

3-11-08

**CITY OF SPRINGFIELD
ORDINANCE 2008-2**

**AN ORDINANCE PROVIDING FOR THE AUTHORITY TO APPROVE AND ISSUE
LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES FOR
CONSUMPTION ON-THE-PREMISES OR OFF-THE-PREMISES**

WHEREAS, the voters of the City of Springfield, at a Special Election held on February 5, 2008, voted to give the City Council the authority to issue licenses for the distribution of distilled beverages for consumption on-the-premises;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Springfield, Georgia:

Section 1. That Chapter 6, Alcoholic Beverages, of the Code of Ordinances of the City of Springfield is hereby adopted as follows:

**CHAPTER 6
ALCHOLIC BEVERAGES**

ARTICLE I. IN GENERAL

Sec. 6-1. Purposes.

(a) The purposes of this chapter shall include, without necessarily being limited to, the following:

1. Compliance with and effectuation of the general state law;
2. Prevention and control of the sale of alcoholic beverages by and to unfit persons;
3. Insuring that any licenses issued for the consumption of alcoholic beverages on the premises are issued only to a legitimate restaurant or private club as defined in this chapter;
4. The protection of schools, homes, churches, parks and other institutions;
5. Protection of the public health, safety, and welfare.

(b) To the maximum extent permissible under state and federal law, the business of selling alcoholic beverages shall under this chapter be considered to be a privilege to be accorded in conformity with the foregoing and other public policies of the city, rather than a right.

Sec. 6-2. Definitions.

(a) Unless a contrary intention is clearly apparent from the context, the following terms used in this chapter shall have the following meaning:

Alcohol means ethyl alcohol, hydrated oxide of ethyl, spirits or wine, from whatever source or whatever process produced.

Alcoholic beverage means and includes all alcohol, malt beverages, distilled spirits, wine and fortified wines defined in this section.

City means the City of Springfield and when used in a geographical sense means the territorial limits of the City of Springfield.

City Clerk means the City Clerk of the City of Springfield.

Distilled spirits means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy.

Interest includes any pecuniary interest and any ownership interest, whether present or future, whole or partial, legal or beneficial, contingent or vested, direct or indirect, and any right, power or authority of control.

Licensed premises includes not only the room wherein alcoholic beverages are sold or served but also the entire building in which such room is located, except that when such a room is located in a hotel, motel, or similar facility or in a shopping center only such room and any adjoining storage, office, toilet, and other similar rooms shall constitute the "licensed premises."

Licensee includes an individual licensee and in the case of a partnership or corporation includes both the partnership or corporation and the named licensee.

Majority stockholder means the person, if any, who owns more than 50 percent of the voting stock of corporation; if no person owns more than 50 percent of the voting stock of a corporation, the "majority stockholder" is the person owning more of the voting stock than any other person; and if two or more persons each own the same amount of the voting stock of a corporation and each own more of the voting stock than any other person, then any one of such persons may act as the "majority stockholder."

Malt beverage means fermented beverage made in whole or in part from malt or any similar fermented substance.

Mayor and city council means the mayor and council of the City of Springfield.

Mixed drinks means any distilled spirits served for consumption on the premises, whether or not diluted by water or any other substance.

Named licensee means the person acting as such for a partnership or corporation pursuant to section 6-5.

Open container means any bottle, can, glass, cup or other vessel which contains an alcoholic beverage not in its original container. The term "open container" shall also mean the original container of an alcoholic beverage which contains an alcoholic beverage on which the seal has been broken or which is otherwise ready for consumption.

Person includes a corporation, partnership, association, club or institution.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place of business where meals are served, and where meals are actually and regularly prepared and served, without sleeping accommodations. At least one meal per day shall be served at least six days per week, with the exception of holidays, vacations, and periods of redecorating; and the serving of such meals shall be the principal business conducted; with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall have 50 percent or more of its total annual gross sales of food and alcoholic beverage from the sale of prepared meals or food to include non-alcoholic drinks.

Semipublic parking facility means any privately owned area wherein motor vehicles may be parked by the public in conjunction with any business, enterprise, commercial establishment, office building, church, school, or multiple-family residential building.

