

ALCOHOLIC BEVERAGES

ARTICLE I GENERAL PROVISIONS

SECTION 24-1: TITLE

The ordinance shall be known as the “City of Cornelia Alcoholic Beverages Ordinance.”

SECTION 24-2: LICENSE IS A PRIVILEGE

- A) Alcoholic beverages may be sold in the incorporated area of the City under a license granted by the City Commission 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 pursuant to this chapter 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 24-3: 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 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages know 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 sake, known as Japanese rice wine.

City Commission means the City Commission of the City of Cornelia, 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.

Employee 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.

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 City Commission of the City of Cornelia, 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) wherein 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 is issued. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees.

Non-Residential Zone(s) means the B-1, B-2, O-P, LI, HI and CBD zoning districts as defined under the Comprehensive Zoning Ordinance of the City of Cornelia, Georgia, as amended.

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.

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

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 terms “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 24-4: 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 City of Cornelia, 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 Commission 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 Commission 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; or
- E) permit the licensee to sell at retail packaged malt beverages and wines in their original and unopened consumer containers in certain retail establishments for consumption off the premises;

SECTION 24-5: TYPES OF LICENSES TO BE ISSUED

Only the following licenses shall be issued under this ordinance:

- A) Class A, for the retail sale of packaged malt beverages and wines for consumption off the premises;
- B) Class B, for the retail sale of malt beverages and wines by the drink for consumption on the premises;
- C) Class C, for the retail sale of distilled spirits by the drink for consumption on the premises.
- D) Class B and Class C licenses may be combined in a single license which shall be referred to as a "Class B and C license".

SECTION 24-6: 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 \$500.00.

SECTION 24-7: 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 \$500.00 for each offense and/or 30 days in jail, unless a different penalty is set out in this ordinance.

**SECTION 24-8: LOCATION OF LICENSED OPERATION:
DISTANCE REQUIREMENTS FROM SCHOOLS
AND CHURCH BUILDINGS**

- A) Licenses shall be issued only for locations in non-residential zones as defined in Section 24-3 of this ordinance.
- B) No person may sell or offer to sell any alcoholic beverage in or within 100 yards of any church building or within 200 yards of any school building, daycare facility, or alcoholic treatment facility, except in locations zoned Central Business District, which shall be exempt from the distance requirements of this section.
- 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 being 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, county or city government.
- F) For the 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 questions, 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 24-9: 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 24-10: QUALIFICATIONS FOR LICENSING; NO LICENSE ISSUED; REGISTERED AGENT

A) For the purpose of this chapter, unless otherwise indicated, applicant means the corporation, partnership, sole proprietorship, or other organization and the managing agent.

B) Every managing agent applicant for a license under this ordinance shall be at least 21 years of age, a U.S. citizen or an alien lawfully admitted for permanent residency, and a resident of the State of Georgia, and shall make application on forms furnished by the City Clerk and in connection therewith, shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, bonds and other supporting data as required thereby.

- 1) Where the application is made on behalf of a corporation, the license shall be issued jointly to the corporation and an officer or agent who meets the requirements as set forth in Section B, above. The officer or agent named as the applicant shall be an individual who does in fact have regular managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the corporation. Said individual shall be known as the “managing agent”.
- 2) Where the application is made on behalf of a partnership, the license shall be issued jointly to the partnership and either the managing general partner thereof, or an individual who meets the requirements set forth in Section B, above who does in fact have managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the partnership. Said individual shall be known as the “managing agent”.
- 3) Where the application is made on behalf of a sole proprietorship, the license shall be issued jointly to the sole proprietorship and an individual who meets the requirements set forth in Section B, above, who does in fact have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the proprietor. Said individual shall be known as the “managing agent”. The “managing agent” may be the sole proprietor, if he/she otherwise qualifies under this section.
- 4) Where the application is made on behalf of any other type organization, the license shall be issued jointly to the organization and an individual who meets the requirements set forth in section B, above, who does in fact have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the organization. Said individual shall be known as the “managing agent”. In the case of a non-profit private club, the managing agent may be an officer of the organization in lieu of a full time

employee if the individual is otherwise qualified under Section B, above.

- 5) In the event the “managing agent” changes, the licensee shall notify the City Clerk within five (5) days of the change. A fee of one hundred dollars (\$100.00) will be charged for the processing of the change of the managing agent, and such applicant must be approved by the City Commission.

