, educational building, school grounds or college campus.*

(c) *All measurements to determine distances required by this section shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:*

1. *From the front door of the structure from which alcoholic beverages are sold or offered for sale;*

2. *In a straight line;*

3. *To the nearest portion of the grounds on which is located any school building, educational building, school grounds or college campus or, where relevant, any church building, chapel, mortuary or other place used for religious services.*

(d) *No distance requirements shall be applied to malt beverage, wine or distilled spirits offered for sale at consumption on the premises locations* ***in multiuse zones exclusive of CT. No requirement of this chapter shall be deemed to be a zoning regulation.***

(e) ***In all other non-multiuse zones of the City, the following distances apply to on-premises consumption locations and no on-premises alcoholic beverage sales shall occur:***

1. *Within one hundred (100) yards of the property line of a private residence on the same side of the street (applicable to both intersecting streets if a corner lot) as the proposed store, unless such residence is in a commercial district; or*

2. *Within one hundred (100) yards of the property line of any public library or public park which is on the same side of the street as the proposed store; or*

3. *Within two hundred (200) yards of the property line of a convict camp, penitentiary or other penal or corrective institution where prisoners are confined by the City, county or the state.*

4. ***Within 1,500 feet of any residential zoned property and a night club.***

Sec. 3-21. Locations and character qualifications.

(a) *A license may not be issued for: a location not suitable in the judgment and discretion of the City Council due to evidence presented of traffic congestion, general character of the neighborhood based on reported crime within five (5) acres of the applied-for licensed location in the year of application and in each year of renewal, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties or on the neighborhood, based*

upon reported crimes within five (5) acres of the applied-for or licensed location with the year of the application and each year of renewal.

(b) A location prohibited by any applicable zoning codes.

(c) A location at which a previous alcoholic beverage license has been revoked or suspended, and where evidence is presented that the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the best interest of the public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.

(d) Any person or location which the granting of such license would constitute a violation of federal, state or local law or regulations limited to and relating to the use, manufacture, distribution, sale, handling or other dealing in or possessing of alcoholic beverages not otherwise noted specifically in this chapter.

(e) Any trustee or director of a private club, if disqualified under this chapter.

(f) Any person to operate a restaurant or club except as defined in this chapter.

(g) Sale for consumption on the premises except as a restaurant or club as defined in this chapter.

Sec. 3-22. Notices in writing except for emergencies.

(a) Before the City Council shall approve or deny any application for a license, suspend, place on probation or revoke any existing license, the applicant or licensee, as the case may be, shall be given notice in writing from the City Clerk to show cause before the City Council at a time and place specified therein pursuant to Section 3-19.

(b) Nothing in this section shall prevent the Chief of Police or City Clerk from ordering the temporary closure of a licensed facility for no longer than five (5)

days prior to a hearing in the event of flood, hurricane, public disorder, riot, fire, disaster, or other local or national emergency. However, as soon as possible after such emergency passes, the procedure of Section 3-51 relating to emergencies, then those under Section 3-46 as modified by 3-51 shall be initiated.

Sec. 3-23. Licenses for posts, chapters and clubs of national veterans and fraternal organizations.

The applicant under this section shall, in addition to all other applicable sections of this chapter, furnish evidence satisfactory to the City Clerk that such post, chapter, or club of a national veterans' organization or nonprofit social club has been approved as a tax-exempt entity by the IRS. No license shall be issued or renewed for the sale of alcoholic beverages prior to the furnishing of said evidence to the City Clerk.

Article III. Regulations on Sales.

Sec. 3-24. Sales on election days.

The sale of alcoholic beverages is hereby authorized on any election day, if otherwise permitted by this chapter.

Sec. 3-25. Certain sales prohibited.

Neither holder of a license authorizing the sale of malt beverages, wine ***or distilled spirits*** *at retail* ***or to be consumed on-premises****, nor any agent or employee of the licensee shall do any of the following upon the licensed premises:*

1. *Sell malt beverages or wine to a minor.*
2. *Sell malt beverages or wine to any person while such person is in an intoxicated condition.*
3. *Sell malt beverages or wine upon the licensed premises on any day or at any time when such sale is prohibited by law.*
4. *No person, firm, partnership or corporation (hereinafter referred to as "donor") shall offer, dispense, give away or distribute wine, malt beverages or beer as an inducement to purchase, or as a bonus, gift,*

reward or incentive for purchasing, any merchandise, property or other goods, including consumer goods, which are otherwise sold, traded or bartered by the donor.

Sec. 3-26. Regulations for minors.

(a) The term "minor" for purposes of this chapter, unless otherwise stated, shall mean any person under the age at which a person may possess or consume alcoholic beverages, malt beverages or wine under the laws of this state as same may be amended from time to time.

(b) It shall be unlawful for a minor to attempt to purchase, or for another person to purchase for a minor, malt beverages or wine.

(c) It shall be unlawful for a minor to exhibit faked, forged or otherwise false or misleading or borrowed credentials in an effort to obtain malt beverages or wine to which he is not legally entitled.

(d) It shall be unlawful for any minor to have open malt beverages or wine in his possession.

(e) No person engaged in the business regulated under this chapter shall make or permit to be made any sales to minors.

(f) No licensee under this chapter shall allow any minor in his establishment to sell, dispense, serve or take orders for alcoholic beverages. The section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises.

Sec. 3-27. Prohibited acts involving minors.

(a) No person knowingly, by himself or through another, shall furnish, cause to be furnished or permit any person in his employ to furnish any alcoholic beverage to any person under 21 years of age.

(b) No person under 21 years of age shall purchase or knowingly possess any alcoholic beverage.

(c) No person under 21 years of age shall misrepresent his age in any manner whatsoever for the purpose of obtaining illegally any alcoholic beverage.

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

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

(f) The prohibition contained in subsections (a) – (e) above shall not apply with respect to:

1. The sale, purchase or possession of alcoholic beverage for consumption:

(A) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state.

(B) At a religious ceremony.

2. A person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. § 40-5-100, et seq. "Proper identification" shall not include a birth certificate.

(g) If such conduct is not otherwise prohibited under this chapter, nothing contained in this chapter shall be construed to prohibit any person under 21 years of age from:

1. Allowing or requiring a person in his employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverages. The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises as long as such persons have a valid employee permit.

