

Alcohol Advisory Board
Council Chambers at City Hall
January 9th, 2017
4:00pm

Agenda

1. Call Meeting to Order
2. Review of Minutes from Monday, December 12, 2016
3. Adoption of Minutes
4. Discussion on "Look Back" for alcohol violations: Chapter 6 Sec. 6-19(c)(10)b
5. Discussion of Pricing section of the Ordinance (Happy Hour) Chapter 6 Sec.6-16
6. Discuss amending Chapter 6 Sec 6-6 (b) to comply with state requirements of GAC 560-2-2-.02 (9)
7. Questions and Comments from the Community
8. Announce Next Meeting- Monday, February 13 at 4:00pm
9. Adjourn

Alcohol Advisory Board
Meeting Minutes
December 12, 2016

The fourth meeting of the Alcohol Advisory Board was held on December 12, 2016 at 4:00 p.m. in the Council Chambers at City Hall. Present were Patrice Jackson, Woody Pumphry, Jim Thibodeau, Shubert Lane, Laura Wheaton and Matt Hube. Also present was City Clerk Sue Starling.

The minutes from the November 14, 2016 meeting were presented. Laura Wheaton made a motion to adopt the minutes. Shubert Lane seconded the motion. The motion carried with a 6-0 vote.

The next item discussed was the proposed change to the catered events portion of the ordinance. Patrice Jackson read into the record the proposed definition of a catered event which is as follows:

“An event where alcoholic beverages are served by a licensed caterer for a particular function (i.e. retirement dinner, wedding reception, private party, sporting event, artistic performance) where the general public is admitted and where food is served and the total cost of food exceeds the cost of alcohol. City Council shall have the discretion to approve or deny any request submitted to have a catered event. City Council may place any limiting restriction on the event which it deems necessary and may consider factors such as the location of the event, times of the event, amount of security provided at the event and any other factor deemed appropriate by the Council in making its determination.”

There was some discussion amongst the members and comments by Darin Van Tassel on behalf of Tormenta soccer club. Woody Pumphry posed a question regarding the “total cost of food exceeds the cost of alcohol” language. That issue was discussed and it was clarified that the language means that for each event the total cost of food must exceed the cost of alcohol. There was discussion regarding the discretion given to city council in making decisions whether to approve certain catered events. There was discussion about having a definition of a catered private event and a definition for a catered public event. The discussion resulted in the proposed language being modified from “An event...where the general public is admitted” to “An event.....where the general public may be admitted”. A motion was made by Matt Hube to send the modified definition to City Council for their consideration at the January Council meeting. Shubert Lane seconded the motion and it passed 6-0.

The next item was discussion of the pricing section (happy hour) of the Ordinance. All parties agree that the current pricing section (6-16) is confusing to read and that it would be difficult to enforce. Jim Thibodeau indicated that he does not like any outside advertising for drink specials. There was discussion about limiting the time of “happy hour” from 5:00 - 9:00 p.m. which would limit the ability of bars to serve drink specials later at night. Jim Thibodeau is to scan and send

to the members the research he has done on how other municipalities treat “happy hour”. Patrice Jackson made a motion to continue the discussion at the January meeting. Laura Wheaton seconded the motion. The motion passed 6-0.

The next item was questions and comments from the community. There were no questions or comments from the community.

The next Alcohol Advisory Board meeting was set for January 9, 2017, at 4:00 p.m.

At 5:02 p.m. Shubert Lane made a motion to adjourn the meeting. Jim Thibodeau seconded the motion. The motion carried with a 6-0 vote.

(e) *Application to property owned by board of regents.* This prohibition shall not apply to any property owned by the Board of Regents of the State of Georgia.

(f) *Application to sidewalk cafes.* The prohibition in subsection (c) above shall not apply to patrons of a sidewalk café located in downtown development authority district, if such establishment is otherwise licensed to sell alcoholic beverages under the applicable laws and ordinances in the city.

(g) *Possession in automobiles prohibited.* See O.C.G.A. § 40-6-253.

