

ORDINANCE NO.: O030902

CITY OF DAWSONVILLE
ALCOHOL ORDINANCE
Licensing, Control, Taxation and Regulation

Adopted by the Mayor and City Council
of City of Dawsonville, Georgia
September 2, 2003

CITY OF DAWSONVILLE
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ORDINANCE NO.: O030902

AN ORDINANCE TO AMEND ORDINANCE NO. III, BEING THE ORDINANCE FOR REGULATION OF THE PACKAGE SALE OF MALT BEVERAGES AND WINE WITHIN THE CITY LIMITS OF DAWSONVILLE; TO DELETE ORDINANCE NO. III ALONG WITH PRIOR AMENDMENTS THERETO IN THEIR ENTIRELY AND SUBSTITUTE IN PLACE THE NEW ORDINANCE NO. O030902; TO FIX AN ANNUAL LICENSE FEE FOR THE PACKAGE SALE OF MALT BEVERAGES AND WINES WITHIN THE MUNICIPALITY OF DAWSONVILLE, DAWSON COUNTY, GEORGIA; TO PROVIDE RULES AND REGULATIONS UNDER WHICH SUCH SALES MAY BE CONDUCTED; TO PROVIDE FOR THE LICENSING, CONTROL, TAXATION, AND REGULATION OF THE SALE OF DISTILLED SPIRITS, MALT BEVERAGES, AND WINE FOR BEVERAGE PURPOSES BY THE DRINK FOR CONSUMPTION ONLY ON THE PREMISES WHERE SOLD IN THE CITY OF DAWSONVILLE; TO PROVIDE FOR THE IMPOSITION OF AN EXCISE TAX; TO PROVIDE PUNISHMENT FOR VIOLATIONS HEREOF; AND FOR OTHER PURPOSES AS SET FORTH HEREIN

WHEREAS, the City Council of the City of Dawsonville, Georgia, is authorized and empowered pursuant to O.C.G.A. §3-3-2 et seq., to regulate the sale of beer and wine within the geographical confines of said municipality; and

WHEREAS, the City of Dawsonville, Georgia previously enacted a Beer and Wine Ordinance, which is reflected in Ordinance No. III, dated December 2, 1976, along with all prior amendments thereto; and

WHEREAS, the City of Dawsonville, Georgia, modified and updated said ordinance on or about May 27, 1997, wherein said ordinance provide for the package sale of malt beverages and wine along with the sale of malt beverages and wine for beverage purposes by the drink for consumption on the premises; and

WHEREAS, the citizens of the City of Dawsonville approved a referendum for the purpose of determining whether or not the City of Dawsonville should be authorized to issue licenses to sell distilled spirits for beverage purposes by the drink for consumption only on the premises where sold pursuant to an election on March 18, 2003; and

WHEREAS, Mayor and Members of City of Dawsonville, Georgia City Council desire to combat the undesirable secondary effects of businesses where distilled spirits, malt beverages, and wine may be sold for beverage purposes by the drink for consumption only on the premises where sold; and

WHEREAS, the Mayor and Members of City of Dawsonville, Georgia City Council desire to avoid negative experiences of other counties and municipalities regarding problems with certain businesses where distilled spirits, malt beverages, and wine are sold for beverage purposes by the drink for consumption only on the premises where sold, which include criminal activity, undesirable community conditions, the depression of property value in the areas surrounding certain establishments, increased expenditure for law enforcement, an increased burden on the judicial system because of increased criminal behavior, and acceleration of community blight (collectively referred to hereinafter as the "pernicious secondary effects"); and

WHEREAS, the Mayor and Members of City Council of City of Dawsonville, Georgia have a substantial government interest in attempting to preserve the quality of life for the citizens of City of Dawsonville; and

WHEREAS, the Mayor and Members of City Council of City of Dawsonville, Georgia desire to establish a comprehensive and consolidated ordinance for the licensing, control, taxation, and regulation of the sale of alcoholic beverages by amending the City's previous ordinance; and thus,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dawsonville, Georgia, and it is now, therefore, hereby ordained by the authority of the City Charter and the above-referenced authority, as follows:

ARTICLE I
GENERAL PROVISIONS

SECTION 1: DELETION OF PREVIOUS ORDINANCE & TITLE

A) Ordinance Number III of the City of Dawsonville, Georgia, this being the Ordinance for Regulation of the sale of Malt Beverages and Wine within the City limits of Dawsonville, Georgia, along with all amendments thereto, are deleted in entirety, except as provided for herein, and the following is substituted in place thereof, effective immediately upon being approved by the City Council and successive years thereafter as follows:

B) This ordinance shall be known as the "City of Dawsonville Alcohol Ordinance, Licensing, control and Regulation."

SECTION 2: LICENSE IS A PRIVILEGE

A) Alcoholic beverages may be sold in the City of Dawsonville under a license granted by the Mayor and Members of City Council upon the terms and conditions provided in this ordinance.

B) All licenses issued pursuant to this ordinance 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 ordinance and state law.

C) All licenses granted pursuant to this ordinance shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."

D) Any holder of a license issued in accord with this ordinance 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.

SECTION 3: DEFINITIONS

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

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

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

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 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic" beer, which is made by fermentation of any infusion or decoction of barley, malt, hops or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include saki, known as Japanese rice wine.

City Council means the Mayor and Members of City Council of City of Dawsonville, Georgia.