2. Being in any establishment in which alcoholic beverages are manufactured. Each retail business establishment licensed to sell alcoholic beverages of any kind shall post in a conspicuous place or places a notice which shall contain the provisions of the laws of Georgia which deal with the unlawful sale of such items to underage persons and the penalties for violating such laws using notices provided under O.C.G.A. § 3-3-24.2.

Sec. 3-28. Hours of sale.

(a) Retailers licensed under this article shall not engage in the sale of packaged malt beverages and wine except between the hours of 9:00 a.m. and 12:00 midnight on weekdays (Monday through Saturday). No packaged malt beverages or wine shall be sold on Sunday. The hours within which such business may be carried on shall be determined by the time in force in the state at the time of the sale.

(b) Retailers licensed under this article shall not engage in the sale of distilled spirits except between the following hours and on the following days according to the time in force in the state at the time the sale is made:

1. Monday through Saturday from 9:00 a.m. to 12:00 midnight.

2. No distilled spirits shall be sold on Sunday.

*3. Wholesalers **may** ~~**shall not**~~ engage in the sale of distilled spirits between 6:00 AM and 7:00 PM, excluding Sunday.*

*(c) Malt beverages, wine **and distilled spirits** shall not be sold for consumption on the premises except on the following days and between the hours given, according to the time in force in the state at the time the sale is made:*

1. *Monday through Saturday from 9:00 a.m. to 2:00 a.m. on the following morning; provided, however, that no sales shall be permitted prior to 9:00 a.m. on Mondays unless the premises are licensed for Sunday sales as provided herein.*

2. *Sundays, between the hours of 12:30 p.m. until 2:00 a.m. the following Monday in licensed restaurants and lounges.*

3. *All licensed premises shall close their premises to the public and clear the premises of patrons within thirty (30) minutes after the time set in this section for discontinuance of the sale of alcoholic beverages on the premises.*

4. *The sale of alcoholic beverages is not permitted on Christmas Day (see O.C.G.A. § 3-3-20).*

5. *In addition to other requirements under this section, a licensed premises for the sale of malt beverages and wine shall comply with the following:*

   (A) The licensed business shall open its business each day that it is open by no later than 5:00 p.m.

   (B) The licensed business shall offer to its patrons prepared food and meals during all hours it is open pursuant to the definitions of working in Section 3-1.

   (C) The licensed business shall have a fully equipped kitchen, including cooking range, oven, refrigeration, food preparation area, sink and other items necessary for preparation of food and meals to be served on the premises.

~~*(d) **Distilled spirits shall not be sold for consumption on the premises except for the following days between the hours given, according to the time in force in the state at the time the sale is made:***~~

~~*1. **Monday through Saturday from 9:00 a.m. to 2:00 a.m. on the following morning; provided, however, that no sales shall be permitted prior to 9:00 a.m. on Mondays unless the premises are licensed for Sunday sales as provided herein.***~~

~~2. Sundays, between the hours of 12:30 p.m. until 2:00 a.m. the following Monday in licensed restaurants and lounges; provided, however, that prior to any such Sunday sales, such licensed establishments must apply for and obtain a permit for Sunday sales as provided herein.~~

~~3. All licensed premises shall close their premises to the public and clear the premises of patrons within thirty (30) minutes after the time set in this section for discontinuance of the sale of alcoholic beverages on the premises.~~

~~4. The sale of alcoholic beverages is not permitted on Christmas Day (see O.C.G.A. § 3-3-20).~~

~~5. In addition to other requirements under this section, a licensed premises for the sale of distilled spirits shall comply with the following:~~

~~(A) The licensed business shall open its business each day that it is open by no later than 5:00 p.m.~~

~~(B) The licensed business shall offer to its patrons prepared food and meals during all hours it is open.~~

~~(C) The licensed business shall have a fully equipped working kitchen, including cooking range, oven, refrigeration, food preparation area, sink and other items necessary for preparation of food and meals to be served on the premises.~~

Sec. 3-29. Failure to request and properly check identification.

(a) No licensee, or such licensee's employee or agent, shall furnish, serve or sell any alcoholic beverage to any person without first requesting to see and being furnished with proper identification as provided for in subsection (b) of this section in order to verify the age of such person.

(b) For purposes of this subsection, "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. § 40-5-100, et seq.

"Proper identification" shall not include a birth certificate and shall not include any traffic citation and complaint form.

(c) In addition to any other posting required by this article or by state or federal law, all licensees shall post in a conspicuous place within the licensed premises a sign which shall contain the following statement:

SALE OF ALCOHOLIC BEVERAGES TO ANY PERSON FAILING TO FURNISH PROPER IDENTIFICATION IS PROHIBITED BY LAW

Such sign shall be printed in letters of at least one inch (1") in height.

Sec. 3-30. Advertising.

All advertising of alcoholic beverage or consumption of alcoholic beverages on the premises is hereby prohibited except as provided for in the following:

1. ~~***Malt beverage and wine package (retail and wholesale).***~~ *A licensed retail or wholesale dealer may display at the licensee's place of business unilluminated signs, using letters not larger than eight inches (8") in height, flat against the outside of the building, below the roof line, bearing the words* ***"liquor,"*** *"beer," "wine," "champagne," or any combination thereof, and "package store" or "beer and wine store," together with the trade name of the dealer. In addition to such signs flat against the outside of the building, the dealer may display at a location on the tract of property upon which the business is located, but not affixed to the building, one unilluminated sign using letters not larger than eight inches (8") in height bearing the words "package store" or "beer and wine store" and the trade name of the dealer. Subject to any more restrictive sign limitations contained in the ordinance of the City, all signs, however, must meet any applicable land use and sign ordinance requirements governing such signs. The aggregate square footage of all signs advertising malt beverages and wine as provided for herein shall be no greater than the allowed aggregate signage provided in the sign code. Such sign or signs shall not be erected higher than the building to which it is attached or higher than the building located on the licensed premises.*

2. *Malt beverage, wine or distilled spirits consumption on the premises. Signage relating to on-premises consumption shall be the same as applied under the land use and sign ordinance; however, the aggregate square footage of all signs advertising on-premises consumption shall not exceed 250 square feet.*

Sec. 3-31. Prohibition of certain types of entertainment, attire and conduct.