C) When Contrary to the public interest and welfare, no license to sell alcoholic beverages of any kind shall be issued by the City Commission to or for:

- 1) Any person as determined by the City Commission by reason of such person’s business experience, financial standing, trade associations, personal associations, arrest record, or reputation in any community in which he or she has resided, who is not likely to maintain the operation for which the license is sought in conformity with federal, state or local laws, rules and regulations.
- 2) Any person who has been convicted under any federal, state or local law of any felony involving moral turpitude.
- 3) Any person who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten (10) years immediately preceding the filing of application for such license.
- 4) Any person convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
- 5) A location not suitable in the judgment and discretion of the City Commission because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties or on the neighborhood.
- 6) A location within an area where, in the judgment of the City Commission, the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.
- 7) A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the City Commission, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the best interest of the public health, safety, welfare, or morals that the sale of alcoholic beverages be permitted at such location.
- 8) A location which fails to meet any and all requirements in Chapter 51 of the Code of Ordinances of the City of Cornelia (Adult Entertainment Establishments) including Section 51-34 (alcoholic beverages).

- 9) Which the granting of such license would constitute a violation of state law or regulations.
- D) 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.
- E) 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 filing of the application.
- F) All licensees shall have and continuously maintain in Habersham County a registered agent upon whom any process, notice or demand required or permitted by law or under this ordinance to be served upon the licensee or owner may be served. This person must be over the age of 18 and a resident of Habersham County at all times that the license, and any renewal thereof, is in effect. The licensee shall file the full name, date of birth, physical address, mailing address, and telephone number, of such agent, along with the written, notarized consent of such agent with the City Clerk in such form as the City may prescribe. Such registered agent shall be of good moral character and shall be a representative of the licensee and must be approved by the City Manager. The City Manager shall refuse to approve any registered agent who is not a bona fide resident of Habersham County or who has been convicted, including pleas of nolo contendere, within the five years preceding his or her nomination, of any felony of any kind. If any registered agent shall cease to be a representative of the licensee or shall cease to be a resident of Habersham County or in any manner ceases to meet the requirements of this section, the licensee shall notify the City Clerk in writing of such event and shall nominate a new registered agent within five days after such event occurs. Such new registered agent shall meet the requirements of this section and must be approved by the City Manager. The City shall charge a fee of \$100.00 for a change of the licensee's registered agent; provided, however, that if the licensee fails to notify the city and nominate a new registered agent within said five day period, then the city shall charge a fee of \$300.00 for a change of the licensee's registered agent and/or revoke the licensee's license.
- G) 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.

SECTION 24-11: LICENSE APPLICATION; CONTENTS AND TERMS.

A) All applications for licenses to sell alcoholic beverages of any kind shall be made in person by the applicant to the City Clerk in writing on forms furnished by the Clerk; signed by the applicant in compliance with section 24-10 and shall contain but not be restricted to the following statements and information:

- 1) The name, age, address and length of residency of applicant.
- 2) The name of the corporation, partnership, sole proprietorship, or other organization applying for the license. Said name shall include the legal name as well as the trade name of the business.
- 3) A statement of whether the applicant, or any person with an interest in the application has made application at any previous time for any alcoholic beverage license and the disposition of such application.
- 4) Whether the applicant or any person with an interest in the application has ever been convicted of a crime, other than for traffic violations.
- 5) Whether a previous license issued to the applicant or any person with interest in the application has been revoked by any state or subdivision thereof or by the federal government and the reason therefore.
- 6) Whether any other person is to be interested directly or indirectly in the profits or losses or both of the proposed business.
- 7) No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete; detailed plans of such building and outside premises are attached to the application; and an occupancy permit for this premises to be licensed has been issued by the City. The completed building shall comply with this Code and the regulations of the state. Each building in which the business is to 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 on the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to his application evidence of ownership of the building or a copy of the lease if the applicant is leasing the building.
- 8) All new applications for alcoholic beverage licenses shall be accompanied either by lawful money of the U.S., or by a certified check or cashier's check, payable to the City for the proper amount of the license fee. In the event the license is refused, same shall be returned to the applicant.
- 9) All applications for renewal of alcoholic beverage licenses shall be filed with the City Clerk. All applications for renewal of licenses

for the ensuing year shall be treated as applications for new licenses, except that they need not be advertised. Payment of the license fees for renewal of licenses must be made on or before the last normal business day of the year prior to the expiration of the license.

- 10) No application shall be acted upon by the City Commission except at a regular meeting of the Commission.
- 11) The financial responsibility of every applicant for an alcoholic beverage license must be shown to the satisfaction of the City Commission. Each applicant shall submit with the application a complete statement of his financial condition.
- 12) Every application for a license hereunder shall be accompanied by a drawing to scale, showing the nearest church, funeral chapel, school or college or by the affidavit of a registered surveyor that the proposed location of the business complies with Section 24-8.