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

Eating establishment means any, public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments. An eating establishment shall be prepared to serve food every hour the establishment is open and shall derive at least fifty percent of the gross receipts annually from the sale of prepared meals or food.

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

Governing authority means the Mayor and Members of City Council of City of Dawsonville, Georgia.

Hotel means any building or other structure providing sleeping accommodations for hire to the general public, either transient, permanent or residential. Such businesses shall 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 ordinance, and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition.

Indoor commercial recreational establishment means and is limited to an establishment that:

- 1) regularly serves prepared food with a full service kitchen (a full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments) prepared to serve food every hour the establishment is open and deriving at least fifty percent 50% of its total annual gross sales from the sale of prepared meals or food and recreation activities; and
- 2) the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning a use that 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. Outdoor commercial recreation is not included, nor shall concession sales of

alcoholic beverages be permitted in an outdoor commercial recreational establishment. Bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments.

Licensee means the individual to whom a license for the sale or distribution of distilled spirits, malt beverages, or wine under this ordinance. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees.

Manufacturer shall mean any maker, producer, brewer or bottle of malt beverages, beer, and/or wine.

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

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.

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.

Residence shall mean the act or fact of lining or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

Resident shall mean a person whose primary residence is within the territorial limits of the city.

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

Retail dealer means any person who sells alcoholic beverages in unbroken packages at retail only to consumers and not for resale.

Wholesaler or Wholesale dealer shall mean any person who sells malt beverages, beer, and/or wine or distilled spirits to other wholesale dealers, retail dealers, or to retail consumption dealers.

Wine means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes 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.

SECTION 4: LICENSES, GENERALLY

All licenses issued under this ordinance shall:

- A) permit the licensees to sell or distribute the beverage or beverages for which the license is issued inside the corporate limits of the City of Dawsonville, Georgia pursuant to the terms of this ordinance and consistent with the laws of the State of Georgia and the United States;

- B) expire on December 31 of each year and an application for renewal shall be made annually on or before the 30th day of November each year. Any licensee must annually meet the requirements set forth by the City Council in order to obtain a renewal of any license. Any licensee making proper application with supporting documents for a license to operate during the following calendar year, and having filed such application before November 30, shall be permitted to continue to operate pending final approval of the licensee's application for the following year if final approval is not granted before January 1;
- C) not be transferred from one person to another or from one location to another without prior approval from the City Council upon written application from the licensee; and
- D) permit the licensee to sell distilled spirits, malt beverages, wines, or any combination thereof, depending upon the license issued, for beverage purposes by the drink for consumption only on the premises where sold and/or the retail package sales of malt beverages and wines depending upon the license issued.

SECTION 5: TYPES OF LICENSES TO BE ISSUED

Only the following licenses shall be issued under this ordinance:

- 1) Malt beverages by the drink for consumption on the premises;
- 2) Wine by the drink for consumption on the premises;
- 3) Distilled spirits by the drink for consumption on the premises;
- 4) Combination licenses:
 - a. Malt beverages and wine to be served by the drink for consumption only on the premises.
 - b. Distilled spirits, malt beverages, and wine by the drink for consumption only on the premises.
- 5) Malt beverages:
 - a. Wholesale.
 - b. Retail package.
- 6) Wine:
 - a. Wholesale.
 - b. Retail package.
- 7) Combinations:
 - a. Wholesale malt beverages and wine.
 - b. Retail package malt beverage and wine.

SECTION 6: SALE OR POSSESSION FOR SALE WITHOUT LICENSE OR BEYOND BOUNDARIES OF PREMISES COVERED BY LICENSE, PENALTIES.

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the City to sell or possess for sale the 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 \$300.00.

SECTION 7: PENALTIES FOR VIOLATION OF ORDINANCE

Any person who violates any provision of this ordinance may, upon conviction, be punished by a fine of not less than \$300.00 for each offense and/or 30 days in jail, unless a different penalty is set out in this ordinance.

SECTION 8: LOCATION OF LICENSED OPERATION: DISTANCE REQUIREMENTS FROM SCHOOLS AND CHURCH BUILDINGS

- A) Licenses shall be issued only for locations in areas zoned Commercial.
- B) No person may sell or offer to sell any alcoholic beverage in or within 100 yards of a church or within 100 yards of any school building, daycare facility, or alcohol treatment facility.
- C) The school building referred to in this section 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. The term "school building" includes only those structures in which instruction is offered.
- D) The term "church building" as used in this section shall mean the main structure used by any religious organization for purposes of worship.
- E) The term "alcohol treatment facility" shall include any alcohol treatment facility operated by the state or the county government.
- F) For purposes of this section, distance shall be measured in a straight line from the point of the main structure of the daycare, school, church building, or alcohol treatment facility that is closest to the establishment for the sale of alcoholic beverages in question, to the point of the main structure of the building for the sale of alcoholic beverages in question that is closest to the daycare, school, or church building. (In other words, measure in a straight line from corner to corner).
- G) 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 or daycare or alcohol treatment facility 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.

SECTION 9: SEPARATE APPLICATION AND SEPARATE LICENSE FOR EACH LOCATION OF SALE

Separate applications must be made for each location and separate licenses must be issued.

SECTION 10: QUALIFICATIONS OF LICENSEE

- A) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. The applicant must not be less than 21 years of age; and must be a resident of City of Dawsonville for not less than six consecutive months before filing the application unless the applicant specifically designates a resident of City of Dawsonville who has resided within the city for at least six months before filing the application, which resident shall be responsible for any matter relating to the license.
- B) If the applicant is a partnership or corporation, then the provisions of this section shall apply to all its partners, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. If the majority stockholder is

not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this ordinance. In the case of a partnership, the license will be issued to all the partners owning at least 20 percent of the partnership; or if no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership shall be licensed.