(a) Findings; public purpose. Based on the experience of other urban counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Richmond County, Georgia; Amarillo, Texas; Austin, Texas; Garden Grove, California; Houston, Texas; Renton, Washington; Phoenix, Arizona; Indianapolis, Indiana; St. Paul, Minnesota; Tucson, Arizona; Augusta, Georgia; LaGrange, Georgia; Dalton and Whitfield County, Georgia; Carrollton, Georgia; Smyrna, Georgia; and Ft. Lauderdale and Palm Beach, Florida, which experiences the City Council believes are relevant to the problems faced by the City, the City Council takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within the United States of America. Moreover, it is the findings of the Council that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages, begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the neighborhood surrounding the establishment where such nude entertainment occurs, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior hereinabove described, and acceleration of community blight by the concentration of such establishments in particular areas.

Therefore, the limitation of nude conduct in establishments licensed to sell alcoholic beverages is in the public welfare and it is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishment which serve alcohol and also allow and/or encourage nudity. To that end, this section is hereby adopted.

(b) Enactment. The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or disperse alcoholic beverages:

1. The employment or use of any person, in any capacity, in the sale or service of alcohol beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or any portion of the male or female pubic hair, anus, cleft of the buttocks, buttocks, vulva and genitals.

2. Live entertainment where any person appears in the manner described in subsection (b)1 of this subsection or where such persons (or person) perform(s) acts of or acts which simulate any of the following:

(A) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.

(B) The touching, caressing or fondling of the breasts, buttocks, anus or genitals.

(C) The displaying of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.

3. The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsections (b)1 and (b)2 above.

(c) Severability.

1. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this section are or

were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

2. *It is hereby declared to be in the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this section is severable from every other section, paragraph, sentence, clause or phrase of this section. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this chapter is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this chapter.*

3. *In the event that any phrase, clause, sentence, paragraph or section of this chapter 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 Mayor and Council 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 this chapter and that to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the chapter shall remain valid, constitutional, enforceable and of full force and effect.*

Sec. 3-32. ***Reserved.*** ~~***Timing of Council action.***~~

~~***If the Mayor and Council do not approve, deny, or renew a license within thirty (30) days of the receipt of a complete application, the same shall be considered approved until revoked.***~~

Sec. 3-33. Minimum parking.

No license for the sale of malt beverages, distilled spirits or wine by the drink for consumption on the premises shall be issued to or renewed for any establishment unless the establishment has adequate, paved, on-premises parking facilities for its patrons. A parking plan ***compliant with City Code*** *indicating the location, design, configuration and number of spaces, together with the establishment's certificate of occupancy from the fire marshal shall be presented to the City Clerk with each application for on-premises consumption license and each renewal thereof. No off-premises parking shall be permitted.*

~~*Such licensee shall deliver to the City Clerk a parking plan which must be approved annually by the City Clerk prior to the issuance or renewal of a license to sell malt beverages, wine and/or distilled spirits for consumption on the premises. If at any time during a licensing period licensee does not maintain the required parking, occupancy of the licensed premises shall be reduced to a number which meets the parking requirements then available despite the existence of a certificate of occupancy which permits a larger number. This section shall be deemed to supersede any zoning regulation in conflict herewith; otherwise the zoning regulations on parking shall apply.*~~

Sec. 3-34. Maintenance of premises.

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

(b) The DeKalb County fire marshal shall, upon request of the City Clerk and/or the Mayor and Council, inspect each premises and report their findings to the same. All premises licensed hereunder shall conform at all times with all fire regulations of DeKalb County.

Sec. 3-35. Sale of intoxicating beverages where firearms and weapons are sold.

It shall be unlawful for any person to sell, or offer for sale, firearms, knives or other weapons and intoxicating beverages at the same business establishment.

Sec. 3-36. Brown bagging.

Brown bagging shall not be permitted.

Sec. 3-37. Noise.

No noise shall emanate from any licensed on-premises location that exceeds 35 decibels.

Sec. 3-38. Open areas and patio sales.

(a) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved as provided in this section.

(b) The requirements for approval are:

1. The patio/open area must be enclosed by some structure providing for public ingress/egress. ~~only through the main licensed premises. The only exception to this shall be a fire~~ Fire exits as required by applicable building and fire codes. Such fire exit will not be for general public use unless an emergency exists and would be of the type which sounds an alarm so that the establishment would be alerted of unauthorized use if no emergency exists. The height of such structure shall be a minimum of 3 ½ feet above the patio floor. The structure is not required to be solid nor does it have to restrict visibility into or out of the patio/open area; however, the structure must be permanent. No chicken wire, plastic or PVC piping, barbed or razor wire or chain link fencing materials shall be allowed for enclosure usage.

2. The patio/open area shall be used merely as an extension of the interior seating area. Service in the patio/open area shall be only by waiter or waitress or by service at an interior selling location, i.e., no outside bar or service window.

3. The patio/open area cannot be located in violation of the City zoning ordinance. ~~Where no other distance is provided, the patio/open area cannot be located within 1,500 feet of any residence. Such measurement shall describe the shortest straight-line distance on the ground from the patio to the nearest residential structure. The~~ Patios shall be considered part of the structure of the applicant or licensee's building for all distance measurements. All other distance requirements shall also apply.

(c) It is prohibited for an establishment to:

1. Allow any noise emanating from the patio/open area to exceed 35 decibels.

2. Allow the operation of any sound amplification devices in the patio/open area to create any noise in excess of 35 decibels.

(d) Patio/open plans must be reviewed and approved on an individual basis by the City Clerk using the criteria set out in this chapter.

(e) Nothing contained herein shall prohibit a hotel ~~or motel~~ with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel provided such functions are catered in connection with a meeting, conference, convention, or similar type gathering at such hotel or motel.

Sec. 3-39. Copy of ordinance required.

The holder of every alcoholic beverage license hereunder shall have available in his place of business at all times a copy of this chapter and shall be responsible for compliance herewith by all persons on the premises.

Sec. 3-40. Premises inspection.

Premises operated under the provisions of this chapter shall be open to inspection by authorized personnel of the City during operating hours or based upon probable cause of a violation of this chapter.

Sec. 3-41. No outside consumption.

(a) It is prohibited for customers to leave the premises of an on-premises consumption licensee with alcoholic beverages, and it is the licensee's responsibility to ensure that no beverages are sold or carried out. However, nothing herein shall be construed to prohibit the carrying out of wine or malt beverages for consumption at a publicly owned or privately owned golf course so long as all consumption remains on the golf course grounds.

