COUNTY DEPARTMENT AGENDA REQUEST

Department:	Planning & Zoning	Presenter(s):	Peter A. Frisina
Meeting Date:	Wednesday, February 2, 2011	Type of Request:	New Business

Wording for the Agenda:

Consideration of proposed amendments to the Fayette County Code of Ordinances regarding Chapter 3 Alcoholic Beverages.

Background/History/Details:

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

An action by the Board is required to amend the existing Ordinance. However, a public hearing is not required.

What action are you seeking from the Board of Commissioners?

Permission to place the proposed amendments to the Fayette County Code of Ordinances regarding Chapter 3 Alcoholic Beverages on the Board of Commissioners Consent Agenda for the Public Meeting scheduled for 02/10/11 for adoption by the Board.

If this item requires funding, please describe:

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

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

STAFF USE ONLY

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

Staff Notes:

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

Article II. Wine

Sec. 3-26. Definitions.

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

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

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

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

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

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

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

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

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

(a) No license shall be issued under this article for any retail location which is within three hundred (300) feet of any church, school, *day care facility,* library or alcoholic treatment center. Such distance shall be measured from the nearest building wall of the proposed retail vinous liquor store to the nearest point of such church, school, *day care facility,* library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges of this state, and shall not include private schools or colleges wherein only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations or other special subjects are taught.

(b) No license shall be issued under this article for any retail location which is within three hundred (300) feet of any private residence. Such distance shall be measured from the nearest building wall of the proposed retail vinous liquor store to the nearest point of the residential building along the closest and most reasonable public access. A "private residence, "for the purposes of this section, is defined as a house, dwelling, condominium or duplex wherein not less

than one (1) nor more than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."

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

Cross references: Recreation and parks, Ch. 14.

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

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

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

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

Article III. Malt Beverages

Sec. 3-106. Definitions.

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

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

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

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

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

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

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

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

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

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

beverage store to the nearest point of such church, school, *day care facility,* library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges of this state, and shall not include private schools or colleges wherein only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations or other special subjects are taught.

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

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

Cross references: Recreation and parks, eh. 14.

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

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

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

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

Article IV. On-Premise Consumption Dealers

Sec. 3-180.1. Authority and definitions.

(a) *Authority.*

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

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

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

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

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

Day Care Faciliry. An agency, organization, or individual providing daytime care (or (our (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.

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

Fortified wine means any alcoholic beverage containing more than twenty-one (21) percent alcohol by volume and made from fruits, berries, or grapes either by natural fermentation or with brandy added. Fortified wine shall include but not be limited to the brandy.

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

Hotel means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, pelmanent or residential; and in which fifty (50) or more rooms are used for sleeping accommodations of such guests; and having one (1) or more public dining rooms, with an adequate and sanitary kitchen and a seating capacity of at least forty (40), where meals are served at least once a day to such guests; and where the sleeping accommodations and dining rooms are being conducted in the same building or in separate buildings or structures used in connection therewith that are in the same premises and are a part of the hotel operations. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge or restaurant in their premises and the holder of such franchise shall be included in the definition of hotel hereunder.

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

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

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

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

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

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

Wine means any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fennentation 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 confOlms to the definition of wine contained in this section.
(Ord. No. 91-12, § 3-81,9-18-91; Ord. No. 94-17, §§ 1,2,10-19-94; Ord. No. 2004-19, § 8,8-26-04)

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

All original applications for new licenses shall include a certificate from a registered surveyor showing a scale drawing of the location of the proposed or existing premises, and stating both the straight line distance and the distance measured along the closest and most reasonable public access from the proposed or existing premises to the building and property line of the nearest church, school, *day care facility,* library, alcoholic treatment center and private residence.
(Ord. No. 91-12, § 3-106, 9-18-91; Ord. No. 92-13, § 7, 11-11-92)

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

(a) No license shall be issued under this article for any location which is within three hundred (300) feet of any church, school, *day care facility.* library or alcoholic treatment center, if distilled spirits are to be sold, said distance from any school building, educational building, school grounds or college campus shall be at least six hundred (600) feet. Such distance shall be measured from the nearest building wall of the proposed location to the nearest point of such church, school, *day care facility.* library or alcoholic treatment center along the closest and most reasonable public access. The schools referred to herein shall include only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges of this state, and shall not include private schools or colleges wherein any specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations or other special subjects are taught.

(b) No license shall be issued under this article for any location which is within three hundred (300) feet of any private residence. Such distance shall be measured from the nearest building wall of the proposed location to the nearest point of the residential building along the closest and most reasonable public access. A "private residence,' for the purposes of the section is defined as a house, dwelling, condominium or duplex wherein not less than one (1) nor nlore than two (2) families reside and shall not include a mobile home court, an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a "private residence."
(Ord. No. 91-12, § 3-115, 9-18-91; Ord. No. 92-13, § 8,11-11-92; Ord. No. 2004-19, § 13,8-26-04)