B) No application for an alcoholic beverage license shall be acted upon by the City Commission until after the applicant shall have published a notice of such in the legal organ of Habersham County once per week for two (2) weeks prior to the regular meeting at which such application is to be presented and considered. Such notice shall contain the name of the corporation, partnership, sole proprietorship, or organization and the name of the managing agent applying for the license, and the location of the proposed business. This notice shall not be required from an existing alcoholic beverage license holder making application for the renewal of an existing license at the same location.

C) The making of any untrue or misleading statement in the application for an alcoholic beverage license shall be sufficient cause for the refusal, suspension, revocation or cancellation of such license, as the City Commission shall deem proper.

D) The license fees for which provision is made within this article are due and payable immediately. Any person who is doing business on or after the first day of January shall pay the full annual license fee.

E) In the case of the revocation or surrender of an alcoholic beverage license before expiration, the holder thereof shall not be entitled to receive any refund.

F) Notwithstanding anything in this article to the contrary, the sale of alcoholic beverages in the City is a privilege and not a right, and the issuance of a license hereunder shall not create any property rights in the license holder.

G) The violation of any of the provisions of this article by a holder of an alcoholic beverage license, or his agent, or employee, shall be unlawful, and shall be punishable as provided in Section 7-1 of this Code, unless set out otherwise herein, and shall also subject the holder of such license to suspension or revocation of such license as the City Commission deems proper.

SECTION 24-12: LICENSE FEE SCALE

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the City Commission 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 City Commission and kept on file in the office of the City Commission. 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 24-13: FEE SCHEDULE

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

- A) Class A, for the retail sale of packaged malt beverages and wines for consumption off the premises, \$1500.00 per year.
- B) Class B, for the retail sale of malt beverages and wines by the drink for consumption on the premises, \$1500.00 per year.
- C) Class C, for the retail sale of distilled spirits by the drink for consumption on the premises, \$3000.00 per year;
- D) Class B and C combination license for the retail sale of distilled spirits by the drink, malt beverages and wines by the drink for consumption on the premises, \$4500.00 per year.
- E) Wholesale dealer in distilled spirits, beer or wine for resale by retail dealers and Cornelia, Georgia is the principal place of business, \$1000.00.

SECTION 24-14: 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 24-15: COLLECTION OF FEES OR TAXES SUMS DUE

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

SECTION 24-16: TRANSFERABILITY OF LICENSE/CHANGE OF OWNERSHIP

A) Licenses issued pursuant to Chapter 24 of the Code of Ordinances shall not be transferable from the licensee to any other person or entity except by approval of the City Commission granted, upon written application, by a resolution duly adopted at a regular monthly meeting of the City Commission. The applicant/transferee must meet the qualifications specified in Section 24-10 and must have an application as provided in Section 24-11 and tender with the application the investigative and administrative fee as provided in Section 24-11(F) 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 Commission in writing within five (5) days. “Change of ownership interest” as used herein includes, but is not limited to, and 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 Commission shall notify the applicant within thirty 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 Commission 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 \$300.00. 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 delegate, would otherwise be qualified as a licensee under the provisions of this ordinance.

SECTION 24-17: 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 24-18: 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 24-13, with the City Clerk on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to the annual fee, a late charge of 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 24-55 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 24-19: 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. 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 24-20: REVOCATION OR NON-RENEWAL OF LICENSE

The City Commission 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 Board of Commissioners;

C) fails to timely give written notice of any change of ownership interest as required in Section 24-16:

D) violates any rule or regulation promulgated by the City Commission under this Ordinance, of which the licensee has reasonable notice; or

E) becomes disqualified under this Ordinance to hold a license.

F) The City Commission 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 Commission 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 24-21: 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 City Commission 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 Cornelia Police 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 City Commission on request any information or records that would be necessary or needed for use in determining the licensee's compliance and qualifications under this ordinance; or

- 6) to knowingly sell malt beverages, wines or distilled spirits to any person while such person is in an intoxicated condition.

- B) Wherever this ordinance permits the City Commission to suspend any license issued under this ordinance and 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 Commission.
 - 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 24-22: HEARINGS

A) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section.

B) The City Commission 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 or registered agent 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 Commission. 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) from the date of 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 24-23: NOTICE

For purposes of this ordinance, notice shall be deemed served when personally served or when served by certified mail on the registered agent required under Section 24-10 (F), within three days after the date of deposit in the United States Mail.

SECTION 24-24: AUDITS OF LICENSEES

A) If the City Commission 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.