(b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages except for on-premises consumption license holders with approved patio/open areas.

(c) It is prohibited for the Resident Agent or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages except for on-premises consumption license holders with approved patio/open areas.

Sec. 3-42. Visibility.

(a) Each facility that sells any alcoholic beverage shall have a clearly marked point(s) of entry.

(b) The point(s) of entry must be clearly visible from a public street; however, this requirement shall not apply to hotels or where the location of the point of entry is in a shopping center or multiple-story business building.

(c) At all points of entry, clear windows or clear doors are required in all facilities licensed hereunder. If a facility contains a cashier's cage or other internally enclosed facility, clear windows or clear doors must also be utilized except as set out below.

(d) All businesses licensed hereunder, including those entirely enclosed in another building such as a restaurant located in a hotel, must keep all windows, doors, etc., free of visual obstructions so that persons outside the facility may clearly see inside the facility. No tinting, shades, or other devices shall be used to obstruct the view into the facility. Shades, curtains, blinds, etc., may be used to reduce sun glare so long as such measures do not impede visual access to the facility's interior.

(e) All businesses licensed hereunder must keep a level of lighting internally adequate to provide visual access and safety to law enforcement or other emergency responders 24 hours a day, 7 days a week. External lighting cannot be solely used to meet the standards required herein. Internal lighting shall have an average maintained foot candle intensity of at least one foot candle with a minimum allowable intensity of three-tenths of a foot candle.

Offices which do not contain cash registers within a facility may be excluded from subsections (c) and (d).

Sec. 3-43. Random and probable cause audits.

At least once every five (5) years, if the Council decides the same is necessary, a random audit of licensed businesses shall occur to determine if taxes, stock, register receipts, and other financial information related to the sales or use of alcoholic beverages provided to the City is accurate. The random audits shall be accomplished by placing the names and addresses of all license holders in a closed container and the Mayor shall select 20 percent (20%) of all licenses issued in the relevant calendar year from such closed container. Where the Council has been presented evidence providing probable cause to reasonably suspect a license holder is failing to comply with accurate reporting or payment requirements under this chapter for reports or sums relating to the use or sale of alcoholic beverages, then the Council may order a probable cause audit of the license holder's alcohol related business.

Sec. 3-44. Security cameras required.

Each business shall install and maintain security cameras in the outlet of a type and number approved by the Chief of Police. Such cameras:

(a) Shall be placed in the business to record activities in the checkout or cash register area(s).

(b) Shall be capable of producing a retrievable image on film, tape, or any readable medium that can be made a permanent record and enlarged through a projector or other means.

Such cameras shall be maintained in proper working order at all times and shall be subject to periodic inspection by the Chief of Police or his designee. If a robbery or other violation occurs in such outlet, the film, disk or tape recording of such event shall immediately be made available to the Chief of Police or his designee.

Sec. 3-45. Temporary off-premises and special event licenses.

(a) Notwithstanding any other provision of this Code, the City Council may grant a license to permit the temporary off-premises pouring of malt beverages, wine or distilled spirits. The term "off-premises license" shall be used to describe temporary off-premises and special event permits under the following terms and conditions:

1. A temporary off-premises license may be only issued to licensees who hold in good standing an alcohol pouring license issued by the City, and no such licensee shall be permitted to pour any alcoholic beverage off-premises which cannot be lawfully poured on the licensee's premises.

2. An application for an off-premises pouring license shall contain the following information:

(A) Name of licensee.

(B) Address of licenses.

(C) Type of license held by licensee.

3. No off-premises license shall be valid until the licensee pays an annual license fee or as set out in Section 3-6. The fee for the off-premises license shall be $300.00.

4. The amount of all sales of alcoholic beverages and food sold off-premises must be included in the licensee's gross income figures for the purpose of establishing the licensee's food-drink ratio reports.

(b) It shall be unlawful for an off-premises licensee to pour any malt beverages, wine or distilled spirits at any off-premises location until the licensee shall first obtain an off-premises pouring permit. Such permit may be issued by the City Council for any period up to three (3) days. An off-premises permit may be issued in accordance with the following:

1. *No permit for a particular off-premises location shall be issued if the requested building is a "non-suitable location" or fails to meet all reasonable safety requirements as set out in Section 3-21 and this chapter.*

2. *It shall be unlawful for any off-premises licensee to sell alcohol at an off-premises location unless food is served at the event.*

3. *Unless otherwise provided for in this section, all regulations of this chapter controlling the pouring of alcoholic beverages on premises shall govern the pouring of alcoholic beverages off premises.*

(c) The City Council may approve a special event license. No such license shall allow alcoholic beverage sales for more than twelve (12) days in any single calendar year. Each special event license can be used no longer than three (3) consecutive days per calendar year up to the 12-day limit. In order to qualify to receive such license, the applicant must comply with the following terms and conditions:

1. *The applicant must be licensed for sale of alcoholic beverages by the state or be a bonafide nonprofit organization as defined by O.C.G.A. § 3-71.*

2. *The application must provide the information requested under subsections (a)(2) above.*

3. *All distances and hours of operation set forth for on-premises consumption must be obeyed.*

4. *All employee permit requirements must be met.*

5. *An annual license fee of $300.00 must be paid in full.*

(d) Appeals of adverse decisions on off-premises or special events licenses may be made to the City Council pursuant to Section 3-19.

Sec. 3-46. Miscellaneous Regulations.

(a) Signage on no Sunday sales. All licensees who open their place of business on Sunday for the sale of merchandise other than alcoholic beverages shall post in conspicuous locations where alcoholic beverages are on display the prohibition against sales on Sunday in such a manner as approved by the City Clerk.

(b) Employee personnel reports. License holders shall submit state form ATT-17 once a month to the City Clerk.

(c) It shall be unlawful for any licensee hereunder to make deliveries of any alcoholic beverage by the drink or package beyond the boundaries of the premises covered by the license.

(d) No alcoholic beverage license shall be issued to any person unless the building in which the business in located is complete, detailed site plans of such building and outside premises are attached to the application and any applicable occupancy permit for this premises to be licensed has been issued. The completed building shall comply with all applicable state and local regulations. Each building in which the business is to be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of such building. The lighting shall have an average maintained foot candle intensity of at least one foot candle with a minimum allowable intensity of three-tenths of a foot candle. The lighting shall be directed in such a manner as

to not cause light pollution on neighboring lots. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or a copy of the lease if the building is leased.

