COUNTY AGENDA REQUEST

Department:	Code Enforcement / Legal	Presenter(s):	Pete Frisina / Dennis Davenport
Meeting Date:	Thursday, August 29, 2013	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to adopt Ordinance 2013-11 amending the Fayette County Code of Ordinances, Chapter 3. Alcoholic Beverages, to provide for severability; to repeal conflicting laws, ordinances, and resolutions; to provide an effective date; and for other purposes allowed by law, and adoption of the Proposed Alcohol Fee Schedule.

Background/History/Details:

Staff is proposing amendments to Chapter 3 Alcohol Beverages to make the regulations more organized and consistent, and less cumbersome for the business owners to meet and the staff to administer.

The existing regulations are separated into three similar sections, Malt Beverages, Wine, and Distilled Spirits. The proposed amendments combine the three sections into one set of regulations.

Attachment A, located through pages 1-27 [3-29 of the PDF file], provides Ordinance 2013-11 that the Board is being asked to adopt.

Attachment B, a single-page document [page 30 of the PDF file], provides the Proposed Alcohol Fee Schedule that the Board is being asked to adopt.

Attachment C, located through pages 1-30 [31-60 of the PDF file], provides supporting notations on the proposed changes.

Attachment D, located through pages 1-11 [pages 61-71 of the PDF file], is a copy of Ordinance 2012-11 approved in August 2012.

What action are you seeking from the Board of Commissioners?

Consideration of staff's recommendation to adopt Ordinance 2013-11 amending the Fayette County Code of Ordinances, Chapter 3. Alcoholic Beverages, to provide for severability; to repeal conflicting laws, ordinances, and resolutions; to provide an effective date; and for other purposes allowed by law, and adoption of the Proposed Alcohol Fee Schedule.

If this item requires funding, please describe:

Not Applicable.

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

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

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

Staff Notes:

Staff's goal is to get these amendments approved and adopted prior to the 2014 renewal applications that start in September of 2013.

Date: August 15, 2013

To: Board of Commissioners

From: Pete Frisina

Subject: Alcohol Ordinance and Fee Schedule

Staff consisting of the Code Enforcement Section, County Attorney and Planning and Zoning Department is proposing amendments to the Fayette County Code of Ordinances, Chapter 3 Alcohol Beverages to make the regulations more organized and consistent, and less cumbersome for the business owners to meet and the staff to administer. The existing regulations are separated into three similar sections, Malt Beverages, Wine, and Distilled Spirits. The proposed amendments combine the three sections into one set of consistent regulations.

The goal is to get these amendments approved and adopted prior to the 2014 renewal applications that start in September of 2013. The Marshal's Office (now defunct) started the process of amending the regulations in late 2012.

As mentioned, the amendments combine the existing three sections into to one consistent section which will make it more efficient for staff to administer and also compliance easier for the business owner's. The amendments also bring the regulations up to date with State alcohol regulations. Substantive changes to the regulations are outlined in comments in the draft regulations. There are still some minor areas that need review and staff will continue to work on those matters, however, it is important to get the bulk of these amendments made prior to the 2014 renewal applications that start in September of 2013.

STATE OF GEORGIA
COUNTY OF FAYETTE

ORDINANCE NO. 2013 - 11

AN ORDINANCE TO AMEND THE FAYETTE COUNTY CODE OF ORDINANCES, CHAPTER 3. ALCOHOLIC BEVERAGES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of Fayette County is the Board of Commissioners thereof;

WHEREAS, the governing authority desires to amend the provision that provides for the regulation of Alcoholic beverages as allowed by the State of Georgia;

WHEREAS, the health, safety, and welfare of the citizens of Fayette County, Georgia shall be improved and protected by adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. The Fayette County Code of Ordinances, Chapter 3. Alcoholic Beverages., is hereby amended by deleting it in its entirety and replacing it with the following:

CHAPTER 3. ALCOHOLIC BEVERAGES.

ARTICLE I. IN GENERAL.

Sec. 3-1. Authority to regulate alcoholic beverages in county.

The provisions of this chapter are ordained under and by virtue of the authority granted by:

(a) O.C.G.A. § 3-4-90, authorizing each such county to issue licenses, through ordinance, to sell distilled spirits for beverage purposes by the drink, the sales to be for consumption only on the premises;

(b) O.C.G.A. § 3-4-110, granting such county the full power to adopt all reasonable rules and regulations governing the conduct of any such licensee, including but not limited to the regulation of hours of business, types of employees, and other matters which may fall within the police powers of such county;

(c) O.C.GA §§ 3-5-40, authorizing county licenses for the business of manufacturing, distributing and selling malt beverages at wholesale and retail; and

(d) O.C.GA § 3-6-40, authorizing county licenses for the manufacturing, distributing and selling wine at wholesale and retail.

Sec. 3-2. Definitions.

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

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

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

Brewpub means a fully licensed restaurant where beer or malt beverages are manufactured and sold on the premises as an accessory use. Limited retail sales for on-premises consumption in draft form and wholesale distribution are permitted in accordance with O.C.G.A. § 3-5-36.

Brown bagging means the act of patrons entering any restaurant, private club, or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patron's own alcoholic beverage.

Brown bag establishment means any restaurant, private club or other establishment providing food or entertainment in the normal course of business, and in which the owners or their agents knowingly allow patrons to bring in and consume the patrons' own alcoholic beverages.

Caterer means any person who prepares food and furnishes beverages, but not alcoholic beverages, for consumption off the premises of a food service facility or restaurant for a special event.

Child care facility means an agency, organization, or individual providing care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.

Church means a permanent building where persons regularly assemble for religious worship.

Close corporation means a domestic corporation which does not have:

(1) More than five stockholders;

(2) A corporation as a shareholder; or

(3) More than one class of stock.

Convicted or conviction shall mean conviction, plea of nolo contendere, first offender, or plea of guilty.

County means Fayette County Georgia.

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

Family means any person related to a licensee within the first degree of consanguinity or affinity as determined by Georgia law, and any persons residing in the same household as the licensee.

Food caterer means any person who prepares food for consumption off-premises.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by

volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes but is not limited to brandy.

General manager means the chief officer and agent for licensee at the licensed premises, whose business and management responsibilities are performed predominantly at the licensed premises, who serves as the highest ranking supervisor at the licensed premises and who has supervisory authority over employees of licensee responsible for the selling, servicing, dispensing or taking orders for alcoholic beverages at the licensed premises, and who has authority to act for licensee in matters within the scope of licensee's ordinary business.

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

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least 40, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition 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, or both, on their premises; and the holder of such franchise shall be included in the definition of hotel hereunder. If more than one franchise is granted, such franchise will be considered an additional licensee under this chapter.

Individual means a natural person.

Interest in license means an individual's having an interest in a license if he/she:

(1) Is the owner of the license.

(2) Is a co-owner of the license.

(3) Is a partner in any partnership that owns an interest in a license.

(4) Is a stockholder in any corporation which owns an interest in a license.

(5) Shares in any income or corpus of any trust fund having any interest in a license to sell at retail.

License representative means, if a license representative is required, a resident of the state and a manager of the business who is on the premises on a regular basis.

Licensee means a person holding a license, or having an interest in a license. For all businesses, the following shall apply:

(1) The licensee shall be at least 21 years of age.

(2) If the business is to be operated by an individual, the licensee shall be that individual.

(3) If the business is to be operated by a partnership, the licensee shall be an individual who is a partner; or, if all partners are non-individuals, then the licensee shall be an individual who is an officer of any corporation which is a partner, or an individual who is an officer, manager or agent of any unincorporated entity which is a partner.

(4) If the business is to be operated by a close corporation, corporation or similar business entity, the licensee shall be either an officer of the corporation or the registered agent of the corporation.

(5) If the licensee is a resident of the state and a manager of the business who is on the premises on a regular basis, the licensee may also be the license representative of the business. If not, a license representative shall be named in accordance with this chapter.

Licensed alcohol beverage caterer means any retail alcohol dealer who is a food caterer and has been licensed pursuant to the Fayette County Code of Ordinances and OCGA 3-11-2.

Licensed premises means a building or segregated part of a building, completely enclosed in which a valid and current license to sell alcoholic beverages for on-premises consumption or sell malt beverages and/or wine in unbroken packages for consumption off the premises has been issued by the county and shall include any premises which are required by law to be so licensed.

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 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 14 percent alcohol by volume, and including but not limited to ale, porter, brown, stout, lager beer, malt liquor, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

Microbrewery means a manufacturer of malt beverages for wholesale sales only, and producing less than 15,000 barrels annually. Microbreweries may conduct promotional tours and offer free samples of malt beverages in accordance with O.C.G.A. § 3-5-38.

Minor means any person under the age of 21 years.

Package means a bottle, can, keg, barrel or other original consumer container.

Permitted location means a building, premises or location for which a permit is required pursuant to this chapter and shall include a premises and a licensed premises as defined herein

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business, trust, receiver, fiduciary or other group or combination acting as a unit, body politic or political subdivision, whether public, private, or quasi-public, or any entity.

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

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

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

(2) Has at least 75 regular dues-paying members;

(3) Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:

(a) Has suitable kitchen and dining room space and equipment; and

(b) Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members; and

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

Private residence means any house, dwelling, condominium, duplex, boarding or rooming house, apartment building, within or without the limits of the county; or any property, within or without the limits of the county, zoned for residential use.

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 Code Enforcement on a quarterly basis.

Retail consumption dealer means any person who sells alcoholic beverages for consumption on the premises at retail.

Retail package dealer means any person who sells malt beverages and/or wine in unbroken packages for consumption off the premises at retail.

Special event or private function means any organized activity for profit or non-profit having as its purpose entertainment, recreation and/or education, such as a festival, party, reception, celebration or assembly which occurs or takes place on private or public property.

Wholesaler or wholesale dealer means any person who sells alcoholic beverages to other wholesale dealers, to retail package dealers, or to retail consumption dealers.

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, grapes, or other natural products by natural fermentation or by natural fermentation with brandy added. Wine includes but is not limited to all sparkling wines, champagnes, combinations of such beverages, vermouths, sake, natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so

as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

Sec. 3-3. Construction of definitions.

Words and terms not explicitly defined in these regulations or in the Official Code of Georgia Annotated shall have the meaning given by common and ordinary use as defined in the latest edition of Webster's New Collegiate Dictionary.

Sec. 3-4. Adoption of state and federal laws.

All laws of the State of Georgia and the United States of America, including the rules and regulations of any agency thereof, applicable to licensee and pertaining to the sale of alcoholic beverages are hereby adopted, and shall be complied with by licensee. The failure to comply therewith shall be a violation of this chapter and grounds for denial of a license or revocation thereof.

Sec. 3-5. Penalty for violations.

Any violation of any requirement of this chapter shall subject the offender up to the maximum fine and/or the maximum term of imprisonment as authorized by the county's Charter. Notwithstanding any criminal prosecution, which may result from a violation of this chapter, any licensee employing any officer, agent or employee who fails to comply with the provisions of this chapter while acting on behalf of the licensee, shall be subject to the administrative penalties and remedies of this chapter.

Sec. 3-6. Emergency suspension of sale.

In an emergency situation when it is determined that the public safety and welfare so require, the County Administrator or his/her designee may temporarily suspend the sale of alcoholic beverages for a period not exceeding five days.

Sec. 3-7. Purpose of chapter.

This chapter is enacted in furtherance of the police powers of the county to promote the health and general welfare of its citizens; to regulate and control the licensing and sale by the package and by the drink of malt beverages, wine, and distilled spirits; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, child care facilities, and residential areas from the negative secondary effects attributable to establishments that sell malt beverages, wine and distilled spirits; and to ensure that only qualified persons obtain licenses for the sale, manufacture or distribution of malt beverages, wine and distilled spirits.

Sec. 3-9. Reserved.

ARTICLE II. LICENSING.

DIVISION 1. GENERALLY.

Sec. 3-10. License required to sell alcoholic beverages.

(a) Licenses for the sale of alcoholic beverages shall be issued by the Code Enforcement office

at an annual license fee to be established by Board of Commissioners by resolution as needed for the following:

(1) Retail consumption dealer (distilled spirits, malt beverages, and/or wine at a restaurant, brewpub, hotel and/or private club as applicable);

(2) Retail package dealer (malt beverages and/or wine);

(3) Wholesale dealer (distilled spirits, malt beverages, and/or wine);

(4) Special event permit; and

(5) Alcohol beverage caterer (distilled spirits, malt beverages, and/or wine).

(b) Wholesale dealers are not required to pay a license fee pursuant to this section unless the wholesaler or his agent delivers alcoholic beverages at the time the order is taken or unless the wholesaler's business is located within the unincorporated county limits.

(c) All licenses issued in this article shall constitute a mere grant of a privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this chapter and related laws, applicable provisions of this code, and other ordinances and resolutions of the county relating to such business.

(d) Both the licensee and the license representative shall be the authorized and duly constituted agent for service of all notices and processes required to be served on or given under this article for any action or proceeding or uses of any nature whatsoever permitted under the provisions of this chapter or under any other provisions of this code.

(e) Establishments meeting the definition of brewpub which sell alcohol for retail on-premises consumption and which desire to engage in wholesale distribution of beer and malt beverages that are manufactured on the premises must obtain both a retail consumption dealer license and a wholesale dealer license. No such establishment shall be permitted to make retail package sales of alcohol.

Sec. 3-11. Contents of application for license and applicant requirements.

(a) All persons desiring to obtain a license under this chapter for the sale of alcoholic beverages shall apply to the Code Enforcement office upon forms to be prepared and provided by Code Enforcement. Such applications shall state:

(1) That the applicant and each individual applying licensee is a citizen or legal resident of the United States;

(2) The location of the proposed business;

(3) The nature and character of the proposed business;

(4) If the business is to be operated by an individual, the name and address of that individual;

(5) If the business is to be operated by a partnership, the names and addresses of all general partners, as well as the names and addresses of the licensee, and the license representative;

(6) If the business is to be operated by a close corporation, the names and addresses of all officers, directors, and stockholders, as well as the names and addresses of the licensee and the license representative;

(7) If the business is to be operated by a corporation, other than a close corporation, the name of the corporation, the address of the corporate office, the name and address of the registered agent for service of process for the corporation, and the names and addresses of the licensee and license representative;

(8) Whether the applicant and/or licensee has ever had its/his/her license to sell alcoholic beverage suspended two or more times during the past five years or revoked by any state or political subdivision hereof; and

(9) Such other appropriate information as may be required by the governing body or Code Enforcement.