(h) *Posting of notice by establishments.* All licensed alcohol establishments are hereby required to post in a conspicuous location inside such establishment a notice informing patrons that open containers are prohibited on the public streets, sidewalks or rights-of-way, or in any public or semipublic parking facility within the city.

(i) 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, public streets, sidewalks, alleyways or rights-of-way, or in any public or semipublic parking facility including areas of ingress and egress. 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 chapter from dispensing through kegs, barrels, cylinders or other such receptacles inside an appropriately licensed premises.

(Ord. No. 2016-03, § 1, 3-15-16)

Sec. 6-18. Furnishing alcoholic beverages in violation of state law.

It shall be unlawful for any licensee, by himself or through another, to obtain, furnish or cause to be obtained or furnished, or permit any other person in his employ to obtain or furnish, distilled spirits, wines, malt beverages, or any other alcoholic beverages in a manner that is a violation of state law.

(Ord. No. 2016-03, § 1, 3-15-16)

Sec. 6-19. Compliance; violations; penalties.

(a) Violations; penalties.

(1) It shall be unlawful for any person to violate any provision of this chapter. Upon conviction for the violation thereof each person shall be subject to the punishments allowed under section 5-3 of the Charter of the City of Statesboro, after hearing before the judge of municipal court.

- (2) Unless otherwise provided in the schedule of fines and fees, the minimum fine for a first conviction for violating any provisions of this chapter in the last five years, as measured from the date of previous offense to the date of the current offense, shall not be less than \$300.00 per citation.
 - (3) Unless otherwise provided in the schedule of fines and fees, the minimum fine for a second or subsequent convictions for violating any provisions of this chapter in the last five years, as measured from the date of previous offense to the date of the current offense, shall not be less than \$725.00 per citation.
- (b) Duty of municipal court clerk; duty of city clerk.
- (1) Upon filing of any citation(s), accusation(s) or warrant(s) in the Municipal Court of Statesboro that alleges a violation of this chapter by a licensee, or an employee, agent or representative of a licensee, the clerk of the municipal court shall forward copies of the citation(s), accusation(s), or warrant(s) to the city clerk, and to the special agent in charge of the Savannah Regional Office of the Alcohol and Tobacco Division of the Georgia Department of Revenue as required by O.C.G.A. §3-3-2.1.
 - (2) Upon conviction of a licensee or an employee, agent or representative of a licensee, of any provision of this chapter or paragraph (1) of subsection (a) of Code section 3-3-23, prohibiting the furnishing of alcoholic beverages to underage persons, the clerk of the municipal court shall forward certified copies of the conviction to the special agent in charge of the Savannah Regional Office of the Alcohol and Tobacco Division of the Georgia Department of Revenue as required by O.C.G.A. §3-3-2.1. The term "conviction" as used in this paragraph shall include a finding or verdict of guilt, plea of guilty, or a plea of nolo contendere.
 - (3) Upon receipt of copies of any accusation(s), citation(s) or warrant(s) from the clerk of the municipal court alleging a violation of this chapter by a licensee, or an employee, agent or representative of a licensee the city clerk shall notify the mayor, the city manager, the city attorney and the chief of police.
- (c) Probation, suspension, revocation of license; administrative hearing, administrative hearing fee.
- (1) The mayor and city council shall have exclusive jurisdiction over any action brought against any licensee holding a license issued pursuant to this chapter seeking to revoke, suspend or place the licensee on probation. Said action may be brought by the city solicitor, the city manager, or the police chief, or their respective designees.
 - (2) The mayor and city council may suspend, revoke, or impose terms and conditions of probation on the licensee, or any combination of suspension and terms and conditions of probation for one or more of the following reasons:
 - a. The violation by the licensee, or licensee's employees or agents of any state or federal law or regulation or any provision of this chapter or other ordinance of the City of Statesboro, at any time adopted, relating to the sale, use, possession, or distribution of alcoholic beverages.

license application. The city clerk shall also forward a copy of this notice to the special agent in charge of the Savannah Regional Office of the Alcohol and Tobacco Division of the Georgia Department of Revenue.