(b) Unless a contrary intention is clearly apparent from the context, any term used in this chapter shall have the same meaning as when used in comparable provision of the Georgia Alcoholic Beverage Code, O.C.G.A. title 3.

(c) As used in this chapter, the singular and plural shall each include the other, the masculine and feminine shall each include the other, and any verb tense may include any other verb tense.

(d) As used in this chapter, the term "may" is permissive and the term "shall" is mandatory.

Sec. 6-3. Violations; penalty.

(a) Any person who violates any provision of this chapter shall upon conviction be punished as provided in this Code, which may include a fine or imprisonment, or by both such fine and imprisonment. Any such punishment, if imposed, shall be in addition to and not in lieu of any license suspension or revocation under this chapter.

(b) The violation of any of the provisions of this chapter shall be grounds for fines, suspension, or revocation of any retail or wholesale license issued hereunder.

1. For the first violation there shall be a minimum \$1,000.00 fine.
2. For the second violation, the date of occurrence of which is within any 24-month period of the first violation, there shall be a minimum \$1,000.00 fine and a minimum 30-day suspension of the license privileges.
3. For the third, and any subsequent violation, the date of occurrence of which is within any 24-month period of the first violation, there shall be a minimum \$1,000.00 fine and a minimum 90-day suspension of license privileges.
4. For any violation beyond the third, the date of occurrence of which is within any 24-month period of the first violation, the license may be revoked at the discretion of the City Council. If City Council does not revoke the license, there shall be a minimum \$1,000.00 fine and minimum 180-day suspension of license privileges.
5. Any penalty, fine, suspension, or revocation of a license shall first require notice to the license holder of an optional due process hearing before the City Council.
6. A license holder who receives a suspension or revocation of his license may not be an officer, director or shareholder of any succeeding entity that holds a license from the city during his period of suspension.

ARTICLE II. LICENSING

Sec. 6-10. Required classification, etc.

(a) *Required.* It shall be unlawful for any person to sell or offer for sale any alcoholic beverages within the city except under a valid license issued under this chapter and in compliance with the provisions of this chapter.

(b) *Pay schedule.* License fees shall be payable in advance for an entire year beginning January 1 and ending December 31 of the following year. If an initial fee is paid after January 1 but on or before July 31 of the year of application, the license fees shall not be prorated for a part of year, but the full license shall be payable for any part of a year. If an initial fee is paid after July 31 but on or before December 31 of the year of application, the license fee shall be reduced to 50 percent of the fee for an entire year. The suspension or revocation of any license granted pursuant to this article shall not entitle the licensee to a return of any portion of the license fee.

(c) *Annual license fee.* The annual license fee amount shall be recorded on the "Schedule of Fees for alcoholic beverages" on file in the office of the City Council.

(d) *Application fee.* Each application for a license under this chapter shall be accompanied by a nonrefundable application fee in the amount on the "Schedule of Fees for alcoholic beverages" on file in the office of the City Council.

(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. Failure to pay within 14 days after notification of City Council approval shall bear a ten percent penalty on the license fee and a one percent interest rate monthly until paid in full.

Sec. 6-11. Procedure of issuance.

(a) A license issued to an individual shall be issued in the name of the individual. A license issued to a partnership shall be issued in the name of the partnership and in the name of one of the partners who shall be the named licensee. A license issued to a corporation shall be issued in the name of the corporation and in the name of an officer or employee of the corporation primarily responsible for the operation of the licensed premises; and such officer or employee shall be the named licensee.

(b) In the case of a partnership, each partner shall join as an applicant for the license and each partner must meet the qualifications of an individual licensee, as provided herein.

(c) In the case of a corporation, 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 Council may require the fingerprinting and investigation of officers and shareholders of the corporation if they deem it necessary in making their investigation.

(d) In the case of a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. In the case of a corporation, the corporation shall be responsible for the actions of the named licensee and the conduct of the licensed business.

Sec. 6-12. Qualifications.

(a) A licensee must be at least 21 years of age, of good moral character and a citizen of the United States.

(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 City Council may at their discretion waive the conviction of a misdemeanor or a violation of a municipal alcoholic beverage control ordinance for purposes of this subsection if the City Council determines that the misdemeanor does not have a bearing on the applicant's fitness for a license.