(b) The truth of the contents of an application for a license shall be sworn to by the licensee and the license representative.

(c) Complete sets of fingerprints for the applicant(s) above shall be taken by the Fayette County Sheriff Office to be forwarded to the Georgia Bureau of Investigation, which shall search for any instances of criminal activity during the two years immediately preceding the application. The Georgia Bureau of Investigation may also submit the fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records. Record will then be returned to Code Enforcement. A separate fee may be added by the Board of Commissioners to recover cost.

(d) The application, when filed with the Code Enforcement office, shall be accompanied by a processing fee determined by a fee schedule adopted by resolution from the Board of Commissioners as needed. This processing fee is separate from and shall not be credited to the license fee. If an applicant for licensee or license representative has an unsatisfactory background as determined by Code Enforcement and an application is submitted for a different licensee or license representative, an additional processing fee must be paid. The processing fee will not be refunded if the requested license is not granted.

(e) When the license is approved, the license fee must be paid within 30 days and prior to the issuance of the license.

(f) If the person applying fails to receive a license from the state, only the license fees paid to the county shall be refunded. The application fee is non- refundable.

(g) Only one application form and accompanying documents must be filed for each business premises.

(h) No applicant and/or licensee may apply for a license to sell malt beverages or wine off-premises for catered functions, unless the applicant and/or licensee qualifies as a licensed alcohol beverage caterer as defined.

(i) The applicant and each individual potential applying licensee shall be and shall continue to be a resident of the State of Georgia. Corporations must either be incorporated in the State of Georgia or must have registered to do business in this state, and only the applying general manager or applying corporate officer must meet the residency requirements.

Sec. 3-12. Supporting documents to be filed with application.

Those applying for a license under this article shall submit in support of the application for license the following documents:

(1) A certificate from a registered land surveyor showing a scale drawing of the location of the proposed premises and the distance measured according to the method described in Section 3-13(a)(6) from the premises to the nearest church building, child care facility, school building, educational building, school grounds, college campus, alcoholic treatment center owned and operated by this state or any county or municipal government, any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. tit. 8, ch. 3, art. I, the Georgia "Housing Authorities Law.", or private residence located within a radius of one half mile of the premises. (See also Sec 3-13.)

(2) The affidavit of each person whose name appears on an application for a license, pursuant to subsection swearing that such person has not, within five years prior to the date of the application, been convicted of nor entered a plea of nolo contendere to any felony or misdemeanor relating to the sale or use of alcoholic beverages, crimes of moral turpitude, gambling, sexual offenses, assault, battery, Family Violence, or illegal drugs.

(3) A copy of a deed showing the applicant to be the owner of the premises for which the license is sought or a copy of a lease showing any interest the owner of the premises has in the business for which the license is sought.

(4) A background check by Code Enforcement certifying that each person named in an application has been investigated and found not to have been convicted of nor to have entered a plea of nolo contendere or first offender to any felony or a misdemeanor relating to the sale of alcoholic beverages, crimes of moral turpitude, gambling, sexual offenses, assault, battery, Family Violence, or illegal drugs within five years prior to the date of the application for a license.

(5) If the same person is serving as the licensee and the license representative, he shall submit an affidavit certifying that he is at least 21 years of age, a resident of the state and a manager of the business.

(6) If the licensee is not the license representative, an affidavit from the license representative certifying that he is at least 21 years of age, a resident of the state and a manager of the business.

(7) Misleading, omitted or obsolete information.

(a) Any untrue or misleading information contained in or material omission left out of an original or renewal application for an alcoholic beverage license shall be cause sufficient for the denial thereof.

(b) Any information provided in the current application, which changes or otherwise becomes obsolete, shall be reported to the license department immediately, but in no case more than 30 days from the change or obsolescence.

(c) When any license is issued on the basis of an application containing misleading or untrue information or omitted or unreported changed material, such circumstances shall be cause for suspension or revocation of the license.

(d) Any misstatement or concealment of fact in the application shall make the applicant liable to prosecution for false swearing under the law of the state and shall constitute a violation of this chapter, may be prosecuted as an offense against the county punishable as provided.

(8) Other appropriate information may be required as determined by Code Enforcement.

Sec. 3-13. Prohibited distances – Sale of alcoholic beverages near churches, schools, or other sites.

(a) No license shall be issued pursuant to this article for the sale of:

(1) Any distilled spirits in or within 100 yards of any church building, or child care facility, or within 200 yards of any school building, educational building, school grounds, or college campus .

(2) Any wine or malt beverages within 100 yards of any church building, child care facility , school building, school grounds, or college campus. This subparagraph shall not apply at any location for which a license has been issued prior to the effective date of this ordinance, nor to the renewal of such license. Nor shall this subparagraph apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such application.

(3) Any distilled spirits, wine, or malt beverages within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein. This paragraph shall not apply to any business having a license in effect on the date of this ordinance.

(4) Any distilled spirits, wine, or malt beverages for consumption on the premises within 100 yards of any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. tit. 8, ch. 3, art. I, the Georgia "Housing Authorities Law." This subsection shall not apply at any location for which a license has been issued prior to July 1, 2000, nor to the renewal of such license. Nor shall this subsection apply at any location for which a new license is applied for if the sale of alcoholic beverages for consumption on the premises was lawful at such location at any time during the 12 months immediately preceding such application.

(5) Any distilled spirits, wine, or malt beverages within 100 yards of any private residence. For the purpose of this section only, a private residence 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 commercial purposes shall not be construed as a “private residence”.

(6) For the purposes of this section, distances shall be measured in the manner described below. Where the term “route of travel” is used, said term shall mean any means of

travel on a paved or otherwise improved surface for public vehicular traffic.

(a) To a school, school building, educational building, school grounds, child care facility, college campus, or any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. tit. 8, ch. 3, art. I, the Georgia "Housing Authorities Law" distance shall be measured as follows:

(i) From the main public entrance of the structure from which any alcoholic beverage is sold or offered for sale;

(ii) In a straight line to the nearest public route of travel;

(iii) Along such public route of travel by the nearest route;

(iv) To the nearest portion of the grounds of the school building, educational building, child care facility, college campus, or any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. tit. 8, ch. 3, art. I, the Georgia "Housing Authorities Law".

(b) To an alcoholic treatment center owned and operated by this state or any county or municipal government therein, private residence, or church building, distance shall be measured as follows:

(i) From the main public entrance of the structure from which any alcoholic beverage is sold or offered for sale;

(ii) In a straight line to the nearest public route of travel;

(iii) Along such public route of travel by the nearest route;

(iv) To the nearest entrance of the alcoholic treatment center owned and operated by this state or any county or municipal government therein, private residence, or church building.

(7) No license in effect on the date of this ordinance shall be revoked before its date of expiration by reason of the method of measurement set out in this subsection if the license was granted in reliance on another method of measurement. No application for a license or for a renewal shall be denied by reason of the method of measurement set out in this subsection if the application is for premises for which a license was granted prior to effective date of this ordinance, in reliance on another method of measurement.

Sec. 3-14. Notice of application advertisement.

(a) Notice. Upon receiving an application for the sale of alcoholic beverages, the licensee shall place a legal notice in the legal organ at least 15 days prior to the commission meeting at which the application will be considered. The application shall be in the following form:

NOTICE OF APPLICATION FOR RETAIL

LICENSE TO SELL ALCOHOLIC BEVERAGES

An application has been submitted to the Fayette County Board of Commissioners for a retail license to sell alcoholic beverages at the following location: _____. The business name is _____. _____ has requested to be appointed as the Licensee. _____ has requested to be the License Representative. The Board of Commissioners will consider the proposed application on Thursday, _____ /_____ /_____ at 7:00 p.m.

Sec. 3-15. Issuance of license by Code Enforcement.

(a) Upon approval of the application for license by the Board of Commissioner and the timely payment of the license fee, the Code Enforcement shall issue the appropriate license for the year in which approval was granted.

(b) If issued to a corporation, the license shall be issued in the name of the corporation, the licensee and the license representative.

(c) If issued to a partnership, the license shall be issued in the name of all the general partners, the licensee and the license representative.

(d) If issued to an individual, the license shall be issued to that individual as licensee and license representative.

Sec. 3-16. Annual renewal of licenses: fee schedule.

(a) All alcoholic beverage licenses are annual licenses that run from January 1 to December 31 of each year. Holders of existing licenses in good standing shall apply to the Code Enforcement for renewal for the next calendar year between September 15 and October 1 by filing a renewal application in proper form and tendering the required fees. Annual license fees are due on or before December 31 of each year and shall be past due if not paid by that date. After January 1 there shall be imposed a penalty of ten percent of the amount of the license fee, which together with the license fee shall be paid before a new license is issued. The State of Georgia Department of Revenue shall be promptly notified of all licenses which were not renewed on or before January 1, and all privilege to carry on and conduct a business governed by this chapter shall be immediately suspended due to license expiration.

(b) For any new license granted under this article prior to July 1, the licensee shall pay the full annual license fee.

(c) For any new license granted under this article subsequent to July 1, the license fee shall be reduced by one-half.

Sec. 3-17. Time limit for commencement of business in licensed establishment; forfeiture for nonuse.

(a) All holders of licenses under this article must within six months after the issuance of the license open the establishment referred to in the license if the license holder fails to open the licensed establishment within the six-month period the license shall be canceled and all fees forfeited.

(b) Any holder of a license who, after beginning operation, ceases to operate the business for a three month period automatically forfeits his license; and the license shall be automatically canceled.

Sec. 3-18. Wholesale licensees authorized to sell to retail licensees.

(a) Wholesale licenses shall be issued only to those persons who are licensed by the state to sell and distribute alcoholic beverages at wholesale.

(b) Upon payment of the required fee, Code Enforcement shall issue wholesale licenses if the person applying proves to the Code Enforcement satisfaction that he is licensed to sell at wholesale by the state.

(c) Licensed wholesalers of distilled spirits, malt beverages or wine under the provisions of this section may sell at wholesale to any person licensed as provided in this article. Persons licensed under this article may purchase from a licensed wholesaler at wholesale in accordance with their license.

Sec. 3-19. Excise tax; report; penalty for failure to file; payment.

(a) In addition to the annual retail license fee required for the sale of alcoholic beverages, there is levied an excise tax computed as follows:

(1) For distilled spirits, the maximum allowed as provided in O.C.G.A. § 3-4-80;

(2) For foreign and domestic wines, the maximum allowed as provided in O.C.G.A. § 3-6-60 except as exempt in O.C.G.A. § 3-6-70; and

(3) For malt beverages the maximum allowed as provided in O.C.G.A. § 3-5-80 except as exempt in O.C.G.A. § 3-5-90.

(b) The excise tax levied under subsection (a)(1), (2) and (3) of this section shall be paid and collected in the following manner: The taxes shall be paid by the wholesale dealer on or before the 20th day of the month following the calendar month in which the beverages are sold or disposed of within the county by the wholesale dealer. The wholesale dealer shall also file a report itemizing for the preceding calendar month the exact quantities of alcoholic beverages by size and type of container, sold during the month within the county. The wholesale dealer shall file the report and pay the tax at the Finance office.

(c) The failure to make a timely report and remittance shall render the defaulting licensee liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of 25 percent of the amount of such remittance for each successive 30-day period or any portion thereof, during which such report and remittance are not filed or paid.

(d) The filing of a false or fraudulent report shall render the dealer making the report liable for a penalty equal to 50 percent of the amount of the remittance which would be required under an accurate and truthful report, and shall also constitute grounds for probation, suspension or revocation of such license, and shall also constitute a violation of the ordinances of the county for which the offender may be convicted in the state court as provided.

Sec. 3-20. License transfers; change licensee, or license representative or relocation of business.

(a) Retail alcoholic beverage licenses may be transferred from one owner to another with the approval of Code Enforcement provided :

(1) The business has existed at the same location and licenses have not been transferred for more than one year;

(2) All existing alcoholic beverage licenses issued to the existing owner for that location shall be transferred; and

(3) The new owner provides the information required by Sections 3-11 and 3-12, except for subsection (a) of Section 3-12, provided such information was previously supplied by the existing owner or previous owners and has not changed.

(b) All requests for a change in licensee or license representative must be approved by the Board of Commissioners and shall provide all appropriate information or supporting documents required under as outlined in an approved form to be supplied by Code Enforcement for that purpose.

(c) All business relocations must be approved by the Board of Commissioners, and the licensee and license representative shall provide all appropriate information and supporting documents as required. Requirements relating to advertising must be met

(d) Any violation of this section shall constitute due cause for probation, suspension or revocation of the license or licenses granted by the Board of Commissioners.

Sec. 3-21. Standards to be applied by the Board of Commissioners in granting licenses.

The standards to be applied by the Board of Commissioners acting in its judicial capacity to grant or deny a license shall include whether, in the best judgment of the commissioners', the applicant, based on all information obtained in the application process, possesses the qualities of sound judgment and discretion necessary for one who dispenses alcoholic beverages to the public generally. No person shall be granted a license to engage in the sale of alcoholic beverages at retail unless it shall appear to the satisfaction of the Board of commissioners that such person is of good moral character as defined by moral turpitude. In addition, no person shall be granted a license to engage in the sale of alcoholic beverages at retail if any of the following are true:

(1) The applicant, licensee and/or license representative has ever had its/his/her license to sell alcoholic beverage suspended two or more times during the past five years or revoked by any state or political subdivision hereof; or

(2) The applicant, licensee and/or license representative has, within five years prior to the date of the application, been convicted of or entered a plea of nolo contendere to any felony or misdemeanor relating to the sale or use of alcoholic beverages, crimes of moral turpitude, gambling, sexual offenses, assault, battery, Family Violence, or illegal drugs.

Sec. 3-22. Applicants meeting standards will be granted license; reason for denial to be given in writing.

All applicants for a license meeting the ascertainable standards of this chapter will be granted the license or licenses requested, upon the hearing; and the Board of Commissioners in applying the facts to the licensing criteria will act in a judicial capacity. Whenever an application for license is denied by the council, the reasons for such denial shall be stated in writing and entered upon the minutes.

