

**ORDINANCE #2008-9: AN ORDINANCE TO AMEND THE STATESBORO
CODE OF ORDINANCES CHAPTER 6 REGARDING ALCOHOLIC
BEVERAGES**

THAT WHEREAS, the City Council has previously adopted an ordinance regulating the sale of alcoholic beverages; and

WHEREAS, the City Council finds sufficient reason and need to amend the current chapter and subsequent code sections;

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Statesboro, Georgia in regular session assembled that Chapter 6, Alcoholic Beverages, of the Code of Ordinances of the City of Statesboro is hereby amended as follows:

Section 1. The following amendments are made to Article 6 as set forth below:

Sec. 6-4 Alcohol Control Board. This section is deleted in its entirety and is reserved for future use.

Sec. 6-26 Required classifications, etc.

- (e) Payment of fees. Application fees shall be paid at the time the application is filed and shall not be refunded under any circumstances. An applicant may pay the annual license fee at the time the application is filed; and in such event the annual license fee shall be refunded if the license applied for is not issued. If the annual license fee is not paid at the time of the application, the annual license fee shall be paid prior to the issuance of the license by the city clerk and no later than 14 days after notification of approval of the license by the city clerk. Failure to pay within 14 days shall bear a ten percent penalty on the license fee and a one percent interest rate monthly until paid in full.

Sec. 6-27 Procedure for issuance.

- (d) In the case of a corporation having as its principal business an activity other than the sale of alcoholic beverages, the officer or employee who is to be the named licensee shall be the applicant and must meet the qualifications of an individual licensee, as provided herein; provided, however, that the city clerk may require the fingerprinting and investigation of officers and shareholders of the corporation if they deem it necessary in making their investigation.

Sec. 6-29. Qualifications.

- (b) A licensee shall not have been convicted of a misdemeanor or a felony within five years immediately preceding his application nor have been in violation of a municipal alcoholic beverage control ordinance within two years immediately preceding his application, or at any time of any criminal offense relating to alcoholic beverage control regulations, taxes, or gambling. This subsection shall apply with respect to the laws of this state, other states, the United States, and other countries. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection. The mayor and city council may at their discretion waive the conviction of a misdemeanor for a nonalcoholic offense for purposes of this subsection if the mayor and city council determines that the misdemeanor does not have a bearing on the applicant's fitness for a license.
- (d) No license for the sale of alcoholic beverages by the drink for consumption on the premises shall be issued to any applicant who does not meet the requirements of a private club, restaurant, tavern or bar as defined in sections 6-157 and 6-158.

Sec. 6-30. Application procedures.

- (a) Application for a license for the retail sale of beer and malt beverages and/or distilled spirits in the city shall be filed with the city clerk upon forms prescribed by the city clerk and made available at city hall. The application shall be subscribed by the applicant under oath and fully completed and executed.
- (e) Upon proper completion of the application and payment of fees, the city clerk shall review the application and make inquiries thereon as deemed necessary under this article. The city clerk may seek the advice of law enforcement officers and state prosecutors during consideration of the application.
- (f) As a prerequisite to the issuance of a license, all businesses where alcohol is consumed on the premises shall satisfy all requirements of a fire and life safety inspection performed by the local fire official or his/her designee. The licensed premise must meet the requirements of the National Fire Protection Association's (NFPA's) 2006 Life Safety Code for A-2 Occupancy Types. The prescribed inspection form shall be provided by the local fire official. In addition, all businesses where alcohol is consumed on the premises and the occupancy load is 100 or more persons, shall provide the city clerk with a signed fire safety report and certificate of occupancy from the state fire marshal's office. The local fire official (fire chief) may cause to be inspected any building or portion of any building licensed under this ordinance.
- (g) Upon full compliance with the requirements of the fire and life safety inspections, as contained in section 14-1 of this Code, the local fire official shall notify the city clerk for further processing of the license.

- (h) After the review is complete, the city clerk shall grant or deny the license applied for in accordance with the provisions of this code section.
- (i) If the application is denied the applicant may appeal the decision to the mayor and city council. Application fees shall not be refunded.
- (j) Upon application and payment of a fee set by the mayor and city council, a one-day special event alcohol beverage permit for the complimentary furnishing of alcohol to a group, entity, or organization may be granted by the mayor and city council. The applicant must also obtain a special event permit from the State of Georgia before conducting the event.

