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CHAPTER 34: ALCOHOLIC BEVERAGES SALE AND CONSUMPTION

ARTICLE I- General and Definitions

34-101 Sale within city limits; license a privilege; severability

(a) Alcoholic beverages may only be sold in the City of Lawrenceville under a license granted by the City Clerk upon the terms and conditions provided in this chapter.

(b) All licenses in this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this Code and state law.

(c) All licenses issued pursuant to this chapter shall have printed on the front these words: "THIS LICENSE IS A PRIVILEGE SUBJECT TO BE REVOKED AND ANNULLED AND IS SUBJECT TO FURTHER ORDINANCES WHICH MAY BE ENACTED."

(d) Any holder of a license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, City licensees are required to abide by all applicable state regulations and laws.

(e) It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage where the person does not have a license granted by the City to sell or possess for sale these alcoholic beverages, or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violations of this section shall result in a fine of not less than \$500.00 and/or up to thirty (30) days in jail.

(f) Severability. Should any part, paragraph or portion of this Ordinance be declared invalid for any reasons by any court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance not so declared to be invalid, but all such remaining portions of this Ordinance shall remain in full force and effect as if they were separately adopted.

34-102 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:

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

(b) *Alcoholic beverage* means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.

(c) *Beer or malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than six (6) percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "nonalcoholic beer," which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three (3) percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

(d) *Distilled spirits or spirituous liquor* means any alcoholic beverage obtained by distillation or containing more than twenty-one (21) percent alcohol by volume including, but not limited to, all fortified wines.

(e) *Fixed salary* means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages.

(f) *Fortified wine* means any alcoholic beverage containing 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. Fortified wine includes, but is not limited to, brandy.

(g) *Governing authority* means the Mayor and City Council of the City of Lawrenceville.

(h) *Growler* means a reusable jug which can be sealed and used to transport draft beer for off-premises consumption.

(i) *Hotel* means any building or other structure providing sleeping accommodations for hire to the general public, transient, permanent or residential. Such hotels shall maintain a minimum of 50 rooms available for hire and have one or more public dining rooms with an adequate kitchen.

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 any licensed establishment described in this chapter and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition.

(j) *Indoor commercial recreational establishment* means and is limited to an establishment which:

(1) Regularly serves prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator all of which must be approved by the Gwinnett County health and fire departments), prepared to serve food every hour they are open and deriving at least seventy (70) percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities; and

(2) Wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises.

(3) The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning a use which attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Neither outdoor commercial recreational activities, nor concession stand sales of alcoholic beverages are permitted under this provision. Dance halls, nightclubs, taverns, billiard parlors, skating arenas, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor

commercial recreational establishments. Furthermore, no indoor commercial recreational establishment shall offer alcoholic beverages for sale during the time it is sponsoring events which primarily attract persons under the lawful drinking age in the state.

Notwithstanding the limitations set forth above in this section, indoor commercial recreational establishments are allowed to have dancing provided the dancing is limited to a dance floor area of five (5) percent of the public floor space of the establishment or 200 square feet whichever area is smaller. Notwithstanding the limitations set forth above in this section, indoor commercial recreational establishments are allowed to have no more than two billiard tables in the establishment.

(k) *Indoor publicly owned civic and cultural center* means and is limited to publicly owned establishments which the sale of food and alcoholic beverages are incidental to its primary enterprise and activity on the premises. Indoor publicly owned civic and cultural centers includes the City owned Depot Building, the City owned Oakes House, and the Historic Courthouse.

(l) *Indoor Special Event Facility*. shall mean a privately owned commercial establishment which: (i) provides a gathering space for rental purposes where professional, live musical entertainment may be performed on-site indoors; (ii) has a full service kitchen, consisting of a three-compartment pot sink, a hot food (ie warming) unit permanently installed, and refrigerator, all of which must be approved by the health and fire departments where outside vendors can prepare catered food; (iii) charges a rental fee for use of the event hall for special events; (iv) does not allow sexually related adult entertainment to be performed in the event hall; (v) has at least 3000 square feet of enclosed heated space; and (vi) has an occupant capacity of at least 200

people. The primary activity on the premises of the indoor event hall shall be family-oriented in nature, generally meaning a use which attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, corporate events, wedding receptions, birthday parties, holiday parties, and other similar uses. Bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, skating arenas, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor event halls.

(m) *License* means an authorization granted by the City to operate as a retail consumption dealer, retail package dealer or wholesale dealer.

(n) *Licensee* means the individual to whom a license is issued or the person designated by the application and approved by the City Clerk or his designee to be responsible for the day to day operations of a licensed establishment to whom a license is issued or, in the case of closely held partnerships or corporations, all partners, officers, and directors of the partnership or corporation.

(o) *Liter* means metric measurement currently used by the United States.

(p) *Manufacturer* means any maker, producer, or bottler of an alcoholic beverage. Manufacturer also means: in the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; in the case of malt beverage, any brewer.

(q) *Package* means a bottle, can, keg, barrel, growler or other original consumer container. Retail package alcoholic beverages shall include all alcoholic beverages in their original container, sold at retail to the final consumer, and not for resale.

(r) *Performing Arts Facility* means and is limited to an establishment:

- (1) Which is located in the downtown overlay district; and
- (2) Which operates in a building owned by the City of Lawrenceville; and
- (3) Which has as its principal objective or business the presentation of live music, mainline dramatic arts, plays, theatre productions and stand-up comedy; and
- (4) Which does not feature, show, allow, promote or advertise adult businesses as defined and regulated in chapter 32 of the Lawrenceville Code, including but not limited to adult dancing establishments, adult mini- motion picture theatres, adult motion picture theatres, adult motion picture arcades and erotic dance establishments.

(s) *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.

(t) *Pouring permit* means an authorization granted by the City to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.

(u) *Private club* means any nonprofit association organized under the laws of this 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 article;

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

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

a. Suitable kitchen and dining room space and equipment;

b. A sufficient number of employees for cooking, preparing and serving meals for its members and guests; and

c. 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.

(v) *Restaurant* means any public place selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator all of which must be approved by the Gwinnett County health and fire departments. A restaurant will be prepared to serve food every hour they are open and will derive at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits. A restaurant shall not be permitted to charge a cover charge or fee of any kind for entrance into the premises or into any part of the premises.

Notwithstanding the limitations set forth above in this section, eating establishments are allowed to have dancing provided the dancing is limited to a dance floor area of five (5) percent of the public floor space of the establishment or 200 square feet whichever area is smaller.

Notwithstanding the limitations set forth above in this section, eating establishments are allowed to have no more than two billiard tables in the establishment.

(w) *Retail consumption dealer* means any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.

(x) *Retail package dealer* means any person who sells unbroken packages, at retail, only to consumers and not for resale.

