

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO HOURS OF OPERATION FOR ALCOHOL LICENSEES; AND FOR OTHER PURPOSES.

WHEREAS, Athens-Clarke County, Georgia has experienced an event of critical significance as a result of the Coronavirus (COVID-19) disease (“COVID-19”); and

WHEREAS, the Centers for Disease Control and Prevention, (the “CDC”) indicates that COVID-19 is a new and contagious respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in more than 100 locations around the world, including in the United States; and

WHEREAS, COVID-19 is officially a global pandemic according to the World Health Organization (“WHO”); and

WHEREAS, COVID-19 can spread from person to person, and can result in no symptoms, minor symptoms, or serious illness causing permanent organ damage and death; and

WHEREAS, individuals age 65 or over or living with certain medical conditions identified by the CDC (members of Vulnerable Populations) and members of other populations identified by the CDC (“Other Populations at Risk”) are at risk of severe and lasting harm to health or death from COVID-19; and

WHEREAS, COVID-19 also has been reported to cause severe and permanent damage to some children; and

WHEREAS, there is no vaccine or approved treatment for COVID-19; and

WHEREAS, the CDC has noted that COVID-19 spreads very easily and sustainably when an infected person (who may not exhibit symptoms at all, or only minor symptoms) talks, sneezes, or coughs in close proximity with others (within six feet); and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency for the United States of America in response to COVID-19; and

WHEREAS, on March 14, 2020 Governor Brian Kemp declared a Public Health State of Emergency in Georgia and renewed his declaration on April 8, 2020, April 30, 2020, May 28, 2020, June 29, 2020, and again on July 31, 2020 so that it will remain in effect at least through September 10, 2020; and

WHEREAS, on March 16, 2020, the Mayor and Commission of the Unified Government of Athens-Clarke County, Georgia adopted an Ordinance for the Declaration of Local State of Emergency related to COVID-19;

WHEREAS, on March 19, 2020, pursuant to their authority under the Athens-Clarke County Emergency Management Ordinance, the Athens-Clarke County Mayor and Commission adopted a Second Declaration of Local Emergency activating certain emergency powers in order to allow Athens-Clarke County to quickly respond to the COVID-19 pandemic and renewed that declaration on April 21, 2020, and again on June 2, 2020, July 2, 2020, July 30, 2020, and August 4, 2020; and

WHEREAS, the Governor, through Executive Orders 04.30.20.01, 05.12.20.02, 05.28.20.02, 06.11.20.01, 06.29.20.02, 07.15.20.01, and 07.30.20.02 has recognized the need to take extra precautions to protect certain vulnerable populations who meet the criteria for higher risk of severe illness as defined by the CDC and identified in Section III of the Governor’s Executive Order 07.15.20.01 (“Vulnerable Populations”); and

WHEREAS, Executive Orders 04.30.20.01, 05.12.20.02, 05.28.20.02, 06.11.20.01, 06.29.20.02, 07.15.20.01, and 07.30.20.02 required Vulnerable Populations to continue to shelter in place, with exceptions that include participating in essential services and working, through August 15, 2020; and

WHEREAS, the Mayor and Commission desire to protect individuals in said Vulnerable Populations and Other Populations at Risk in a reasonable manner and as recommended by the CDC and by the Georgia Department of Public Health, while such individuals are participating in essential services and working; and

WHEREAS, according to the Georgia Department of Public Health COVID-19 update at noon on Thursday, August 13, 2020, Georgia now has - - - 228,668 confirmed cases of COVID-19, including 2,166 confirmed cases in Athens-Clarke County; and

WHEREAS, according to the Georgia Department of Public Health COVID-19 update at noon on Thursday, August 13, 2020, 4,538 individuals in Georgia have died and 21,581 have been hospitalized after contracting COVID-19; and

WHEREAS, as indicated above, the state of Georgia remains under a state of emergency as a result of the COVID-19 pandemic; and

WHEREAS, Governor Brian Kemp has relaxed and/or removed many restrictions on businesses resulting in citizens and visitors interacting in public and commercial establishments; and

WHEREAS, the guidelines promulgated by the White House on re-opening America specifically call for a 14-day downward trajectory among other gating criteria, which guidelines are specifically incorporated by reference; and

WHEREAS, the incidence of infection and death in the territorial limits of the Unified Government of Athens-Clarke County, hereinafter referred to as "Athens-Clarke County," continues to increase, signifying the continued spread of the highly contagious and deadly disease; and

WHEREAS, this continued increase is a threat to the health, safety, and welfare of the Athens-Clarke County community, especially individuals in Vulnerable Populations and Other Populations at Risk; and

WHEREAS, the number of cases is growing rapidly; and if COVID-19 continues to spread in Athens-Clarke County and the surrounding communities, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; and

WHEREAS, the CDC indicates that there is evidence of widespread community transmission in Georgia; and