Sec. 3-23. State alcohol licenses required.

(a) All holders of licenses under this article must obtain the appropriate state alcohol licenses within 60 days from the date the county license is granted. Written proof must be provided to Code Enforcement within 60 days. Failure to obtain the required state licenses will result in a forfeiture of the county license on the first business day following the 60 days granted above. If the state declines to approve the request for an alcohol license, the county will return license fees paid with the exception of the application fee.

(b) All holders of county licenses must keep their state license in good standing. Any failure to keep the state license in effect will result in an immediate forfeiture and loss of the county license.

Sec. 3-24. Permitted location for special events at which alcoholic beverages are served.

(a) No alcoholic beverages shall be sold, dispensed, distributed, poured or served at any location, premises, or building in the county except as set out in this chapter unless otherwise provided for under this chapter.

(b) The owner or lessee of a location at which alcoholic beverages are to be furnished and served at a private function or special event by a person at a location not otherwise required to be licensed pursuant to this chapter shall first obtain a qualifying location permit designating such location as a “permitted location”. Such qualifying location permit shall be good for the calendar year in which it is issued and may be renewed annually as set forth in this chapter. Thereafter, the person organizing the private function or special event to be held at a permitted location must apply for and obtain a “special event permit”. The cost of such permits shall be as set forth by the Board of Commissioners. The requirements shall be met by an applicant for a permitted location license.

(c) To qualify as a “permitted location”, the location, premises or building shall not be located nearer to an alcoholic treatment center than permitted by Section 3-13 and therefore be considered to be a “prohibited location”, or shall not fail to meet all requirements of building code, fire code, zoning ordinance, and all other state and local regulations for an on-premises pouring outlet, and shall possess a permit as a "permitted location" pursuant to this chapter. The applicant for a qualifying location permit shall submit a plat of survey prepared by a state registered land surveyor showing the distances set forth in this chapter with the application for the qualifying location permit.

(d) It shall be unlawful for any person to furnish and serve alcoholic beverages at a private function or special event at a permitted location unless food is also served at the private function or special event.

(e) Alcoholic beverages furnished and served at a private function or special event may be consumed only on the premises and may not be removed from the premises in an open container.

(f) It shall be unlawful for any alcoholic beverages to be sold at a private function or special event, i.e. no “cash bar” sales will be permitted, unless the permitted location also holds an on premises consumption license for alcoholic beverages.

(g) The “permitted location” licensee shall be responsible for any violation of this chapter which occurs at the “permitted location” whether by the licensee's employees or agents, a caterer or their employees or agents, or a lessee or invitee of the licensee, their lessee or invitees or any of their employees or agents.

(h) The person holding the private function or special event, and not otherwise required to be licensed pursuant to this chapter must purchase and furnish the alcoholic beverages.

Sec. 3-25. Special events.

(a) *Special event permit.*

(1) Except as provided in subsection (b) of this section, wine and/or beer and malt beverages and/or distilled spirits shall only be served at a private function or special event only if the person organizing said event has applied for and received a special event permit.

(2) In order to serve wine, and/or beer and malt beverages, and/or distilled spirits at a private function or special event, at a permitted location, the person organizing the private function or special event shall be required to:

(i) Apply to Code Enforcement for a "special event permit". The application shall include the name and business address of any caterer providing food service for the private function or special event, the date, time and location of the event, which location must be a permitted location as set forth in this chapter or otherwise exempt as set forth under this chapter; and

(ii) Pay the cost of such permit as set forth by the Board of Commissioners. If the application meets all of the requirements of this chapter, Code Enforcement shall issue the special event permit. If Code Enforcement finds that the application does not meet the requirements of this chapter and denies the special event permit, the applicant may appeal in writing to the Board of Commissioners within five days of the date of the denial.

(3) The "special event permit" shall be maintained at the site of the private function or special event during the hours alcoholic beverages are served.

(4) The person holding the private function or special event, and not otherwise required to be licensed pursuant to this chapter, must purchase the alcoholic beverages.

(5) The "special event permit" licensee shall be responsible for any violation of this chapter which occurs at the event whether by the licensee's employees or agents, invitee of the licensee or invitee of the invitee of the licensee.

(b) *Event permit for authorized catered functions.*

(1) Any licensed alcohol beverage caterer who additionally holds a valid license to sell malt beverages or wine by the package or by the drink for consumption on the premises may apply to Code Enforcement for an event permit to distribute malt beverages or wine by the drink off-premises within the county at authorized catered functions held at a permitted location. Applications shall be supported by evidence of all required licenses in good standing, and proof of payment of excise and occupation taxes, if applicable.

(2) Any licensed alcohol beverage caterer who additionally holds a valid license to sell distilled spirits by the drink for consumption on-premises may apply to Code Enforcement for an event permit to sell distilled spirits by the drink off-premises

within the county at authorized catered functions held at a permitted location. Applications shall be supported by evidence of all required licenses in good standing and proof of payment of excise and occupation taxes, if applicable.

(3) A licensed alcohol beverage caterer shall apply to Code Enforcement for an event permit on forms prescribed for that purpose. The application shall include the name of the licensee and, if applicable, the name of the food caterer who will be serving the event, together with a copy of the current licensees and occupation tax certificate(s); the date, time and duration of the event; and the name, address and telephone number of the event host or sponsor, and, if different, the address of the location where the event will be held. The application shall be signed by the licensed alcoholic beverage caterer and the event host or sponsor. If the event host or sponsor is not the owner of the venue at which the event will be held, then the owner of the venue, or the owner's authorized agent, shall also sign the application consenting to the distribution of alcoholic beverages at that location. Each event permit shall require payment of a fee of set by the Board of Commissioners per day; provided, however, if the licensed alcohol beverage caterer does not maintain a place of business within the unincorporated county, in addition to the above fee, there is hereby levied an excise tax upon the total quantity of alcoholic beverages brought into the unincorporated county for such event. At all times during which an authorized catered function is taking place, the original alcohol beverage caterer's license and the event permit shall be conspicuously posted and made available for inspection upon request by Code Enforcement, tax, or licensing officer; in addition, at all times while alcoholic beverages are being transported within the county, the licensee shall maintain a copy of the alcohol beverage caterer's license and event permit in the vehicle(s) used for transporting the alcoholic beverages. No event permit shall be issued for more than three consecutive days and a full permit fee shall be assessed for each day of the event.

(4) Licensed alcohol beverage caterers shall be subject to the regulations set forth in O.C.G.A. § 3-11-4. Any licensed alcohol beverage caterer distributing or selling alcoholic beverages off-premises within the county, except in connection with an authorized catered function within the scope of the event permit shall be in violation of this article; if convicted, upon citation to the state court, violators shall be punished in the manner provided in this Code.

(c) *Exceptions.* The requirements of this chapter shall not apply to a private function held at a private residence at which alcoholic beverages are purchased and served by a person not otherwise required to be licensed pursuant to this chapter to invited guests of such person, provided that the person holding the event purchases the alcoholic beverages and receives no payment of any kind from invited guests, and the event is not open or accessible to the general public.

Sec. 3-26. Privilege nature of license.

(a) All licenses issued under this chapter shall constitute a grant of privilege to carry on or conduct a business covered by such license during the term of the license, subject to the terms and conditions imposed by this chapter and other applicable ordinances of the county and the constitution, laws and regulations of the state and of the United States of America applicable thereto.

(b) All licenses issued under this chapter shall have printed on the face the following words:

THIS LICENSE IS A PRIVILEGE CONDITIONAL ON THE HOLDER MEETING ALL STANDARDS FOR SUCH LICENSE AND OPERATING REGULATIONS APPLICABLE THERETO SET OUT IN COUNTY ORDINANCES AND GEORGIA LAW. FAILURE TO MEET SUCH STANDARDS OR TO COMPLY WITH SUCH OPERATING REGULATIONS SHALL SUBJECT THE HOLDER TO THE LICENSE
BEING REVOKED FOLLOWING NOTICE AND HEARING.

(c) All licenses shall be conspicuously posted in the place of business.

Sec. 2-27 through 2-30. Reserved.

DIVISION 2. SUSPENSION, REVOCATION, PROBATION.

Sec. 3-31. Penalty schedule.

(a) Within three days following a court appearance of a licensee, license representative, employee or owner of a licensed establishment in state court for violation of this chapter, Code Enforcement shall submit to the County Administrator an investigation report of the violation. The report will include the details of the violation and the specific section of this chapter and/or other county ordinance, or state laws that have been violated and the sentence imposed by the court.

(b) The County Administrator shall review the investigation report and the official records of the licensee and recommend to Code Enforcement to either probate, suspend and/or probate, or revoke the license of the violator based on the penalty schedule in this section; except that no license shall be placed on probation, suspended or revoked unless there is due cause.

(c) The County Administrator shall not be required to strictly adhere to the progressive penalties in the penalty schedule and is authorized to invoke a more or less severe penalty based on the circumstances of the violation , to include forwarding the violation directly to the Board of Commissioners for an administrative hearing. The County Administrator shall schedule the penalty period not earlier than 14 days following written notification of the penalty to the licensee.

Penalty Schedule:

First violation	Six-month probation
Second violation	Seven-day suspension of license and one-year probation
Third violation	As determined by the Board of Commissioners at a public hearing

Notwithstanding anything stated in this section, the County Administrator may, if the circumstances of any violation or potential violation warrant immediate action, refer that violation or potential violation to the Board of Commissioners for a hearing.

(d) If there is a violation during a probation period, the licensee shall be penalized as designated in the next step of the penalty schedule plus an additional seven-day penalty period. Exception: Should a licensee not incur a violation during a 24-month period, the next violation shall be subject to the first violation penalty.

Sec. 3-32. Definitions.

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

meaning:

Due cause consists of the violation of any laws or ordinances of the state or the county regulating the sale or use of alcoholic beverages or illegal drugs, or violation of any regulations made pursuant to authority granted for the purpose of regulating such activities, or violation of any county ordinance related to the sale or use of alcoholic beverages or illegal drugs, or any violation described in Paragraph (3) of Subsection 3-22 of this ordinance.

Sec. 3-33. Appeal.

A licensee may appeal within ten days the action of Code Enforcement or the County Administrator to the Board of Commissioners and request a public hearing on the violation. Such hearing shall be held within 30 days following receipt of a written request from the licensee. Upon receipt of an appeal requesting a public hearing, Code Enforcement shall delay the penalty pending the outcome of the public hearing.

Sec. 3-34. Hearing to be conducted by the Board of Commissioners.

The Board of Commissioners is authorized to conduct a public hearing at any time when the commissioners are on notice of a violation or potential violation of any local, state or federal regulation or law by a licensee, license representative, employee or owner of a licensed establishment in the county when such actual or potential violation would not constitute due cause for revocation, suspension or probation of the license. The licensee should be prepared to prove or show evidence of all business practices and procedures instituted to ensure compliance with this chapter and state law. The commissioners' inquiry may include, but is not limited to:

(1) Employment standards of the licensee.

(2) Employee direction/supervision.

(3) Sales procedures.

(4) Enforcement check reports.

(5) Previous violations.

(6) Any other ordinance deemed relevant to the violation that is the subject of the hearing.

Sec. 3-35. Procedure; right to counsel; cross examination of witnesses.

(a) When a hearing is to be conducted by the Board of Commissioners, notice shall be sent to either the licensee or license representative personally or by certified mail at least 15 days, but not more than 45 days prior to hearing date. Notice shall state the time, place and purpose of the hearing. The times shall be counted from the date of receipt of notice by the licensee or license representative.

(b) The licensee shall be entitled to have counsel present at any hearing brought to inquire into suspension, revocation or probation of a license, and shall have the right to cross examine witnesses against him, and to produce evidence in his own behalf.

Sec. 3-36 through 3-40.Reserved.

ARTICLE III. OPERATING REGULATIONS.

Sec. 3-41. Inspection authority of county.

The county reserves the right to inspect premises from which alcoholic beverages are licensed to be sold at all reasonable times. Compliance inspections will be completed by Code Enforcement quarterly.

Sec. 3-42. Employees; investigation; fees.

(a) No retail licensee shall employ any minor, except as provided by state law, in his store, or in the department of a store where alcoholic beverages are served, sold or dispensed. No retail licensee shall employ in any premises used for the sale of alcoholic beverages anyone who serves, sells and/or dispenses alcoholic beverages that has been convicted within five (5) years of the date of employment of any felony, or within two (2) years a violation of laws of this county, state, any other state or of the United States, to include illegal gambling, prostitution, violations relating to the manufacture, sale or use of or distribution of alcoholic beverages, narcotics, controlled substances, gambling, sexual offenses, assault, battery, Family Violence or crimes of moral turpitude. This provision shall not prohibit employees who have been convicted or have a criminal history, when employed in supermarkets, convenience stores or drugstores, from handling or carrying alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities.

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell alcoholic beverages to file with Code Enforcement or his designee the names of all employees, with their home addresses, home telephone numbers and places of employment. Changes in the list of employees, with the names of new employees, must be filed with Code Enforcement or his designee within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and regulations as may be deemed necessary from time to time by Code Enforcement. An investigative fee as set by the Board of Commissioners shall be paid by all applicants.

(c) At the time of application or at the time a licensee hires a new employee, the licensee shall submit a current one-square-inch photograph of such employee for placement upon that employee's identification card.

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

(e) No licensee under this chapter shall permit any person under the age of 18 within his employment to dispense, serve, sell, or take orders for alcoholic beverages; provided, however, this provision shall not prohibit employees under the age of 18 who are employed in supermarkets, convenience stores, or drugstores from handling or carrying sealed packages of alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities so long as such employees under age 18 do not dispense, serve, sell, or take orders for any alcoholic beverage.

Sec. 3-43. Days and hours of operation.

(a) No retail package dealer of wine or malt beverage or on premises consumption of wine,

malt beverage or distilled spirits shall open his/her place of business or furnish, sell, or offer for sale, any alcoholic beverages at any time Christmas Day. Sales are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established during the hours the polls are open. No retail package sales of malt beverages and/or wine shall operate his/her place of business at any time prior to 8:00 a.m. or after 11:30 p.m. on Monday through Saturday, or prior to 12:30 p.m. or after 11:30 p.m. on Sunday , or permit his/her employees to be in, the place of business at any time prior to one hour before opening time or later than 30 minutes past closing time, except for the purpose of responding to emergency situations; provided, however, when taking inventory, making repairs, renovating or similar business needs cannot reasonably be carried out during normal business hours with customers present, the dealer may notify Code Enforcement for a specific exception from this limitation. Code Enforcement shall be authorized to impose reasonable terms and conditions on the exception. It shall be the duty of a retail package dealer of malt beverages and/or wine to post on all entrances to the premises a sign reading "CLOSED - NO CUSTOMERS ALLOWED ON PREMISES" at all times outside of allowed hours of operation.

