

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA
WITH RESPECT TO **PROHIBITION OF DISCRIMINATION BY ALCOHOL
LICENSEES**; AND FOR OTHER PURPOSES

The Commission of Athens-Clarke County, Georgia hereby finds as follows:

The Mayor and Commission have received multiple complaints of unlawful discrimination by certain businesses holding Class D, E, and F alcoholic beverages licenses issued by the Unified Government pursuant to Chapter 6-3 of the Code of Ordinances of Athens-Clarke County, Georgia (“bars”). Such complaints have generally alleged that some bars that operate in the Downtown Athens area have denied entry to certain persons because of such persons’ race, color or other bases of discrimination. The Commission further finds that such complaints have alleged that some bars have applied dress codes in an inconsistent and non-uniform manner and have made assertions to patrons seeking entry that the premises were closed for private events when such premises were not closed - which actions have the effect of denying all persons the right to have equal access to these public accommodations owned and operated by firms that hold alcoholic beverages licenses issued by the Unified Government. In response to such allegations, the Commission on January 5, 2016, adopted a Resolution disapproving of any such discrimination and directing that the Attorney and Manager conduct the necessary research to prepare a draft ordinance for consideration by the Commission that addresses unlawful discrimination as described herein. Such Resolution is hereby incorporated herein by reference. The Commission finds that amendments to the alcoholic beverages ordinance that (i) address the specific alleged discriminatory conduct by bars possessing alcoholic beverages licensees and (ii) provide a complaint process for persons aggrieved by alleged discriminatory conduct by such category of licensees are necessary to combat discrimination in a way that addresses the multiple complaints received by the Mayor and Commissioners, while conserving governmental resources. The Commission further finds that the Athens-Clarke County alcoholic beverages ordinance should be amended to make a violation of local, state or federal anti-discrimination or civil rights ordinances or laws regarding public accommodations a basis for the denial, suspension or revocation of an alcoholic beverages license, and now, therefore,

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Section 6-3-6 entitled “*Regulations pertaining to certain classes of licenses only.*” of the Code of Athens-Clarke County, Georgia, subsection (e) thereof entitled “*Rental of licenses premises for private functions.*” is hereby amended by adding thereto the words “or otherwise make”, “available”, “however” and “A Class D, E, or F licensee not qualified as a restaurant as defined in this Chapter shall, prior to making the licensed premises or a portion thereof available for a private event, enter into a written agreement with the sponsor of the private event that includes, without limitation, the name of the sponsor, the name and telephone number of at least one individual representative of the sponsor, a description of the specific area or areas within the licensed premises where the private event will be held, the date of the event, and the duration of the event on such date, specifying a beginning time and an ending time. All such written agreements shall be kept on the licensed premises for a period of 24 months from the date of each agreement and shall be available for inspection and copying by the chief of police or designee or by the Athens-Clarke County attorney or designee. A Class D, E, or F

licensee not qualified as a restaurant that makes the licensed premises or a portion thereof available for a private event shall, during all times when entry to the public shall be prohibited or limited because of a private event, post a sign hereinafter described in such places and in such a manner that all text on the sign is clearly visible and legible to any person seeking admittance to the licensed premises. Such sign shall include the following information: (i) that a private event is occurring; (ii) the specific area or areas within the licensed premises where the private event is being held; (iii) the duration of the event, specifying a beginning time and an ending time; and (iv) the following statement: "Requests for information regarding unlawful discrimination by alcoholic beverages licensees, together with any allegations of unlawful discrimination by such licensees or their agents, should be directed to the Athens-Clarke County Attorney's Office (attorneyoffice@athensclarkecounty.com) (706) 613-3035" Such sign shall be available for inspection by patrons, persons who have been denied admittance, the chief of police or designee or the Athens-Clarke County attorney or designee. No Class D, E or F licensee not qualified as a restaurant shall deny admittance to a licensed premises during the licensee's business hours on the ground that the licensed premises or a portion thereof is closed for a private event unless such licensee has first complied with the requirements of this paragraph. A violation of this paragraph shall be adjudicated in accordance with section 6-3-15 (b)." so that subsection (e) of Section 6-3-6 is:

Sec. 6-3-6 - Regulations pertaining to certain classes of licenses only.