- (9) The evidentiary standard for an action against a licensee is preponderance of the evidence.
- (10) In considering the term of suspension, whether to permanently revoke the license or whether to impose terms and conditions of probation on the license, the mayor and city council shall consider the following factors:
 - a. The gravity of the violation;
 - b. Any previous violations within the past five years period as measured from the date of previous offense to the date of the current offense;
 - c. Actions of the licensee, its employees, subcontractors or agents in connection with the violation.
- (11) The mayor and city council may promulgate any rules of procedure for the administrative hearing not in conflict with this ordinance or other law.
- (12) If action is taken against the licensee the mayor and city council shall cause a written opinion to be prepared by mayor and council showing the reason or reasons for the revocation, suspension or probation of the license. The written opinion can be the minutes of the hearing kept by the city clerk showing the evidence considered and the ruling issued. Upon adoption by the mayor and city council the opinion shall be the final decision of the mayor and city council. The city clerk shall notify the applicant of the final decision of the mayor and city council within five days of the adoption of the final decision by the mayor and city council. Pursuant to O.C.G.A. § 3-3-2.1 the city clerk shall forward a copy of this final decision to the special agent in charge of the Savannah Regional Office of the Alcohol and Tobacco Division of the Georgia Department of Revenue.
- (13) Appeal of the final decision of the mayor and city council shall be by Petition for Certiorari to the Superior Court of Bulloch County.
 - (d) *Temporary suspension by city manager permitted.* Notwithstanding the foregoing, and upon determining it is in the interest of public safety the city manager, upon a written recommendation of the police chief, or acting head of the Statesboro Police Department, and approval of the mayor, may temporarily suspend any license provided for in this chapter pending an administrative hearing and action by the mayor and city council in accordance with this chapter. The city manager shall issue a written administrative order stating the reasons for the temporary suspension. If a license is temporarily suspended by the city manager, the mayor shall call a special meeting of the city council to hold an administrative hearing pursuant to this chapter as soon as practically possible, but no later than ten days from the day the license is temporarily suspended.
(Ord. No. 2016-03, § 1, 3-15-16)

(b) *Order required outside establishment.* The owner and manager of any alcoholic beverage establishment shall be responsible for monitoring parking lots and the curtilage around the establishment and prohibiting patrons and other persons associated with the establishment from standing, sitting, mingling, or assembling outside the licensed premises in a manner which causes or contributes to disturbances and/or illegal acts.

(c) *Disorderly conduct while intoxicated prohibited.* It shall be unlawful for any person within the corporate limits of the city, while intoxicated by alcohol or other drugs on the sidewalks, parks, squares, streets, public buildings, other public places, or in the curtilage of any private residence not his own other than by invitation of the owner or lawful occupant, to be disorderly which condition is made manifest by boisterousness, by indecent condition or act, by vulgar, profane, loud or unbecoming language, or by acting in such a way as to endanger his or her life or safety or that of any other person or persons.

(Ord. No. 2016-03, § 1, 3-15-16)

Sec. 6-15. Dive defined; prohibited; penalty for violation.

(a) *Term defined.* As used in this section, the term "dive" shall mean any place or establishment where illegal drugs are found, possessed, kept or sold; or where any person possesses or consumes any illegal or unlicensed alcoholic beverage or possesses or uses any illegal drug; or where any person commits any illegal sexual act; or where any person engages in gambling activities.

(b) *Prohibition.* It shall be unlawful for any person or organization or group of persons to have, operate or maintain any place or establishment defined as a dive.

(Ord. No. 2016-03, § 1, 3-15-16)

Sec. 6-16. Alcohol promotions; pricing of alcoholic beverages.

(a) Unless otherwise stated, this section shall be construed to cover, include and apply to every type of alcoholic beverage licensed to be sold in the city.