- C) If the applicant is a non-profit club, then the managing agent may be an officer of the organization rather than a full-time employee if such managing agent is qualified in accord with this section.
- D) No person shall be granted any alcoholic beverage license unless proper information establishes to the satisfaction of City Council or its designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or pled guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexually related crime within a period of two (2) years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, has been so convicted in the two (2) years preceding the filing of the application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a city ordinance shall not, by itself, make an applicant ineligible for an alcohol license. If any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, been convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages, including sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, then the license shall be immediately revoked and canceled.
- E) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within two (2) years prior to the filing of application for such license.
- F) It shall be unlawful for any city employee directly involved in the issuance of alcoholic beverage licenses under this ordinance to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the City.
- G) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the City previously revoked within two (2) years prior to the filing of the application.
- H) The City Council may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.
- I) All licensed establishments must have and continuously maintain in the City a registered agent as indicated in subsection (A). The licensee shall file the name of such agent, along with the written consent of such agent, with the City Clerk and shall be in such form as the City Council may prescribe.

- J) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.
- K) A license application may be denied to any applicant for any alcoholic beverage license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- L) The City Council may, in its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If circumstances are such that granting of the license would not be in the best interest of the general public, then such circumstances may be grounds for denying the application.
- M) For purposes of this ordinance, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which a defendant who was allowed to avail themselves of the Georgia First Offender Act (1968 Ga. Laws, page 324), as amended. Except, however, that any such offense shall not be ignored if the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

SECTION 11: APPLICATION FORMS

- A) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the City Council.
- 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 resident address of the partners; if a corporation, the names of the officers; the names and address of the registered agent for service of process; the name of the manager(s); and the name of all shareholders holding more than 20 percent of any class of corporate stock, or any other entity having a financial interest in each entity that owns or operates the establishment for which a license is sought. If the manager changes, the applicant must furnish the business license director and sheriff's department the name and address of the new manager and other information as requested within ten (10) days of such change.
- C) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the City Council to insure compliance with the provisions of this ordinance. The failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.
- D) The fingerprints provided shall be forwarded to the Sheriff's Department and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the two (2) years immediately preceding the date of the application.
- E) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.
- 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) The City Council shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this ordinance.

SECTION 12: LICENSE FEE SCALE

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the Mayor and Members of City Council regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the Mayor and Members of City Council and kept on file in City Hall. The full amount of the fee, plus the full amount of the investigative and administrative fee, shall be submitted with the application. If the application is denied, the funds submitted, less the investigative and administrative fee will be refunded. Once a license has issued, however, no portion of the application fee shall be refunded if the license is revoked, suspended, transferred or surrendered.

SECTION 13: FEE SCHEDULE

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

- 1) RETAIL DEALERS OF DISTILLED SPIRITS TO BE CONSUMED ON THE PREMISES \$4,500.00 PER YEAR FOR FIRST FIXED BAR;
- 2) RETAIL DEALERS OF BEER TO BE CONSUMED ON THE PREMISES \$1,000.00 PER YEAR;
- 3) RETAIL DEALERS OF WINE TO BE CONSUMED ON THE PREMISES \$1,000.00 PER YEAR;
- 4) RETAIL DEALERS OF BEER AND WINE TO BE CONSUMED ON THE PREMISES, \$2,000.00 PER YEAR;
- 5) ANY ADDITIONAL FIXED BAR AT ANY PREVIOUSLY LICENSED LOCATION FOR CONSUMPTION OF DISTILLED SPIRITS ON THE PREMISES, \$500.00 PER YEAR;
- 6) ANY MOVABLE BAR AT ANY PREVIOUSLY LICENSED LOCATION FOR CONSUMPTION OF DISTILLED SPIRITS ON THE PREMISES, \$100.00 PER YEAR;
- 7) WHOLESALE DEALER IN DISTILLED SPIRITS FOR RESALE BY RETAIL DEALERS TO BE CONSUMED ON THE PREMISES \$1,000.00 PER YEAR;
- 8) WHOLESALE DEALER IN MALT BEVERAGE AND WINE FOR RESALE BY RETAIL DEALERS IN THE AMOUNT OF \$200.00 PER YEAR;
- 9) RETAIL PACKAGE IN MALT BEVERAGES \$600.00 PER YEAR;
- 10) RETAIL PACKAGE IN WINE \$600.00 PER YEAR;
- 11) RETAIL PACKAGE IN MALT BEVERAGES AND WINE FOR \$1,200.00 PER YEAR.

SECTION 14: WITHDRAWAL OF APPLICATION

Any license application made pursuant to this ordinance 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.

SECTION 15: COLLECTION OF FEES OR TAXES SUMS DUE

If any person shall fail to pay the sum due under this ordinance, then the City Council or the City's designee shall issue an execution against the delinquent person and such person's property for the amount of the fee or tax.