(e) The making of any untrue or misleading statement in the application for an alcoholic beverage license may be sufficient cause for the refusal, suspension, probation, revocation or cancellation of such license, as the City Council shall deem proper, and possible prosecution as a felony pursuant to O.C.G.A. § 16-10-20.

(f) Notwithstanding anything in this chapter to the contrary, the sale of alcoholic beverages in the City is a privilege and not a right, and the issuance of a license hereunder shall not create any property rights in the license holder.

(g) The violation of any of the provisions of this chapter by a holder of an alcoholic beverage license, or his agent or employee, shall be unlawful and shall be punishable as otherwise provided in this chapter.

(h) No holder of a license authorizing the sale of alcoholic beverages in the City nor any agent or employee of the licensee shall do any of the following upon the licensed premises:

1. ***Break up for sale any multiunit container, unless he has a consumption-on-the-premises license.***

2. *Knowingly furnish or cause to be furnished or permit any other person in his employee to furnish any minor alcoholic beverages.*

3. *Allow or require a person in his employment under 18 years of age to dispense, serve, sell or take order for any alcoholic beverages. The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises as long as such persons have a valid employee permit.*

4. Knowingly sell alcoholic beverages to any person where such person is in an intoxicated condition.

5. Sell alcoholic beverages upon the licensed premises on any date or at any time when such sale or consumption is prohibited by law.

(A) The determination of whether any such violation has occurred shall be made by the City Council in an administrative hearing and an actual conviction in a court for such offense shall not be necessary in order to suspend, probate or revoke the license.

6. No license holder shall be vicariously liable for the acts of his agents or employees in any criminal context. However, any violation of this chapter by a license holder, their agents or employee as set out in Sec. 3-14 may be cause for administrative action against the license.

(i) All alcoholic beverages for sale shall be stored only on the premises for which the license is issued.

Article IV. Violations.

Sec. 3-47. Suspension or revocation of license.

(a) Upon the issuance of a citation by the Doraville Police Department for a violation of Articles II, III, IV, V or VI of this chapter, the Police Chief, or his or her designee, shall notify the City Clerk. Upon receipt of notice or in the event the City Clerk is otherwise notified of the occurrence of a violation described in subsection (b) 1, 2, 3 or 4 below, the City Clerk shall issue a show cause notice to the licensee of the establishment where the alleged violation occurred. The show cause notice shall direct the licensee to appear before the City Council at the Doraville City Hall at a time and date no less than ten (10) days from the date of issue. the notice shall state the purpose of the hearing and a general statement of the charges to be considered. The notice shall be served personally on the licensee by the Doraville Police. If the licensee cannot be located, the notice shall be sent to the Registered Agent.

(b) Any license issued under Article II may be revoked or suspended by the City Council for good cause after the hearing. "Good cause" for the suspension or revocation of any such license, shall mean:

1. The violation of any provision of Articles II, III, IV, V or VI as amended from time to time, by either the license holder or any person acting on his behalf, directly or indirectly, either as agent, servant, employee or otherwise; or

2. The violation of any law, statute or regulation made pursuant to authority granted for the licensing of such businesses by either the license holder or any person acting on his behalf, directly or indirectly, either as agent, servant, employee or otherwise, which occurs in or upon the premises for which the license is granted; or

3. The violation of any federal, state or local law or county or City ordinance (other than traffic ordinances) either by the license holder or any person acting on his behalf, directly or indirectly, either as agent, servant, employee or otherwise, which occurs in or upon the premises for which the license is granted; or

4. The violation of any federal or state law equivalent, or the violation of any county or City ordinance (other than a non-serious traffic offense) by the license holder as set out in detail in Section 3-14.

(c) It is the intent and purpose of the City that the license holder be responsible for and be held accountable for any activity which constitutes good cause hereunder, and any such license may be suspended or revoked upon satisfactory proof to the City Council that such activity occurred, regardless of the license holder's presence or knowledge thereof.

(d) Upon a finding by the Mayor and Council that a violation constituting good cause, the license shall be suspended or revoked as follows:

Offense	*1st Offense*	*Within 6 Months of Last*	*Within 1 Year of Last*	*Within 2 Years of Last*	*Within 3 Years of Last*	*Within 4 Years of Last*
1st Offense	*Suspended 15 days*	*XX*	*XX*	*XX*	*XX*	*XX*
2nd Offense	*XX*	*Suspended 90 days*	*Suspended 60 days*	*Suspended 30 days*	*Suspended 15 days*	*XX*
3rd Offense	*XX*	*Revoke license*	*Suspended 120 days*	*Suspended 90 days*	*Suspended 60 days*	*Suspended 15 days*
4th Offense	*XX*	*XX*	*Revoke license*	*Suspended 120 days*	*Suspended 90 days*	*Suspended 30 days*
5th Offense	*XX*	*XX*	*XX*	*Revoke license*	*Suspended 120 days*	*Suspended 60 days*

~~*(e) Upon a finding by the Mayor and Council that a violation of sales to minor has occurred, the license shall be suspended or revoked as follows:*~~

~~*1. First violation in a twelve (12) month period starting upon the date of the accusation of the offense – the license shall be suspended for a period of up to fifteen (15) consecutive days.*~~

~~*2. Second violation in the same period as set out in (e)(1) – suspension for a period of up to thirty (30) consecutive days.*~~

3. ~~*Third violation in the same period as set out in (e)(1) – revocation for a twelve (12) month period beginning upon the date of the Mayor and Council finding.*~~

(e) ***Sales to Minors.***

1. Intent. Is it the purpose of this section to administratively act upon a license where sales to minors have occurred at a licensed establishment.

2. Definition of event for administrative action. Where a violation of this section originates from a single event that occurs in a 24 hour day, then such violation shall be deemed to be one (1) violation for administrative purposes. For example, if a server serves an alcoholic beverage to a minor and is allowed to do so by such server's manager, while two (2) criminal charges may be brought these events shall be deemed to be one (1) administrative violation so long as the offenses occurred within one 24-hour day. If two (2) different servers serve two (2) different minors and the manager allow such service while four (4) criminal offenses may have occurred, the offenses shall be deemed one (1) offense for administrative purposes so long as the offenses occurred within one 24-hour day. Regardless of the number of criminal offenses

which occur in any 24-hour day, the same shall be deemed one offense for administrative action.

