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 the 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 exit 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 must be covered by a permanent roof. As used in this section, the term "roof" shall mean a structural covering of a floor area which shall be of similar design and material as the primary structure to which it is attached, whether physically attached or by use.*

3. *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.*

4. *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 Manager 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 Manager 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 alcohol 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. 3-45. Miscellaneous Regulations Applicable to All License Classes.

(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. Sell less than 22 ounces of malt beverages, whether in one container or a 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 t 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 Section 3-14 may be cause for administrative action against the license.*

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 left at the establishment with the person currently in charge.

(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 Law*
1st Offense	*Suspended 15 days*	*XX*	*XX*	*XX*	*XX*	*XX*
2nd Offense	*XX*	*Revoke license*	*Suspended 90 days*	*Suspended 60 days*	*Suspended 45 days*	*Suspended 30 days*
3rd Offense	*XX*	*XX*	*Revoke license*	*Suspended 90 days*	*Suspended 60 days*	*Suspended 45 days*
4th Offense	*XX*	*XX*	*XX*	*Revoke license*	*Suspended 90 days*	*Suspended 60 days*
5th Offense	*XX*	*XX*	*XX*	*XX*	*Revoke license*	

OR

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 Law*
1st Offense	*Suspended 15 days*	*XX*	*XX*	*XX*	*XX*	
2nd Offense	*XX*	*Suspended 90 days*	*Suspended 60 days*	*Suspended 30 days*	*Suspended 15 days*	
3rd Offense	*XX*	*Revoke license*	*Suspended 120 days*	*Suspended 90 days*	*Suspended 60 days*	
4th Offense	*XX*	*XX*	*Revoke license*	*Suspended 120 days*	*Suspended 90 days*	
5th Offense	*XX*	*XX*	*XX*	*Revoke license*	*XX*	

(e) Upon suspension of the license under subsection 3-270(d), 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 Manager, 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 if 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.

(b) 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 _____, 2009.

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	☐	☐
Donna Pittman	☐	☐
Bob Roche	☐	☐
Bob Spangler	☐	☐