- A) If the applicant is an individual and the license is granted, then the license shall be issued in the individual's name.
- B) If the applicant is a partnership and the license is granted, then the license shall be issued in the name of a partner who is a resident of City of Dawsonville or in the name of the City of Dawsonville resident who was designated as the agent for matters relating to the license and the name of the partnership, jointly.
- C) If the applicant is a corporation and the license is granted, then the license shall be issued in the name of the shareholder who is a resident of City of Dawsonville or in the name of the appointed agent doing business in the name of the corporation.
- D) In deciding whether or not an application will be granted or denied, the local government may consider not only the qualifications of the applicant, the location of the business and its proximity to other enterprises. Members of City Council shall be authorized to and shall also consider the following: (i) the effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of properties surrounding the site; and (ii) the number of alcoholic beverage licenses already granted in the neighborhood, and whether granting the application would be contrary to the public interest or welfare.

SECTION 17: TRANSFERABILITY OF LICENSE/CHANGE IN OWNERSHIP

- A) **INDIVIDUALS** - In the event of a change of ownership of a business for which an individual has been issued a license, the new owner, if desiring a license, must meet the qualifications specified in Section 6 and must file an application as provided in Section 7 and tender with the application the investigative and administrative fee as provided in Section 8(d) and any license fee that may be due.
- B) **PARTNERSHIPS OR CORPORATIONS** - In the event of a change of any ownership interest in a business which is owned or operated by a partnership or corporation and for which a license has been issued, the licensee shall report such change to the City Council in writing within five days. "Change of ownership interest" as used herein includes, but is not limited to, any change in:
 - 1. Division of profits and/or losses;
 - 2. Division of net gross or sales;
 - 3. Method of paying or amount of rent paid;
 - 4. Ownership of leased premises, or buildings or land used in the business;
 - 5. Members of a partnership;
 - 6. Stockholders of corporate stock; and
 - 7. Management.
- C) If, as a result of any change of ownership interest, the licensee would not qualify under other provisions of this ordinance for the issuance of a license, then the license issued to the licensee shall be subject to revocation and shall not be subject to renewal.

- D) Each application for transfer of a license shall have attached thereto a completed copy of the notice of change of interest required by the State Revenue Commissioner. After receipt of such application, the City Council shall notify the applicant within thirty (30) days of any objection to the transfer. The license shall remain in effect pending approval or disapproval of the transfer. If the transfer is approved, the City Council shall permit the license to be transferred upon payment of a transfer fee equal to one-half of the annual license fee. All applications for transfer of a license shall be accompanied by the aforesaid transfer fee, together with an investigative and administrative fee of \$500.00. If the transfer is not approved, then the transfer fee will be refunded, but the investigative and administrative fee will not be refunded.
- E) Upon the death of a licensee, the Executor or Administrator of the licensee's estate may continue to operate under the license for the balance of the calendar year without payment of any additional fee or may delegate the operation of the business to another person if the person operating under the license, whether the executor, administrator, or delegatee, would otherwise be qualified as a licensee under the provisions of this ordinance.

SECTION 18: DISPLAY OF LICENSE AT PLACE OF BUSINESS

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

SECTION 19: EXPIRATION; RENEWAL OF LICENSE

- A) All licenses granted under this ordinance shall expire on December 31 of each year. Licensees who desire to renew the license shall file applications, with the requisite fee enumerated in Section 13, with the City Council 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 20%. 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.
- B) All licenses granted under this ordinance shall be for the calendar year, and the full license fee must be paid for a license application filed prior to July 1 of the license year. One-half of a license fee shall be paid for a license application filed after July 1 of the license year, except for applications for a temporary special event license under Section 57 which shall not be halved.
- C) Any person renewing any license issued under this ordinance who shall pay the required fee, or any portion thereof, after January 1, shall, in addition to the annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

SECTION 20: AUTOMATIC LICENSE FORFEITURE FOR NON-USE

A license issued pursuant to this Ordinance shall be valid only so long as the licensee is actually engaged in the business of sale of alcoholic beverages in accordance with the specific terms or conditions for which the granting of the license was approved. Any holder of any license under this ordinance who shall for a period of 30 days after the license has been issued cease to operate the business and sale of the product or products

authorized shall, after the 30-day period, automatically forfeit the license without the necessity of any further action.

SECTION 21: REVOCATION OR NON-RENEWAL OF LICENSE

The City Council may revoke any license issued under this Ordinance, or refuse to issue the same, if the licensee or applicant for renewal:

- A) is convicted of a felony or any crime involving moral turpitude;
- B) makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the Mayor and Members of City Council ;
- C) fails to timely give written notice of any change of ownership interest as required in Section 8;
- D) violates any rules or regulations promulgated by the Mayor and Members of City Council under this Ordinance, of which the licensee has reasonable notice; or
- E) becomes disqualified under this Ordinance to hold a license.
- F) The City Council shall revoke the license of any licensee whose license has been suspended three or more times in any consecutive 12-month period.
- G) The City Council shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
- H) Whenever it can be shown that a licensee under this ordinance 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.