SECTION 24-25: 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 24-26: 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 an employee pouring permit authorizing such employees to take orders and transport alcoholic beverages to customers.

SECTION 24-27: 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, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms of this ordinance.

**SECTION 24-28: 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 in any establishment licensed under this ordinance without written consent from his or her parents or guardian.

**SECTION 24-29: FAILURE TO REQUIRE AND PROPERLY CHECK
IDENTIFICATION**

It shall be a violation not to require and properly check identification to ensure that an underage person is not sold, served, or does not have in his possession alcoholic beverages while in a licensed establishment. Identification in this Section 24-29 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 24-30: SALES TO UNDERAGE PERSON PROHIBITED

A) 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, a 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 up on 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.

B) The penalty for violation of this Section by an individual shall be as follows:

- 1) For the first offense, a minimum fine of \$500.00.
- 2) For the second offense and subsequent violations within one year, a minimum fine of \$750.00

C) 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:

- 1) For the third offense within any 36-month period, suspension of license(s) for a period not to exceed 90 days and a fine of \$1,000.00.
- 2) 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 (C), 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 24-31: PURCHASE OR POSSESSION OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSONS

A) Except as may be otherwise allowed by state law, no person under the age of 21 years of age shall purchase or possess any alcoholic beverage.

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 24-32: REGULATIONS AS TO EMPLOYEES AND MANAGER; EMPLOYEE POURING PERMITS

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

A) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or serve in any managerial position by an establishment holding a license under this ordinance until such person has been cleared by the Chief of Police or his designee indicating that the person is eligible for such employment.

B) This Section shall not be construed to include employees whose duties are limited solely to those of busboy(s), cook(s), or dishwasher(s).

C) No employee pouring permit shall be issued until such time as a signed application has been filed with the Cornelia Police Department or such department's designee and upon payment of a fee that shall be established by the City 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 records 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.

D) The Chief of Police or his designee shall have a complete and exhaustive search made relative to any criminal record of the applicant. If the applicant meets the requirements of this ordinance, the chief or his designee shall issue an employee pouring permit to the person stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the Chief of Police or his designee shall notify the person at the address contained in the application, in writing, that they are not eligible for employment, the cause of such denial and their right to appeal.

E) No person shall be granted a employee pouring permit unless it appears to the satisfaction of the Chief of Police 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 employee pouring permit. No person shall be granted a employee 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 sentencing court entered an adjudication of guilt as to the crime for which the person had previously been sentenced as a first offender.

F) An employee pouring permit shall be issued for a period of one calendar year from the date of the original application. As noted in subsection (K) below, the employee 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 employee permit holder is working and available for inspection by members of the Cornelia Police Department or the City's staff.

G) 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 employee 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.

H) All permits issued through administrative error can be terminated and seized by the Chief of Police or his designee or the City Manager or his designee.

I) Replacement permits will be issued within 30 days of original date, upon paying one-half of the fee charged for employee pouring permits. After 30 days of original application date, a new application and fee must be submitted.

J) All permits issued under this ordinance remain the property of the City of Cornelia and shall be produced for inspection upon the demand of any officer or designee of the Chief of Police or City of Cornelia Code Enforcement Office.

K) 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 employee 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 employee pouring permit.

L) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Chief of Police or his designee the name of the establishment, the license number and a list of employees, with their home addresses and home telephone numbers, twice annually, during the month of June and again in the month of December.

M) Any person convicted of any violation of this Section may be punished as set out in Section 7-1 of the Code of Ordinances of the City of Cornelia, Georgia.

SECTION 24-33: OPEN AREA AND 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 Commission.

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 City'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 Engineer. 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 of this section.

SECTION 24-34: 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.

B) It is prohibited for customers to gather outside a licensed alcoholic beverage establishment and consume alcoholic beverages.

C) It is prohibited for the manager or any employee to allow persons to gather outside a licensed alcoholic beverage establishment and consume alcoholic beverages.

SECTION 24-35: 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 county, 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 24-36: 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 purchases by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage.

SECTION 24-37: 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 24-38: INSPECTION OF LICENSED ESTABLISHMENTS BY THE POLICE DEPARTMENT

Sworn officers of the police department shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the City during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this ordinance and state law. This Section is not intended to limit the authority of any other City officer to conduct inspections authorized by other provisions of this ordinance.

SECTION 24-39: ESTABLISHMENT CAN BE CLOSED IN CASES OF EMERGENCY

The Chief of Police 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 24-40: SALE ON ELECTION DAYS

A) 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 at wholesale and retail of alcoholic beverages, to wit: distilled spirits (by the drink), and 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.