(b) It shall be unlawful for any licensee or employee or agent of such licensee to engage in or allow any of the following practices in connection with the sale or other disposition of alcoholic beverages:

- (1) Offer or deliver any free alcoholic beverage to the general public. This subsection shall not apply to events conducted in accordance with the grant of a special event permit granted pursuant to this chapter, or to samples of beer offered in conjunction with the sale of growlers as provided for in subsection 6-8(b).
- (2) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than \$1.00.
- (3) Sell, offer to sell, or deliver to any person or group of persons two or more alcoholic beverages during any set period of time at a fixed price.

- (4) Sell, offer to sell, or deliver alcoholic beverages after 11:00 p.m. to any person or group of persons at reduced prices less than the normal retail price of the establishment for that alcoholic beverage charged the general public on that day.
- (5) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage.
- (6) Sell two or more alcoholic beverages for a price substantially the same as is charged for one such alcoholic beverage.
- (7) Require or encourage the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased.
- (8) Sponsor, conduct, encourage or allow on the licensed premises any game or contest or promotion which either:
 - a. Involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as the prize; or
 - b. Has as its primary purpose the increasing of the consumption of alcoholic beverages on the premises.
- (9) Sell, offer to sell, or give away any coupons, tokens, tickets, receipts or other devices authorizing the serving of any alcoholic beverage drinks either on the current or subsequent day.
- (10) Sell, offer to serve, or deliver any alcoholic beverage to be inserted into the mouth of a customer in any manner by anyone other than by the customer.
- (11) Charge any minimum charge, cover charge, admission charge, or any other non-food or non-alcoholic beverage charge based on gender, race, creed, color or national origin.
 - (c) There shall be no advertisement or promotion in any way, whether within or without the licensed premises, of any of the practices prohibited under this section.
 - (d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time; provided all patrons or customers are allowed equal access to such free food or entertainment, or to prohibit licensees from including an alcoholic beverage as a part of a meal package, or to prohibit the sale or delivery of wine by bottle or carafe when sold with meals or to more than one person, or to prohibit any hotel or motel from offering room services to registered guests.
 - (e) This section shall not limit or expand any privilege granted by the Commissioner of the Georgia Department of Revenue to a brewer licensed to manufacture malt beverages authorizing said brewer to conduct educational and promotional brewery tours pursuant to O.C.G.A. § 3-5-38
(Ord. No. 2016-03, § 1, 3-15-16)

(l) *Licenses or permits constitute grant of privilege.* All alcoholic beverage licenses or permits issued hereunder constitute a mere grant of privilege to carry out such business during the term of the license subject to all terms and conditions imposed by this chapter including the rules and regulations for the administration of this chapter as well as related State and Federal laws and other ordinances of the City of Statesboro relating to such business, as amended from time to time by the Mayor and City Council.

(m) *Applications for Sunday sales permit.* The licensee of a business engaged in the retail package sales of beer and/or wine, any restaurant as defined in this chapter, or any licensed establishment which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging, desiring the privilege to sell, furnish or otherwise dispense distilled spirits, malt beverages, or wine on Sunday in accordance with paragraph 6-7(o) shall, before dispensing such beverages on Sunday, obtain a Sunday Sales Permit as provided for in the rules and regulations of the administration of this Chapter.

(n) *Reserved.*

(o) *Application for Distance Waiver Permit for Restaurant.* The Mayor and City Council, following application for a distance waiver permit for a restaurant, notice and hearing, may in its discretion grant a distance waiver permit for restaurant authorizing the issuance of a Class D, E or F license to a licensee of a restaurant notwithstanding the distance requirements in Section 6-7(e) from school buildings, alcohol treatment centers, educational buildings on college campus, churches and/or property lines of a private dwelling located in single-family residential zoning district for locations that sell alcohol for consumption on the premises only. The application for a distance waiver permit shall be obtained as provided in the rules and regulations of the administration of this Chapter.