SECTION 22: SUSPENSION OF LICENSE

- A) The following shall be grounds for the suspension of a license issued under this Ordinance for such period of time as the Mayor and Members of City Council shall, in its sole discretion, determine appropriate:
 - 1) a violation by the licensee of any state or federal law or regulation, or any provision of this ordinance or the regulations promulgated under its authority;
 - 2) the failure of the licensee and employees or agents of the licensee to promptly report to the Sheriffs Department any violation of law/breach of peace, disturbance, or altercation occurring on or near the licensee's premises;
 - 3) the violation of any law, regulation or ordinance pertaining to alcoholic beverages, distilled spirits, malt beverages and wines, by any employee or agent of the licensee in connection with the operation of the business of the licensee;
 - 4) operation of the business of the licensee in such a manner as to create a public nuisance, or in a manner contrary to public welfare, safety, health or morals;

- 5) failure to furnish the Mayor and Members of City Council on request any information or records that would be necessary to be needed for use in determining the licensee's compliance and qualifications under this ordinance; or
 - 6) to knowingly sell alcoholic beverages to any person while such person is in an intoxicated condition.
- B) Wherever this ordinance permits the Mayor and Members of City Council to suspend any license issued under this ordinance 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 shall be considered on any suspension as set out above:
 - a) Consistency of penalties mandated by this ordinance and those set by the City Council.
 - 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.

SECTION 23: HEARINGS

- A) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section.
- B) The City Council shall provide written notice to the applicant or licensee of its intent to deny, suspend or revoke the license. Such written notification shall be hand delivered or sent certified mail to the applicant at the address shown on the application, and the applicant shall be directed to show cause, if any there be, why the proposed action should not be taken by the City Council. The notice shall:
- 1) advise of the time and place specified for the hearing, which hearing shall be held not less than twenty days (if the notice is mailed) or fifteen days (if the notice is hand delivered), but not more than ten (10) days from the date of the service of the notice.
 - 2) shall set forth in reasonable detail the grounds for such action and the factual basis supporting those grounds; and
 - 3) advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing.

SECTION 24: NOTICE

For the purpose of this ordinance, 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.

SECTION 25: AUDITS OF LICENSEES

- A) If the City Council or its designee deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license(s) issued under this ordinance.
- B) All licensed establishments must maintain the following records for a three-year period and make them available 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) Federal income tax return with all Form 1099's.

The City Council may waive all or some of the requirements of the foregoing sentence if it finds that no such records exist and it is not financially practical based on the net income of the licensed establishment to require them to keep such records.

SECTION 26: RETAIL CONSUMPTION DEALERS TO STORE INVENTORY ONLY ON PREMISES

No retail consumption dealer licensed under this ordinance 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.

SECTION 27: POURED ALCOHOL TO BE TRANSPORTED BY EMPLOYEES

Poured alcoholic beverages shall be transported from point of dispensing to the customer by permitted employees only. Permitted employees are those who have applied for and received a pouring license authorizing such employees to take orders and transport alcoholic beverages to customers.

SECTION 28: LICENSEES TO MAINTAIN A COPY OF THIS ORDINANCE; EMPLOYEES TO BE FAMILIAR WITH TERMS; LICENSEE RESPONSIBLE FOR VIOLATIONS

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

SECTION 29: 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) 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 ordinance without written consent from parents or guardian.

SECTION 30: FAILURE TO REQUIRE AND PROPERLY CHECK IDENTIFICATION

It shall be a violation of this ordinance 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 state department of public safety ID card.

SECTION 31: SALES TO UNDERAGE PERSON 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:

- 1) sell or offer to sell any distilled spirits, wine, malt beverage, or any other alcoholic beverage to any person under the age of 21 years.
- 2) sell or offer to sell wine, malt beverage, or any other alcoholic beverage to any person unless such person has furnished proper identification showing that the person to whom the distilled spirits 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.
- 3) 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.
- 4) sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by-law.
- 5) the penalty for violation of this section by an individual shall be as follows: a) For the first offense, a minimum fine of \$250.00. b) For the second offense and subsequent violations within one year, a minimum fine of \$500.00.
- 6) 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.

As to the penalties in subsection (6), if there is a change in a majority of the licensed establishments' owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

SECTION 32: PURCHASE OR POSSESSION OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSONS

- A) No person under the age of 21 years of age shall purchase or possess any alcoholic beverage other than as set forth in Section 29 hereof.
- B) 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.

SECTION 33: REGULATIONS AS TO EMPLOYEES AND MANAGER

The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises:

- 1) 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 ordinance until such person has been fingerprinted and cleared by the sheriff or the sheriff's designee indicating that the person is eligible for such employment.
- 2) This section shall not be construed to include employees whose duties are limited solely to those of busboy(s), cook(s), or dishwasher(s).
- 3) No permit shall be issued until such time as a signed application has been filed with the Sheriff's Department or such department's designee and upon payment of a fee that shall be established by the Mayor and Members of City Council and a search of the criminal record of the applicant completed. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.
- 4) The Sheriff or his designee shall have a complete and exhaustive search made relative to any criminal record of the person fingerprinted or cleared. If there is no record of a violation of this ordinance, the sheriff or his designee shall issue a permit to the person, by mail, stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the Sheriff or his designee shall notify the person, in writing, that they are not eligible for employment, the cause of such denial and their right to appeal.
- 5) No person shall be granted a pouring permit unless it appears to the satisfaction of the sheriff or his designee that such person has not 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, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy, or any sexually related crime within a period of five years of the date of conviction and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a city ordinance shall not, by itself, make a person ineligible for an alcohol pouring permit. No person shall be granted a pouring permit who has been convicted, pled guilty or entered a plea of nolo contendere to any federal, state, or local law for any felony within

five years of the date of conviction and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this ordinance, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which a person whose sentence was entered under the Georgia First Offender Act, as amended. Except, however, that any such offense shall not be ignored if the person violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the person had previously been sentenced as a first offender.