Sec. 6-31. Renewal.

- (a) All alcoholic beverage licensees shall be required to apply for renewal of their licenses annually on forms prescribed by the city clerk and must comply with all provisions of this article, with the exception that publication of notice, fingerprinting and background checks, as required shall not be required for renewal of a license unless there has been a change of ownership of the business or other interests therein. On renewal, the applicant shall be administered and take the oath specifically contained on the application form. The city clerk may within their discretion require fingerprinting and a full background check on any renewal at any time.

Sec. 6-32. Transfer.

- (c) In the case of death of an owner of a license or financial interest therein, such license or interest therein may be transferred to the administrator, executor, or adult heir or heirs of the deceased unless the mayor and city council determines that it would otherwise violate this chapter. If the transferee cannot meet all the requirements of this chapter when the time comes to renew the license, it shall not be renewed.
- (e) Where a license is issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages, a change in the named licensee may be permitted by the mayor and city council if the new named licensee meets the requirements of new license applicants.
- (f) In the circumstances described in subsections (c), (d) and (e) of this section, the license may be revoked if the mayor and city council determines that the change results in a failure to meet the requirements of this chapter.

Sec. 6-33. Change in business ownership.

- (a) If any licensee withdraws from, sells or otherwise transfers the licensee's interest in the licensed business, the licensee shall within two days, notify the city clerk and surrender the license.

Sec. 6-34. Temporary license.

- (a) A temporary license may be issued by the mayor and city council, if in their judgment, the denial of a temporary license would create an undue hardship such as the closing of an existing business. The temporary license shall be issued for an extra fee of \$50.00 for a 90-day period with one additional 90-day extension if needed.
- (b) A temporary license may be revoked, with or without cause, by the mayor and city council at any time, and the grant or denial of a temporary license shall not affect or have any bearing upon the grant or denial of a permanent license.

Sec. 6-35. Suspension/revocation. This section is deleted in its entirety and replaced with the following:

- (a) A license may be suspended or revoked by the mayor and city council for any violation of this chapter or other city ordinances, for any material misrepresentation or omission in the application for the license, or if the licensee or the licensed business ceases to meet the eligibility requirements for license or for any other reason as determined by the mayor and city council in the best interest of public health, safety or welfare. The city clerk shall schedule a due process hearing before the mayor and city council for any license holder alleged to have violated any provision of this chapter, by sending at least 14 days prior to the date of the due process hearing, a certified letter to the license holder containing the date, time, and location of the hearing, the date and nature of the allegations, and the license holder's right to be represented by an attorney and to present evidence. In lieu of a certified letter, the city clerk may elect to have service perfected by personal service by a city police officer.
- (b) The mayor and city council shall conduct the hearing in accordance with the provisions of O.C.G.A. § 3-3-2 et seq., and shall make written findings of fact and reason(s) for its decision.
- (c) The mayor and city council are authorized to suspend the sale of alcoholic beverages under any license for any emergency situation such that they deem such suspension necessary for the protection of the public health, safety or welfare. Such suspension may be made effective immediately and may remain in force until they determine that the emergency is over.

Sec. 6-36. Automatic revocation.

(2) Payment of the annual license fee is not received by the city within 14 days after notification that the approval to issue a license has been made by the city. However, in the case of an initial annual license fee for a licensee occupying a new or remodeled building requiring a building permit, payment of the annual license fee may be delayed up to 14 days after the issuance of the building's certificate of occupancy.

(4) Operation of the licensed activity is commenced and then discontinued for a period of 30 days unless extended by the mayor and city council for good cause.

Sec. 6-56. Sale/service in public places.

It shall be unlawful to furnish or dispense alcoholic beverages through kegs, barrels, cylinders or other portable receptacles containing tap or pump-type devices, in which the flow of contents is controlled by the operator, in a public place and facility. When receptacles are found in violation of this section and the person maintaining the receptacle cannot be identified, the receptacle shall be confiscated and held for 30 days by the city police. The receptacle may be claimed by the owner or lessor, but will be disposed of at the end of 30 days if unclaimed. Nothing in this section shall prohibit persons holding licenses pursuant to this article from dispensing through kegs, barrels, cylinders or other such receptacles inside the establishments or premises approved by the mayor and city council for a pouring license.

Sec. 6-57. Proximity restrictions.