(c) A licensee shall not have been denied or have been revoked, within the five years next preceding his application, any license to sell alcoholic beverages issued by any governmental entity.

(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 requirement of a restaurant or private club as defined in section 6-52.

Sec. 6-13. Application procedures.

(a) Application for a license for the sale of alcoholic beverages 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 form shall clearly state whether applicant is applying for consumption on premises or off premises (malt beverage & wine only). The application shall be subscribed by the applicant under oath and fully completed and executed. The city clerk shall deliver the application to the City Council.

(b) There shall be attached to the application:

1. A bank money order, certified check or like remittance;
2. A copy of the applicant's proper state alcohol license. If not available at this time, must be provided prior to issuance of license by the city.

(c) Each application for a license shall be accompanied by a notarized proof of publication from the official organ for Effingham County attesting that an advertisement was published in three (3) consecutive issues. The advertisement must contain pertinent information to the license being applied for as outlined on the application.

(d) As a prerequisite to the issuance of the license, the applicant shall furnish a complete set of fingerprints to be forwarded to the state bureau of investigation which shall search the files and forward the fingerprints to the Federal Bureau of Investigation to determine past criminal activity.

(e) Failure to fully complete and execute an application for a license or to furnish accurately all data, information and records required by the application form as well as failure to accompany the application with the payment of the prescribed fee or the affidavit of publication shall be deemed just cause for denying the application with prejudice.

(f) Upon proper completion of the application and payment of fees, the city clerk shall refer the application to the City Council for such investigations and hearings thereon as deemed necessary under this article. The City Council may seek the advice of law enforcement officers and state prosecutors during its consideration of the application.

(g) After its investigation, the City Council shall grant or deny the license applied for.

(h) If the application is denied, the application fee shall not be refunded.

Sec. 6-14. Renewal.

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 affidavit of publication, 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. There shall be charged a renewal application fee in the amount recorded on the "Schedule of Fees for alcoholic beverages" on file in the office of the City Council. On renewal, the applicant shall be administered and take the oath specifically contained on the application form. The City Council may within its discretion require fingerprinting and a full background check on any renewal at any time. This application must be made and renewal fee must be paid prior to December 10th preceding the year for which a license is being applied for.

Sec. 6-15. Transfer.

(a) Except as provided in this section, no license shall be transferable to any person or location.

(b) If a licensee seeks to move his place of business from the licensee's premises to another place within the city, application shall be made as for an original license.

(c) In the case of death of an owner of a license or financial interest therein, such license or interest there in may be transferred to the administrator, executor, or adult heir or heirs of the deceased unless the 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.

(d) Nothing in this section shall prohibit one or more partners in a partnership from retiring therefrom in favor of one or more of the other partners; provided such withdrawal shall not without application for an issuance of a new license introduce any new partner or result in any new person acquiring an interest in the licensed business.

(e) Where a license is issued to a corporation, a change in the named licensee may be permitted by the 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 City Council determines that the change results in a failure to meet the requirements of this chapter.

Sec. 6-16. 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 and surrender the license.

(b) In the case of such a withdrawal, transfer, or sale, a new application shall be made as for an original license.

Sec. 6-17. Suspension/revocation.

(a) A license may be suspended or revoked by the City Council for any violation of this chapter and/or other city ordinances, for any violation of state or federal law, 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. The city clerk shall schedule a due process hearing before the 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 City Council is authorized to suspend the sale of alcoholic beverages under any license for any emergency situation such that the City Council deems 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 the City Council determines that the emergency is over or until the next meeting of the City Council, at which time the suspension shall cease unless it is extended by the City Council.

Sec. 6-18. Automatic revocation.

A license shall be automatically revoked by operation of law if:

1. The licensee's state beverage license is revoked, suspended, canceled or not renewed.
2. Payment of the annual license fee is not received by the city within 45 days after notification that the approval by the City Council to issue a license has been made. 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.
3. Operation of the licensed activity is not commenced within six months after the license is issued.
4. Operation of the licensed activity is commenced and then discontinued for a period of 30 days unless extended by the City Council for good cause.
5. The licensed business fails to properly account for, file, report, and pay any excise tax levied and due under this chapter.
6. The licensed business fails to properly account for, file, report, or maintain any records or remit any license fee imposed or taxes required under this chapter.