- 6) An alcohol pouring permit shall be issued for a period of one calendar year from the date of the original application. As noted in subsection (11) below, the alcohol pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by members of the sheriff's department or a designee of the City.
- 7) No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the sheriff's department for an alcoholic beverage pouring permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from the date-of notification per certified mailing before a new application and fee may be resubmitted.
- 8) All permits issued through administrative error can be terminated and seized by the sheriff or his designee or the City Council or its designee.
- 9) Replacement permits will be issued within 30 days of original date, upon paying one-half of the fee charged for alcohol pouring permits. After 30 days of original application date, a new application and fee must be submitted.
- 10) All permits issued under this ordinance remain the property of the sheriff's department and shall be produced for inspection upon the demand of any deputy or designee of the sheriff's department or employee of the business license department.
- 11) 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 may be used for a maximum of 30 days from the date of its issue. Licensees are required by this ordinance to inspect and verify that each employee required to do so has in their possession a valid current alcohol pouring permit.
- 12) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the sheriff or his designee the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers, twice annually during the month of June and again during the month of December.
- 13) Any person convicted of any violation of this section shall receive a minimum fine of \$500.00 per violation.

SECTION 34: OPEN AREA & PATIO SALES

- A) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the City Council.
- 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 the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the city's building inspection department and the county's fire department as required by governing regulations or codes.
- D) The only exit from this 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 should 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) If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the City Council. Interior type patio/open sales areas must also meet the requirements of the city's development and fire codes.
- F) 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. "Patio areas", as that term is used in this subsection, do not have to conform to the standards in this section.

SECTION 35: NO CONSUMPTION OUTSIDE PREMISES

- 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 prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers.
- 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.

SECTION 36: SPECIFICATION OF PREMISES

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, regulations of 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 readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. 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.

SECTION 37: SOLICITATION PROHIBITED

No retail consumption dealers licensed under this ordinance shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting the establishment or to an agent or manager to solicit for herself/himself or for the others, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage.

SECTION 38: PROHIBITED NOISE FROM ESTABLISHMENTS

It shall be unlawful for any establishment licensed under this ordinance to make or cause to be made any loud, unnecessary or unusual sound or noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the city and that is audible to a person of normal hearing ability from the nearest property line of the business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this ordinance after the hours of 11:00 p.m.

SECTION 39: INSPECTION OF LICENSED ESTABLISHMENTS BY THE SHERIFF'S DEPARTMENT

Sworn officers of the sheriff's 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 ordinance and state law. This section is not intended to limit the authority of any other city employee to conduct inspections authorized by other provisions of this ordinance.

SECTION 40: ESTABLISHMENT CAN BE CLOSED IN CASES OF EMERGENCY

The sheriff or his designee may immediately close an establishment licensed under this ordinance in case of emergency for the safety of the public or to investigate a crime for a period of time not to exceed 24 hours.

SECTION 41: SALE ON ELECTION DAYS

Pursuant to the delegation of authority - granted to this governing authority by Act No. 750 (House Bill No. 247) approved April 10, 1985, amending O.C.G.A. § 3-3-20(b)(2)(B), the sale of wholesale and retail of alcoholic beverages, to wit: distilled spirits, wine and malt 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.

SECTION 42: 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.

SECTION 43: TYPES OF ENTERTAINMENT, ATTIRE AND CONDUCT PROHIBITED

A) Preamble and purpose:

- 1) Based upon the experiences of other counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York; Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida, which experiences the Mayor and Members of City Council believe are relevant to the problems faced by the county and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, as well as the testimony of citizens and experts received by this council, Mayor and Members of City Council takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country.
- 2) Moreover, it is the finding of Mayor and Members of City Council that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "erotic entertainment", begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude or semi-nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcohol and also allow and/or encourage nudity or semi-nudity.

B) Prohibited activities.

Any establishment licensed under the provisions of this ordinance is prohibited from permitting or engaging in the following activities:

- 1) the employment or use of any person in any capacity in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
 - 2) live entertainment that provides or features nude or semi-nude or erotic dancing or the performance of obscene acts that simulate:
 - a) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;
 - b) the touching, caressing or fondling of the breast, buttock, anus or genitals; or
 - c) the displaying of the pubic hair, anus, vulva or genitals.
 - 3) the showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in subsection (2), above, which are obscene under state law; or
 - 4) the holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.
- C) Mainstream activity excluded:

Notwithstanding the prohibitions in subsection (B), nothing in this ordinance shall be or is intended to apply to theatrical or motion picture performance houses, museums, or to restaurants or places set apart for traditional family-oriented naturism where the consumption or service of alcohol is not a primary purpose or the mainstream activity of such establishment. The phrase "places provided or set apart for nudity" means as follows: places provided or set apart for traditional family oriented naturism including nudist parks, clubs, and resorts chartered by the American Association for Nude Recreation or affiliated with the Naturists Society or by traditional family oriented naturists groups.

ARTICLE II
LIQUOR BY THE DRINK

SECTION 44: LOCATIONS WHERE PERMITTED

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

- A) in sites zoned commercial and that:
- 1) are eating establishments 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 health and fire departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of sales from food;
 - 2) are indoor commercial recreation establishments, or
 - 3) are an indoor publicly owned civic and cultural center capable of 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 health and fire departments); prepared to serve food every hour they are open and deriving at least 50% percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels, motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

SECTION 45: INVESTIGATIVE & ADMINISTRATIVE COSTS

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$500.00 to defray investigative and administrative costs. If the applicant is denied a state license, the deposit representing the license fee shall be refunded, but the \$500.00 cost paid for investigative and administrative cost shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this ordinance. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

SECTION 46: ADVERTISING IN OFFICIAL LEGAL ORGAN

A notice of each application to sell distilled spirits by consumption shall be advertised in the official legal organ of the city, once a week for two weeks immediately preceding consideration of the application.