3. ***Administrative violation actions. Upon a finding by the Mayor and Council that a violation of sales to minors has occurred as defined in above in subsection (e)2, the license shall be suspended or revoked as follows:***

   A. ***First violation within a 24-hour day in a 12 month period starting upon the date of the accusation of the offense – the license shall be suspended for a period up to 15 consecutive days.***

   B. ***Second violation in the same period as set out above in subsections (e)2 and (e)3 – suspension for a period up to 30 consecutive days.***

   C. ***Third violation in the same period as set out above in subsections (e)2 and (e)3 – revocation for a 12 month period beginning upon the date of the Mayor and Council finding.***

(f) Upon suspension of the license under subsection 3-270(d) or (e), the license holder shall place a sign on all entrances used by the public to access the premises and at each cash register stating the following:

> *"This establishment's license to sell alcoholic beverages has been suspended for the period _____ to _____." (insert dates and times).*

Sec. 3-48. State license.

Whenever the state shall revoke any permit or license to sell at wholesale or retail any alcoholic beverage, the City license to sell any alcoholic beverage shall thereupon be automatically revoked. When any license for the sale of any alcoholic beverage is revoked, all signs indicating that such liquors are for sale or may be purchased shall be removed from the place of business, and the Doraville Police Chief or his or her designee, upon notice of such revocation from the City Clerk, shall take whatever steps necessary to see that all such signs are removed, and that the businesses shall be closed until restoration of the license.

Sec. 3-49. Reporting to the Police.

The failure of the license holder, his agent or his employee to report promptly to the police department any violation of law or municipal ordinance that relates to the use, manufacture, distribution, sale, handling or other dealing in or possessing of alcoholic beverages, and any offense under Section 3-14 may result in action against the license, license holder or permit holder as may be relevant.

Sec. 3-50. Penalties.

In addition to the penalties set out in Section 3-47 above, any violation of this article shall be subject to punishment as provided in Section 1-12 of the Municipal Code of the City of Doraville, Georgia. The minimum fine for the first violation shall be not less than five hundred dollars ($500.00). The fine for any subsequent violation shall be not less than one thousand dollars ($1,000.00).

Sec. 3-51. Separate offense.

Each day that any person violates or remains in violation of any provision, regulation or requirement of this section shall constitute a distinct and separate offense and violation hereof, and such violator shall be subject to the penalties herein provided for each such day that a violation occurs.

Sec. 3-52. Violations; reporting and acting on, emergency closures.

(a) Any violation of this chapter that may warrant revocation of an alcoholic beverage license may be reported to the City Clerk who is empowered in his discretion based on good cause shown as described below in Sections 3-52 to temporarily close any alcoholic beverage sales facility until such time as a hearing before the City Council may be scheduled as set out in Section 3-19 as

modified by Section 3-52. The period of temporary closure shall not exceed five (5) days.

(b) The City Clerk and/or Police Chief or in their absence, any police department shift commander on duty at the time of any of the following events, may close any location holding an alcohol beverage license for a period not in excess of five (5) days in the event there shall occur the following: flood, hurricane, public disorder, riot, fire, disaster or other local or national emergency, where such event is contrary to the public health, welfare, safety or morals as related to the use, manufacture, distribution, sale, handling or other dealing in or possessing of alcoholic beverages. Any violation of law or municipal ordinance relating to the use, manufacture, distribution, sale, handling or other dealing in or possessing of alcoholic beverages, breach of peace, disturbance or altercation resulting in violence or other occurrence which is contrary to the public health, welfare, safety or morals when in the judgment of the City Clerk, Chief of Police or any shift commander on duty in the Chief's absence, determines such action is necessary to protect the public health, welfare, safety or morals as related to the use, manufacture, distribution, sale, handling or other dealing in or possessing of alcoholic beverages. Review of such decision shall occur at the next regularly scheduled Council meeting after the closure or within thirty (30) days thereafter. In any case, the license holder shall be provided at least five (5) days prior written notice of the Sec. 3-52 hearing. The Council finds that a suspension not exceeding five (5) days based on the totality of the circumstances present as set out in Section 3-52, is a reasonable, ascertainable standard which provides clear

limitations on the discretion of the Council. All other non-emergency hearings shall be regulated pursuant to Sec. 3-19.

(c) The City Council shall have the right to temporarily suspend any alcoholic beverage license for a period not to exceed five (5) days pending the hearing provided for in this chapter when, in the judgment of the City Council, such action is necessary to protect the public health, safety, welfare and morals.

(d) Any action provided for herein shall be in writing with the reasons therefor stated, and shall be delivered to a license holder or Managing Agent of said business.

Article V. Regulation Per License Class.

Division 1. Consumption on the Premises.

Sec. 3-53. Applicants restricted.

A license for the sale of malt beverages or wine by the drink for consumption on the premises may be issued by the City upon proper application, after due investigation, only to establishments or concerns operating the following types of establishments:

1. *Restaurants;*
2. *Lounges located within restaurants, hotels, motels, high-rise apartment buildings or high-rise office buildings;*
3. *Private clubs associated with any golf course, apartment development or private club permitted within a planned development as authorized by the City's zoning ordinance, as same may be amended from time to time;*
4. *Fraternal clubs and lodges;*
5. *Entertainment facilities.*

Sec. 3-54. Food and consumption on the premises.

(a) Each applicant must comply with federal, state, county and local laws, rules, regulations and ordinances related to the sale of food or the serving of food and the terms of this ordinance and state law for service of alcoholic beverages for consumption on the premises.

(b) Consumption on the premises licensees shall maintain at least 60 percent (60%) of their business volume for the sale of food, private clubs excepted. Other than in private clubs, all on-premises consumption locations shall be restaurants as defined in this chapter. Mini-bars or other self-serve on-premises consumption facilities shall be prohibited. The 60 percent (60%) ratio shall be determined on a calendar quarter basis on the monthly report submitted by each licensee. In the event food sales fall below 60 percent (60%) on the business volume of alcoholic beverage sales for any quarter, then the license holder shall be placed on probation for the next succeeding quarter. At the end of the next succeeding quarter, if food sales have not attained 60 percent (60%) of business volume, then the City Clerk shall suspend such license in accordance with the provisions of this chapter. If adequate food sales have not been established thereafter, revocation proceedings may be initiated. Nothing herein provided shall prevent the City Council or the City Clerk/Police Chief from acting upon such license for any other violations of this chapter. Authorized officials of the City may examine the records of the businesses licensed hereunder at any reasonable time to ascertain that the requirements of this or other provisions of this chapter are met.