7. Payment of the annual renewal license fee is not received by the city within the time prescribed.
8. The named licensee is convicted of a felony by a court of competent jurisdiction.

ARTICLE III. SALES.

Sec. 6-30. Responsibility of named licensee.

The named licensee shall be active in the operation of the licensed business and shall be personally present on the licensed premises sufficiently to assure compliance with the provisions of this chapter.

Sec. 6-31. Display of license.

Each license issued under this chapter shall at all times be kept plainly exposed to view upon the licensed premises.

Sec. 6-32. Retention of records.

(a) All licensees shall keep and preserve records of all alcoholic beverages purchased and sold by the licensee and all consumption-on-the-premises licensees shall keep and preserve records of all food and non-alcoholic beverages sold by them. Such records shall at all times during normal business hours be open for inspection by an authorized agent of the city. Such records shall be maintained for a period of at least three years.

(b) All consumption-on-the-premises licensees shall file with the city clerk the following reports by 4:30 pm on the 20th day of the month immediately following the end of each calendar quarter for which the report is filed:

1. An on-premises consumption report for the immediately preceding three-month period in a format prescribed by the city clerk.
2. Certified copies of the licensee's three monthly state sales tax report as filed with the state department of revenue for the immediately preceding three-month period coinciding with the on-premises consumption report.
3. Any other documents, reports, records, or books as shall be required by the City Council to confirm the accuracy of the reported information.

- (c) 1. The city clerk shall send by regular mail to each consumption-on-the-premises licensee by the 3rd day of the month following the end of a calendar quarter, the forms for the quarterly report required in (b) above, with a letter reminding them that the report is due no later than the 20th of that month, and that failure to file the report by that date shall result in a \$250.00 late payment license fee.

2. Should any licensee fail to provide the quarterly report to the city clerk by the deadline (the 20th), there shall be imposed a \$250.00 late payment license fee. The city clerk shall notify such licensee by certified mail within three business days after the deadline that the penalty is due and payable, and that failure to submit the quarterly report and the late payment license fee by the 10th of the next month shall result in automatic revocation of the alcohol license as required under subsection 6-18(6) herein.

Sec. 6-33. Knowledge of chapter provisions.

Every licensee shall, prior to applying for a license, read and familiarize himself with the provisions of this chapter and an application shall constitute a certification by the applicant that he has done so. Every licensee shall maintain a copy of the ordinance from which this chapter derives on the licensed premises and shall instruct each employee engaged in the sale or handling of alcoholic beverages on the relevant provisions of the ordinance from which this chapter derives.

Sec. 6-34. Sales prohibited.

(a) Furnishing to, purchase of or possession by persons under the age of 21 years of age of alcoholic beverages shall be controlled by state law O.C.G.A. §3-3-23. Additionally, any alleged violation of this subsection by a license holder, or its employee(s), shall result in a due process hearing before the city council being called by the city clerk under subsection 6-17(a) to determine if a fine should be imposed, or a license should be suspended or revoked.

(b) No licensee shall permit the sale of alcoholic beverages on any day or any time when such sales are prohibited by state law.

(c) The sale of distilled spirits shall be unlawful during the polling hours of any election.

(d) No licensee shall permit the sales of alcoholic beverages on Sunday or on Christmas.

Sec. 6-35. Sales to intoxicated persons; gambling; disorderly conduct.

(a) No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on licensed premises.

(b) No licensee shall permit any gambling, betting, illegal lottery, or other device for the hazarding of any money or other thing of value on the licensed premises, except that this prohibition shall not apply with the respect to a properly licensed bingo game.

(c) No licensee shall permit on the licensed premises any disorderly conduct, breach of the peace, or noise or activity which is disturbing to the surrounding neighborhood.

Sec. 6-36. Container and storage.

Alcoholic beverages shall be delivered to and received at licensed premises only in the original container and only in a conveyance owned and operated by a licensed wholesale dealer (or licensed common carrier acting for a wholesaler). Alcoholic beverages shall be sold at retail only on the licensed premises.

Sec. 6-37. Cleanliness of premises; inspections.