SECTION 47: HOURS AND DAYS OF SALE

- A) Distilled spirits shall not be sold for consumption on the premises except between the hours of 10 a.m.-midnight Monday through Thursday; and Friday from 10:00 a.m. through 1:00 a.m. Saturday; and 10:00 a.m. -midnight Saturday.
- B) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- C) The sale of distilled spirits for consumption on the premises is prohibited on Sundays.

SECTION 48: CONSUMPTION SALES ONLY

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell or distribute any alcoholic beverage by the package or bottle.

ARTICLE III
BEER AND WINE BY THE DRINK

SECTION 49: TYPE OF RETAIL ESTABLISHMENT WHERE PERMITTED

No beer or wine shall be sold for consumption on the premises where sold except:

- a) In sites in areas zoned commercial and which are being used as one of the following:

- 1) in eating establishments having a full service kitchen (a full service kitchen will consist of a three-compartment sink, a stove or grill permanently installed, a refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open;
- 2) in indoor commercial recreation establishments;
- 3) in an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open and deriving at least 50%; or
- 4) at a golf course.

These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

SECTION 50: LICENSE FEE AND AMOUNT TO DEFRAY INVESTIGATIVE AND ADMINISTRATIVE COSTS TO ACCOMPANY APPLICATION

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$500.00 to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded, but the \$500.00 cost paid for investigative and administrative fees shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this ordinance. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

SECTION 51: HOURS & DAYS OF SALE

- A) Beer and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m. - midnight Monday through Thursday; and Friday 10:00 a.m. through 1:00 a.m. on Saturday; and Saturday 10:00 a.m. through 1:00 a.m. on Sunday.
- B) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- C) The sale or distribution of beer and/or wine for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment.

ARTICLE IV
PRIVATE CLUBS

SECTION 52: DEFINITIONS

As used in this article:

- A) "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 thirty-five (35) 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; and
 - b) A sufficient number of employees for cooking, preparing and serving meals for its members and guest; 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.
- B) "Sports Club" means an association or corporation organized and existing under the laws of the State of Georgia, 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 county at least two (2) years prior to an application for license hereunder. Provided, however 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.
- C) "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.

SECTION 53: REGULATION OF SALE OF ALCOHOLIC BEVERAGES

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.

SECTION 54: CERTAIN ORGANIZATIONS EXEMPT FROM FOOD ESTABLISHMENT REQUIREMENTS

Veterans organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the Georgia Income Tax Law shall not be required to operate a food establishment serving prepared food. 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.

SECTION 55: INVESTIGATIVE & ADMINISTRATIVE COSTS

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of Five Hundred Dollars (\$500.00) for distilled spirits and/or beer and/or wine to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the Five Hundred Dollars (\$500.00) cost paid for investigative and administrative cost shall be retained. However, any person applying for more than one (1) license shall pay only one (1) fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

SECTION 56: HOURS & DAYS OF SALE

- A) No alcoholic beverages shall be sold for consumption on the premises except between the hours of 10:00 a.m. - midnight Monday through Thursday; and Friday 10:00 a.m. through 1:00 a.m. on Saturday; and Saturday 10:00 a.m.-midnight.
- B) Alcoholic beverages shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- C) The sale or distribution of beer or wine for consumption on the premises is permitted on Sundays from 12:30 p.m. until midnight.

SECTION 57: ELIGIBILITY FOR ISSUANCE OF A TEMPORARY SPECIAL EVENT LICENSE

- A) A temporary license may be issued to any person, firm or corporation, for a period not to exceed ten (10) days in any one year, for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by the ordinances and shall be required to comply with all the general ordinances and the licensing and regulations for a consumption on the premises establishment with the exception of the full service kitchen requirement.
- B) The special event must meet the following criterion before the issuance of a license to sell alcoholic beverages:
 - 1) the special event must be associated with and benefit the cause of a charitable or civic organization.
 - 2) the special event must receive approval from the City of Dawsonville Sheriff's Department on crowd control and security measures.
 - 3) the special event must receive approval from the City of Dawsonville Mayor and Members of City Council , on traffic control measures.
 - 4) the location at which the special event is to take place must be properly zoned and approved by the City of Dawsonville Planning & Development Department.
 - 5) the premises at which the special event is to take place must be approved by the Members of City Council.

- (c) Any employee or volunteer of the special event licensee, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain a pouring permit for the special event.
- (d) The Sheriff or his designee may immediately revoke any temporary license for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.
- (e) As a condition on the issuance of a temporary special event license, the licensee shall indemnify and hold the City of Dawsonville harmless from claims, demand or cause of action that may arise from activities associated with the special event.

ARTICLE V
HOTEL IN-ROOM SERVICE

SECTION 58: LICENSE

- A) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom that 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 ordinance.
- 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 \$250.00 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.

ARTICLE VI
HAPPY HOUR

SECTION 59: 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; however, nothing herein shall prohibit a brew pub from offering a sampler of malt beverages in containers not exceeding four ounces. Each sampler shall not exceed four different types of malt beverages;

- 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; or
 - 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 sheriffs 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 alcoholic 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 \$1,000.00 and/or by imprisonment not to exceed 30 days in the common jail of the county. Licensees may further be subject to revocation proceedings.