(b) In all establishments licensed to sell alcoholic beverages for on-premises consumption, tables shall be cleared of all drinks containing alcohol by not later than 30 minutes following the latest time at which alcoholic beverages may be legally sold.

Sec. 3-44. Furnishing to, purchase of, or possession by persons under 21 years of age of alcoholic beverages; use of false identification.

(a) Except as otherwise authorized by law:

(1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.

(2) No person under 21 years of age shall purchase, drink, sell or possess alcoholic beverages.

(3) No person under 21 years of age shall misrepresent such person's age in any manner whatsoever for the purpose of obtaining any alcoholic beverage.

(4) 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.

(5) 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.

(b) The prohibitions contained in subsection (a) of this section shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state, at a religious ceremony, or when the parent or guardian of the person under age 21 gives the alcoholic beverage to such person when possession is in the home of the parent or guardian while such parent or guardian is present.

(c) It shall be the duty of every person seeking to purchase or possess alcoholic beverages from a licensee within the county to furnish, upon request, proper identification showing that the person is 21 years of age or older. For purposes of this section, the term "proper identification" means any document issued by a governmental agency containing a physical description of the

person, such person's photograph, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized by O.C.G.A. § 40-5-100.

(d) It shall be a violation of this chapter for any licensee, or any agent, officer or employee of a licensee, to fail to check the proper identification of any patron when selling or otherwise providing any alcoholic beverage, which failure results in an underage person being sold or served, or to have in such underage person's possession while on the licensee's premises, any alcoholic beverage.

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

Sec. 3-45. Open containers.

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

(b) No person shall possess an open container of any alcoholic beverage within the passenger compartment of a motor vehicle. Closed containers of alcoholic beverages may be transported in any part of a vehicle. Open containers shall be placed in a locked trunk or locked storage container.

(c) No person shall possess an open container of any alcoholic beverage while walking, standing or otherwise occupying any public street, road, or highway, sidewalk adjacent thereto, public parking lot, county park or other property owned or leased by the county; or within any public building theron, except that Fayetteville Main Street, the Fayette County Economic Development Authority, and the Fayette Senior Center may serve alcoholic beverages within the buildings on their respective property leased from the county provided that:

(1) The event is catered and the caterer is duly licensed by the City of Fayetteville;

(2) Alcohol is not served at an event more than four (4) times during a calendar year;

(3) The event is solely related to the operation, fund raising, or raising awareness of the programs and services offered by the respective organization; and

(4) There are no direct sales of alcoholic beverages to the patrons of the event.

In addition, the Board of Commissioners may allow the sale and serving of alcoholic beverages for on-premise consumption within a county-owned property by resolution or Intergovernmental Agreement. The resolution or Intergovernmental Agreement shall set the requirements as such.

(d) No person shall possess an open container of any alcoholic beverage on the premises of any package dealer, including parking lots adjacent thereto.

(e) No person shall enter or leave the premises of any dealer licensed to sell or dispense alcoholic beverages for on-premises consumption with an open container of any alcoholic beverage.

(f) This section shall not apply to:

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

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

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

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

Sec. 3-46. Brownbagging.

Brownbagging, as defined in this chapter, is prohibited within the county. Any person who brownbags, participates in consumption of any alcoholic beverage being brownbagged, or any licensee or employee of a licensed establishment in whose presence brownbagging knowingly or with reckless indifference occurs, shall be in violation of this section.

Sec. 3-47. Purchases to be made only from licensed wholesalers.

Package dealers in alcoholic beverages and on-premises consumption dealers shall not buy nor accept deliveries from any person other than a wholesaler, dealer or distributor licensed by the state department of revenue.

Sec. 3-48. Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.

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

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

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

Sec. 3-49. Storage of alcoholic beverages at retail.

All package dealers and on-premises consumption dealers shall store all alcoholic beverages on the premises for which the license was issued and at no other place. All stock shall be available at all times for inspection by any duly authorized representative of the county. Any alcoholic beverages found in any licensee's stock which was not sold or distributed by a wholesaler licensed in accordance with laws of the state to make sales and deliveries in the county shall be subject to immediate confiscation.

Sec. 3-50. Nonprofit civic organizations; temporary permits.

(a) As used in this section, the term “bona fide nonprofit civic organization” means a nonprofit corporation or entity which is exempt from federal income tax pursuant to the provisions of subsections (c), (d) or (e) of 26 U.S.C. § 501.

(b) Bona fide nonprofit organizations may qualify for a temporary permit from Code Enforcement to sell alcoholic beverages for consumption on the premises for a period not to exceed three days. No more than six such permits may be issued to a single qualified organization in any calendar year.

(c) An authorized representative of a bona fide nonprofit organization may apply Code Enforcement for a letter certifying the date, time and event location as a condition for seeking a temporary permit from Code Enforcement. The county shall impose a fee as established by the Board of Commissioners.

Sec. 3-51. In-room sales in hotels.

Licenses obtained by hotels shall include the right to serve alcoholic beverages by the drink to registered guests in their hotel rooms as well as to deliver alcoholic beverages in unbroken packages to registered guests' rooms when such beverages have been ordered by such guests and/or to provide a cabinet or other facility in a hotel guest's room which contains alcoholic beverages for which licensed, and which is provided upon written request of the guest, and which is accessible by lock and key only to the guest, and for which the sale of the alcoholic beverages contained therein is final at the time requested, except for a credit which may be given to the guest for any unused and unopened portion. All alcoholic beverages sold or distributed under this section shall be obtained by the hotel directly from a licensed wholesaler or distributor and shall be stored on the premises of the hotel until sold or served.

Sec. 3-52. Front window display.

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

Sec. 3-53. Exterior advertisement of price of alcoholic beverages prohibited.

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

Sec. 3-54. Interior visibility required.

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

Sec. 3-55. Drinking in public.

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

Sec. 3-56. Purchase delivered in paper bag.

All alcoholic beverages, except prepackaged beer, purchased in a retail store must be put in a paper or plastic bag or otherwise wrapped in any opaque cover before delivery to the purchaser.

Sec. 3-57. Portable signs prohibited.

No licensee for the package sale of alcoholic beverages shall be permitted to utilize a lighted portable sign outside the building.

Sec. 3-58. Sale or delivery to unlicensed premises.

No package dealer shall make or allow to be made any deliveries of alcoholic beverages beyond the boundaries of the premises covered by the license.

Sec. 3-59. Nudity and partial nudity prohibited.

The following types of entertainment, attire and conduct are prohibited upon the premises of any establishment licensed to sell, serve, dispense or distribute alcoholic beverages for consumption on such premises:

(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 of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.

(2) Live entertainment where any person appears in the manner described in paragraph (1) of this section or where such person(s) perform(s) acts of or acts which stimulate any of the following:

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

(ii) The caressing or fondling of the breasts, buttocks, anus or genitals; or

(iii) The displaying of the male or female pubic hair, anus, vulva or 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 (1) and (2) above; provided, however, that nothing contained in subsection (2) shall apply to the premises of any mainstream performance house, museum or theatre which derives less than 20 percent of its gross annual income from the sale of alcoholic beverages.

Sec. 3-60. Price lists or tags.

Each retail licensee under this article shall have conspicuously displayed within the interior of the licensed premises not less than two (2) copies of a printed price list of the alcoholic beverages offered for sale and one (1) printed copy of the penal sections of this article; however, a licensee, in lieu of having two (2) copies of a printed price list, may have the price placed on the bottles or on the bottom of the shelf where alcoholic beverages are exhibited for sale.

Sec. 3-61. Indebtedness to county.

No license under this chapter shall issue to any applicant if any person holding beneficial interest in the business to be licensed owes any delinquent taxes or assessment

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

Section 3. **(a)** It is hereby declared to be the intention of the Board of Commissioners that all Sections, paragraphs, sentences, clauses and phrases of this Article are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Article is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Article.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

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

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

So ordained this 29th day of August, 2013, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
STEVE BROWN, CHAIRMAN

ATTEST:

_____
CLERK/DEPUTY CLERK

Alcoholic beverage License fees and Employee permit fees

Manufacturers and wholesalers:	
Wholesale: malt beverages/wine	$250.00
Wholesale: distilled spirits	$1000.00
Brewpub: beer only	$750.00
Eating establishments, hotels and private clubs:	
On premises consumption: malt beverages	$750.00
On premises consumption: wine	$500.00
On premises consumption: both malt & wine	$1000.00
On premises consumption: distilled spirits	$1500.00
On premises consumption: distilled, malt & wine	$2500.00
Package dealer:	
Package dealer: malt beverages	$750.00
Package dealer: wine	$400.00
Package dealer: malt & wine	$1000.00
Alcohol beverage catering:	$250.00 annual
Malt beverage/wine:	$25.00 per event
Distilled spirits:	$50.00 per event
Malt/wine/distilled spirits:	$75.00 per event

Special event fee:	Malt beverage	$75.00
Limit 3x's year	Wine	$50.00
	Distilled spirits	$125.00
	All three	$200.00

O/P approved location	
Application fee	$200.00
Annual fee	$200.00
In addition:	
Administrative/Investigative	$200.00
Employee permits	$30.00
Fingerprint fee	$44.25

CHAPTER 3. ALCOHOLIC BEVERAGES.

ARTICLE I. IN GENERAL.

Sec. 3-1. Authority to regulate alcoholic beverages in county.

The provisions of this chapter are ordained under and by virtue of the authority granted by:

(a) O.C.G.A. § 3-4-90, authorizing each such county to issue licenses, through ordinance, to sell distilled spirits for beverage purposes by the drink, the sales to be for consumption only on the premises;

(b) O.C.G.A. § 3-4-110, granting such county the full power to adopt all reasonable rules and regulations governing the conduct of any such licensee, including but not limited to the regulation of hours of business, types of employees, and other matters which may fall within the police powers of such county;

(c) O.C.GA §§ 3-5-40, authorizing county licenses for the business of manufacturing, distributing and selling malt beverages at wholesale and retail; and

(d) O.C.GA § 3-6-40, authorizing county licenses for the manufacturing, distributing and selling wine at wholesale and retail.

Sec. 3-2. Definitions.

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

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

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

Brewpub means a fully licensed restaurant where beer or malt beverages are manufactured and sold on the premises as an accessory use. Limited retail sales for on-premises consumption in draft form and wholesale distribution are permitted in accordance with O.C.G.A. § 3-5-36.

Brown bagging means the act of patrons entering any restaurant, private club, or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patron's own alcoholic beverage.

Brown bag establishment means any restaurant, private club or other establishment providing food or entertainment in the normal course of business, and in which the owners or

their agents knowingly allow patrons to bring in and consume the patrons' own alcoholic beverages.

Caterer means any person who prepares food and furnishes beverages, but not alcoholic beverages, for consumption off the premises of a food service facility or restaurant for a special event.

Child care facility means an agency, organization, or individual providing care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.

Church means a permanent building where persons regularly assemble for religious worship.

Close corporation means a domestic corporation which does not have:

(1) More than five stockholders;

(2) A corporation as a shareholder; or

(3) More than one class of stock.

Convicted or *conviction* shall mean conviction, plea of nolo contendere, first offender, or plea of guilty.

County means Fayette County Georgia.

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

Family means any person related to a licensee within the first degree of consanguinity or affinity as determined by Georgia law, and any persons residing in the same household as the licensee.

Food caterer means any person who prepares food for consumption off-premises.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes but is not limited to brandy.

General manager means the chief officer and agent for licensee at the licensed premises, whose business and management responsibilities are performed predominantly at the licensed premises, who serves as the highest ranking supervisor at the licensed premises and who has supervisory authority over employees of licensee responsible for the selling, servicing, dispensing or taking orders for alcoholic beverages at the licensed premises, and who has authority to act for licensee in matters within the scope of licensee's ordinary business.

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

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least 40, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition 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, or both, on their premises; and the holder of such franchise shall be included in the definition of hotel hereunder. If more than one franchise is granted, such franchise will be considered an additional licensee under this chapter.

Individual means a natural person.

Interest in license means an individual's having an interest in a license if he/she:

(1) Is the owner of the license.

(2) Is a co-owner of the license.

(3) Is a partner in any partnership that owns an interest in a license.

(4) Is a stockholder in any corporation which owns an interest in a license.

(5) Shares in any income or corpus of any trust fund having any interest in a license to sell at retail.

License representative means, if a license representative is required, a resident of the state and a manager of the business who is on the premises on a regular basis.

Licensee means a person holding a license, or having an interest in a license. For all businesses, the following shall apply:

(1) The licensee shall be at least 21 years of age.

(2) If the business is to be operated by an individual, the licensee shall be that individual.

(3) If the business is to be operated by a partnership, the licensee shall be an individual who is a partner; or, if all partners are non-individuals, then the licensee shall be an individual who is an officer of any corporation which is a partner, or an individual who is an officer, manager or agent of any unincorporated entity which is a partner.

(4) If the business is to be operated by a close corporation, corporation or similar business entity, the licensee shall be either an officer of the corporation or the registered agent of the corporation.

(5) If the licensee is a resident of the state and a manager of the business who is on the premises on a regular basis, the licensee may also be the license representative of the business. If not, a license representative shall be named in accordance with this chapter.

Licensed alcohol beverage caterer means any retail alcohol dealer who is a food caterer and has been licensed pursuant to the Fayette County Code of Ordinances and OCGA 3-11-2.

Licensed premises means a building or segregated part of a building, completely enclosed in which a valid and current license to sell alcoholic beverages for on-premises consumption or sell malt beverages and/or wine in unbroken packages for consumption off the premises has been issued by the county and shall include any premises which are required by law to be so licensed.