B) All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

SECTION 24-41: 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.

ARTICLE II
BEER AND WINE PACKAGED SALES FOR CONSUMPTION OFF PREMISES
(CLASS A LICENSE)

SECTION 24-42 TYPE OF RETAIL ESTABLISHMENT WHERE PERMITTED

No beer or wine shall be sold for consumption off the premises except in sites located in non-residential zones and that:

A) are businesses in the business of retail sale of items of tangible personal property (merchandise); and

B) the monthly receipts for such business from the sale of merchandise other than malt beverages and wines will exceed seventy-five (75%) percent of the total monthly receipts of said business from the sale of merchandise.

Notwithstanding the fact that a Class A Retail Beer and Wine Sales License has been issued to a licensee, such licensee shall not be authorized to sell packaged malt beverages or wines at any time when the sales receipts of the business of such licensee derived from the sale of merchandise other than packaged malt beverages and wines are less than seventy-five (75%) percent of the total gross receipts of said business from the sale of merchandise for the proceeding calendar month.

SECTION 24-43: 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 \$300.00 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 \$300.00 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 24-44: HOURS AND DAYS OF SALE

- A) Beer and/or wine shall not be sold or distributed for consumption off the premises where sold except between the hours of 6:00 a.m. – 11:00 p.m., Monday through Saturday.
- B) No beer and/or wine shall be sold for consumption off premises at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- C) **SUNDAY SALES** – The sale or distribution of beer and/or wine for consumption off the premises on Sundays is prohibited.

ARTICLE III
BEER AND WINE BY THE DRINK FOR CONSUMPTION ON PREMISES
(CLASS B LICENSE)

SECTION 24-45: TYPE OF RETAIL ESTABLISHMENT WHERE PERMITTED

No beer or wine shall be sold for consumption on the premises where sold except in sites located in non-residential zones and that:

- A) 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;
- B) are indoor commercial recreation 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 establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of its total annual gross revenue from the sale of prepared meals or food and recreation activities.

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 24-46: 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 \$300.00 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 \$300.00 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 24-47: HOURS AND 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 Saturday.
- 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) **SUNDAY SALES** – The sale or distribution of beer and/or wine for consumption on the premises on Sundays is prohibited.

ARTICLE IV
DISTILLED SPIRITS BY THE DRINK FOR CONSUMPTION ON PREMISES
(CLASS C LICENSE)

SECTION 24-48: LOCATIONS WHERE PERMITTED

No distilled spirits may be sold by the drink for consumption on the premises where sold except in sites located in non-residential zones and that:

- A) 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;

B) are indoor commercial recreation 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 establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of its total annual gross revenue from the sale of prepared meals or food and recreation activities; or

SECTION 24-49: INVESTIGATIVE AND 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 \$300.00 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 \$300.00 cost paid for investigative and administrative costs shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses. 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 24-50: ADVERTISING IN OFFICIAL PAPER OF COUNTY

A notice of each application to sell distilled spirits for consumption on the premises shall be advertised in the official legal organ of the county, once a week for two weeks immediately preceding consideration of the application. An affidavit of publication verifying the required notice shall be executed by the applicant on a form provided by the City.

SECTION 24-51: 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 Saturday.

B) Distilled spirits shall not be sold for consumption on the premises at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

C) **SUNDAY SALES** – The sale of distilled spirits for consumption on the premises is prohibited on Sunday.

SECTION 24-52: 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 V

PRIVATE CLUBS

SECTION 24-53: 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 seventy-five (75) regular dues paying members;
- 3) Owns, hires or leases a building or space within a building for the reasonable use of its members with:
 - a. Suitable kitchen and dining room space and equipment; 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) “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 24-54: 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 24-55: 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 24-56: INVESTIGATIVE AND 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 three hundred dollars (\$300.00) 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 two hundred fifty dollars (\$300.00) cost paid for investigative and administrative cost shall be retained. Any application 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 24-57: HOURS AND 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 Saturday.

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 alcoholic beverages for consumption on the premises is prohibited on Sundays.

ARTICLE VI
SPECIAL EVENT LICENSES

SECTION 24-58: 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, pay such bond as may be established by the City for use of City property, any use fees that may be required by the City, 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 temporary license to sell alcoholic beverages:

1) The special event must be associated with and the benefit the cause of a charitable or civic organization.

2) The special event must receive approval from the City of Cornelia Police Department on crowd control and security measures.

3) the special event must receive approval from the City Manager or his designee, on traffic control measures.

4) the location at which the special event is to take place must be zoned for such use and the event approved for such use by the City of Cornelia Planning Department.

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 employee permit for the special event.