(p) *Application for Event Permit for Caterers.* Prior to the sale of alcoholic beverages at a catered event a Catered Event Permit shall be obtained as provided for in the rules and regulations of the administration of this Chapter.

(q) *Application for Hotel in-room service, beer, and wine Permit.* Prior to the in-room sale of alcoholic beverages an in-room service, beer and wine permit shall be obtained as provided for in the rules and regulations of the administration of this Chapter. This permit shall be used in conjunction with a Class B and/or Class C license to allow for in-room package sales as defined in this Chapter.

Sec. 6-6. - When issuance prohibited.

Issuance of licenses and permits required under this Chapter is limited as set forth below.

(a) *Restrictions.* No license defined herein shall be issued to a person:

- (1) who is not a citizen or legal resident of the United States;
- (2) who is not at least 21 years of age prior to the date of application;

(3) who owes any debt or obligation to the City of Statesboro, including but not limited to excise taxes, occupational taxes, property taxes, or utility fees; or other fines.

(4) who indicates on the license application an intention to provide live nude performances on the premises or any other form of adult entertainment on the premises that requires an adult entertainment license pursuant to Article VII of Chapter 18 of the Code of Ordinances.

(b) *Convictions; Pending violations.* The term "conviction" as used in this paragraph shall include a finding or verdict of guilt, plea of guilty, or a plea of nolo contendere including also anyone currently on probation or otherwise currently under a court's supervision to avoid a judgment of guilt being entered under what is commonly referred to as "first offender sentence" or "pre-trial diversion program." No license for the sale of alcoholic beverages shall be issued to any person or applicant where the applicant or any individual person having an ownership interest in the business:

(1) has been convicted within fifteen years immediately prior to the filing of the alcoholic beverage application with the City Clerk of any felony or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal;

(2) has been convicted within five years immediately prior to the filing of the alcoholic beverage application with the City Clerk of the violation (i) of any state or federal law pertaining to the manufacture, possession, transportation or sale of malt beverages, wine or intoxicating liquors, or the taxability thereof except a first conviction of selling alcohol to underage persons; (ii) of a crime involving moral turpitude; or (iii) of a crime involving soliciting for prostitution, pandering, gambling, letting premises for prostitution, keeping a disorderly place, the traffic offense of hit and run or leaving the scene of an accident, or any misdemeanor serious traffic offense as defined in O.C.G.A. § 40-6-390 et seq., but excluding any first conviction for reckless driving or driving under the influence of alcohol or drugs in the past 10 years as measured from the date of arrest, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal;

(3) has been convicted of two violations of the ordinances of the City of Statesboro governing alcoholic beverages licensed hereunder within the last five years immediately prior to the filing of the licensee's application with the City Clerk, except as specifically provided in paragraph (c) below, concerning revocation of alcohol license, or paragraph (d) below, concerning selling alcohol to underage persons. If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a plea or verdict or dismissal.

Rule 560-2-2-.02. Licensing Qualifications

- (1) No Person shall manufacture, distribute, sell, handle, or possess for sale or otherwise deal in Alcoholic Beverages or non-beverage Alcohol without first obtaining all applicable licenses required by the Act and these regulations.
- (2) Every Person applying for a state license, permit, or registration to deal in Alcoholic Beverages, shall make application, on forms prescribed by the Commissioner, and under oath shall answer all questions, supply all information, personnel statements, including information regarding applicant's employees, if requested, furnish all certificates, affidavits, bonds and other supporting data or documents as reasonably required by the Commissioner.
 - (a) All license applications under these regulations shall be a permanent record.
 - (b) Willful failure to furnish the Department with any of the information required by these regulations or by law shall constitute grounds for denial or revocation of a license.
- (3) Applications for a state license, permit, or registration shall state the identical name and address of the applicant as stated in the application for a license required by local governing authorities.
 - (a) Every license shall specify the premises where the Licensee shall have its Place of Business and such location shall not be changed during the term of the license.
 - (b) Any Fraternal Organization shall be permitted to apply for a license in the name of any qualified officer or member of such organization.
 - (c) Any legal entity, including but not limited to, all partnerships, limited liability companies, domestic or foreign corporations, lawfully registered and doing business under the laws of Georgia or the laws of another state and authorized by the Secretary of State to do business in Georgia, which seeks to obtain a license for Alcoholic Beverage or non-beverage Alcohol may be permitted to apply for a license in the name of the legal entity as it is registered in the Office of the Secretary of State of Georgia. Provided, however:
 1. In its application for an Alcoholic Beverage or non-beverage Alcohol license, the legal entity shall provide the Commissioner with the name and address of its agent authorized to receive service of process under the laws of Georgia, together with a listing of its current officers and their respective addresses.
 2. Any change in the status of Licensee's registered agent, including but not limited to, change of address, or name, shall be reported to the Commissioner within five (5) days of such occurrence.
 3. In the event that a legal entity shall fail to appoint or maintain a registered agent in Georgia as required by law, or whenever its registered agent cannot with due diligence be found at the registered office of the corporation as