(y) *Sports Club* means an association or corporation organized and existing under the laws of the state, organized and operated primarily to provide a location for the patrons thereof to engage in sporting events. To qualify for an alcoholic beverage consumption dealer's license, a sports club must have been actively in operation within the City at least two years prior to an application for license under this chapter. The two-year operational requirement shall not apply to golf club associations or golf club corporations where the selling or the serving of alcoholic beverages is to take place on the golf course premises. A sports club organized or operated primarily for serving of alcoholic beverages shall not qualify for licensing under this article, and accordingly shall not be permitted to serve alcoholic beverages at any time. Unless otherwise indicated, a sports club licensee shall comply with all other requirements imposed upon retail consumption dealers.

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

(aa) *Wine* means any alcoholic beverage containing not more than twenty-one (21) percent alcohol made from fruits, berries, grapes, or rice either 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, special natural wines, rectified wines, and like products. The term "wine" 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 the point in the manufacturing process when it conforms to the definition of wine contained in this section.

ARTICLE II- Application and Fees

34-103 License Application, Form and Contents and Advertising Requirements

(a) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the City Clerk. Separate applications must be made for each location and separate licenses must be issued.

(b) The application shall include but shall not be limited to the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and addresses of the partners; if a corporation, the names and addresses of the officers; the name and address of the registered agent for service of process; the name and address(es) of the manager(s); and the name of all shareholders holding more than ten (10) percent of any class of corporate stock, or any other entity having a financial interest in each entity which is to own or operate the establishment for which a license is sought.

(c) Following the initial application and licensing under this Chapter, if any person other than the person listed in the application as manager shall be employed as manager, the name, address and

telephone numbers of the new manager shall be filed with the City Clerk within three (3) days of the date of such employment.

(d) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the City Clerk and to ensure compliance with the provisions of this chapter. Failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.

(e) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths. No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with Ordinances of the City, applicable county regulations, the state revenue commissioner and the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are visible. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building, or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately

illuminated so that all hallways, passage ways and open areas may be clearly seen by the customers therein.

(f) In all instances in which an application is denied under the provisions of this chapter the applicant may not reapply for a license for at least one year from the final date of such denial.

(g) Each application for license under this chapter shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of \$300.00 to defray investigative and administrative cost.

The Chief of Police shall have a complete search made of any police record of the applicant based on the information given in the application.

(h) Advertisement of intent to engage in business; signs posted. All applicants desirous of obtaining a license for the sale of alcohol shall give notice at their expense of the making of an application by advertisement at least twice a week for two (2) consecutive weeks, said advertisement to begin no later than ten (10) days following submission of the application required by section 34-103, application; form; content; process; deposit. The advertisement shall be published in the newspaper in which the legal advertisements of the city are published. The advertisement referred to herein shall be of type not smaller than ten-point capital in lower case and shall be at least a two-inch, one-column advertisement in size. Said notice shall contain a complete description of the location of the proposed business and shall give the name of the applicant and if a partnership, the names of the partners, whether limited or general, and if a corporation, the names of the officers and all stockholders having more than ten (10) percent of

any class of corporate stock therein, and the date the application was filed with the city clerk.

The advertisement shall contain the following additional statement: "AN APPLICATION HAS BEEN FILED ON (date) WITH THE CLERK OF THE CITY OF LAWRENCEVILLE FOR A LICENSE TO OPERATE _____ AT THE ABOVE LOCATION. A DECISION ON WHETHER OR NOT TO GRANT OR DENY SUCH A LICENSE WILL BE MADE BY THE CLERK OF THE CITY OF LAWRENCEVILLE NO LATER THAN THIRTY (30) DAYS FROM THE DATE THE FILED APPLICATION IS DETERMINED TO BE COMPLETE. MEMBERS OF THE PUBLIC ARE INVITED TO NOTE ANY OBJECTIONS, IN WRITING, THAT THEY MAY HAVE TO THE GRANTING OF SUCH A LICENSE BY FILING SAID WRITTEN OBJECTIONS WITH THE CLERK OF THE CITY OF LAWRENCEVILLE."

1. Tear sheets and a publisher's affidavit shall be furnished to the city by the applicant(s) prior to the applicant's application being considered complete.

2. The applicant shall cause to be placed at their expense upon the location of the proposed business no later than ten (10) days following submission of the application, a sign or signs stating the following: AN APPLICATION HAS BEEN FILED ON (date) WITH THE CLERK OF THE CITY OF LAWRENCEVILLE FOR A LICENSE TO SELL _____. A DECISION ON WHETHER OR NOT TO GRANT OR DENY SUCH A LICENSE WILL BE MADE BY THE CLERK OF THE CITY OF LAWRENCEVILLE NO LATER THAN THIRTY (30) DAYS FROM THE DATE THE FILED APPLICATION IS DETERMINED TO BE COMPLETE. MEMBERS OF THE PUBLIC ARE INVITED TO NOTE ANY OBJECTIONS, IN WRITING, THAT THEY MAY HAVE TO THE GRANTING OF SUCH A LICENSE BY

FILING SAID WRITTEN OBJECTIONS WITH THE CLERK OF THE CITY OF
LAWRENCEVILLE."

3. The sign or signs required by subsection (2) shall be constructed of wood or metal and shall be placed with the base of the sign not more than three (3) feet from the ground and shall be not less than forty-eight (48) inches by forty-eight (48) inches in size and shall face toward all public streets, alleys, sidewalks or other public property adjoining the proposed location. The statement above shall be printed or painted on the sign in the English language. Such signs shall be placed where they can be easily seen and the statement above easily read from all public properties adjoining the proposed location. Said sign shall not be required to comply with the requirements of Article 10 of the zoning ordinance pertaining to signs.

4. The advertising requirements of this section shall not be required for license renewals or in cases where the location of the proposed business has previously served as a location where alcoholic beverage sales have been licensed within five years of the date of the application for license.

34-104 Withdrawal of application

Any license application made pursuant to this chapter may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as license fees will be refunded. After issuance of the license, no refunds will be made. No refunds shall be made under any circumstances for investigative and administrative expenses required in this chapter.

34-105 Expiration; renewal of license

(a) All licenses granted under this chapter shall expire on December 31 of each year. Licensees who desire to renew their licenses shall file applications, with the requisite fee with the City Clerk on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay, in addition to the annual fee, a late charge of twenty (20) percent. If license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs will be assessed. The establishment shall immediately stop selling alcohol and remove all alcoholic beverages offered for sale from the premises.

(b) All licenses granted under this chapter shall be for the calendar year, and the full license fee must be paid without proration.

34-106 Automatic license forfeiture for nonuse

Any holder of any license under this chapter who shall for a period of three consecutive months after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the three-month period, automatically forfeit the license without the necessity of any further action.

34-107 Transferability of license

(a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.

(b) Nothing in this section, however, shall prohibit one or more of the partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporation at the time of issuance of the license nor shall it prohibit transfers of stock which do not result in any person increasing his stock holdings to a total of ten (10) percent or more of any class of stock.

(c) Except as provided in this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license pursuant to this chapter automatically, without the necessity of any hearing.