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 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 14 percent alcohol by volume, and including but not limited to ale, porter, brown, stout, lager beer, malt liquor, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

Microbrewery means a manufacturer of malt beverages for wholesale sales only, and producing less than 15,000 barrels annually. Microbreweries may conduct promotional tours and offer free samples of malt beverages in accordance with O.C.G.A. § 3-5-38.

Minor means any person under the age of 21 years.

Package means a bottle, can, keg, barrel or other original consumer container.

Permitted location means a building, premises or location for which a permit is required pursuant to this chapter and shall include a premises and a licensed premises as defined herein

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust,

business, trust, receiver, fiduciary or other group or combination acting as a unit, body politic or political subdivision, whether public, private, or quasi-public, or any entity.

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

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

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

(2) Has at least 75 regular dues-paying members;

(3) Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:

(a) Has suitable kitchen and dining room space and equipment; and

(b) Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members; and

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

Private residence means any house, dwelling, condominium, duplex, boarding or rooming house, apartment building, within or without the limits of the county; or any property, within or without the limits of the county, zoned for residential use.

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 Code Enforcement on a quarterly basis.

Retail consumption dealer means any person who sells alcoholic beverages for consumption on the premises at retail.

Retail package dealer means any person who sells malt beverages and/or wine in unbroken packages for consumption off the premises at retail.

Special event or *private function* means any organized activity for profit or non-profit having as its purpose entertainment, recreation and/or education, such as a festival, party, reception, celebration or assembly which occurs or takes place on private or public property.

Wholesaler or *wholesale dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail package dealers, or to retail consumption dealers.

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

Sec. 3-3. Construction of definitions.

Words and terms not explicitly defined in these regulations or in the Official Code of Georgia Annotated shall have the meaning given by common and ordinary use as defined in the latest edition of Webster's New Collegiate Dictionary.

Sec. 3-4. Adoption of state and federal laws.

All laws of the State of Georgia and the United States of America, including the rules and regulations of any agency thereof, applicable to licensee and pertaining to the sale of alcoholic beverages are hereby adopted, and shall be complied with by licensee. The failure to comply therewith shall be a violation of this chapter and grounds for denial of a license or revocation thereof.

Sec. 3-5. Penalty for violations.

Any violation of any requirement of this chapter shall subject the offender up to the maximum fine and/or the maximum term of imprisonment as authorized by the county's Charter. Notwithstanding any criminal prosecution, which may result from a violation of this chapter, any licensee employing any officer, agent or employee who fails to comply with the provisions of this chapter while acting on behalf of the licensee, shall be subject to the ~~administrative~~ penalties and remedies of this chapter.

Sec. 3-6. Emergency suspension of sale.

In an emergency situation when it is determined that the public safety and welfare so require, the County Administrator or his/her designee may temporarily suspend the sale of alcoholic beverages for a period not exceeding five days.

Comment [P1]: Our current ordinance does not contain language authorizing the County Administrator to suspend sales of alcohol in emergencies.

Sec. 3-7. Purpose of chapter.

This chapter is enacted in furtherance of the police powers of the county to promote the health and general welfare of its citizens; to regulate and control the licensing and sale by the package and by the drink of malt beverages, wine, and distilled spirits; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, child care facilities, and residential areas from the negative secondary effects attributable to establishments that sell malt beverages, wine and distilled spirits; and to ensure that only qualified persons obtain licenses for the sale, manufacture or distribution of malt beverages, wine and distilled spirits.

Sec. 3-9. Reserved.

ARTICLE II. LICENSING.

DIVISION 1. GENERALLY.

Sec. 3-10. License required to sell alcoholic beverages.

(a) Licenses for the sale of alcoholic beverages shall be issued by the Code Enforcement office at an annual license fee to be established by Board of Commissioners by resolution as needed for the following:

(1) Retail consumption dealer (distilled spirits, malt beverages, and/or wine at a restaurant, brewpub, hotel and/or private club as applicable);

(2) Retail package dealer (malt beverages and/or wine);

(3) Wholesale dealer (distilled spirits, malt beverages, and/or wine);

(4) Special event permit; and

(5) Alcohol beverage caterer (distilled spirits, malt beverages, and/or wine).

Comment [P2]: Our current ordinance provides for three kinds of licenses: (1) retail package dealers of wine; (2) retail package dealers of malt beverages; and (3) on-premises consumption dealers of wine, malt beverages and distilled spirits. Under this licensing scheme, the license would indicate on its face which kinds of beverage the licensee is authorized to sell.

(b) Wholesale dealers are not required to pay a license fee pursuant to this section unless the wholesaler or his agent delivers alcoholic beverages at the time the order is taken or unless the wholesaler's business is located within the unincorporated county limits.

(c) All licenses issued in this article shall constitute a mere grant of a privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this chapter and related laws, applicable provisions of this code, and other ordinances and resolutions of the county relating to such business.

(d) Both the licensee and the license representative shall be the authorized and duly constituted agent for service of all notices and processes required to be served on or given under this article for any action or proceeding or uses of any nature whatsoever permitted under the provisions of this chapter or under any other provisions of this code.

(e) Establishments meeting the definition of brewpub which sell alcohol for retail on-premises consumption and which desire to engage in wholesale distribution of beer and malt beverages that are manufactured on the premises must obtain both a retail consumption dealer license and a wholesale dealer license. No such establishment shall be permitted to make retail package sales of alcohol.

Comment [P3]: New language added to allow brewpubs to obtain both a retail consumption license and a wholesale dealer license. This activity is permitted by state law, but such an establishment is not permitted to make package sales.

Sec. 3-11. Contents of application for license and applicant requirements.

(a) All persons desiring to obtain a license under this chapter for the sale of alcoholic beverages shall apply to the Code Enforcement office upon forms to be prepared and provided by Code Enforcement. Such applications shall state:

(1) That the applicant and each individual applying licensee is a citizen or legal resident of the United States;

(2) The location of the proposed business;

(3) The nature and character of the proposed business;

(4) If the business is to be operated by an individual, the name and address of that individual;

(5) If the business is to be operated by a partnership, the names and addresses of all general partners, as well as the names and addresses of the licensee, and the license representative;

(6) If the business is to be operated by a close corporation, the names and addresses of all officers, directors, and stockholders, as well as the names and addresses of the licensee and the license representative;

(7) If the business is to be operated by a corporation, other than a close corporation, the name of the corporation, the address of the corporate office, the name and address of the registered agent for service of process for the corporation, and the names and addresses of the licensee and license representative;

(8) Whether the applicant and/or licensee has ever had its/his/her license to sell alcoholic beverage suspended two or more times during the past five years or revoked by any state or political subdivision hereof; and

(9) Such other appropriate information as may be required by the governing body or Code Enforcement.

(b) The truth of the contents of an application for a license shall be sworn to by the licensee and the license representative.

(c) Complete sets of fingerprints for the applicant(s) above shall be taken by the Fayette County Sheriff Office to be forwarded to the Georgia Bureau of Investigation, which shall search for any instances of criminal activity during the two years immediately preceding the application. The Georgia Bureau of Investigation may also submit the fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records. Record will then be returned to Code Enforcement. A separate fee may be added by the Board of Commissioners to recover cost.

Comment [P4]: Our current ordinance does not require applicants to have their fingerprints taken.

(d) The application, when filed with the Code Enforcement office, shall be accompanied by a processing fee determined by a fee schedule adopted by resolution from the Board of Commissioners as needed. This processing fee is separate from and shall not be credited to the license fee. If an applicant for licensee or license representative has an unsatisfactory background as determined by Code Enforcement and an application is submitted for a different licensee or license representative, an additional processing fee must be paid. The processing fee will not be refunded if the requested license is not granted.

Comment [P5]: Our current ordinance requires a $75.00 investigative fee for retail package licenses for wine and a $100.00 investigative fee for retail package licenses for malt beverages (see Section 3-54(a)(2) and Section 3-134(a)(2), respectively). No such investigate fee is charged for on-premises consumption licenses.

(e) When the license is approved, the license fee must be paid within 30 days and prior to the issuance of the license.

(f) If the person applying fails to receive a license from the state, only the license fees paid to the county shall be refunded. The application fee is non- refundable.

(g) Only one application form and accompanying documents must be filed for each business premises.

(h) No applicant and/or licensee may apply for a license to sell malt beverages or wine off-premises for catered functions, unless the applicant and/or licensee qualifies as a licensed alcohol beverage caterer as defined.

(i) The applicant and each individual potential applying licensee shall be and shall continue to be a resident of the State of Georgia. Corporations must either be incorporated in the State of Georgia or must have registered to do business in this state, and only the applying general manager or applying corporate officer must meet the residency requirements.

Comment [P6]: Our current ordinance requires applicants for retail package licenses for wine and malt beverages to have lived in Georgia for one (1) preceding the calendar year in which the application is made (see Section 3-46(a) and 3-126(a), respectively). No such requirement currently exists for on-premises licenses.

Sec. 3-12. Supporting documents to be filed with application.

Those applying for a license under this article shall submit in support of the application for license the following documents:

(1) A certificate from a registered land surveyor showing a scale drawing of the location of the proposed premises and the distance measured according to the method described in Section 3-13(a)(6) from the premises to the nearest church building, child care facility, school building, educational building, school grounds, college campus, alcoholic treatment center owned and operated by this state or any county or municipal government, any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. tit. 8, ch. 3, art. I, the Georgia "Housing Authorities Law.", or private residence located within a radius of one half mile of the premises. (See also Sec 3-13.)

Comment [P7]: Our current ordinance does not contain distance requirements for housing authority properties. State law does have distance requirements for such properties.

(2) The affidavit of each person whose name appears on an application for a license, pursuant to subsection swearing that such person has not, within five years prior to the date of the application, been convicted of nor entered a plea of nolo contendere to any felony or misdemeanor relating to the sale or use of alcoholic beverages, crimes of moral turpitude, gambling, sexual offenses, assault, battery, Family Violence, or illegal drugs.

Comment [P8]: Our current ordinance does not contain this requirement.

(3) A copy of a deed showing the applicant to be the owner of the premises for which the license is sought or a copy of a lease showing any interest the owner of the premises has in the business for which the license is sought.

(4) A background check by Code Enforcement certifying that each person named in an application has been investigated and found not to have been convicted of nor to have entered a plea of nolo contendere or first offender to any felony or a misdemeanor relating to the sale of alcoholic beverages, crimes of moral turpitude, gambling, sexual offenses, assault, battery, Family Violence, or illegal drugs within five years prior to the date of the application for a license.

(5) If the same person is serving as the licensee and the license representative, he shall submit an affidavit certifying that he is at least 21 years of age, a resident of the state and a manager of the business.

(6) If the licensee is not the license representative, an affidavit from the license representative certifying that he is at least 21 years of age, a resident of the state and a manager of the business.

(7) Misleading, omitted or obsolete information.

(a) Any untrue or misleading information contained in or material omission left out of an original or renewal application for an alcoholic beverage license shall be cause sufficient for the denial thereof.

(b) Any information provided in the current application, which changes or otherwise becomes obsolete, shall be reported to the license department

immediately, but in no case more than 30 days from the change or obsolescence.

(c) When any license is issued on the basis of an application containing misleading or untrue information or omitted or unreported changed material, such circumstances shall be cause for suspension or revocation of the license.

(d) Any misstatement or concealment of fact in the application shall make the applicant liable to prosecution for false swearing under the law of the state and shall constitute a violation of this chapter, may be prosecuted as an offense against the county punishable as provided.

(8) Other appropriate information may be required as determined by Code Enforcement.

Sec. 3-13. Prohibited distances – Sale of alcoholic beverages near churches, schools, or other sites.

(a) No license shall be issued pursuant to this article for the sale of:

(1) Any distilled spirits in or within 100 yards of any church building, or child care facility, or within 200 yards of any school building, educational building, school grounds, or college campus.

(2) Any wine or malt beverages within 100 yards of any church building, child care facility, school building, school grounds, or college campus. This subparagraph shall not apply at any location for which a license has been issued prior to the effective date of this ordinance, nor to the renewal of such license. Nor shall this subparagraph apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such application.

(3) Any distilled spirits, wine, or malt beverages within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein. This paragraph shall not apply to any business having a license in effect on the date of this ordinance.

(4) Any distilled spirits, wine, or malt beverages for consumption on the premises within 100 yards of any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. tit. 8, ch. 3, art. I, the Georgia "Housing Authorities Law." This subsection shall not apply at any location for which a license has been issued prior to July 1, 2000, nor to the renewal of such license. Nor shall this subsection apply at any location for which a new license is applied for if the sale of alcoholic beverages for consumption on

Comment [PF9]: Our current ordinance includes a distance requirement from a library, the new ordinance does not contain a distance requirement from a library.

Comment [P10]: Our current ordinance contains distance requirements for child care facilities and libraries (see Sections 3-31(a), 3-111(a), and 3-180.51(a)). State law does not contain distance requirements for such establishments, but it does permit the County to adopt more restrictive distance requirements.

Comment [P11]: Our current ordinance does not contain distance requirements for alcoholic treatment centers. State law does have distance requirements for such establishments.

Comment [P12]: Our current ordinance does not contain distance requirements for housing authority properties. State law does have distance requirements for such properties.

the premises was lawful at such location at any time during the 12 months immediately preceding such application.

(5) Any distilled spirits, wine, or malt beverages within 100 yards of any private residence. For the purpose of this section only, a private residence 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 commercial purposes shall not be construed as a "private residence".

(6) For the purposes of this section, distances shall be measured in the manner described below. Where the term "route of travel" is used, said term shall mean any means of travel on a paved or otherwise improved surface for public vehicular traffic.

(a) To a school, school building, educational building, school grounds, child care facility, college campus, or any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. tit. 8, ch. 3, art. I, the Georgia "Housing Authorities Law" distance shall be measured as follows:

(i) From the main public entrance of the structure from which any alcoholic beverage is sold or offered for sale;

(ii) In a straight line to the nearest public route of travel;

(iii) Along such public route of travel by the nearest route;

(iv) To the nearest portion of the grounds of the school building, educational building, child care facility, college campus, or any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. tit. 8, ch. 3, art. I, the Georgia "Housing Authorities Law".

(b) To an alcoholic treatment center owned and operated by this state or any county or municipal government therein, private residence, or church building, distance shall be measured as follows:

(i) From the main public entrance of the structure from which any alcoholic beverage is sold or offered for sale;

(ii) In a straight line to the nearest public route of travel;

(iii) Along such public route of travel by the nearest route;

Comment [P13]: Our current ordinance contains distance requirements for private residences (see Sections 3-31(b), 3-111(b), and 3-180.51(b)). State law does not contain distance requirements for private residences, but it does permit the County to adopt more restrictive distance requirements.