(d) The proximity restriction distances between a licensed premises and a college or university campus shall not apply in those cases where all of the conditions listed below are met:

(4) The proposed licensed premises installs a solid buffer consisting of vegetative evergreen shrubs of at least three feet in height adjacent to the street or highway frontage to restrict pedestrian crossing of these major streets and highways. A landscaping plan must be submitted to the planning department for approval prior to consideration of the license by the city clerk. The shrubs must be planted prior to exercising the license.

Sec. 6-84. Retention of records.

(b) All consumption-on-the-premises licensees shall file with the city clerk the following reports by 5:00 pm on the 20th day of the month immediately following the end of each calendar quarter for which the report is filed:

(3) Any other documents, reports, records, or books as shall be required by the city clerk to confirm the accuracy of the reported information.

Sec. 6-137. Wine tastings.

Upon filing an application and payment of a permit fee as set by the mayor and city council and after investigation and review, the city clerk may issue an annual permit to a holder of an alcoholic beverage license to hold wine tastings. The permit fee shall be paid upon application and is payable annually thereafter on the same date as alcoholic license fees are due and payable. The permit shall allow the applicant to provide samples of wine to the public for consumption at a location which meets the legal requirements for on-premises consumption (excluding those requirements set forth in sections 6-156, 6-157 and 6-159) under the following conditions:

- (1) The applicant for a wine tasting must hold a valid current wine license in the State of Georgia.
- (2) No wine tasting may be conducted on the premises of any place of business licensed to sell distilled spirits in the unbroken container at retail.
- (3) All wines secured for tasting purposes must be obtained through a retail or wholesale wine outlet.
- (4) No wine tasting shall last more than four hours, and no licensee may hold more than one wine tasting per week.
- (5) The licensee shall provide the city clerk with written notice of the date and time of each wine tasting at least seven days prior to such wine tasting.
- (6) Except as otherwise provided in this section, the licensee must comply with all state statutes and sections of this Code and other city ordinances concerning alcoholic beverages, including but not limited to those dealing with hours of operation, zoning and distance requirements.

Sec. 6-156. Eligibility restricted--Generally.

Any type consumption-on-the-premises license may be granted only to a restaurant, tavern or bar as defined under section 6-157 or a private club as defined under section 6-158.

Sec. 6-157. Restaurants, Taverns and Bars.

- (a) In order to be eligible for a pouring or limited pouring consumption on-the-premises license, a Restaurant shall:

- (1) Be used and held out to the public as a place where meals prepared on the premises are regularly served to the public for adequate pay each day the establishment is open for business;

- (2) Contain one or more public dining rooms, with adequate and sanitary kitchen facilities and refrigeration as required by the Bulloch County Health Department and staff to prepare, cook and serve suitable food for its guests;
- (3) Be required to serve meals prepared on the premises during any time the establishment is open for business serving at least five (5) prepared items at all times alcohol is being served;
- (4) Have a valid Bulloch County Health Department Food Service Permit and any other applicable local, state or federal permits, licenses, etc. required for food service establishments;
- (5) Have at least 60 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises; and for this purpose, if a restaurant makes a minimum charge, cover charge, or admission charge, or any other nonfood or nonalcoholic beverage charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale;
- (6) Have a permanent seating capacity at tables, not counting bar stools, of at least 25 persons.
- (7) The occupancy load for purposes of this section must meet the following criteria:
 - a. The square footage of the interior area of the restaurant, which is enclosed and under roof and is conditioned air space, shall be determined using a set of building plans showing the fixed and other seating and tables.
 - b. The food preparation, service areas (kitchen, buffet and salad bar areas), storage, the preparation area behind bars, restrooms and all connecting hallways shall be removed from the total square footage of the floor space.
 - c. The maximum occupant load for the remaining areas shall be calculated in accordance with the building code and life safety code as follows:
 1. The assembly area where restaurant seating is located shall be calculated using 15 square feet per person.
 2. The waiting area at the entrance/exit shall be calculated using three square feet per person. The number of occupants allowed in the calculation for waiting area cannot exceed 50 percent of the occupant load of the assembly area in subsection 1. above.
 3. An additional area for live entertainment and dancing shall be calculated using seven square feet per person. The number of occupants allowed in the calculation for this additional area cannot exceed 20 percent of the occupant load of the assembly areas in subsection 1. above.
 4. The mayor and city council may consider a request for consumption on the premises of a deck or patio attached or adjacent to the principal restaurant assembly area. If such a request is granted, it does not alter the calculation of the maximum occupant load.
 - d. The occupancy load determined for each location shall be posted for public view.
 - e. If the occupancy load is exceeded, the Statesboro Fire Chief, or his designee, is authorized to reduce the occupancy load to the lawful level by requesting the owner/operator, if available, to voluntarily reduce the occupancy load. In case the

