(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.*

(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. *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 permanent 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 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 Manager not exceeding fourteen (14) days, and periods of repair, redecoration or remodeling, not exceeding fourteen (14) 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 must be filed before November 15 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 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.*

(d) No distance requirements shall be applied to malt beverage, wine or distilled spirits offered for sale at consumption on the premises locations.

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.*

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 within an area where, in the judgment of the City Council, the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare based on the 2000 decennial U.S. Census Bureau digest where there shall not be more than ____ licenses issued per 100 City residents recorded by the Census Bureau.

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

(d) 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.

(e) 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.

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

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

(h) 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. 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. 3-26. Certain sales prohibited.

Neither holder of a license authorizing the sale of malt beverages or wine at retail 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. 3-27. 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. *Wholesaler shall not engage in the sale of distilled spirits except between sunup and sundown excluding Sunday.*

(c) Malt beverages and wine 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:*

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

   (ii) 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.

   (iii) 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:*

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

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

   (iii) 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 (1) inch 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 (8) inches in height, flat against the outside of the building, below the roof line, bearing the words "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 (8) inches 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. 3-21. 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. 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 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. For purposes of this section, the term "adequate parking" shall be deemed, at a minimum, to be one (1) parking space for every three (3) persons permitted under the establishment's maximum occupancy capacity as determined by the fire marshal, and one (1) space for each employee on duty on the premises at any particular time. A parking plan 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. At least two percent (2%) of parking space shall be devoted exclusively to handicapped parking areas.

Any current licensee who has been grated permission for off-premises parking on paved premises located within one-half (1/2) mile may continue to do so under the terms of the section as amended on _____, but not otherwise. Such licensee shall deliver to the City Council a parking plan which must be approved annually by the City Council 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.