(d) Violation of this section shall result in revocation of the license being used and a fine on the new ownership and the old ownership of not less than \$1,000.00 and/or one (1) year in jail. No license will be issued to the old or the new owner in the City for one year from the date of the violation.

(e) Should a licensee make application to the City Clerk for a transfer of location and should such a transfer of a location be approved, with no change of ownership of the business, the

license fee paid for the previous license shall be applied to the new location. Each applicant for a transfer of location shall pay a transfer fee in the amount of \$300.00.

34-108 License fee scale

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the Mayor and Council regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the fees set forth in Section 34-109.

34-109 License Fees enumerated

License fees applicable to this chapter are set out as follows:

- (a) Retail dealers of distilled spirits to be consumed on the premises, \$2,500.00 per year for first fixed bar;
- (b) Retail dealers of beer to be consumed on the premises, \$600.00 per year;
- (c) Retail dealers of wine to be consumed on the premises, \$600.00 per year;
- (d) Retail dealers of beer and wine to be consumed on the premises, \$1,200.00 per year;
- (e) Retail dealers of beer sold in original packages for consumption off the premises, \$600.00 per year.
- (f) Retail dealers of wine sold in original packages for consumption off the premises, \$600.00 per year.
- (g) Retail dealers of beer and wine sold in original packages for consumption off the premises, \$1,200.00 per year.
- (h) Wholesale dealers in beer, whose principal place of business is in the City, \$250.00 per year.
- (i) Wholesale dealers in wine, whose principal place of business is in the City, \$250.00 per year.

- (j) Wholesale dealers in beer and wine, whose principal place of business is in the City, \$500.00 per year.
- (k) Any additional fixed bar at any previously licensed location for consumption of distilled spirits on the premises, \$500.00 per year.
- (l) Any movable bar at any previously licensed location for consumption of distilled spirits on the premises, \$100.00 per year.
- (m) Temporary license for nonprofit civic organizations, \$50.00 per day, maximum five days per year.
- (n) Nonprofit private club beer to be consumed on the premises, \$250.00 per year;
- (o) Nonprofit private club wine to be consumed on the premises, \$250.00 per year;
- (p) Nonprofit private club beer and wine to be consumed on the premises, \$500.00 per year;
- (q) Nonprofit private club distilled spirits to be consumed on the premises, \$1000.00 per year;
- (r) Hotel-motel in-room service, \$100.00 per year.
- (s) Wholesale dealers in distilled spirits whose principal place of business is in the City, \$1,000.00 per year.
- (t) Retail dealers of distilled spirits, beer and wine by the drink to be consumed outdoors or in a public facility pursuant to a special use permit, \$2,000.00 per event.
- (u) Patio Sales, \$200 per year
- (v) Catering License, \$200 per year.
- (w) Catering Permit for out of jurisdiction catering licensee, \$50 per event.
- (x) Wine Shop License, \$2,500 per year.
- (y) Performing Arts Facility License, \$500 per year.
- (z) Indoor Special Events Facility Permit, \$2,000 per year.

[Sections 34-110 through 149 reserved]

ARTICLE III- Alcohol Excise Tax

34-150 Per drink excise tax

- (a) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three (3) percent of the retail price or charge for such drink. Such tax shall be collected by the licensee licensed under this article, and such licensee shall remit the same to the city on or before the 20th day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the City Clerk or his designee to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended; provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.
- (b) Excise taxes received in the Office of the City Clerk after the 20th day of the month shall be charged a ten (10) percent penalty.
- (c) Any licensee who violates any provision of this article may, upon conviction, be punished by

a fine of not less than \$300.00 for each offense and/or thirty (30) days in the common jail of the county, and the license of such location may be suspended or revoked.

34-151 Excise Tax and Bond Requirement on Wholesalers

(a) There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter (.65 cents per ounce) which shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in the City of Lawrenceville. Such tax shall be paid to the City Clerk or his designee by the wholesale distributor on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in the City of Lawrenceville as follows: each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the office of the City Clerk after the twentieth day of the month shall be charged a ten (10) percent penalty. The twenty-two cents (\$0.22) per liter (.65 cents per ounce) shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of twenty-two cents (\$0.22) cents per liter or .65 cents (\$0.0065) per ounce. It shall be unlawful and a violation of this ordinance for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this ordinance for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three (3) percent of the amount of taxes collected as reimbursement for collection of the said tax.

(b) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in the City of Lawrenceville at the rate of five cents (\$0.05) per twelve-ounce container and six dollars (\$6.00) for each container of tap or draft beer or malt beverage of fifteen and one-half (15 ½) gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

SIZE OF CONTAINER	TAX PER CONTAINER
7 ounces	0.0291
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0666
32 ounces	0.1333
½ barrel (15 ½ gallons)	6.00
1 barrel (31 gallons)	12.00

Collection of fees or taxes sums due. If any person shall fail to pay the sum due under this chapter, the City Clerk or designee shall issue an execution against the person so delinquent and his property, for the amount of the delinquent fee or tax.

[Sections 34-152 through 169 reserved]

ARTICLE IV- General Regulations

34-170 Drinking in Public; Consumption of alcohol on city streets prohibited; limited in certain area

(a) Except as provided in 34-170(b) or in a licensed establishment, it shall be unlawful for any person to consume any spirituous malt, wine or other alcoholic beverage in or upon any street, alley, sidewalk or other public way or place in the City or within any public building. Except as provided in 34-170(b), it shall be unlawful for any licensed establishment to dispense any alcoholic beverage in an open container for removal from the premises, and it shall be unlawful for any person to remove from an alcoholic beverage establishment any open container of alcoholic beverage or to drink or attempt to drink any alcoholic beverage from any open container or to possess in any open container any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private, or within any public building, within the City limits of Lawrenceville.

(b) Consumption of alcohol in an open container outside of a licensed establishment shall be allowed only in the locations specified below:

(1) Inside the Historic Courthouse Building by a licensed caterer as set forth in Section 34-206 of this Chapter ; and

(2) On the patio of a licensed establishment which meets all of the requirements and is specifically licensed for patio sales in accordance with Section 34-201.

(3) Outside in an area clearly marked for identification as an outdoor alcohol drinking area pursuant to a special use alcohol permit issued by Mayor and Council to allow consumption outside of a licensed establishment. Only establishments licensed and properly permitted by the State of Georgia shall be eligible for special use permit and license under this subpart. The permit shall be granted for a maximum of three (3) consecutive days and shall be governed by all of the other rules and regulations of the City as if the alcohol was being dispensed within an establishment licensed by the City for sale of alcohol for consumption on the premises. A permit fee of \$1.00 per square foot or \$2,000.00, whichever is greater, shall be charged per event payable at the time of issuance of the permit. The applicant shall be required to provide adequate security officers for the event as established by the Mayor and Council at the expense of the applicant. Security officers shall be off duty Police Officers or Sheriff' deputies from Gwinnett County or one of its municipalities.