(c) The licensee shall provide such evidence by affidavit on or before the 20th day of the month following the request and also attach to the affidavit copies of his state sales tax records or other records as determined by the City Clerk.

(d) 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 for private parties or conventions, which are not open to the general public or private dining rooms or meeting rooms. This prohibition shall not apply to private clubs hereunder, or to the sale for consumption hereunder to the registered guests of any hotel or motel in their designated rooms.

Sec. 3-55. Record of purchases, sales.

(a) It shall be the obligation and duty of any license holder for the sale of malt beverages or wine by the drink for consumption on the premises to maintain accurate and current books of record and account in accordance with accepted accounting principles. Such books and records shall contain and reflect in a clear and unambiguous manner the amounts, by gallon, of malt beverages and wine purchased by the holder of the license for sale to the patrons of the establishment; and if the license is issued for a restaurant, the holder shall maintain, on a weekly basis, statements reflecting the gross income of the restaurant and stating the dollar amount and percentage of gross income of all income from the sale of food and prepared meals and the percentage and dollar amount of all income from the sale of distilled spirits, malt beverages and wine. This section shall also apply to any lounge operated incidental to a restaurant, and the books and records of such restaurant shall be maintained in accordance with this section.

(b) A holder of a license for the sale of malt beverages and wine for consumption on the premises shall within two (2) business days after written request from the City Clerk submit to the City Clerk a sworn statement certifying and stating the amount and percentage of the establishment's gross income from the sale of malt beverages and wine, distilled spirits, and food and prepared meals and amount, by gallons, of all malt beverages and wine purchased by such establishment for sale to its patronage for consumption on the premises. However, the City Clerk shall not make such request more than one (1) time during any given calendar quarter to any one (1) license holder.

(c) The books and records required to be maintained by this section of any licensee under this division shall be subject to an audit by the City or its duly authorized designee, during regular and normal business hours, upon reasonable notice. Such audit shall be conducted so as to cause the least inconvenience to the licensee, and the licensee shall, likewise, cooperate in any such audit by assembling his books and records in such a fashion as to facilitate any such audit.

Division 2. Retail Package Sales, Malt Beverages, Wine and Distilled Spirits.

Sec. 3-56. Consumption on premises prohibited.

It shall be unlawful for any person who is the holder of a license for the retail sale of malt beverages or wine, or for any person who is the agent or employee of such license holder, to permit the consumption of the same on any premises subject to the control of such license holder.

Sec. 3-57. License required; separate locations.

Alcoholic beverages shall not be distributed or sold without a license granted by the City Council. A separate application must be made for and a separate license to sell alcoholic beverages must be obtained for each location where the same it sold at retail.

Sec. 3-58. Same – purchases, sales restricted.

No retailer shall purchase any malt beverages from any person other than a wholesaler licensed under this article. No wholesaler shall sell any malt beverages to anyone other than a retailer licensed under this article.

Sec. 3-59. Display of prices.

Retailers shall indicate plainly by tags or labels on the bottles or containers, or on the shelf immediately below where the containers are placed, the prices of all malt beverages or wine exposed or offered for sale.

Sec. 3-60. Type of establishments restricted.

(a) No alcoholic beverages shall be sold at retail except in:

1. Retail establishments devoted exclusively to the retail sale of distilled spirits, malt beverages, wine and/or malt beverages and wine;

2. Retail establishments in which space has been set aside devoted exclusively to the retail sale of distilled spirits with ingress and egress provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building in which the facility is located, except as provided in subsection (3) below;

3. In hotels, motels and high-rise office buildings where:

(A) Every public entrance to such a use shall be from a lobby, hallway or other interior portion of the primary use structure; and

(B) No show window, advertising or display shall be visible from the exterior of the primary use structure.

(a) These requirements shall apply to retail distilled spirits stores accessory to such uses even when located in a C-1 or C-2 district. All retail alcoholic beverage

stores shall be located only in the C-1, C-2 and M-1 zoning districts in which such establishments are permitted as a conforming use, and only in accordance with the location requirements and development standards of the City's zoning ordinance.

Sec. 3-61. Signs.

(a) No signs shall be erected anywhere within the City advertising or promoting the sale of distilled spirits except as provided below, the sign regulations of the City sign ordinance, as amended, notwithstanding.

(b) Each licensee for the retail sale of distilled spirits hereunder shall have printed on a front window or entrance of the licensed premises the name of the licensee, together with the inscription, "Doraville Retail License No. ____," in uniform letters not less than four (4) or more than eight (8) inches in height, and may have a neon sign not exceeding ten (10) inches in height inside such building, visible through the window thereof, but not more than one (1) such sign per side of the building.

(c) Each retail licensee shall have conspicuously displayed within the interior of the licensed premises not less than four (4) copies of a printed price list of the distilled spirits offered for sale and one (1) printed copy of the penal sections of this article; provided, however, that 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 front of the shelf where the distilled spirits are exhibited for sale.

(d) No other signs may be used within or without the premises showing prices or indicating that distilled spirits are for sale.

Sec. 3-62. Advertising prices.

(a) No person holding a retail dealer's license to deal in wine by the package shall display any advertisement of or information regarding the price or prices of any wine in any show window or other place visible from outside the licensee's place of business.

(b) No person licensed to sell wine by the package for carry-out purposes shall sell such beverages at a price less than the cost which such licensee pays for such wine. As used in this subsection, cost shall include the wholesale price plus the local excise tax imposed, as reflected in invoices which the commissioner of revenue may require to be maintained on said licensee's place of business except for reasons relating to liquidation of inventory, close-out of brands, outdated product or any other reason the commissioner may determine to merit an exception.

Division 3. Wholesale Sales.

Sec. 3-63. Wholesale license required; restrictions.

(a) No person who has any direct financial interest in a license for the sale of distilled spirits at wholesale shall hold any other license under the terms of this article.

(b) No distilled spirits shall be delivered to any retail sales outlet in the City except by a duly licensed wholesaler in licensed vehicles. The name of the wholesale distributor shall be clearly marked on the vehicle.

Sec. 3-64. Additional license fee.