(e) *Rental of licensed premises for private functions.* Class D, E, and F licensees are permitted to rent or otherwise make the licensed premises available for private functions which have been scheduled in advance; provided, however, that the licensee, its agents, managers, and employees, shall retain complete control over the licensed premises and over selling, serving, or furnishing alcoholic beverages during the private function to the same extent required as if the function were open to the public. Nothing in this paragraph shall be deemed to waive any provisions of this chapter or state law governing the sale of alcoholic beverages on the licensed premises. The licensed premises shall remain open to all agents of the state and Athens-Clarke County for law enforcement and inspection purposes during such private functions. No doors to the licensed premises shall be locked preventing egress or ingress during such functions. Nothing in this paragraph shall be deemed to waive the prohibition governing selling, furnishing, or delivering alcoholic beverages to underage persons by any other person within the licensed premises. A Class D, E, or F licensee not qualified as a restaurant as defined in this Chapter shall, prior to making the licensed premises or a portion thereof available for a private event, enter into a written agreement with the sponsor of the private event that includes, without limitation, the name of the sponsor, the name and telephone number of at least one individual representative of the sponsor, a description of the specific area or areas within the licensed premises where the private event will be held, the date of the event, and the duration of the event on such date, specifying a beginning time and an ending time. All such written agreements shall be kept on the licensed premises for a period of 24 months from the date of each agreement and shall be available for inspection and copying by the chief of police or designee or by the Athens-Clarke County attorney or designee. A Class D, E, or F licensee not qualified as a restaurant that makes the licensed premises or a portion thereof available for a private event shall, during all times when entry to the public shall be prohibited or limited because of a private event, post a sign hereinafter

described in such places and in such a manner that all text on the sign is clearly visible and legible to any person seeking admittance to the licensed premises. Such sign shall include the following information: (i) that a private event is occurring; (ii) the specific area or areas within the licensed premises where the private event is being held; (iii) the duration of the event, specifying a beginning time and an ending time; and (iv) the following statement: "Requests for information regarding unlawful discrimination by alcoholic beverages licensees, together with any allegations of unlawful discrimination by such licensees or their agents, should be directed to the Athens-Clarke County Attorney's Office (attorneysoffice@athensclarkecounty.com) (706) 613-3035" Such sign shall be available for inspection by patrons, persons who have been denied admittance, the chief of police or designee or the Athens-Clarke County attorney or designee. No Class D, E or F licensee not qualified as a restaurant shall deny admittance to a licensed premises during the licensee's business hours on the ground that the licensed premises or a portion thereof is closed for a private event unless such licensee has first complied with the requirements of this paragraph. A violation of this paragraph shall be adjudicated in accordance with section 6-3-15 (b).

SECTION 2. Section 6-3-6 entitled "*Regulations pertaining to certain classes of licenses only.*" of the Code of Athens-Clarke County, Georgia, is hereby amended by adding thereto new subsection (h) entitled, "*Dress codes.*" and new subsection (i) entitled, "*Nondiscrimination.*" as follows:

Sec. 6-3-6 - Regulations pertaining to certain classes of licenses only.

(h) *Dress codes.* A Class D, E or F licensee not qualified as a restaurant as defined in this Chapter desiring to utilize a dress code in determining who may be admitted to the premises must apply such dress code uniformly to all persons who request admittance to the establishment. Such a dress code must remain consistent on any given date or for any special event and shall not be used to discriminate among persons requesting admittance. Any dress code must be stated on a sign posted in such places and in such a manner that all text on the sign is clearly visible and legible to any person seeking admittance to the licensed premises. The sign shall also include the following statement: "Requests for information regarding unlawful discrimination by alcoholic beverages licensees, together with any allegations of unlawful discrimination by such licensees or their agents should be directed to the Athens-Clarke County Attorney's Office (attorneysoffice@athensclarkecounty.com) (706) 613-3035" The written dress code in effect on any given day shall be available for inspection by patrons, persons who have been denied admittance, the chief of police or designee or the Athens-Clarke County attorney or designee. A licensee utilizing a dress code shall keep on the licensed premises for a period of 24 months from the date that such dress code was used a copy of each written dress code and the dates that such dress code was used by the licensee. Such copies shall be available for inspection and copying by the chief of police or designee or by the Athens-Clarke County attorney or designee. A violation of this paragraph shall be adjudicated in accordance with section 6-3-15 (b).