(4) In an Indoor Special Event Facility pursuant to a special use alcohol permit issued by the Mayor and Council setting forth specific operational requirements and restrictions for the facility that control consumption at the facility. An annual permit fee of \$2000.00 shall be charged for a permit to authorize alcohol consumption and sales at an indoor special event facility.

- a. Alcohol may only be served at an *Indoor Special Events Facility* by a licensed caterer under the provisions set forth in Section 34-206 or by the owner of the *Indoor Special Events Facility Event Facility*.

34-171 Special Use Permit Minimum Requirements

(a) The following are minimum special use permit requirements for the exemptions set forth in Section 34-170(b) (3) and (4).

(1) The applicant shall be required to provide adequate security officers for the event as established by the Mayor and Council at the expense of the applicant. Security officers used to comply with this section shall be off duty Police Officers or Sheriff' deputies from Gwinnett County or one of its municipalities.

(2) A special use permit for an Indoor Special Event Facility shall only be granted to facilities in the Downtown Overlay District.

(3) A separate event administrative application and permit shall be required for any party leasing the Indoor Special Event Facility and contracting with a licensed caterer as provided by Section 34-206 of this Chapter.

(b) The following additional regulations shall apply to dispensing and drinking alcohol pursuant to the exceptions set forth in Section 34-170 (b) (3)-(4) above and shall be made conditions of each special use permit issued for such exceptions:

(1) One drink limit. Any establishment licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic

cup, or other container other than a can, bottle, or glass, for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time and provided the alcohol is consumed in the area specified in the special use permit granted in Section 34-170(b)(4)-(5) above.

(2) Size limited to 12 ounces. No container in which an alcoholic beverage is dispensed pursuant to Section 34-170 (b) (4)-(5) shall exceed twelve (12) fluid ounces in size. No person shall hold in possession within the defined area any open alcoholic beverage container which exceeds twelve (12) fluid ounces in size.

(3) Drinking from can, bottle, or glass prohibited. It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage outside or in the defined area.

(4) Drinking Outside the Designated Area. It shall be a violation of this Chapter to take an alcoholic beverage served in the designated area outside of the designated area for any reason.

(5) Hours and Days. It shall be unlawful for any person to purchase, distribute, or consume alcoholic beverages outside of the hours of sale provisions contained in this Chapter.

34-172 Public Drunkenness

It shall be unlawful for any person to be and appear in an intoxicated condition on any public or private street or highway within the City of Lawrenceville or within the curtilage of any private

residence not in the exclusive possession of the person or persons so intoxicated or at any place of business open to the public or at any other place or public gathering or assembly or place accessible to or visible to all members of the community. Said intoxication may be caused by the excessive use of intoxicating wines, beers, liquors, or opiates, or narcotics or other dangerous or hazardous drugs, and must be made manifest by boisterousness, or by indecent condition or actions or by vulgar, profane, or unbecoming language, or loud and violent discourse of the person or persons so intoxicated, and further a person may be deemed intoxicated within the meaning of this Ordinance where his excessive use of intoxicants produces such a material change in his normal mental status that his behavior becomes unpredictable and uncontrolled, and as a result, either:

- (a) slight irritations, real or imaginary, cause outbursts of anger that find expression in acts of physical violence against another person, either police officer or citizens; or
- (b) the accused becomes unable to exercise any care for his own safety.

34-173 Possession of Alcoholic Beverages by a Minor

It shall be unlawful for a person under the age of 21 to possess alcoholic beverages within the corporate limits of the City of Lawrenceville. The Municipal Court of the City of Lawrenceville shall have jurisdiction to try and dispose of cases where a person is charged with the possession of alcoholic beverages. No person under the age of 21 years of age shall attempt to purchase any alcoholic beverage or misrepresent his/her age in any manner whatever for the purpose of obtaining alcoholic beverages. Violation of this code section shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000.00 and imprisonment not to exceed one (1) year.

34-174 Registered Agent

All licensed establishments must have and continuously maintain with the City a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of Gwinnett County. The licensee shall file the name of such agent, along with the written consent of such agent, with the City Clerk in such form as may be prescribed.

34-175 Distance from Schools and Churches

(a) No license permitting the sale of alcoholic beverages for consumption on the premises shall be issued hereunder where the place of business of the applicant is located within a distance of one hundred fifty (150) feet of any church building, or within three hundred (300) feet of any school building, educational building, school grounds, or college campus. Any location licensed hereunder may continue to operate any of the businesses described in this section in the event that any such school or church is, subsequent to the date of the granting of such license for such premises, located closer than the distances set forth herein.

(b) No license permitting the retail sale of alcoholic beverages shall be issued for any proposed location which is:

- (1) Within a distance of two hundred (200) feet of any private residence unless such residence is located in a commercially zoned (C-2, C-1, or H-C) district;
- (2) Within a distance of two hundred (200) feet of any church building;
- (3) Within a distance of two hundred (200) feet of any public library or branch thereof;

- (4) Within a distance of two hundred (200) feet of a public park;
- (5) Within a distance of five hundred (500) feet of any school building, educational building, school grounds or college campus; or

(c) As used in this section, the term “school building” or “educational building” shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in subsection (b) of O.C.G.A. 20-2-690.

(d) The term "church building" as used in this section shall mean the main structure used by any religious organization for the purpose of worship.

(e) For the purposes of this section, distance shall be measured in a straight line from the main entrance of the school or church building in question to the main entrance of the establishment for the sale of alcoholic beverages in question.

(f) As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

(g) No location which is currently licensed to sell alcoholic beverages on the effective date of this Ordinance shall be denied continued operation or denied any renewal of such license, nor shall any new owner or tenant of said location be denied a new license based upon the distance requirements of this section.

34-176 Display of license at place of business

The City alcoholic beverage license shall be kept plainly exposed to view to the public at the place of the business of the licensee at all times

34-177 Advertising; location requirements; signs

(a) As a condition of the privilege of having a license and permit pursuant to this chapter, the holder agrees not to use any outdoor advertising or signs to promote the sale of alcoholic beverages or the prices of such beverages. No advertising or signs shall be permitted to be physically attached to the windows of any such establishment. Any signs or advertising inside the permitted location shall be of a size and type that is directed to customers inside the facility.

34-178 Retailer to purchase from licensed wholesaler only

(a) No retailer shall purchase alcoholic beverages from any person other than a wholesaler licensed in accordance with State law. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter; provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.

(b) The City Clerk or his designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.

34-179 Retail consumption dealers to store inventory only on premises

No retail consumption dealer licensed under this chapter shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler.

34-180 Adding to contents prohibited

No one shall add to or permit the adding to any alcoholic beverage or refill any alcoholic beverage manufacturer's container in any manner. Notwithstanding the foregoing prohibition, retail package malt beverage licensees may fill and refill growlers with draft beer at a licensed location for retail package sales so long as the growler is not less than thirty-two (32) ounces in volume and that said growler is sealed on premises with a tamper proof plastic cap.