occupancy load is not reduced voluntarily, the Statesboro Fire Chief, or his designee, is authorized to temporarily close such premises or facility in order to vacate the premises to the lawful occupancy load. Violation of the occupancy load, even if voluntarily reduced as requested, shall be a violation of this chapter, subject to penalties as set out in section 6-3.

(8) Maintain at all times the number of tables, chairs, and booths for patrons in substantially the same general configuration as submitted on the set of building plans used to determine the occupancy load. Nothing herein shall prohibit the temporary placing of tables together to accommodate a larger dining party, provided the total number of tables, chairs and booths available for patron use in the assembly area where restaurant seating is located must equal the number shown on the building plans submitted for occupancy purposes, with adequate space between them for normal movement of patrons and employees. The intent of this provision is to prohibit the removal at any time of the restaurant's seating or table capacity, as shown for occupancy load purposes, to accommodate more than the allowed number of patrons within the assembly area of the restaurant.

(b) In order to be eligible for a pouring or limited pouring consumption on-the-premises license, a Tavern shall:

(1) Be required to serve meals prepared on the premises during any time the establishment is open for business serving at least five (5) prepared items at all times alcohol is being served;

(2) Have a valid Bulloch County Health Department Food Service Permit and any other applicable local, state or federal permits, licenses, etc. required for food service establishments;

(3) Have at least 35 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises; and for this purpose, if a tavern makes a minimum charge, cover charge, or admission charge, or any other nonfood or nonalcoholic beverage charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale;

(4) Have a permanent seating capacity at tables, not counting bar stools, of at least 25 persons.

(5) The occupancy load for purposes of this section must meet the following criteria:

a. The square footage of the interior area of the tavern, which is enclosed and under roof and is conditioned air space, shall be determined using a set of building plans showing the fixed and other seating and tables.

b. The food preparation, service areas (kitchen, buffet and salad bar areas), storage, the preparation area behind bars, restrooms and all connecting hallways shall be removed from the total square footage of the floor space.

c. The maximum occupant load for the remaining areas shall be calculated in accordance with the building code and life safety code as follows:

1. The assembly area where tavern seating is located shall be calculated using 15 square feet per person.

2. The waiting area at the entrance/exit shall be calculated using three square feet per person. The number of occupants allowed in the calculation for waiting area cannot exceed 50 percent of the occupant load of the assembly area in subsection 1. above.

3. An additional area for live entertainment and dancing shall be calculated using seven square feet per person. The number of occupants allowed in the calculation for this additional area cannot exceed 20 percent of the occupant load of the assembly areas in subsection 1. above.

4. The mayor and city council may consider a request for consumption on the premises of a deck or patio attached or adjacent to the principal tavern assembly area. If such a request is granted, it does not alter the calculation of the maximum occupant load.

d. The occupancy load determined for each location shall be posted for public view.

e. If the occupancy load is exceeded, the Statesboro Fire Chief, or his designee, is authorized to reduce the occupancy load to the lawful level by requesting the owner/operator, if available, to voluntarily reduce the occupancy load. In case the occupancy load is not reduced voluntarily, the Statesboro Fire Chief, or his designee, is authorized to temporarily close such premises or facility in order to vacate the premises to the lawful occupancy load. Violation of the occupancy load, even if voluntarily reduced as requested, shall be a violation of this chapter, subject to penalties as set out in section 6-3.

(6) Maintain at all times the number of tables, chairs, and booths for patrons in substantially the same general configuration as submitted on the set of building plans used to determine the occupancy load. Nothing herein shall prohibit the temporary placing of tables together to accommodate a larger dining party, provided the total number of tables, chairs and booths available for patron use in the assembly area where tavern seating is located must equal the number shown on the building plans submitted for occupancy purposes, with adequate space between them for normal movement of patrons and employees. The intent of this provision is to prohibit the removal at any time of the tavern's seating or table capacity, as shown for occupancy load purposes, to accommodate more than the allowed number of patrons within the assembly area of the tavern.