D) The Chief of Police 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 Cornelia harmless from claims, demand or cause of action that may arise from activities associated with the special event.

ARTICLE VII **HOTEL IN-ROOM SERVICE**

SECTION 24-59: 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 \$100.00 shall be imposed to provide only beer and/or wine by “in-room service.”

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

ARTICLE VIII
HAPPY HOUR

SECTION 24-60: PROMOTIONS AND SALES

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

- 1) offer or deliver any free alcoholic beverage to any person or group of persons;
- 2) deliver more than one alcoholic beverage to one person at a time;
- 3) sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public;
- 4) sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public;
- 5) sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public;
- 6) sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (.947 liters), except to two or more persons at any one time;
- 7) increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week; 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 effective for not less, than one calendar week.

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

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

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

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

G) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the 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 as set out in Section 7-1 of the Code of Ordinances of the City of Cornelia, Georgia. Licensees may further be subject to revocation proceedings.

ARTICLE IX
EXCISE TAXES

SECTION 24-61: LEVY AND COMPUTATION

In addition to all other taxes or license fees imposed upon retailers selling malt beverages, wine or spirituous liquors at retail or for consumption on the premises in the City, there is levied and imposed upon each such retailer the following excise taxes:

A) Upon the sale of any malt beverages there is imposed an excise tax of \$0.05 per 12 ounce container and \$6.00 for each container of tap or draft beer of 15-1/2 gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

Size of Container	Tax Per Container
7 oz.	\$ 0.0292
8 oz.	\$ 0.0333
12 oz.	\$ 0.0500
14 oz.	\$ 0.0583
16 oz.	\$ 0.0667

32 oz.	\$ 0.1333
1/2 barrel (15-1/2 gal)	\$ 6.00
1 barrel (31 gal.)	\$12.00

- B) Upon the sale of wine there is imposed an excise tax of \$0.22 per liter.
- C) Upon the sale of any spirituous liquors there is imposed an excise tax of \$0.22 per liter.
- D) These taxes shall be collected by the wholesaler at the time of sale to the retailer.

**SECTION 24-62: RETAILERS DEALING WITH WHOLESALERS –
REGISTRATION OF WHOLESALERS**

- A) No retailer of alcoholic beverages in the City shall purchase or otherwise receive alcoholic beverages for any wholesaler not registered under this section. Any retailer failing to comply with this requirement shall be subject to revocation of any and all City business licenses held by the retailer and any other penalty which may be imposed for violation of this Code.
- B) Unless a wholesaler in alcoholic beverages is licensed by the City, no wholesaler shall take orders from or make deliveries to any retailer in alcoholic beverages within the City unless and until the wholesaler registers with the City Clerk on a form provided by the City; and otherwise satisfies the requirements of this article placed on such wholesalers.

**SECTION 24-63: WHOLESALER’S REPORTS – TAX COLLECTION –
PAYMENT – RECORDS**

- A) Each wholesaler registered under this article or licensed by the City shall file a report with the City Commission by the tenth day of each month, itemizing for the preceding calendar month the exact quantities of all alcoholic beverages by size and type of container sold within the City. The report shall show the name and address of each retailer with which they did business in the City and any other information as may be required by the City Commission.
- B) Each wholesaler reporting under this section shall collect from each retailer with whom the wholesaler did business the amount of tax due the City under this article and shall hold the same in trust for the City.
- C) Each wholesaler’s monthly report shall be accompanied by remittance to the City of all taxes due the City under this article for the preceding month from each retailer.

D) Each wholesaler hereunder shall keep true and correct records, including invoices of all sales, shipments or deliveries of beverages to retailers in this City. These records shall be preserved for at least one year and shall be made available on request for inspection by any authorized representative of the City.

SECTION 24-64: WHOLESALER’S DEPOSIT

Each new wholesaler, licensed by the City or registered with the City, whether located outside or within the City limits, shall be required to place three months of the tax required by this article on deposit with the City. This deposit shall be an amount equal to the amount of tax paid by the wholesaler during the first month of operation in the City, and shall be deposited at the same time as the first payment of taxes. This deposit shall be retained by the City, to be applied to make up for any default on the part of the wholesaler and shall be refunded to the wholesaler upon its ceasing to do business in the City, provided that the wholesaler is current in its remission of taxes. This deposit shall be adjusted each year to be an average of 1/12 of the previous year’s tax collections. A surety bond payable to the City may be posted in lieu of this deposit if such bond is in an amount equal to twice the deposit required. The deposit or bond required by this section shall be waived by the City Commission upon a showing by the wholesaler that it has timely paid the tax levied by Section 24-61 for a period of two (2) consecutive years; provided, however, that if such deposit or bond is so waived, the City Commission shall have the right to reinstitute the requirement of making such deposit or posting such bond if the wholesaler thereafter fails to make timely payment of the tax levied by Section 24-61 with respect to any month.