34-181 Licensees to maintain a copy of this chapter; employees to be familiar with terms; licensee responsible for violations

Each alcoholic beverage dealer licensed under this chapter shall make a current copy of this chapter available to employees in the licensed premises and shall instruct any person working there with respect to the terms of this chapter; and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms of this chapter.

34-182 Employment of underage persons prohibited; exceptions

(a) No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.

(b) The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets or convenience stores from selling or handling alcoholic beverages which are sold for consumption off the premises.

(c) It is unlawful for any person under the age of 18 years of age to work as an entertainer in any establishment licensed under this chapter without written consent from parents or guardian.

34-183 Underage Sales and Sales to Intoxicated Persons Prohibited

No holder or employee of the holder of a license authorizing the sale of alcoholic beverages, shall do any of the following upon the licensed premises:

(a) Sell or offer to sell any distilled spirits, wines, malt beverages, or any other alcoholic beverage to any person under the age of 21 years.

(b) The prohibition in subsection (a) of this section shall not apply with respect to the sale of alcoholic beverages to a person when such person has furnished proper identification showing that the person to whom the alcoholic beverages are being sold is 21 years of age or older. For

the purposes of this subsection proper identification means any document issued by a government agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, including but not limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.

(c) Failure to require and properly check identification. It shall be a violation not to require and properly check identification to ensure that an underage person is not sold, served, or does not have in his possession alcoholic beverages while in a licensed establishment. Identification in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or ID card issued by a governmental entity.

(d) No person who holds a license to sell alcoholic beverages by the drink shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment unless such minors are accompanied by a parent, legal guardian, or custodian; provided, however, that such minors shall be permitted in eating establishments, indoor commercial recreational establishments, or private clubs as defined in this chapter without being accompanied by a parent, legal guardian, or custodian and provided further that this section shall not apply to minors who are employees under the terms of this chapter.

(e) Sale to those intoxicated prohibited. It shall be unlawful to sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his employees.

(f) Penalties. The penalty for violation of this section by an individual shall be as follows:

(1) For the first offense, a minimum fine of \$250.00.

(2) For the second offense and subsequent violations, a minimum fine of \$500.00.

(3) Any licensed establishment where three or more violations of this section, or section 3-3-23 of the Georgia Alcoholic Beverage Laws and Regulations, have occurred within any 36-month period shall be punished as follows:

(a) For the third offense within any 36-month period, suspension of license(s) for a period not to exceed 90 days.

(b) For the fourth and any subsequent violation within any 36-month period, suspension of license(s) for a period not to exceed one year.

34-184 Promotions and sales

(a) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:

(1) Offer or deliver any free alcoholic beverage to any person or group of persons.

(2) Deliver more than one alcoholic beverage to one person at a time.

(3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public.

(4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public.

(5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public.

(6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (.947 liters), except to two or more persons at any one time.

(7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week.

(8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.

(b) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less than one calendar week.

(c) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (a) of this section.

(d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.

(e) It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.

(f) The police department shall have responsibility for the enforcement of this article.

(g) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcohol beverages must be priced separately and all

customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.

(h) Any person deemed guilty of violating this section may be punished by a fine not to exceed \$1000 and/or by imprisonment not to exceed 1 year in jail. Licensees may further be subject to revocation proceedings.

34-185 Sale on election days

(a) The sale of wholesale and retail of alcoholic beverages, shall be lawful during the polling hours of any election; provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

(b) All Ordinances and parts of Ordinances in conflict herewith are hereby expressly repealed.

34-186 Bring your own bottle (brown-bagging) prohibited

It is prohibited for any person to bring in his own alcoholic beverage (brown bag) in any establishment either licensed or unlicensed to serve alcoholic beverages.

34-187 Removing a partially consumed bottle of wine from a restaurant

A partially consumed bottle of wine purchased with a meal from a restaurant and resealed may be removed from the restaurant by a patron as permitted by O.C.G.A. §§ 3-6-4 and Ga. Reg. 40-6-253(2).

34-188 Package sales not permitted

Nothing in this Ordinance shall be construed to permit the package sale of distilled spirits or spirituous liquor.

34-189 Criminal Gangs and Criminal Activity

The Mayor and Council shall have the right to revoke any license or permit issued under this chapter after a hearing if by a preponderance of the evidence it is established that the licensed establishment is participating in helping, fostering, harboring or encouraging the unlawful activities described in Chapter 31, Section 120 of this Code or any other criminal activity.

ARTICLE V-Audits, Inspection, Penalties and Revocation/Suspension of License

34-190 Records and Audits of licensees

(a) All licensed establishments must maintain the following records for a three-year period and make them available to authorized City representatives for audit at the licensed premises:

- (1) Monthly income or operating statements.
- (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
- (3) Daily cash register receipts such as Z tapes or guest tickets.
- (4) Monthly state sales and use tax reports.
- (5) Daily purchase receipts for liquor, beer and wine.
- (6) Federal and State income tax returns.

(b) The City Clerk and the Lawrenceville Police Department are authorized to conduct an audit of the records and books of any licensee at any time to ensure compliance with this Chapter. The City Clerk or Police Department may designate a City employee or other designated person to perform the audits authorized in this Code.

(c) The City Clerk, Lawrenceville Police Department or authorized designee conducting an audit shall notify the licensee of the date, time and place of the audit not less than 24 hours prior to the audit.

(d) A licensee who fails to cooperate with the audit authorized under this section shall be subject to revocation of their license.

(e) A licensee who is unable to produce the records required to be maintained by this section shall be subject to revocation of their license.

(f) A licensee who produces incomplete, erroneous, or fraudulent records shall be subject to revocation of their license.

34-191 Inspection of licensed establishments by the police department

In addition to the audit provisions set forth in Section 34-190, sworn officers of the police department shall have the authority to inspect establishments licensed under the alcoholic beverages Ordinances of the City during the hours in which the premises are open for business.

These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other City officer to conduct inspections authorized by other provisions of this Code.

34-192 Suspension or revocation of license

(a) A license may be suspended or revoked by the City Clerk where the licensee furnishes fraudulent or untruthful information in the application for a license or for failure to pay all fees, taxes or other charges imposed under the provisions of this chapter.

(b) Whenever the state shall revoke any permit or license to sell alcoholic beverages, the City license shall thereupon be automatically revoked. The City Clerk shall take the necessary steps to see that signs are removed and that all alcoholic beverage sales cease.

(c) Any licensed establishment that is found to be in violation of this Ordinance shall be subject to immediate license revocation or suspension.

(d) The City Clerk shall revoke the license of any licensee whose license has been suspended three or more times in any consecutive 12-month period.

(e) The City Clerk shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.

(f) The City Clerk may suspend or revoke the license of any establishment which does not meet the licensing qualifications set forth in this chapter at any time such knowledge becomes known to him/her.