designated in its application for license, the Commissioner shall be appointed agent to receive any citation for violation of these regulations.

4. Process may be served upon the Commissioner by leaving with the Commissioner duplicate copies of such citations.
 5. In the event that the notice of citation is served upon the Commissioner or one of the Commissioner's designated agents, the Commissioner shall immediately forward one of the copies to the corporation at its registered office.
 6. Any service made upon the Commissioner shall be answerable within thirty (30) days.
 7. The Commissioner shall keep a record of all citations served upon the Commissioner under this Regulation, and shall record the time of service and the disposition of that service.
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- (4) The state license issued shall be valid for the calendar year indicated; provided that:
 - (a) The Licensee is actively engaged in business; and
 - (b) If applicable, has a valid county or municipal license.
 - (5) In the event a Licensee ceases to be actively engaged in business, or if a Licensee's local license becomes invalid in any way, the state license shall be invalid and the Licensee of that business shall immediately notify and return the state license to the Department.
 - (6) A Licensee that desires to continue in business during the next calendar year must make a new application for that year on or before November 1 of the preceding year.
 - (7) Any untrue, misleading, or omitted statement or information contained in an application shall be cause for denial and, if any license has been granted, shall be cause for its revocation.
 - (8) The failure of any applicant, or failure of any Person, firm, corporation, legal entity, or organization having any interest in any operation for which an application has been submitted, to meet any obligations imposed by the tax laws or other law or regulation of Georgia shall be grounds for denial of the license, permit or registration for which an application is made.
 - (9) When contrary to the public interest and welfare, no license to sell Alcoholic Beverages of any kind shall be issued by the Commissioner to:
 - (a) Any person as determined by the Commissioner, by reason of that person's business experience, financial standing, trade associations, personal associations, records of arrests, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws;

- (b) Any person convicted of a felony who served any part of a criminal sentence, including probation within the ten (10) years immediately preceding the date of receipt of submission of the application;
 - (c) Any person who has been convicted of a misdemeanor who served any part of a criminal sentence, including probation within the five (5) years immediately preceding the date of receipt of submission of the application.
- (10) The Commissioner may decline to issue a state license to a person for the operation of a Place of Business when any person having any interest in the operation of that Place of Business, or control over such Place of Business does not meet the same requirements as set forth in these regulations for the Licensee.
- (11) If the Commissioner has reason to believe that the applicant is not entitled to the license for which the applicant has applied, the Commissioner shall notify the applicant in writing.
- (a) The applicant shall have fifteen (15) days from the date of the notice to request, in writing, a hearing on the application;
 - (b) Upon receipt of applicant's written request, the Commissioner shall provide the applicant with due notice and opportunity for a hearing on the application pursuant to the regulations in Chapter 16;
 - (c) If the Commissioner, after providing notice and an opportunity for a hearing, finds the applicant is not entitled to a license, the applicant shall be advised in writing of the findings upon which that denial is based.

Cite as Ga. Comp. R. & Regs. R. 560-2-2-.02