(7) Patron Age Compliance:

There shall be no minimum age restriction placed on patrons of taverns from opening through 10:00 pm local time. After 10:00 pm local time through closing all patrons shall be 18 years of age or older. Failure to comply with the patron age requirement shall result in penalties as set forth in section 6-3.

(c) In order to be eligible for a pouring or limited pouring consumption on-the-premises license, a Bar shall:

- (1) Be required to serve meals prepared on the premises during any time the establishment is open for business serving at least five (5) prepared items at all times alcohol is being served;
- (2) Have a valid Bulloch County Health Department Food Service Permit and any other applicable local, state or federal permits, licenses, etc. required for food service establishments;
- (3) Have a permanent seating capacity at tables, not counting bar stools, of at least 25 persons.
- (4) The occupancy load for purposes of this section must meet the following criteria:
 - a. The square footage of the interior area of the bar, which is enclosed and under roof and is conditioned air space, shall be determined using a set of building plans showing the fixed and other seating and tables.
 - b. The food preparation, service areas (kitchen, buffet and salad bar areas), storage, the preparation area behind bars, restrooms and all connecting hallways shall be removed from the total square footage of the floor space.
 - c. The maximum occupant load for the remaining areas shall be calculated in accordance with the building code and life safety code as follows:
 1. The assembly area where bar seating is located shall be calculated using 15 square feet per person.
 2. The waiting area at the entrance/exit shall be calculated using three square feet per person. The number of occupants allowed in the calculation for waiting area cannot exceed 50 percent of the occupant load of the assembly area in subsection 1. above.
 3. An additional area for live entertainment and dancing shall be calculated using seven square feet per person. The number of occupants allowed in the calculation for this additional area cannot exceed 20 percent of the occupant load of the assembly areas in subsection 1. above.
 4. The mayor and city council may consider a request for consumption on the premises of a deck or patio attached or adjacent to the principal bar assembly area. If such a request is granted, it does not alter the calculation of the maximum occupant load.
 - d. The occupancy load determined for each location shall be posted for public view.
 - e. If the occupancy load is exceeded, the Statesboro Fire Chief, or his designee, is authorized to reduce the occupancy load to the lawful level by requesting the owner/operator, if available, to voluntarily reduce the occupancy load. In case the occupancy load is not reduced voluntarily, the Statesboro Fire Chief, or his designee, is authorized to temporarily close such premises or facility in order to vacate the premises to the lawful occupancy load. Violation of the occupancy load, even if voluntarily reduced as requested, shall be a violation of this chapter, subject to penalties as set out in section 6-3.
- (5) Maintain at all times the number of tables, chairs, and booths for patrons in substantially the same general configuration as submitted on the set of building plans used to determine the occupancy load. Nothing herein shall prohibit the temporary placing of tables together to accommodate a larger dining party,

provided the total number of tables, chairs and booths available for patron use in the assembly area where bar seating is located must equal the number shown on the building plans submitted for occupancy purposes, with adequate space between them for normal movement of patrons and employees. The intent of this provision is to prohibit the removal at any time of the bar's seating or table capacity, as shown for occupancy load purposes, to accommodate more than the allowed number of patrons within the assembly area of the bar.

(6) Patron Age Compliance:

All patrons shall be 21 years of age or older to enter all bar establishments as defined under this code section. Failure to comply with the patron age requirement shall result in penalties as set forth in section 6-3.

Sec. 6-192. Collection.

Every consumption on-the-premises licensee shall collect the tax imposed by this article from purchasers of mixed drinks. The licensee shall furnish such information as may be required by the city clerk to facilitate the collection of the tax. In all cases where the purchase is by deferred payment or credit, the licensee becomes liable for the collection and payment of the tax at the time of delivery of the mixed drink to the purchaser.

Section 2. Should any section, subsection, or provision of this ordinance be ruled invalid by a court of competent jurisdiction, then all other sections, subsections, and provisions of this ordinance shall remain in full force and effect.

Section 3. This ordinance shall remain in full force and effect from and after its adoption on two separate readings.

First Reading: November 4, 2008

Second Reading: December 16, 2008

MAYOR AND CITY COUNCIL OF STATESBORO, GEORGIA

By: William S. Hatcher II, Mayor

Attest: Sue Starling, City Clerk

(seal)