(g) An act or omission of a licensee, owner of more than twenty (10) percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this chapter will subject the licensee to suspension or revocation of its license in accordance with the provisions of this chapter, when the City Clerk determines to his own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues; provided, however, in the case of an employee, the City Clerk must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.

(h) Whenever it can be shown that a licensee under this chapter no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the City, the license may be suspended or revoked.

(i) Wherever this chapter permits the City Clerk to suspend any license issued under this chapter but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

(1) No suspension shall be for a period of time longer than the time remaining on such license.

(2) The following factors may be considered on any revocation or suspension as set out above:

- a. Consistency of penalties mandated by this chapter and those set by the City Clerk;
- b. Likelihood of deterring future wrongdoing;
- c. Impact of the offense on the community;
- d. Any mitigating circumstances or remedial or corrective steps taken by licensee;
- e. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

34-193 License Revocation/Suspension Hearings

(a) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section. This provision does apply to pouring permits for employees.

(b) The City Clerk shall provide written notice to the applicant or licensee of his or her order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or licensee of the right to appeal under the provisions of this chapter. Any applicant or licensee who is aggrieved or adversely affected

by a final action of the City Clerk may have a review of a final action by appeal to the Zoning Board of Appeals. Such appeal shall be by written petition, filed in the office of the City Clerk within 15 days after the final order or action of the City Clerk and, in order to defray administrative costs, must be accompanied by a filing fee of \$500.00; except that the filing fee for appeals relating only to pouring permits for employees shall be \$50.00. The City Clerk, at his/her discretion, may waive or reduce the filing fee amount if it is determined the fee would create a hardship on the individual filing the appeal. The Zoning Board of Appeals may, at the request of the appellant, refund the filing fee by a majority vote.

(c) A hearing shall be conducted on each appeal within 30 days of the date of filing with the City Clerk unless a continuance of such date is agreed to by the appellant and the City Clerk. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross examine witnesses. The appellant shall have the burden of proof on any such appeal.

(d) Before hearing an appeal, each member of the Zoning Board of Appeals shall confirm on the record that he or she is not related to any owner of the licensed establishment in question in the appeal being considered and that he or she has no financial interest in the outcome of the appeal. Should any member be unable to truthfully make such confirmation, that member shall not serve on that appeal, and the case shall be heard by the remaining members of the Zoning Board of Appeals.

(e) The Zoning Board of Appeals shall be authorized to affirm the recommendation of the City Clerk, reduce a proposed revocation to a suspension for a certain number of days certain, or to reduce the duration of a proposed suspension.

(f) The findings of the Zoning Board of Appeals shall be forwarded to the City Clerk within 15 days after the conclusion of the hearing, and it shall be the duty of the City Clerk to notify the appellant of the action of the Zoning Board of Appeals.

(g) The findings of the Zoning Board of Appeals shall not be set aside unless found to be:

- (1) Contrary to law or Ordinances;
- (2) Unsupported by substantial evidence on the records as a whole; or
- (3) Unreasonable.

(h) The findings of the Zoning Board of Appeals shall be final unless appealed within 30 days of the date of the finding by certiorari to the Superior Court of Gwinnett County.

34-194 Notice

For the purpose of this chapter, notice shall be deemed delivered when personally served or when served by certified mail, within three days after the date of deposit in the United States mail.

34-195 Penalties for violation of chapter

Except as otherwise provided in this chapter, any person who violates any provisions of the sections in this chapter may, upon conviction in the municipal court, be punished by a fine of not more than \$1,000.00 for each offense and/or one (1) year in jail.

ARTICLE VI-Regulation of Alcohol Sales-Consumption on the Premises

34-200 Retail Sales of Malt Beverages and Wine for Consumption on the Premises

No beer or wine may be sold by the drink for consumption on the premises where sold except pursuant to a license and under one of the following categories:

(a) In restaurants with a seating capacity of 50 people (excluding stools and counter seating), regularly serving prepared food, with a full service kitchen. A full service kitchen will consist of a three compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Gwinnett County health and fire departments. Such restaurant shall regularly serve food every hour it is open and derive at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of beer and wine.

(b) In indoor commercial recreation establishments.

(c) In an indoor publicly owned civic and cultural center.

(d) In zoning districts where such restaurants are conforming uses or where such establishments are incident to a motel.

(e) In a Performing arts facility where the facility meets the definition for a performing arts facility set forth in Sec. 34-102 (establishment located in the Downtown Overlay District; operates in a building owned by the City of Lawrenceville, has its principal objective or business the presentation of live music, mainline dramatic arts, plays, theatre productions and stand up comedy; and does not feature, show, allow, promote or advertise adult businesses as defined and regulated in Chapter 32 of the Lawrenceville Code, including but not limited to adult dancing establishments, adult mini- motion picture theatres, adult motion picture theatres, adult motion picture arcades and erotic dance establishments,) provided however that a performing arts facility license shall not authorize the licensee to serve or sell alcohol in any location other than the performing arts facility.

1. A business meeting the definition of a performing arts facility under this Code shall be eligible to apply for and be considered for an annual license to allow alcohol consumption on the premises from the City Clerk in the same manner as set forth in Article II of this Chapter.

2. A business granted a performing arts facility license for consumption of alcohol on the premises shall be required to obtain all required licenses from the State and to follow all state and local laws, ordinances and rules governing the consumption of alcohol on the premises.

3. Alcohol may also be sold and/or dispensed at a performing arts facility as defined in Section 34-102 of this Code by a licensed caterer in the same manner set forth in Section 34-206 of this Code without the need for the facility or the caterer to obtain a performing arts facility license.

4. In addition to the hours of sale requirements set out in section 34-201 of this division, alcohol may not be dispensed at a performing arts facility than earlier than one (1) hour before the start of a performance or later than one hour after the performance has ended.

(f) In a wine shop under the conditions set forth in Section 34-209 of this Chapter.

34-201 Hours of Sale Beer/Wine for consumption on the premises

(a) Beer and/or wine shall not be sold for consumption on the premises except between the hours of 9:00 a.m. until 1:55 a.m. Monday through Saturday. It shall be unlawful for businesses holding a consumption on the premises license to fail to remove from its retail service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages or to otherwise allow the consumption of alcoholic beverages on its premises 1 hour or more after the business is prohibited from selling, dispensing, or delivering alcoholic beverages to any customer, patron or guest of the business.

(b) No consumption on the premises license holder shall furnish, sell, or offer for sale any beer/malt beverage or wine at any time in violation of state law, local ordinance or regulation, or special order of the Mayor and Council.

(c) The sale of Beer and/or wine for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in: (i) any licensed establishment which derives at least fifty (50) percent of this total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served; (ii) in any licensed establishment which derives at least fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging, and (iii) an indoor publicly owned civic and cultural center under the standards established by the required special use permit.

(d) Beer and/or wine may be sold for consumption on the premises from 12:00 midnight to 2:00 a.m. on any Monday which is New Year's Day, January 1 of any year.