Comment [P14]: Our current ordinance measures distances from the nearest building wall of the proposed establishment to the nearest point of the church, school, etc. along the closest and most reasonable public access (see Sections 3-31, 3-111, and 3-180.51).

Comment [P15]: Our current ordinance does not contain distance requirements for housing authority properties. State law does have distance requirements for such properties.

Comment [P16]: Our current ordinance does not contain distance requirements for housing authority properties. State law does have distance requirements for such properties.

(iv) To the nearest entrance of the alcoholic treatment center owned and operated by this state or any county or municipal government therein, private residence, or church building.

(7) No license in effect on the date of this ordinance shall be revoked before its date of expiration by reason of the method of measurement set out in this subsection if the license was granted in reliance on another method of measurement. No application for a license or for a renewal shall be denied by reason of the method of measurement set out in this subsection if the application is for premises for which a license was granted prior to effective date of this ordinance, in reliance on another method of measurement.

Sec. 3-14. Notice of application advertisement.

(a) *Notice.* Upon receiving an application for the sale of alcoholic beverages, the licensee shall place a legal notice in the legal organ at least 15 days prior to the commission meeting at which the application will be considered. The application shall be in the following form:

Comment [P17]: Our current ordinance requires that, for retail package license for wine and malt beverages, a notice be placed in two consecutive issues of the legal organ, but it does not specify when said notices should run (see Section 3-50 and Section 3-130). No such requirement currently exists for on-premises consumption licenses.

NOTICE OF APPLICATION FOR RETAIL

LICENSE TO SELL ALCOHOLIC BEVERAGES

An application has been submitted to the Fayette County Board of Commissioners for a retail license to sell alcoholic beverages at the following location: _____. The business name is _____. _____ has requested to be appointed as the Licensee. _____ has requested to be the License Representative. The Board of Commissioners will consider the proposed application on Thursday, _____ /_____ /_____ at 7:00 p.m.

Sec. 3-15. Issuance of license by Code Enforcement.

(a) Upon approval of the application for license by the Board of Commissioner and the timely payment of the license fee, the Code Enforcement shall issue the appropriate license for the year in which approval was granted.

(b) If issued to a corporation, the license shall be issued in the name of the corporation, the licensee and the license representative.

(c) If issued to a partnership, the license shall be issued in the name of all the general partners, the licensee and the license representative.

(d) If issued to an individual, the license shall be issued to that individual as licensee and license representative.

Sec. 3-16. Annual renewal of licenses: fee schedule.

(a) All alcoholic beverage licenses are annual licenses that run from January 1 to December 31 of each year. Holders of existing licenses in good standing shall apply to the Code Enforcement for renewal for the next calendar year between September 15 and October 1 by filing a renewal application in proper form and tendering the required fees. Annual license fees are due on or before December 31 of each year and shall be past due if not paid by that date. After January 1 there shall be imposed a penalty of ten percent of the amount of the license fee, which together with the license fee shall be paid before a new license is issued. The State of Georgia Department of Revenue shall be promptly notified of all licenses which were not renewed on or before January 1, and all privilege to carry on and conduct a business governed by this chapter shall be immediately suspended due to license expiration.

Comment [P18]: Our current ordinance does not specify when renewals should be made (see Sections 3-62, 3-142, and 3-180.45).

(b) For any new license granted under this article prior to July 1, the licensee shall pay the full annual license fee.

(c) For any new license granted under this article subsequent to July 1, the license fee shall be reduced by one-half.

Comment [P19]: Our current ordinance provides that for any license granted after January 1, the fee will be prorated by dividing the total license fee by 12 and then multiplying the resulting number by the number of full months remaining in the calendar year (see Sections 3-54(a)(1), 3-134(a)(1), and 3-180.55).

Sec. 3-17. Time limit for commencement of business in licensed establishment; forfeiture for nonuse.

(a) All holders of licenses under this article must within six months after the issuance of the license open the establishment referred to in the license if the license holder fails to open the licensed establishment within the six-month period the license shall be canceled and all fees forfeited.

Comment [P20]: For retail package licenses for wine and malt beverages, our current ordinance gives a license holder nine (9) months after issuance of a license to open his or her establishment before forfeiture occurs (see Sections 3-58 and 3-138). For on premises consumption licenses, our ordinance provides six (6) months (see Section 3-180.58).

(b) Any holder of a license who, after beginning operation, ceases to operate the business for a three month period automatically forfeits his license; and the license shall be automatically canceled.

Comment [P21]: For retail package license s for wine and malt beverages, our current ordinance states that forfeiture will occur if the business ceases operation for nine (9) consecutive months (see Sections 3-59 and 3-139). For on-premises consumption licenses, forfeiture will occur if the business ceases operation for six (6) months (see Section 3-180.59).

Sec. 3-18. Wholesale licensees authorized to sell to retail licensees.

(a) Wholesale licenses shall be issued only to those persons who are licensed by the state to sell and distribute alcoholic beverages at wholesale.

(b) Upon payment of the required fee, Code Enforcement shall issue wholesale licenses if the person applying proves to the Code Enforcement satisfaction that he is licensed to sell at wholesale by the state.

(c) Licensed wholesalers of distilled spirits, malt beverages or wine under the provisions of this section may sell at wholesale to any person licensed as provided in this article. Persons licensed under this article may purchase from a licensed wholesaler at wholesale in accordance with their license.

Comment [P22]: Our current ordinance does not provide for a license for wholesale dealers.

Sec. 3-19. Excise tax; report; penalty for failure to file; payment.

(a) In addition to the annual retail license fee required for the sale of alcoholic beverages, there is levied an excise tax computed as follows:

(1) For distilled spirits, the maximum allowed as provided in O.C.G.A. § 3-4-80;

(2) For foreign and domestic wines, the maximum allowed as provided in O.C.G.A. § 3-6-60 except as exempt in O.C.G.A. § 3-6-70; and

(3) For malt beverages the maximum allowed as provided in O.C.G.A. § 3-5-80 except as exempt in O.C.G.A. § 3-5-90.

(b) The excise tax levied under subsection (a)(1), (2) and (3) of this section shall be paid and collected in the following manner: The taxes shall be paid by the wholesale dealer on or before the 20th day of the month following the calendar month in which the beverages are sold or disposed of within the county by the wholesale dealer. The wholesale dealer shall also file a report itemizing for the preceding calendar month the exact quantities of alcoholic beverages by size and type of container, sold during the month within the county. The wholesale dealer shall file the report and pay the tax at the Finance office.

(c) The failure to make a timely report and remittance shall render the defaulting licensee liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of 25 percent of the amount of such remittance for each successive 30-day period or any portion thereof, during which such report and remittance are not filed or paid.

(d) The filing of a false or fraudulent report shall render the dealer making the report liable for a penalty equal to 50 percent of the amount of the remittance which would be required under an accurate and truthful report, and shall also constitute grounds for probation, suspension or revocation of such license, and shall also constitute a violation of the ordinances of the county for which the offender may be convicted in the state court as provided.

Sec. 3-20. License transfers; change licensee, or license representative or relocation of business.

(a) Retail alcoholic beverage licenses may be transferred from one owner to another with the approval of Code Enforcement provided:

Comment [P23]: Our current ordinance specifically provides for a fee of $250.00 for a transfer of a retail package license of wine or malt beverages (see Sections 3-60(f) and 3-140(f)). On-premises consumption licenses are currently nontransferable, except where the applicant has died, and then only to the administrator, executor or lawful heirs (see Section 3-180.57).

(1) The business has existed at the same location and licenses have not been transferred for more than one year;

(2) All existing alcoholic beverage licenses issued to the existing owner for that location shall be transferred; and

(3) The new owner provides the information required by Sections 3-11 and 3-12, except for subsection (a) of Section 3-12, provided such information was previously supplied by the existing owner or previous owners and has not changed.

(b) All requests for a change in licensee or license representative must be approved by the Board of Commissioners and shall provide all appropriate information or supporting documents required under as outlined in an approved form to be supplied by Code Enforcement for that purpose.

(c) All business relocations must be approved by the Board of Commissioners, and the licensee and license representative shall provide all appropriate information and supporting documents as required. Requirements relating to advertising must be met

(d) Any violation of this section shall constitute due cause for probation, suspension or revocation of the license or licenses granted by the Board of Commissioners.

Sec. 3-21. Standards to be applied by the Board of Commissioners in granting licenses.

The standards to be applied by the Board of Commissioners acting in its judicial capacity to grant or deny a license shall include whether, in the best judgment of the commissioners', the applicant, based on all information obtained in the application process, possesses the qualities of sound judgment and discretion necessary for one who dispenses alcoholic beverages to the public generally. No person shall be granted a license to engage in the sale of alcoholic beverages at retail unless it shall appear to the satisfaction of the Board of commissioners that such person is of good moral character as defined by moral turpitude. In addition, no person shall be granted a license to engage in the sale of alcoholic beverages at retail if any of the following are true:

(1) The applicant, licensee and/or license representative has ever had its/his/her license to sell alcoholic beverage suspended two or more times during the past five years or revoked by any state or political subdivision hereof; or

(2) The applicant, licensee and/or license representative has, within five years prior to the date of the application, been convicted of or entered a plea of nolo contendere to any felony or misdemeanor relating to the sale or use of alcoholic beverages, crimes of moral turpitude, gambling, sexual offenses, assault, battery, Family Violence, or illegal drugs.

Sec. 3-22. Applicants meeting standards will be granted license; reason for denial to be given in writing.

All applicants for a license meeting the ascertainable standards of this chapter will be granted the license or licenses requested, upon the hearing; and the Board of Commissioners in applying the facts to the licensing criteria will act in a judicial capacity. Whenever an

Comment [P24]: Our current ordinance only permits transfers for retail package license for wine or malt beverages (see Sections 3-60(c) and 3-140(c)). Location transfers for on-premises consumption licenses are not currently permitted.

Comment [P25]: In addition to other standards such as residency and the existence of past convictions, our current ordinance allows the Board to consider whether there is no specific cause related to location, traffic condition or other environmental condition that justifies refusal when determining whether to grant retail package license for wine and malt beverages (see Sections 3-53 and 3-133).

For on-premises consumption licenses, the Board may also consider: (1) the manner in which an applicant conducted his business under a previous license, as to the necessity for unusual law enforcement observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business; (2) the location for which the license is sought as to traffic congestion, general character of the neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values; and (3) the number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.

Our current ordinance places a limit on the number of on-premises consumption licenses that can be issued – no more than 1 for every 5,000 residents of the county.

Comment [P26]: Our current ordinance states that a license shall not be issued if an individual having an interest either as owner, partner, stockholder, directly or indirectly beneficial or absolute, or his spouse, has been convicted or has taken a plea of nolo contendere within ten (10) years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or any county ordinance, except traffic violations (see Sections 3-46(b), 3-126(b), and 3-180.47).

application for license is denied by the council, the reasons for such denial shall be stated in writing and entered upon the minutes.

Sec. 3-23. State alcohol licenses required.

(a) All holders of licenses under this article must obtain the appropriate state alcohol licenses within 60 days from the date the county license is granted. Written proof must be provided to Code Enforcement within 60 days. Failure to obtain the required state licenses will result in a forfeiture of the county license on the first business day following the 60 days granted above. If the state declines to approve the request for an alcohol license, the county will return license fees paid with the exception of the application fee.

(b) All holders of county licenses must keep their state license in good standing. Any failure to keep the state license in effect will result in an immediate forfeiture and loss of the county license.

Sec. 3-24. Permitted location for special events at which alcoholic beverages are served.

(a) No alcoholic beverages shall be sold, dispensed, distributed, poured or served at any location, premises, or building in the county except as set out in this chapter unless otherwise provided for under this chapter.

(b) The owner or lessee of a location at which alcoholic beverages are to be furnished and served at a private function or special event by a person at a location not otherwise required to be licensed pursuant to this chapter shall first obtain a qualifying location permit designating such location as a “permitted location”. Such qualifying location permit shall be good for the calendar year in which it is issued and may be renewed annually as set forth in this chapter. Thereafter, the person organizing the private function or special event to be held at a permitted location must apply for and obtain a “special event permit”. The cost of such permits shall be as set forth by the Board of Commissioners. The requirements shall be met by an applicant for a permitted location license.

(c) To qualify as a “permitted location”, the location, premises or building shall not be located nearer to an alcoholic treatment center than permitted by Section 3-13 and therefore be considered to be a “prohibited location”, or shall not fail to meet all requirements of building code, fire code, zoning ordinance, and all other state and local regulations for an on-premises pouring outlet, and shall possess a permit as a "permitted location" pursuant to this chapter. The applicant for a qualifying location permit shall submit a plat of survey prepared by a state registered land surveyor showing the distances set forth in this chapter with the application for the qualifying location permit.

(d) It shall be unlawful for any person to furnish and serve alcoholic beverages at a private function or special event at a permitted location unless food is also served at the private function or special event.

(e) Alcoholic beverages furnished and served at a private function or special event may be consumed only on the premises and may not be removed from the premises in an open container.

(f) It shall be unlawful for any alcoholic beverages to be sold at a private function or special event, i.e. no "cash bar" sales will be permitted, unless the permitted location also holds an on premises consumption license for alcoholic beverages.

(g) The "permitted location" licensee shall be responsible for any violation of this chapter which occurs at the "permitted location" whether by the licensee's employees or agents, a caterer or their employees or agents, or a lessee or invitee of the licensee, their lessee or invitees or any of their employees or agents.

(h) The person holding the private function or special event, and not otherwise required to be licensed pursuant to this chapter must purchase and furnish the alcoholic beverages.

Sec. 3-25. Special events.

Comment [P27]: Our current ordinance does not provide for special event permits or event permits for alcoholic beverage caterers.

(a) *Special event permit.*

(1) Except as provided in subsection (b) of this section, wine and/or beer and malt beverages and/or distilled spirits shall only be served at a private function or special event only if the person organizing said event has applied for and received a special event permit.