(i) *Nondiscrimination.* It shall be unlawful for any Class D, E or F licensee that is not qualified as a restaurant as defined in this Chapter, or any officer, employee or agent

thereof, to discriminate against any person in the admission to the licensed premises or in the sale, service or delivery of products within such licensed premises on the basis of such person's race, color, sex, sexual orientation, gender identity, religion, national origin, citizenship, age, disability or pregnancy. This paragraph, however, shall not apply to private clubs that admit only members or guests of members. For purposes of this section, any private club claiming exemption under this paragraph must be incorporated as a nonprofit corporation under the laws of the state or officially qualified as a charitable or veterans' organization by the United States Internal Revenue Service. Nothing in this paragraph shall prohibit the imposition of age limits up to age 21. A violation of this paragraph shall be adjudicated in accordance with section 6-3-15 (b). An individual claiming to be aggrieved by an alleged violation of this paragraph or of paragraphs (e) or (h) of this code section by a Class D, E or F licensee that is not qualified as a restaurant as defined in the Chapter may file a sworn written complaint with the Athens-Clarke County Attorney on a form prescribed by the Attorney, who shall conduct a preliminary investigation of such complaint. If the Attorney finds reasonable grounds that such unlawful conduct occurred, then the Attorney shall institute an administrative action pursuant to Section 1-5-1 of the Code of Athens-Clarke County. The Attorney is authorized to utilize alternative enforcement measures, including without limitation, informal mediation and entry of negotiated consent orders. If the Attorney does not find reasonable grounds that such unlawful conduct occurred, the Attorney shall notify the claimant in writing, and the claimant shall have the right to institute an administrative proceeding with respect to such determination pursuant to Section 1-5-1 of the Code of Athens-Clarke County.

SECTION 3. Section 6-3-15 entitled "*Compliance; violations; penalties*" of the Code of Athens-Clarke County, Georgia, is hereby amended by deleting therefrom the word "his", and by adding thereto the words, "the licensee's" and "unlawful discrimination in the provision of public accommodations" so that section 6-3-15 is:

Sec. 6-3-15. - Compliance; violations; penalties.

(a) *Violations; penalties.* It shall be unlawful for any person to violate the provisions of this Chapter. Upon conviction for the violation thereof each person shall be subject to the punishment allowed under section 1-1-5, after hearing before the judge of municipal court. In addition, upon conviction for the violation thereof by a licensee, the licensee's agents or employees, any license may be revoked, suspended or put on probation under conditions.

(b) *Civil fines; probation, suspension, revocation of license.*

(1) It shall be a violation of this chapter for any licensee to permit any person to engage in any activity on the premises for which the license is issued or within the place of business, which is in violation of the laws or regulations of any federal or state law or of any local ordinance of Athens-Clarke County, which is related to unlawful discrimination in the provision of public accommodations, building codes, fire codes, smoking, excise tax, property tax, health, solid waste disposal, illegal gambling, alcohol, or other controlled substances.

(2) Any person holding any license issued pursuant to this chapter or any employee or agent of such person who violates any provision of this chapter, or directs, consents to, permits, or acquiesces in such violation either directly or indirectly shall, by such conduct, subject the license to suspension, revocation or probation upon conditions. In addition, a maximum civil fine of \$1,000.00 may be imposed on the licensee for each violation. In considering the amount of the civil fine, if any, the administrative hearing officer shall consider the following factors:

- a. The gravity of the violation;
- b. Any previous violations within a two year period;
- c. The costs to Athens-Clarke County related to compliance or enforcement efforts undertaken by Athens-Clarke County in pursuing the case;
- d. Actions of the licensee, its employees, subcontractors or agents in connection with the violation.

The imposition of a civil fine under the provisions of this section shall not prevent the suspension, revocation, or non-renewal of the license or the taking of punitive or remedial action for any other violation of the ordinances of Athens-Clarke County or for subsequent violations of this section. No license shall be renewed if any civil fines imposed pursuant to this section have not been paid by the licensee prior to renewal.

For purposes of administering and enforcing this chapter, any act committed by an employee, agent or representative of a licensee shall be deemed to be an act of such licensee.

SECTION 4. All ordinances or parts of ordinance in conflict herewith are hereby repealed.