34-202 Distilled Spirits Consumption on the Premises

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

(a) In restaurants regularly serving prepared food, with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Gwinnett County health and fire departments. Such restaurant shall regularly serve food every hour it is open and derive at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.

(b) In indoor commercial recreation establishments.

(c) In an indoor publicly owned civic and cultural center.

(d) In zoning districts where such restaurants are conforming uses or where such establishments are incident to a motel.

(e) Any restaurant or indoor commercial recreational establishments where distilled spirits are to be consumed on the premises shall also meet the following requirements:

(1) Such establishments shall have a seating capacity of at least 50 people excluding stools and counters;

(2) The establishment shall be used, advertised and held out to the public as a place where meals are served and meals are actually served;

(3) Such establishment shall serve two meals per day for at least six days per week, with the exception of holidays, vacations, and periods of redecorating, and the serving of such meals shall be the principal business conducted with the serving of distilled spirits to be consumed on the premises as incidental thereto. Eating establishments serving full course meals during an extended period of not less than six (6) hours per day at least six (6) days per week shall be deemed to be serving two meals per day.

(f) In a performing arts facility which holds a performing arts facility alcohol license and which meets all of the definitional requirements set forth in this Chapter, provided however that a

performing arts facility license shall not authorize the licensee to serve or sell alcohol in any location other than the performing arts facility.

34-203 Distilled Spirits Consumption on the Premises Hours and days of sale and Additional Restrictions

(a) Distilled spirits shall not be sold for consumption on the premises except between the hours of 9:00 a.m. until 1:55 a.m. Monday through Saturday. It shall be unlawful for businesses holding a consumption on the premises license to fail to remove from its retail service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages or to otherwise allow the consumption of alcoholic beverages on its premises 1 hour or more after the business is prohibited from selling, dispensing, or delivering alcoholic beverages to any customer, patron or guest of the business.

(b). No consumption on the premises license holder shall furnish, sell, or offer for sale any distilled spirits at any time in violation of state law, local ordinance or regulation, or special order of the Mayor and Council.

(c) The sale of distilled spirits for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in: (i) any licensed restaurant which derives at least fifty (50) percent of this total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served; (ii) in any licensed

establishment which derives at least fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging, and (iii) an indoor publicly owned civic and cultural center under the standards established by the required special use permit.

(d) Distilled spirits may be sold for consumption on the premises from 12:00 midnight to 2:00 a.m. on any Monday which is New Year's Day, January 1 of any year.

(e) The only advertisement or sign indicating that distilled spirits may be consumed on the premises shall be a menu stating the name, brand or type of beverage served and the price per serving. No other sign may be displayed either within or without the eating establishment indicating that distilled spirits are sold or may be consumed on the premises.

(f) Consumption sales only. Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or bottle.

34-204 No consumption outside premises

Except as allowed in Sections 34-170 and 34-208, the following restrictions shall apply:

(a) It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to the carrying out of wine or malt beverages for consumption at a publicly owned or privately owned golf course.

(b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

(c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

34-205 Noise from establishments prohibited

Noise will not be allowed that can be heard outside the physical boundaries of establishments licensed under this chapter.

34-206 Licensed caterers

- (a) Notwithstanding any other provision of this chapter to the contrary, a licensed caterer shall be permitted to sell alcoholic beverages for consumption on the premises of a duly authorized catered event held at one of the following locations:
- (1) Performing arts facilities as defined in this Chapter;
 - (2) Indoor publicly owned civic and cultural centers as defined in this Chapter (the City owned Depot Building, the City owned Oakes House, and the Historic Courthouse);
 - (3) Indoor Special Event Facilities as defined in this Chapter; and
 - (4) At an authorized outdoor event which has been granted a special use permit in accordance with Section 34-170(b) (3)
- (b) A licensed caterer authorized under this Section must be a retailer dealer licensed pursuant to state law and must possess the following licenses and permits:

- (1) A license permitting the sale of alcoholic beverages for consumption on the premises issued by the city or another licensing jurisdiction
- (2) An alcoholic beverage catering license issued by the city or another licensing jurisdiction.
- (3) An off-premises permit for the specific event being catered.

(c) All licensed alcoholic beverage caterers desiring to engage in activities permitted by this section shall make written application to the city clerk for the appropriate off-premises permit. The application shall include, but not be limited to, the name, address and telephone number of the applicant, the date, address and time of the proposed catered event and the licensed alcoholic beverage caterer's state license number. All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths. If an applicant has had their license to sell alcohol by the drink for consumption on the premises issued by another jurisdiction the application shall be accompanied by an off-premises permit fee of fifty dollars (\$50.00). If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded. If an applicant has had their license to sell alcohol by the drink for consumption on the premises issued by the city such off-premises permit fee is waived. However, such permit must still be obtained.

(d) The city clerk shall have authority to prescribe forms for applications. Failure to furnish any requested data shall automatically serve to dismiss the application with prejudice.

(e) Any untrue or misleading information contained in, or material statement omitted from, an original or renewal application for an off-premises permit shall be cause for the denial or revocation thereof.

(f) If such off-premises permit is granted by the city clerk, it shall be good only for the specific event at the specified address and time set forth in the application, not in excess of five (5) days.

(g) Except as set forth above in this section, an off-premises permit holder must comply with all other provisions set forth in this chapter.

34-207 Pouring permit Required

(a) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or serve in any managerial position, by an establishment holding a license under this chapter until such person has applied for and received a permit from the City of Lawrenceville Police Department, indicating that the person is eligible and has been issued a pouring permit.

(b) This section shall not be construed to include employees whose duties are limited solely to those of host (ess), bus boy(s), cook(s), or dishwasher(s). Poured alcoholic beverages shall be transported from point of dispensing to the customer only by employees that possess a City of Lawrenceville pouring permit.

(c) No permit shall be processed until such time as a signed application has been filed with Police Department, and a fee as established by the Mayor and Council has been paid. The application shall be made on forms approved by the Chief of Police.

(d) The Police Chief or his designee shall conduct a background check on each applicant to determine whether the applicant is eligible to hold a permit. If it is found that the person is not eligible for a permit, the Police Chief or his designee shall notify the person, in writing, that they are not eligible to receive a permit, the cause of such denial and their right to appeal.

(e) No person shall be granted a pouring permit if the Police Chief or his designee determines that such person has been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages , keeping a place of prostitution, solicitation of sodomy, or any sexual related crime within a period of five years prior to the date of application or the applicant remains on parole or probation for a violation of such a crime or any felony. Completed sentences under the Georgia First Offender Act shall not apply to such consideration. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a City or county Ordinance shall not, by itself, make a person ineligible for an alcohol pouring permit. An applicant who is found to have falsified an application or any information therein shall be denied a permit.

(f) An alcohol pouring permit shall be issued for a period of one calendar year from the date of the original application. The alcohol pouring permit must be in the possession of the holder while the holder is working at the licensed establishment. This permit must be available for inspection by members of the Police Department or other City representatives.