(2) In order to serve wine, and/or beer and malt beverages, and/or distilled spirits at a private function or special event, at a permitted location, the person organizing the private function or special event shall be required to:

(i) Apply to Code Enforcement for a "special event permit". The application shall include the name and business address of any caterer providing food service for the private function or special event, the date, time and location of the event, which location must be a permitted location as set forth in this chapter or otherwise exempt as set forth under this chapter; and

(ii) Pay the cost of such permit as set forth by the Board of Commissioners. If the application meets all of the requirements of this chapter, Code Enforcement shall issue the special event permit. If Code Enforcement finds that the application does not meet the requirements of this chapter and denies the special event permit, the applicant may appeal in writing to the Board of Commissioners within five days of the date of the denial.

(2) The "special event permit" shall be maintained at the site of the private function or special event during the hours alcoholic beverages are served.

(3) The person holding the private function or special event, and not otherwise required to be licensed pursuant to this chapter, must purchase the alcoholic beverages.

(4) The "special event permit" licensee shall be responsible for any violation of this chapter which occurs at the event whether by the licensee's employees or agents, invitee of the licensee or invitee of the invitee of the licensee.

(b) *Event permit for authorized catered functions.*

(1) Any licensed alcohol beverage caterer who additionally holds a valid license to sell malt beverages or wine by the package or by the drink for consumption on the premises may apply to Code Enforcement for an event permit to distribute malt beverages or wine by the drink off-premises within the county at authorized catered functions held at a permitted location. Applications shall be supported by evidence of all required licenses in good standing, and proof of payment of excise and occupation taxes, if applicable.

(2) Any licensed alcohol beverage caterer who additionally holds a valid license to sell distilled spirits by the drink for consumption on-premises may apply to Code Enforcement for an event permit to sell distilled spirits by the drink off-premises within the county at authorized catered functions held at a permitted location. Applications shall be supported by evidence of all required licenses in good standing and proof of payment of excise and occupation taxes, if applicable.

(3) A licensed alcohol beverage caterer shall apply to Code Enforcement for an event permit on forms prescribed for that purpose. The application shall include the name of the licensee and, if applicable, the name of the food caterer who will be serving the event, together with a copy of the current licensees and occupation tax certificate(s); the date, time and duration of the event; and the name, address and telephone number of the event host or sponsor, and, if different, the address of the location where the event will be held. The application shall be signed by the licensed alcoholic beverage caterer and the event host or sponsor. If the event host or sponsor is not the owner of the venue at which the event will be held, then the owner of the venue, or the owner's authorized agent, shall also sign the application consenting to the distribution of alcoholic beverages at that location. Each event permit shall require payment of a fee of set by the Board of Commissioners per day; provided, however, if the licensed alcohol beverage caterer does not maintain a place of business within the unincorporated county, in addition to the above fee, there is hereby levied an excise tax upon the total quantity of alcoholic beverages brought into the unincorporated county for such event. At all times during which an authorized catered function is taking place, the original alcohol beverage caterer's license and the event permit shall be conspicuously posted and made available for inspection upon request by Code Enforcement, tax, or licensing officer; in addition, at all times while alcoholic beverages are being transported within the county, the licensee shall maintain a

copy of the alcohol beverage caterer's license and event permit in the vehicle(s) used for transporting the alcoholic beverages. No event permit shall be issued for more than three consecutive days and a full permit fee shall be assessed for each day of the event.

(4) Licensed alcohol beverage caterers shall be subject to the regulations set forth in O.C.G.A. § 3-11-4. Any licensed alcohol beverage caterer distributing or selling alcoholic beverages off-premises within the county, except in connection with an authorized catered function within the scope of the event permit shall be in violation of this article; if convicted, upon citation to the state court, violators shall be punished in the manner provided in this Code.

(c) *Exceptions*. The requirements of this chapter shall not apply to a private function held at a private residence at which alcoholic beverages are purchased and served by a person not otherwise required to be licensed pursuant to this chapter to invited guests of such person, provided that the person holding the event purchases the alcoholic beverages and receives no payment of any kind from invited guests, and the event is not open or accessible to the general public.

Sec. 3-26. Privilege nature of license.

(a) All licenses issued under this chapter shall constitute a grant of privilege to carry on or conduct a business covered by such license during the term of the license, subject to the terms and conditions imposed by this chapter and other applicable ordinances of the county and the constitution, laws and regulations of the state and of the United States of America applicable thereto.

(b) All licenses issued under this chapter shall have printed on the face the following words:

THIS LICENSE IS A PRIVILEGE CONDITIONAL ON THE HOLDER MEETING ALL STANDARDS FOR SUCH LICENSE AND OPERATING REGULATIONS APPLICABLE THERETO SET OUT IN COUNTY ORDINANCES AND GEORGIA LAW. FAILURE TO MEET SUCH STANDARDS OR TO COMPLY WITH SUCH OPERATING REGULATIONS SHALL SUBJECT THE HOLDER TO THE LICENSE BEING REVOKED FOLLOWING NOTICE AND HEARING.

(c) All licenses shall be conspicuously posted in the place of business.

Sec. 2-27 through 2-30. Reserved.

DIVISION 2. SUSPENSION, REVOCATION, PROBATION.

Sec. 3-31. Penalty schedule.

(a) Within three days following a court appearance of a licensee, license representative, employee or owner of a licensed establishment in state court for violation of this chapter, Code

Enforcement shall submit to the County Administrator an investigation report of the violation. The report will include the details of the violation and the specific section of this chapter and/or other county ordinance, or state laws that have been violated and the sentence imposed by the court.

(b) The County Administrator shall review the investigation report and the official records of the licensee and recommend to Code Enforcement to either probate, suspend and/or probate, or revoke the license of the violator based on the penalty schedule in this section; except that no license shall be placed on probation, suspended or revoked unless there is due cause.

(c) The County Administrator shall not be required to strictly adhere to the progressive penalties in the penalty schedule and is authorized to invoke a more or less severe penalty based on the circumstances of the violation, to include forwarding the violation directly to the Board of Commissioners for an administrative hearing. The County Administrator shall schedule the penalty period not earlier than 14 days following written notification of the penalty to the licensee.

Penalty Schedule

First violation	Six-month probation
Second violation	Seven-day suspension of license and one-year probation
Third violation	As determined by the Board of Commissioners at a public hearing

Notwithstanding anything stated in this section, the County Administrator may, if the circumstances of any violation or potential violation warrant immediate action, refer that violation or potential violation to the Board of Commissioners for a hearing.

(d) If there is a violation during a probation period, the licensee shall be penalized as designated in the next step of the penalty schedule plus an additional seven-day penalty period. Exception: Should a licensee not incur a violation during a 24-month period, the next violation shall be subject to the first violation penalty.

Sec. 3-32. Definitions.

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

Due cause consists of the violation of any laws or ordinances of the state or the county regulating the sale or use of alcoholic beverages or illegal drugs, or violation of any regulations made pursuant to authority granted for the purpose of regulating such activities, or violation of any county ordinance related to the sale or use of alcoholic beverages or illegal drugs, or any violation described in Paragraph (3) of Subsection 3-22 of this ordinance.

Sec. 3-33. Appeal.

Comment [P28]: Our current ordinance provides that the decision to suspend or revoke a license for retail package dealers of wine and malt beverages is to be made by the Board of Commissioners (see Sections 3-61 and 3-141). The ordinance is currently silent as to who makes the decision with respect to on-premises consumption licenses, but the implication is probably the Board of Commissioners (see Section 3-180.62).

Comment [P29]: This clause may introduce too much discretion on the part of the Chief Marshal.

Comment [P30]: Our current ordinance does not provide a penalty schedule such as the one found here. It states only that the decision to revoke or suspend will be made after a finding of due cause (see Section 3-61, 3-141, and 3-180.62).

A licensee may appeal within ten days the action of Code Enforcement or the County Administrator to the Board of Commissioners and request a public hearing on the violation. Such hearing shall be held within 30 days following receipt of a written request from the licensee. Upon receipt of an appeal requesting a public hearing, Code Enforcement shall delay the penalty pending the outcome of the public hearing.

Sec. 3-34. Hearing to be conducted by the Board of Commissioners.

The Board of Commissioners is authorized to conduct a public hearing at any time when the commissioners are on notice of a violation or potential violation of any local, state or federal regulation or law by a licensee, license representative, employee or owner of a licensed establishment in the county when such actual or potential violation would not constitute due cause for revocation, suspension or probation of the license. The licensee should be prepared to prove or show evidence of all business practices and procedures instituted to ensure compliance with this chapter and state law. The commissioners' inquiry may include, but is not limited to:

(1) Employment standards of the licensee.

(2) Employee direction/supervision.

(3) Sales procedures.

(4) Enforcement check reports.

(5) Previous violations.

(6) Any other ordinance deemed relevant to the violation that is the subject of the hearing.

Sec. 3-35. Procedure; right to counsel; cross examination of witnesses.

(a) When a hearing is to be conducted by the Board of Commissioners, notice shall be sent to either the licensee or license representative personally or by certified mail at least 15 days, but not more than 45 days prior to hearing date. Notice shall state the time, place and purpose of the hearing. The times shall be counted from the date of receipt of notice by the licensee or license representative.

(b) The licensee shall be entitled to have counsel present at any hearing brought to inquire into suspension, revocation or probation of a license, and shall have the right to cross examine witnesses against him, and to produce evidence in his own behalf.

Sec. 3-36 through 3-40. Reserved.

ARTICLE III. OPERATING REGULATIONS.

Sec. 3-41. Inspection authority of county.

The county reserves the right to inspect premises from which alcoholic beverages are licensed to be sold at all reasonable times. Compliance inspections will be completed by Code Enforcement quarterly.

Sec. 3-42. Employees; investigation; fees.

(a) No retail licensee shall employ any minor, except as provided by state law, in his store, or in the department of a store where alcoholic beverages are served, sold or dispensed. No retail licensee shall employ in any premises used for the sale of alcoholic beverages anyone who serves, sells and/or dispenses alcoholic beverages that has been convicted within five (5) years of the date of employment of any felony, or within two (2) years a violation of laws of this county, state, any other state or of the United States, to include illegal gambling, prostitution, violations relating to the manufacture, sale or use of or distribution of alcoholic beverages, narcotics, controlled substances, gambling, sexual offenses, assault, battery, Family Violence or crimes of moral turpitude. This provision shall not prohibit employees who have been convicted or have a criminal history, when employed in supermarkets, convenience stores or drugstores, from handling or carrying alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities.

Comment [P31]: Our current ordinance states that no retail package dealer for wine or malt beverages shall employ anyone who has been convicted within ten (10) years of the date of employment of a felony or any law related to the sale of alcoholic beverages (see Sections 3-82 and 3-162). For on-premises consumption licenses, the establishment shall not employ anyone, including performers, entertainers and musicians, who has been convicted of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses, or any charge relating to the manufacture or sale of intoxicating liquors (see Section 3-180.12).

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell alcoholic beverages to file with Code Enforcement or his designee the names of all employees, with their home addresses, home telephone numbers and places of employment. Changes in the list of employees, with the names of new employees, must be filed with Code Enforcement or his designee within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and regulations as may be deemed necessary from time to time by Code Enforcement. An investigative fee as set by the Board of Commissioners shall be paid by all applicants.

(c) At the time of application or at the time a licensee hires a new employee, the licensee shall submit a current one-square-inch photograph of such employee for placement upon that employee's identification card.

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

(e) No licensee under this chapter shall permit any person under the age of 18 within his employment to dispense, serve, sell, or take orders for alcoholic beverages; provided, however, this provision shall not prohibit employees under the age of 18 who are employed in supermarkets, convenience stores, or drugstores from handling or carrying sealed packages of alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities so long as such employees under age 18 do not dispense, serve, sell, or take orders for any alcoholic beverage.

Sec. 3-43. Days and hours of operation.

(a) No retail package dealer of wine or malt beverage or on premises consumption of wine, malt beverage or distilled spirits shall open his/her place of business or furnish, sell, or offer for sale, any alcoholic beverages at any time Christmas Day. Sales are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established during the hours the polls are open. No retail package sales of malt beverages and/or wine shall operate his/her place of business at any time prior to 8:00 a.m. or after 11:30 p.m. on Monday through Saturday, or prior to 12:30 p.m. or after 11:30 p.m. on Sunday, or permit his/her employees to be in, the place of business at any time prior to one hour before opening time or later than 30 minutes past closing time, except for the purpose of responding to emergency situations; provided, however, when taking inventory, making repairs, renovating or similar business needs cannot reasonably be carried out during normal business hours with customers present, the dealer may notify Code Enforcement for a specific exception from this limitation. Code Enforcement shall be authorized to impose reasonable terms and conditions on the exception. It shall be the duty of a retail package dealer of malt beverages and/or wine to post on all entrances to the premises a sign reading "CLOSED - NO CUSTOMERS ALLOWED ON PREMISES" at all times outside of allowed hours of operation.

Comment [P32]: Sunday package sales for malt beverages and wine were approved by referendum in 2012. In 2012, the current ordinance was also amended to permit on-premises sales on Sundays, but it does not appear that a referendum was held. At that time, the County Attorney recommended that no referendum was necessary since the 2004 referendum permitting on-premises sales of distilled spirits was not limited by days of the week.

(b) In all establishments licensed to sell alcoholic beverages for on-premises consumption, tables shall be cleared of all drinks containing alcohol by not later than 30 minutes following the latest time at which alcoholic beverages may be legally sold.

Sec. 3-44. Furnishing to, purchase of, or possession by persons under 21 years of age of alcoholic beverages; use of false identification.

(a) Except as otherwise authorized by law:

(1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.

(2) No person under 21 years of age shall purchase, drink, sell or possess alcoholic beverages.

(3) No person under 21 years of age shall misrepresent such person's age in any manner whatsoever for the purpose of obtaining any alcoholic beverage.

(4) 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.

(5) 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.

(b) The prohibitions contained in subsection (a) of this section shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state, at a religious ceremony, or when the parent or guardian of the person under age 21 gives the alcoholic beverage to such person when possession is in the home of the parent or guardian while such parent or guardian is present.

(c) It shall be the duty of every person seeking to purchase or possess alcoholic beverages from a licensee within the county to furnish, upon request, proper identification showing that the person is 21 years of age or older. For purposes of this section, the term "proper identification" means any document issued by a governmental agency containing a physical description of the person, such person's photograph, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized by O.C.G.A. § 40-5-100.