WHEREAS, the CDC and public health officials expect that additional cases of COVID-19 will be identified in the coming days; and

WHEREAS, taking measures to control outbreaks minimizes the risk to the public, maintains the health and the safety of the residents of Athens-Clarke County, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, it is vitally important that we all work together to decrease the widespread proliferation of COVID-19 among us all now rather than suffer the unfortunate and devastating medical and economic consequences later; and

WHEREAS, The President’s Coronavirus Guidelines for America recommend, *inter alia*, that the American people “[a]void social gatherings in groups of more than 10 people”; and “[a]void eating or drinking at bars, restaurants, and food courts – use drive-thru, pickup or delivery options”; and

WHEREAS, according to recent Georgia Department of Public Health data, younger Georgians continue to account for a substantial portion of positive cases of COVID-19, and as of July 27, 2020, approximately 24% of all positive cases come from the 18-29 age group, and approximately 17% come from the 30-39 age group, accounting for the first and second largest percentage of positive cases by age group, respectively; and

WHEREAS, based on the latest data and developments, and after conferring with various state and federal public health agencies, officials, and experts regarding ongoing testing and tracing initiatives and the results thereof, the Mayor and Commission is informed that late-night congregate settings in restaurants, bars, and other establishments have been identified as sources of, or contributing factors to, substantial community spread and transmission of COVID-19; and

WHEREAS, recently large crowds of people have been observed congregating during the late-night hours at bars throughout Athens-Clarke County; and

WHEREAS, enforcement of the Governor’s Executive Order pertaining to occupancy limits and other requirements of bars has placed a difficult burden on the Athens-Clarke County Police Department, especially during late-night hours; and

WHEREAS, large numbers of students are expected to return to Athens-Clarke County beginning in August for the 2020-2021 academic year; and

WHEREAS, in view of the foregoing, and in an effort to provide for and protect the health and welfare of the people of Athens-Clarke County, the Mayor and Commission have determined that it is necessary and appropriate to implement and impose various temporary, targeted, and narrowly-tailored emergency measures and restrictions designed to limit community spread and transmission of COVID-19 and to mitigate the resulting strain on healthcare resources, while also hopefully avoiding the need to resort to more restrictive means of addressing the same; and

WHEREAS, O.C.G.A. § 3-4-110 specifically provides that “the governing authority of every county and municipality . . . shall further have the power to promulgate reasonable rules and regulations governing the conduct of any [alcohol] licensee...including, but not limited to the regulation of hours of business”; and

WHEREAS, pursuant to the authority delegated to the Commission under Title 3 of the Official Code of Georgia Annotated and other applicable laws of the State of Georgia, the Commission hereby deems it appropriate to revise the hours during which licensees for the sale of alcoholic beverages—e.g., liquor, beer, and wine—by the drink may serve alcohol to customers; and

WHEREAS, the Commission deems said revision of hours a necessary and appropriate measure to lessen the burden on healthcare resources; and

WHEREAS, the Commission deems said revision of hours a necessary and appropriate measure to lessen the enforcement burden on law enforcement officials in Athens-Clarke County, as well as to protect the public safety, health, and welfare;

NOW, THEREFORE, the Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Section 6-3-5 entitled “*General regulations pertaining to all licenses*” of the Code of Athens-Clarke County, Georgia, subsection (i) entitled “*Hours of operation*” is deleted in its entirety and the following new subsection is inserted in lieu thereof:

“Sec. 6-3-5. – General regulations pertaining to all licenses.