ARTICLE VII
RETAIL PACKAGE SALES OF BEER & WINE

SECTION 60 LOCATIONS WHERE PERMITTED

No license shall be issued for the retail package sale of beer and wine except:

- A) Retail licenses shall be issued only to or renewed by persons operating retail grocery stores in which the sale of malt beverages, wines, or both are a part of the business, and only if: (i) the grocery store has been in continuous operation for a period of six consecutive months next prior to the issuance of the license; and (ii) the gross retail sales of the grocery store, exclusive of the sale of malt beverages and wines and exclusive of the sale of petroleum products, for the preceding six months shall have averaged \$1,500.00 per month.

SECTION 61: INVESTIGATIVE & ADMINISTRATIVE COSTS

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$500.00 to defray investigative and administrative costs. If the applicant is denied a state license, the deposit representing the license fee shall be refunded, but the \$500.00 cost paid for investigative and administrative cost shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this ordinance. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

SECTION 62: ADVERTISING IN OFFICIAL LEGAL ORGAN

A notice of each application for a license for retail package sales of beer and wine shall be advertised in the official legal organ of the city, once a week for two weeks immediately preceding consideration of the application.

SECTION 63: HOURS AND DAYS OF SALE

- A) Retail package sales of beer and wine shall not be sold except between the hours of 7:30 a.m. up and through 11:30 p.m. Monday through Saturday.
- B) Retail package sales of beer and wine shall not be sold at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- C) The retail package sale of beer and wine is prohibited on Sundays.

ARTICLE VIII
EXCISE TAXES

SECTION 64: 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 percent (3%) of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this article, and such licensee shall remit the same to the city on or before the tenth 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 Council 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 business license department after the 20th day of the month shall be charged a ten percent penalty.
- C) If the Members of City Council deem it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee of the date, time and place of the audit.
- D) Any licensee who violates any provision of this article may, upon conviction, be punished by a fine of not less than \$300.00, and the license of such location may be suspended or revoked.

SECTION 65: EXCISE TAX & BOND REQUIREMENT ON WHOLESALERS

- A) There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter that shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in City of Dawsonville. Such tax shall be paid to the designee of the City of Dawsonville Mayor and Members of City Council by the wholesale distributors on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in City of Dawsonville 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 business license department after the twentieth day of the month shall be charged a ten (10) percent penalty. The twenty-two cents (\$0.22) per liter 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. 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 City of Dawsonville at the rate of twenty-two cents (\$0.22) per liter 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 gallon)	6.00
1 barrel (31 gallons)	12.00

All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages except the tax rate which is set out in this subsection and the reimbursement of three (3) percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

- C) Each wholesale dealer prior to commencement of any business operation within the city shall post a performance bond with the City Clerk equal to one and one-half (1 ½) times the estimated highest monthly payment to be made in a calendar year of the excise tax based on sales collected by the wholesaler dealer from the retailers to secure the payments for the tax imposed herein. These bonds shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the designee of the City of Dawsonville Mayor and Members of City Council .
- D) A wholesaler may be excused from posting the performance bond as provided herein after demonstrating full and satisfactory compliance with the provisions herein for a period of twelve (12) months subsequent to the commencement of business operations within the county. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with the terms of this article and the payment of all sums as required by the provisions herein.

ARTICLE IX
INCORPORATION OF STATE STATUTES

The Mayor and Members of City Council of City of Dawsonville hereby adopt and incorporate within this ordinance the following provisions of the Official Code of Georgia, which provisions are hereby made a part of this ordinance by reference thereto:

- 1) O.C.G.A. §3-3-40. Definitions.
- 2) O.C.G.A. §3-3-41. Performance of actual or simulated sexual acts.
- 3) O.C.G.A. §3-3-42. Employee solicitation of patrons of drinks on premises.
- 4) O.C.G.A. §3-3-43. Permitting persons to view sexually related acts or conduct performed on other premises.
- 5) O.C.G.A. §3-3-44. Permitting persons to remove alcoholic beverages to other premises to view sexually related conduct or activities.

- 6) O.C.G.A. §3-3-45. Employment of or assistance to persons engaged in sexually related conduct or activity or nudity.
- 7) O.C.G.A. §3-3-46. Grounds for suspension and revocation of alcoholic beverage license.

ARTICLE X
SEVERABILITY

If any section, provision or clause of any part of this article shall be declared invalid or unconstitutional, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.

ARTICLE XI
REPEALER

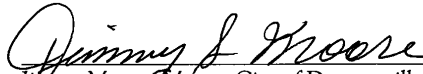
The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed.

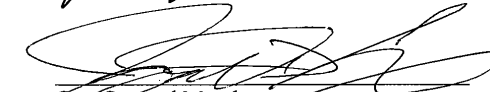
ARTICLE XII
EFFECTIVE DATE

The effective date of this ordinance shall be upon approval by the City Council of the City of Dawsonville, Georgia.

Adopted and Ordained this 02 day of September, 2003.

CITY OF DAWSONVILLE


Jimmy Moore, Mayor, City of Dawsonville

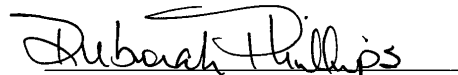

City Council Member


City Council Member


City Council Member

City Council Member

Attested to by:


City Clerk Deborah Phillips