SECTION 24-65: UNLAWFUL RETAIL SALES

It is unlawful for any retailer within the City to sell any alcoholic beverages on which the taxes under this article have not been paid as herein provided by the retailer.

SECTION 24-66: PENALTY – REVOCATION OF LICENSE

A) The failure to make a timely report or remittance shall render a wholesaler, under this article, liable for a penalty equal to ten percent of the total amount due and a further penalty of ten percent of the amount of the remittance for each successive month or any portion thereof during which the report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesaler making the report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report.

B) Any failure to make a timely report or remittance or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license or registration issued by the City to the wholesaler.

C) The above subsections shall be in addition to any other penalty which may be imposed for violation of this Code.

SECTION 24-67: SALE OF DISTILLED SPIRITS BY THE DRINK

A) Pursuant to the authority contained in OCGA § 3-4-130, there is imposed and levied a tax on the sale of distilled spirits by the drink, which tax shall be equal to three (3%) percent of the charge to the public for such drink.

B) The tax imposed by this section shall be paid monthly, with payment due on the twentieth day of the month following the month for which such tax is to be paid.

C) Any taxes imposed by this section which are not timely paid shall incur a penalty of ten percent (10%) of the amount of said taxes and bear interest at the rate of one percent (1%) per month, or any fraction thereof.

D) Operators collecting the tax for the sale of distilled spirits by the drink shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if said amount is not delinquent at the time of payment. The rate of deduction shall be three percent (3%) of the gross tax or \$25.00, whichever is less.

ARTICLE X
FARM WINERIES

SECTION 24-68: UNLAWFUL OPERATION OF FARM WINERY

It shall be unlawful to operate or otherwise conduct the business of a farm winery in the City of Cornelia without having a valid farm winery license issued by the City Commission under the provision of this chapter.

SECTION 24-69: SALE OF WINES BY FARM WINERIES

Wines may be sold in connection with the operation of a farm winery at wholesale and retail for consumption off the premises used in the operation of the winery in their original and unopened consumer container and in bulk. Farm wineries shall not be authorized to sell or furnish to others any wine for consumption or tasting on the premises of the winery located in the City of Cornelia, nor to operate a tasting room located off the premises of the winery in the City of Cornelia.

SECTION 24-70: FARM WINERY LICENSE FEES

A) There is hereby levied and imposed upon farm wineries an annual fee for a business license herein referred to as a farm winery license in the sum of \$750.00, all of which shall be payable in advance before such licenses are issued.

B) The license fees for each calendar year, shall be due and payable on or before the 1st day of November of the immediately preceding calendar year. Any person

who is doing business or beginning to do business after the 1st day of January and before the 1st day of July in any calendar year shall pay the full annual license fee. Any person who begins to do business on or after the 1st day of July in any calendar year shall pay one-half of the annual license fee.

C) Farm winery licenses shall not be transferable from the licensee to any other person except by approval of the City Commission granted, upon written application, by a resolution duly adopted at a regular monthly meeting of the City Commission.

D) Each farm winery license shall be issued for a specific business location and, when issued, may not thereafter be transferred to another business location without approval of the City Commission granted, upon written application, by a resolution duly adopted at regular monthly meeting of the City Commission.

E) No farm winery license or any part thereof shall be refunded.

SECTION 24-71: EXCISE TAXES

In addition to the foregoing annual license fee there is hereby levied and imposed upon the sale of wine at wholesale and retail by licensed farm wineries within the City of Cornelia such excise taxes as are now or hereafter permitted to be levied by municipalities by the laws of this State. Such taxes shall be imposed upon and shall be paid by the licensed farm winery. Such taxes shall be paid by such licensed farm wineries on or before the 10th day of the month following the calendar month in which the wines are sold or disposed of within the City of Cornelia, Georgia. Each licensee responsible for the payment of the excise tax shall file with the Secretary of the City Commission a report showing for the preceding calendar month the exact quantities of wine, by size and type of container, sold during said month within the City of Cornelia.

SECTION 24-72 QUALIFICATIONS OF APPLICANTS

Every applicant for a farm winery license must meet the qualifications of applicants for Retail Beer and Wine Sales Licenses and locations set forth in Section 24-10 of this Code.