- (i) *Hours of operation.* The following hours of operation shall apply to the sale of alcoholic beverages licensed hereunder:
- (1) Class A, retail liquor package store—8:00 a.m. to 11:30 p.m., Monday through Saturday. Seasonal time changes shall be 2:00 a.m. current time;
 - (2) Class B and C, retail package beer and/or wine—7:00 a.m. to 11:30 p.m., Monday through Saturday. Seasonal time changes shall be 2:00 a.m. current time;
 - (3) Class D, retail liquor by the drink—Monday through Saturday beginning at 7:00 a.m. until 11:30 p.m., which time shall be unchanged from the date of passage of this Ordinance until 5 days after the expiration the Order Declaring Statewide Judicial Emergency (originally issued on March 14, 2020, and extended on April 6, May 11, June 12, July 10, and August 11, and currently running through September 10, 2020 at 11:59 p.m.) (“Judicial Emergency Order”), at which time the hours of operation set forth in this subsection (3) will change from 7:00 a.m. until 11:30 p.m. to 7:00 a.m. until 2:00 a.m. Seasonal time changes shall be 2:00 a.m. current time;
 - (4) Class E and F, retail beer and/or wine by the drink- Monday through Saturday beginning at 7:00 a.m. until 11:30 p.m., which time shall be unchanged from the date of passage of this Ordinance until 5 days after the expiration of the Judicial Emergency Order, at which time the hours of operation set forth in this subsection (4) will change from 7:00 a.m. until 11:30 p.m. to 7:00 a.m. until 2:00 a.m. Seasonal time changes shall be 2:00 a.m. current time;
 - (5) Class K and L, brewer, manufacturer of malt beverages and brew pub operator – Monday through Saturday beginning at 7:00 a.m. until 11:30 p.m., which time shall be unchanged from the date of passage of this Ordinance until 5 days after the expiration of the Judicial Emergency Order, at which time the hours of operation set forth in this subsection (5) will change from 7:00 a.m. until 11:30 p.m. to 7:00 a.m. until 2:00 a.m.
 - (6) Class D, E, and F licenses for alcoholic beverages that also have a valid Sunday sales permit when New Year's Eve is on Sunday shall be authorized to sell, offer for sale, serve and/or permit the consumption of alcoholic beverages upon the licensed premises between the hours of 12:00 a.m. (midnight) and 2:30 a.m. on New Year's Day;
 - (7) Public entertainment facilities - Hours of operation. It shall be unlawful to keep any public entertainment facility which permits the consumption of alcoholic beverages on its premises open for business or to permit the same to be used or patronized at any time except during the hours provided in subsections (i)(3) and (4) above;
 - (8) Notwithstanding subparagraphs (3), (4) and (6) above, the sale of alcoholic beverages shall be lawful on Sundays from 11:00 a.m. until 10 p.m. in any licensed restaurant as defined in this Chapter and in any licensed establishment which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

- (9) Notwithstanding subparagraphs (1) and (2) above, the sale of alcoholic beverages shall be lawful on Sundays between the hours of 12:30 p.m. and 11:30 p.m. in any licensed retail package store that holds a Sunday sales permit for package store.
- (10) Notwithstanding subparagraphs (3), (4) and (6) above, the sale of alcoholic beverages by Class D, E, or F licensees shall be lawful from 12:30 p.m. until 12:00 midnight on one Sunday during each calendar year that shall be designated by the Commission by resolution. On such designated Sunday, Class D, E, and F licenses for alcoholic beverages shall be authorized to sell, offer for sale, serve and/or permit the consumption of alcoholic beverages upon the licensed premises between the hours of 12:00 a.m. (midnight) and 2:30 a.m. on the following Monday.”

SECTION 2. Section 6-3-5 entitled “*General regulations pertaining to all licenses*” of the Code of Athens-Clarke County, Georgia, subsection (j) entitled “*Time limit for clearing patrons from premises;*,” part (1), is deleted in its entirety and the following new part is inserted in lieu thereof:

“Sec. 6-3-5. – General regulations pertaining to all licenses.

(j) *Time limit for clearing patrons from premises:*

(1) All licensed premises for the sale of retail beer and/or wine by the drink (Class E and F) or retail liquor by the drink (Class D), or brewer (Class K) or brew pub operator (Class L), excluding bona fide full-service restaurants as defined below, shall be closed to the public, and the premises shall be cleared of all persons except employees of the licensed premises engaged in their employment duties within 30 minutes after the time set by subsection (i) of this section for discontinuance of the sale of alcoholic beverages on the premises. Thereafter all licensees shall remove or cause to be removed all alcoholic beverages from the area of the premises utilized by customers, patrons, and invitees; all alcoholic beverages shall be stored in original containers or storage containers on a shelf or cabinet; no alcoholic beverages shall be furnished to, consumed by, or possessed by any person within the premises; and the premises shall remain closed for business until the beginning hours of operation (7:00 a.m.) provided in subsection (i) of this section. Five (5) days after the expiration the Judicial Emergency Order, the time period set forth in this section shall change from 30 minutes to 45 minutes. It shall be unlawful for any person to violate any provision of this paragraph.”

SECTION 3. Section 6-3-5 entitled “*General regulations pertaining to all licenses*” of the Code of Athens-Clarke County, Georgia, subsection (j) entitled “*Time limit for clearing patrons from premises;*,” parts (3) and (4) are deleted in their entirety.

SECTION 4. The Manager of Athens-Clarke County is hereby directed and authorized to reduce the 2021 and 2022 alcohol license fees for those establishments affected by the reduction in hours of operation in the following amounts:

- 1) Class D (retail liquor by the drink) reduced to \$1,500.
- 2) Class E (retail beer by the drink) reduced to \$450.
- 3) Class F (retail wine by the drink) reduced to \$450.

SECTION 5. The Manager of Athens-Clarke County is hereby directed and authorized to waive penalties and interest for late payments of excise taxes on the sale of alcohol by the drink for Class D, E, and F alcohol license holders for a period that extends until 5 days after the expiration of the Judicial Emergency Order

SECTION 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.