(g) All permits issued through administrative error shall be terminated and seized by the Police Chief or his designee.

(h) Replacement permits may be issued upon paying one-half of the fees charged for an original permit. The original expiration date shall remain in force for any replacement permit.

(i) All permits issued under this chapter remain the property of the police department and shall be produced for inspection upon the demand of any officer or designee of the police department.

(j) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless the employee or manager has in their possession a current valid City pouring permit. For new employees, a receipt issued by the City Police Department may be used for a maximum of 30 days from the date of its issue. Licensees are required by this chapter to inspect and verify that each employee required to do so has in their possession a valid current alcohol pouring permit.

(k) The penalty for service of alcoholic beverages to a minor by an individual who holds an alcoholic beverage pouring permit shall be as follows:

- (1) For the first offense, a minimum fine of \$250.00;
- (2) For the second offense and subsequent violations, a minimum fine of \$500.00;
- (3) Any individual holding an alcoholic beverage pouring permit where three or more violations of serving alcoholic beverages to a minor have occurred within any 36-month period shall be punished as follows:
 - i. For the third offense within any 36-month period, suspension of the alcoholic beverage pouring permit for a period not to exceed 90 days.
 - ii. For the fourth and any subsequent violation within any 36-month period, suspension of the alcoholic beverage pouring permit for a period not to exceed one year.

34-208 Open area and patio sales

- (a) Alcoholic beverage sales may be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the City Clerk.
- (b) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.

(c) The height of such structure shall be a minimum of three-and-one-half feet above ground level. It does not have to be solid nor does it have to restrict visibility into or out of the patio/open sales area. It must be submitted to and approved by the head of the City's Planning and Zoning Department.

(d) The only exit from this type area is to be through the licensed establishment's main premises and through an approved fire exit, not for general public use unless an emergency exists. The fire exit shall be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.

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

34-209 Wine Shops

(a) Notwithstanding any other provision of this chapter to the contrary, the City Clerk is authorized to issue a wine shop license to businesses:

1. located in the Downtown Overlay District; and
2. which meet all other license application requirements set forth in this Chapter; and
3. which operate primarily as a retail package dealer and earn a minimum of 70% of annual gross revenue from package sales of wine.

(b) A wine shop established under this section may:

1. sell and serve beer and wine by the drink for consumption on the premises except on Sundays, and
2. sell wine and beer by the package.

(c) Nothing in this subsection shall prohibit a wine shop from serving food provided it meets all of the requirements for restaurants in the General Code of Ordinances and is properly permitted by the City.

(d) All other existing wine shops currently operating under a special use permit shall be afforded the rights of a wine shop described herein, though no other conditions of an existing special use permit shall be impacted. A change of ownership shall terminate any rights extended by a Special Use Permit issue to a wine shop and a new owner shall be required to obtain a new Special Use Permit to continue to operate a wine shop.

34-210 Private Clubs

(a) Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable Ordinances and regulations of the City governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing Ordinances, rules and regulations of the City.

(b) Veteran organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the state income tax law shall not be required to operate a food establishment serving prepared food as a condition of licensing for consumption on the premises. However, any such organization selling or dispensing alcoholic beverages shall be subject to all Ordinance regulations dealing with general licensing and consumption on the premises establishments.

(c) Alcoholic beverages shall not be sold for consumption on the premises at a private club except between the hours of 9:00 a.m. until 1:55 a.m. Monday through Saturday.

(d) No private club consumption on the premises license holder shall furnish, sell, or offer for sale any alcoholic beverages at any time in violation of state law, local ordinance or regulation, or special order of the Mayor and Council. It shall be unlawful for private clubs holding a consumption on the premises license to fail to remove from its service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages or to otherwise allow the consumption of alcoholic beverages on its premises 1 hour or more after the club is prohibited from selling, dispensing, or delivering alcoholic beverages to any customer, patron or guests.

(e) The sale of alcoholic beverages for consumption on the premises is permitted in a private club on Sundays from 12:30 p.m. until 12:00 midnight in: (i) any licensed establishment which derives at least fifty (50) percent of this total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served;

(ii) in any licensed establishment which derives at least fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging, and (iii) an indoor publicly owned civic and cultural center under the standards established by the required special use permit.

(f) Alcoholic beverages may be sold for consumption on the premises at a private club from 12:00 midnight to 2:00 a.m. on any Monday which is New Year's Day, January 1 of any year.

[Sections 34-211 through 249 reserved]

ARTICLE VII-RETAIL PACKAGE SALES OF MALT BEVERAGES AND WINE

34-250 Type of retail establishment where permitted

(a) No beer or wine shall be sold at retail package except in the following establishments:

(1) in retail establishments devoted principally to the retail sale of groceries and food products and which are located in zoning districts in which food establishments are permitted as a conforming use; or

(2) in retail establishments devoted principally to the retail sale of fish bait and fishing equipment and which are located in zoning districts in which retail sale of fish bait and fishing equipment are a permitted use; or

(3) in a licensed wine shop as set forth in Section 34-209; or

(4) in a licensed beer growler establishment where beer and malt beverages are sold.

34-251 Hours and days of sale

(a) No retail license holder holding a license under this article for sale of beer/malt beverages, wine, or both shall furnish, sell or offer for sale any beer/malt beverage or wine except between the hours of 7:00 a.m. until 12:00 midnight Monday through Saturday and 12:30 p.m. until 11:30 p.m. on Sunday.

(b) No retail license holder shall furnish, sell, or offer for sale any beer/malt beverage or wine at any time in violation of state law, local ordinance or regulation, or special order of the Mayor and Council.

34-252 Use of tags or labels to indicate prices

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

34-253 Quantity sale requirements

Single cans or bottles or other containers of alcoholic beverages may be sold.

[Sections 34-255 through 299 reserved]

ARTICLE VIII - WHOLESALERS

34-300 Wholesalers

Any persons, firm or corporation designed to sell at wholesale any beer or wine in the incorporated area of the City shall make application to the City Clerk for a license to do so, which application shall be in writing on the forms authorized and prescribed by the City Clerk. No beer or wine shall be delivered to any retail sales outlet in the City except by a duly licensed wholesaler in licensed vehicles. The name of the wholesale distributor shall be clearly marked on the vehicles.

[Sections 34-301 through 349 reserved]

ARTICLE IX-HOTEL-MOTEL IN-ROOM SERVICE

34-350 License

(a) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom which contains beer and/or wine only, 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 beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.

(b) Any hotel-motel that acquires this in-room service shall also be required to obtain a consumption on the premises license and meet all of the requirements of this chapter.

(c) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so. A license fee of \$100.00 shall be imposed to provide only beer and/or wine by "in-room service."

(d) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.

(e) Keys for in-room service shall only be sold to guests between the hours of 11:00 a.m. until 12:00 midnight Monday through Saturday and between the hours of 12:30 p.m. until 12:00 midnight on Sunday.