No person shall own or enjoy any ownership interest in, share in the profits from or otherwise participate in the business of any licensee holding a farm winery license unless a full description of such interest shall have been furnished to the City Commission at the time such license is applied for, or at the time thereafter such interest arose. It shall be the duty of the licensee to report to the City Commission within five (5) days, any change in any interest in such licensee's business but not limited to:

- A) Any division of profits;
- B) Any division of net or gross sales for any purpose whatsoever;
- C) Any change in the payment of rents or leases;
- D) Any change in the ownership of any lease or building or land used in such business;

E) Any change in the ownership of any corporation that has any interest in such business or the change of management of such corporation.

After receipt of such notice, the City Commission shall notify such person within a reasonable time of any objection to the ownership or interest set forth therein, and it shall then be incumbent upon such person to dispose of such interest within thirty (30) days after the mailing of the notice to do so by the City Commission to such person at his address as shown on such notice of interest. In the event such interest is not disposed of within thirty (30) days after the mailing of the notice by the City Commission, or in the event no objections are filed within said thirty-day period, or in the event such person fails to notify the Commission of the transfer of any such interest within twenty (20) days after the acquisition thereof, then the license as provided for herein may be revoked by the City Commission until disposition of the interest has been made and notice given to the City Commission of the transfer. The provisions of this paragraph shall not apply to shockholders of corporations which are publicly owned and the capital stock of which is traded on the New York Stock Exchange, the American Stock Exchange, or over the counter.

SECTION 24-73: APPLICATIONS FOR FARM WINERY LICENSES AND PROCEDURE

Each applicant for a farm winery license shall make a written application therefore to the City Commission under the terms set out in Sections 24-10 and 24-11 of this ordinance.

SECTION 24-74: EXPIRATION OF LICENSES

All farm winery licenses shall expire at midnight on the 31st day of December of the year for which issued. Any licensee desiring a renewal of a farm winery license shall apply therefore in the same manner, and furnish the same information, fingerprints, and copies of documents as are required by an initial application. Sets of fingerprints and copies of documents previously furnished with an application for a farm winery license may be referred to and made a part of the application for renewal by reference where the same remain in the possession of the Secretary of the City Commission at the time such application for renewal is filed.

SECTION 24-75: GROUNDS FOR SUSPENSION OR REVOCATION OF FARM WINERY LICENSE

The City Commission shall have complete authority to revoke, suspend or deny the transfer of any farm winery license issued under the provision of this chapter. The grounds for the suspension or revocation of a license set forth in Sections 24-19, 24-20 and 24-21 of this Code shall also be grounds for the suspension or revocation of a farm winery license. Whether or not said grounds exist, and whether such farm winery license shall be revoked or suspended shall be determined by the City Commission.

SECTION 24-76: TRANSFER OF FARM WINERY LICENSE; TRANSFER FEES

Upon proper application, the City Commission may permit a farm winery license to be transferred upon payment of a transfer fee equal to one-half of the original farm winery license fee, provided that the transferee meets all of the qualifications which would have been required had the transferee been an applicant for a farm winery license.

Upon the death of any individual farm winery license holder, his personal representative or his heirs may continue to operate under said license for the balance of the year for which granted without payment of any fee, if otherwise qualified as license holders, or the license may be transferred to a qualified transferee upon payment of the aforesaid transfer fee.

**SECTION 24-77: PROCEDURE FOR REVOCATION OR SUSPENSION OF
FARM WINERY LICENSES OR DENIAL OF TRANSFER**

A) Before the City Commission shall deny any application for the transfer of any farm winery license, or shall revoke or suspend any existing farm winery license, the licensee shall be given notice in writing by the Secretary of the City Commission to show cause before the commission at a time and place specified therein not less than two (2) days nor more than fourteen (14) days from the date of service of this notice, why said application for transfer of such license should not be denied, or why such license should not be revoked or suspended, as the case may be, stating the grounds therefore, and at the appointed time and place the licensee shall have an opportunity to show cause, if any exists, why said application for transfer should not be denied or why said license should not be revoked or suspended, after which the City Commission shall take such action as it, in its judgment and discretion, shall deem warranted under the facts. Service of the required notice may be made pursuant to Section 24-23 of this chapter. The hearing provided for need not be held at a regular meeting of the City Commission, but may be at such time and place as shall be fixed in said notice.

B) All decisions of the City Commission denying the transfer of a farm winery license, or suspending or revoking such a license, shall be in writing, with the reasons therefore stated, and delivered to the licensee personally or by mail addressed to the licensee at the business address appearing in the application of such licensee for the farm winery license which is the subject of such decision.

ARTICLE XI
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 XII
REPEALER

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

03/01/05 Adopted