Each wholesaler shall pay an additional license fee in an amount determined by the City Council and listed in the schedule of fees and charges maintained in the City Clerk's office for

each vehicle used to deliver malt beverages or wine in the City. No malt beverages or wine shall be delivered to any retail sales outlet in the City except by a duly licensed wholesaler of the same, through duly licensed vehicles. The license application shall contain any other information requested by the City Council.

Sec. 3-65. Outdoor advertising.

No outdoor advertising with respect to the promotion of the sale of malt beverages or wine shall be permitted on the exterior of any wholesale or retail outlet or elsewhere in the City.

Sec. 3-66. Same – purchases, sales restricted.

No retailer shall purchase any malt beverages from any person other than a wholesaler licensed under this article. No wholesaler shall sell any malt beverages to anyone other than a retailer licensed under this article.

Article VI. Taxes.

Sec. 3-67. Alcoholic beverage tax.

(a) Definitions. The following words, terms and phrases shall, for the purpose of this division, be defined as follows:

1. Agent – means that person designed by a licensee in his application for a permit to sell alcoholic beverages by the drink in the City.

2. Alcoholic beverage – means any beverage containing alcohol obtained by distillation including brandy, rum, whiskey, gin, cordials, and other distilled spirits by whatever name called, but not including malt beverages or fermented wines.

3. Drink – means any alcoholic beverage, not in its original package, for consumption on the premises which may or may not be diluted by any other liquid.

4. Licensee – means any person who holds a license from the City to sell alcoholic beverages by the drink for consumption on the premises.

5. Monthly period – means the calendar month of the year.

6. *Persons – means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the state, and any political subdivision of either thereof upon which the City is without power to impose the tax herein provided.*

7. *Purchase price – means the consideration received for the sale of alcoholic beverages by the drink valued in money, whether received in cash or otherwise, including all receipts, cash credits and property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.*

8. *Purchaser – means any person who orders and gives present or future consideration for any alcoholic beverages by the drink from a licensee.*

9. *Tax –means the tax imposed by this section.*

(b) *Levy of tax. There is hereby imposed and levied in addition to all other taxes and fees imposed by law upon every purchaser of alcoholic beverage by the drink in the City a tax in the amount of three percent (3%) of the total purchase price.*

(c) *Tax added to sales price. All licensees shall, as far as practicable, add the amount of the tax imposed hereunder to the sales price or charge, which shall b a debt from the purchaser to the licensee, until paid, and shall be recoverable at law in the same manner as other debts. Any licensee who shall neglect, fail or refuse to collect the tax herein provided, upon any, every and all retail sales made by the licensee or the licensee's agents or employees, of alcoholic beverages which are subject to the tax hereunder imposed, shall be liable for and pay the tax.*

(d) *Sale of alcoholic beverages; itemized separately. Every licensee for the sale of alcoholic beverages by the drink operating a place of business in the City shall, at the time of collecting for food and drinks served, itemize separately the price of*

alcoholic beverages served. Where the charges for food and drink are satisfied by credit or deferred payment, the payment of the tax to the licensee may be deferred in a like manner; however, the licensee shall be liable therefor at the time and to the extent that such credits are incurred.

(e) Due date of taxes. All taxes collected by any licensee shall be due and payable to the City at the City Hall at the office of the City Clerk monthly on or before the fifteenth day of each month next succeeding each respective monthly period.

(f) Return required. On or before the fifteenth of the month following each monthly period, a return for the preceding monthly period shall be filed with the licensing division of the department of finance in such a form as the City Clerk may prescribe by every licensee or agent liable for the payment of tax hereunder.

(g) Contents of return. All returns shall show the gross receipts from the sale of alcoholic beverages by the drink, the amount of tax due for the related period, and such other information as may be required by the Mayor or City Clerk.

Sec. 3-68. Excise taxes.

(a) There is levied and imposed upon each wholesale dealer selling malt beverages within the corporate limits of the City an excise tax in the following amounts:

1. Where malt beverages, commonly known as tap or draft beer, are sold in and from a barrel or bulk container, a tax of $6.00 on each container sold containing not more than 15 ½ gallows and a proportionate tax at the same rate on all fractional parts of 15 ½ gallons;

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

(b) There is levied and imposed upon each wholesale dealer selling wine within the corporate limits of the City an excise tax in the following amounts: an excise tax

on the first sale or use of wine by the package which tax shall be $0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(c) The taxes imposed by this provision shall not be levied with respect to any sales of wine or beer which are exempt from taxation by federal or state law.

Sec. 3-69. Required reports and notices.

(a) Copies of summaries of sale and state form ATT-122 and any other summary sent to the state on official state forms denoting sales of malt beverages and wine by licensees shall be furnished to the City Clerk no later than the tenth day of each month by wholesale dealers selling malt beverages and wines to licensees. The report shall apply to deliveries made during the previous month. Copies of these reports shall be submitted with the excise tax described herein. The City Clerk may require additional reports from an entire class of license holders as deemed necessary and prudent in the enforcement of this chapter.

(b) Upon the failure of any person selling alcoholic beverages in the City to furnish to the City Clerk any report required by the ordinances of the City or to pay any tax due the City for the sale of such commodities promptly when due, there shall be assessed a penalty of ten percent (10%) of the amount of tax due or shown to be due by any such report, in addition to such tax. Failure to report or pay taxes due may result in action taken against the license.

. . ."

Section 2.

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council 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 Mayor or Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance 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 Mayor and Council 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 Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3.

Penalties provided for violations of this Ordinance are set out in Section 1-12, as amended hereby, of the Code of Ordinances, City of Doraville, Georgia and are herby incorporated as if set out fully.

Section 4.

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5.

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

Section 6.

The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Doraville.

Section 7.

It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code Ordinances, City of Doraville, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 8.

This Ordinance shall become effective upon its adoption by the Mayor and Council.

SO ORDAINED, this ___ day of _____, 2010.

CITY OF DORAVILLE, GEORGIA

_____
Ray Jenkins, Mayor

_____
First Reading

_____
Second Reading

ATTEST:

_____(SEAL)
Rhonda Blackmon, City Clerk

APPROVED AS TO FORM:

_____
Murray J. Weed, City Attorney

	Yea	Nay
Maria Alexander	☐	☐
Brian Bates	☐	☐
Pam Fleming	☐	☐
Karen Pachuta	☐	☐
Donna Pittman	☐	☐
Bob Roche	☐	☐