(d) It shall be a violation of this chapter for any licensee, or any agent, officer or employee of a licensee, to fail to check the proper identification of any patron when selling or otherwise providing any alcoholic beverage, which failure results in an underage person being sold or served, or to have in such underage person's possession while on the licensee's premises, any alcoholic beverage.

Comment [P33]: The requirement to check ID for all persons purchasing alcoholic beverages are not found in our current ordinance.

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

Sec. 3-45. Open containers.

(a) As used in this section, the term “open container” means any container, containing alcoholic beverages, which is immediately capable of being consumed from or the seal of which has been broken.

(b) No person shall possess an open container of any alcoholic beverage within the passenger compartment of a motor vehicle. Closed containers of alcoholic beverages may be transported in any part of a vehicle. Open containers shall be placed in a locked trunk or locked storage container.

Comment [P34]: We may want to remove this since this is covered by state law, which has been adopted by Section 10-1 of our code.

(c) No person shall possess an open container of any alcoholic beverage while walking, standing or otherwise occupying any public street, road, or highway, sidewalk adjacent thereto, public parking lot, county park or other property owned or leased by the county; or within any public building theron, except that Fayetteville Main Street, the Fayette County Economic Development Authority, and the Fayette Senior Center may serve alcoholic beverages within the buildings on their respective property leased from the county provided that:

(1) The event is catered and the caterer is duly licensed by the City of Fayetteville;

(2) Alcohol is not served at an event more than four (4) times during a calendar year;

(3) The event is solely related to the operation, fund raising, or raising awareness of the programs and services offered by the respective organization; and

(4) There are no direct sales of alcoholic beverages to the patrons of the event.

In addition, the Board of Commissioners may allow the sale and serving of alcoholic beverages for on-premise consumption within a county-owned property by resolution or Intergovernmental Agreement. The resolution or Intergovernmental Agreement shall set the requirements as such.

(d) No person shall possess an open container of any alcoholic beverage on the premises of any package dealer, including parking lots adjacent thereto.

(e) No person shall enter or leave the premises of any dealer licensed to sell or dispense alcoholic beverages for on-premises consumption with an open container of any alcoholic beverage.

(f) This section shall not apply to:

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

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

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

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

Sec. 3-46. Brownbagging.

Brownbagging, as defined in this chapter, is prohibited within the county. Any person who brownbags, participates in consumption of any alcoholic beverage being brownbagged, or any licensee or employee of a licensed establishment in whose presence brownbagging knowingly or with reckless indifference occurs, shall be in violation of this section.

Comment [P35]: Our current ordinance contains no provisions related to brownbagging.

Sec. 3-47. Purchases to be made only from licensed wholesalers.

Package dealers in alcoholic beverages and on-premises consumption dealers shall not buy nor accept deliveries from any person other than a wholesaler, dealer or distributor licensed by the state department of revenue.

Comment [P36]: Our current ordinance also provides that wholesale deliveries may only be made between 7:00 am and 7:00 pm for retail package dealers of malt beverages and wine (see Sections 3-80 and 3-160).

Sec. 3-48. Sanitary regulations; immoral conduct, etc.; inspection and report by fire department.

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

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

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

Sec. 3-49. Storage of alcoholic beverages at retail.

All package dealers and on-premises consumption dealers shall store all alcoholic beverages on the premises for which the license was issued and at no other place. All stock shall be available at all times for inspection by any duly authorized representative of the county. Any alcoholic beverages found in any licensee's stock which was not sold or distributed by a wholesaler licensed in accordance with laws of the state to make sales and deliveries in the county shall be subject to immediate confiscation.

Comment [P37]: Our current ordinance contains no provisions pertaining to the storage of alcoholic beverages.

Sec. 3-50. Nonprofit civic organizations; temporary permits.

(a) As used in this section, the term "bona fide nonprofit civic organization" means a nonprofit corporation or entity which is exempt from federal income tax pursuant to the provisions of subsections (c), (d) or (e) of 26 U.S.C. § 501.

(b) Bona fide nonprofit organizations may qualify for a temporary permit from Code Enforcement to sell alcoholic beverages for consumption on the premises for a period not to exceed three days. No more than six such permits may be issued to a single qualified organization in any calendar year.

(c) An authorized representative of a bona fide nonprofit organization may apply Code Enforcement for a letter certifying the date, time and event location as a condition for seeking a temporary permit from Code Enforcement. The county shall impose a fee as established by the Board of Commissioners.

Comment [P38]: Our current ordinance contains no provisions pertaining to temporary permits for nonprofit civic organizations.

Sec. 3-51. In-room sales in hotels.

Licenses obtained by hotels shall include the right to serve alcoholic beverages by the drink to registered guests in their hotel rooms as well as to deliver alcoholic beverages in unbroken packages to registered guests' rooms when such beverages have been ordered by such guests and/or to provide a cabinet or other facility in a hotel guest's room which contains alcoholic beverages for which licensed, and which is provided upon written request of the guest, and which is accessible by lock and key only to the guest, and for which the sale of the alcoholic beverages contained therein is final at the time requested, except for a credit which may be given to the guest for any unused and unopened portion. All alcoholic beverages sold or distributed under this section shall be obtained by the hotel directly from a licensed wholesaler or distributor and shall be stored on the premises of the hotel until sold or served.

Sec. 3-52. Front window display.

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

Sec. 3-53. Exterior advertisement of price of alcoholic beverages prohibited.

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

Sec. 3-54. Interior visibility required.

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

Sec. 3-55. Drinking in public.

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

Comment [P39]: This section is potentially redundant given Section 3-45 above, which directly addresses open containers.

Sec. 3-56. Purchase delivered in paper bag.

All alcoholic beverages, except prepackaged beer, purchased in a retail store must be put in a paper or plastic bag or otherwise wrapped in any opaque cover before delivery to the purchaser.

Comment [P40]: This requirement is not found in our current ordinance.

Sec. 3-57. Portable signs prohibited.

No licensee for the package sale of alcoholic beverages shall be permitted to utilize a lighted portable sign outside the building.

Comment [P41]: This requirement is not found in our current ordinance.

Sec. 3-58. Sale or delivery to unlicensed premises.

No package dealer shall make or allow to be made any deliveries of alcoholic beverages beyond the boundaries of the premises covered by the license.

Sec. 3-59. Nudity and partial nudity prohibited.

Comment [P42]: Our current ordinance prohibits nudity on premises selling alcohol for on-premises consumption (see Section 3-180.19). The provisions found here are broader than what is currently in our ordinance.

The following types of entertainment, attire and conduct are prohibited upon the premises of any establishment licensed to sell, serve, dispense or distribute alcoholic beverages for consumption on such premises:

(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 of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.

(2) Live entertainment where any person appears in the manner described in paragraph (1) of this section or where such person(s) perform(s) acts of or acts which stimulate any of the following:

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

(ii) The caressing or fondling of the breasts, buttocks, anus or genitals; or

(iii) The displaying of the male or female pubic hair, anus, vulva or 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 (1) and (2) above; provided, however, that nothing contained in subsection (2) shall apply to the premises of any mainstream performance house, museum or theatre which derives less than 20 percent of its gross annual income from the sale of alcoholic beverages.

Sec. 3-60. Price lists or tags.

Each retail licensee under this article shall have conspicuously displayed within the interior of the licensed premises not less than two (2) copies of a printed price list of the alcoholic beverages offered for sale and one (1) printed copy of the penal sections of this article; however, a licensee, in lieu of having two (2) copies of a printed price list, may have the price placed on the bottles or on the bottom of the shelf where alcoholic beverages are exhibited for sale.

Sec. 3-61. Indebtedness to county.

No license under this chapter shall issue to any applicant if any person holding beneficial interest in the business to be licensed owes any delinquent taxes or assessments to the county.

ATTACHMENT D

State of Georgia;
County of Fayette

ORDINANCE NO. 2012 - 11

AN ORDINANCE TO AMEND THE FAYETTE CODE OF ORDINANCES, AS AMENDED, SPECIFICALLY CHAPTER 3 ALCOHOLIC BEVERAGES, SO AS TO ADDRESS SUNDAY SALES AND ADMINISTRATION SET FORTH THEREIN; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of Fayette County is the Board of Commissioners thereof;

WHEREAS, the governing authority desires to amend the provision that provides for the regulation of land development as allowed by the State of Georgia;

WHEREAS, the health, safety, and welfare of the citizens of Fayette County, Georgia shall be improved and protected by adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-47. Application - Contents, in its entirety, and in lieu thereof, enacting a new 3-47. Application - Contents to read as follows:

Sec. 3-47. - Application—Contents.

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

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

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

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

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

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

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

Section 2. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-51. Investigation of applicant: cooperation by applicant, in its entirety, and in lieu thereof, enacting a new Sec. 3-51. Investigation of applicant: cooperation by applicant to read as follows:

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

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

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

Section 3. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-56. - Procedure when license denied by state, in its entirety, and in lieu thereof, enacting a new Sec. 3-56. - Procedure when license denied by state to read as follows:

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

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

Section 4. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-79. - Business hours and days, in its entirety, and in lieu thereof, enacting a new Sec. 3-79. - Business hours and days to read as follows:

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

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

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

Section 5. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-82. - Employees; reports to police; investigation; fees, in its entirety, and in lieu thereof, enacting a new Sec. 3-82. - Employees; reports to county marshal; investigation; fees to read as follows:

Sec. 3-82. - Employees; reports to county marshal; investigation; fees.

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

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

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

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

Section 6. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article II. Wine as amended, is hereby further amended by deleting Sec. 3-84 - Sanitary regulations; immoral conduct, etc.; inspection and report by fire department, in its entirety, and in lieu thereof, enacting a new Sec. 3-84 - Sanitary regulations; immoral conduct, etc.; inspection and report by fire department to read as follows:

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

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

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

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

Section 7. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-127. Application - Contents, in its entirety, and in lieu thereof, enacting a new 3-127. Application - Contents to read as follows:

Sec. 3-127. - Application—Contents.

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

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

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

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

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

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

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

Section 8. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-131. Investigation of applicant: cooperation by applicant, in its entirety, and in lieu thereof, enacting a new Sec. 3-131. Investigation of applicant: cooperation by applicant to read as follows:

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

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

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

Section 9. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-136. - Procedure when license denied by state, in its entirety, and in lieu thereof, enacting a new Sec. 3-136. - Procedure when license denied by state to read as follows:

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

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

Section 10. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-159. - Business hours and days, in its entirety, and in lieu thereof, enacting a new Sec. 3-159. - Business hours and days to read as follows:

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

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

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

Section 11. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-162. - Employees; reports to business license director; investigation; fees, in its entirety, and in lieu thereof, enacting a new Sec. 3-162. - Employees; reports to county marshal; investigation; fees to read as follows:

Sec. 3-162. - Employees; reports to county marshal; investigation; fees.

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

(b) It shall be the duty of all persons holding retail or wholesale licenses to sell malt beverages to file with the county marshal the names of all employees, with their home addresses, home telephone numbers and

places of employment. Changes in the list of employees, with the names of new employees, must be filed with the county marshal within three (3) days from the date of any such change. All employees shall be subject to such investigative rules and regulations as may be deemed necessary from time to time by the county marshal. A ten-dollar investigative fee shall be paid by all applicants.

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

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

Section 12. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article III. Malt Beverages as amended, is hereby further amended by deleting Sec. 3-164 - Sanitary regulations; immoral conduct, etc.; inspection and report by fire department, in its entirety, and in lieu thereof, enacting a new Sec. 3-164 - Sanitary regulations; immoral conduct, etc.; inspection and report by fire department to read as follows:

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

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

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

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

Section 13. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers as amended, is hereby further amended by deleting Sec. 3-180.1. - Authority and definitions, in its entirety, and in lieu thereof, enacting a new Sec. 3-180.1. - Authority and definitions to read as follows:

Sec. 3-180.1. - Authority and definitions.

(a) Authority.

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

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

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

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

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

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

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

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

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

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

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

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

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than fourteen (14) percent alcohol by volume and including ale,

porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

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

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

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

Section 14. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers as amended, is hereby further amended by deleting Sec. 3-180.7. - Holiday sales, in its entirety, and in lieu thereof, enacting a new Sec. 3-180.7. - Holiday sales to read as follows:

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

(b) Sales following New Year's Eve. Sales may continue until 1:00 a.m. on New Year's Day.

Section 15. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers as amended, is hereby further amended by deleting Sec. 3-180.9. - Prices and charges to be displayed; filed with business license department, in its entirety, and in lieu thereof, enacting a new Sec. 3-180.9. - Prices and charges to be displayed; filed with the marshal's office to read as follows:

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

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

Section 15. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers as amended, is hereby further amended by deleting Sec. 3-180.60. - Form; data requested, in its entirety, and in lieu thereof, enacting a new Sec. 3-180.60. - Form; data requested to read as follows:

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

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

Section 16. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article V. Excise Taxes as amended, is hereby further amended by deleting Sec. 3-183. - Payment of taxes by wholesale dealers, in its entirety, and in lieu thereof, enacting a new Sec. 3-183. - Payment of taxes by wholesale dealers to read as follows:

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

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

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

Section 17. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article V. Excise Taxes as amended, is hereby further amended by deleting Sec. 3-184 - Wholesale dealers required to collect taxes from retail dealers; monthly reports, in its entirety, and in lieu thereof, enacting a new Sec. 3-184. - Wholesale dealers required to collect taxes from retail dealers; monthly reports to read as follows:

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

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

Section 17. The Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article V. Excise Taxes as amended, is hereby further amended by deleting Sec. 3-185 - Wholesale dealers and distributors—Records and reports, in its entirety, and in lieu thereof, enacting a new Sec. 3-185. - Wholesale dealers and distributors—Records and reports to read as follows:

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

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

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

Section 18. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 19. a. It is hereby declared to be the intention of the Board of Commissioners that all Sections, paragraphs, sentences, clauses and phrases of this Article are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Article is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Article.

c. In the event that any phrase, clause, sentence, paragraph or section of this Article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 20. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed except those provided for herein.

Section 21. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

So ordained this 23rd day of August, 2012, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
HERBERT E. FRADY, CHAIRMAN

ATTEST:

_____
CLERK/DEPUTY CLERK