All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with all regulations governing the condition of premises used for the storage and sale of food for human consumption. All licensed premises shall be open at all times for inspection by authorized agents of the city.

Sec. 6-38. Sales by underage employees.

(a) No consumption-on-the-premises licensee shall allow any employee under the age of 18 years to dispense, sell, serve, take orders for or handle alcoholic beverages.

(b) This section shall not prohibit the employment of persons under the above ages on licensed premises where such persons do not dispense, sell, serve, take orders for, or handle alcoholic beverages.

ARTICLE IV. CONSUMPTION-ON-THE-PREMISES.

Sec. 6-50. Eligibility restricted—Generally.

Any type consumption-on-the-premises may be granted only to a restaurant, as defined under section 6-51 and a private club as defined under section 6-52.

Sec. 6-51. Eligibility — Restaurant.

In order to be eligible for a 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 Effingham County Health Department and staff to prepare, cook and serve suitable food for its guests;
3. Have the ability to serve meals prepared on the premises during any time the establishment is open for business;
4. Have a valid Effingham 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 50 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises;
6. Not charge a minimum charge, cover charge or admission charge.
7. Each licensee for on-premises sales shall maintain a device similar to the intoximeters used by the City of Springfield Police Department and have such device available to any patron of such licensee. Nothing contained herein shall be deemed to make such licensee liable in any manner for the accuracy of such results or for enforcement of same, all use thereof being strictly on a voluntary basis.

Sec. 6-52. Eligibility -- Private club.

(a) In order to be eligible for a consumption-on-the-premises license, a private club must be a veterans organization, fraternal organization or other nonprofit organization all of which must be incorporated, and;

1. The local chapter has been in existence at least one year prior to the filing of its application for a license;
2. Have at least 25 regular dues-paying members;
3. Be organized and operated exclusively for pleasure, recreation and other non-profitable purposes;
4. Own, hire, or lease a building or space within a building for the reasonable use of its members, which building or space;
 - a. Has suitable kitchen and dining room space and equipment;
 - b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
 - c. Has no member, officer, agent, or employee directly or indirectly receiving in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond a fixed salary.

(b) For purposes of subsection a.4., above, a "fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include any commission or any profits from the sale of alcoholic beverages.

(c) No alcoholic beverage license shall be granted to a private club organized or operated primarily for the selling or serving of alcoholic beverages.

(d) Private clubs licensed under the provisions of this section shall not be required to maintain the percentage sale of food/non-alcoholic beverages as compared to alcoholic beverages; however, any such organization shall be subject to all chapter regulations dealing with general licensing and consumption on the premises.

Sec 6-53. Ratio of alcoholic/non-alcoholic sales.

Should the total sales from food and non-alcoholic beverages reported by any licensee for consumption on the premises not be equal to or greater than those from the sale of all alcoholic beverages for any two consecutive reporting periods, or for two non-consecutive reporting periods in any 12-month period, the license may be suspended or revoked by the city council after a hearing.

Sec. 6-54. Illumination of premises, location of sales restricted.

(a) All restaurants including all tables, booths, and other areas where customers are served and including all passageways for customers, shall be sufficiently well illuminated so that they may be viewed by those inside the premises.

(b) The sale of alcoholic beverages in any back room or side room which is not open to the general public is prohibited, except that this prohibition shall not apply with respect to:

1. Private parties which have been scheduled in advance;
2. Room service to hotel guests in their hotel rooms, provided a properly licensed restaurant is located on the premises;
3. Private clubs.

(c) The exterior of each building in which alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and all entrances thereto are clearly visible at all times.

Sec. 6-55. Dancing on premises prohibited.

Dancing shall be prohibited at facilities licensed for consumption on-the-premises sales.

Sec. 6-56. Removal of beverages prohibited.

All alcoholic beverages sold by consumption on-the-premises licensees shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises to any public streets, sidewalks or rights-of-way, or in any public or semipublic parking facility within the city.

Sec. 6-57. "Brown-bagging" prohibited.

It shall be unlawful for a licensee or any other commercial establishment to allow customers to bring with them their own alcoholic beverages, which is known as "bring your own booze" (BYOB) or "brown-bagging".

Sec. 6-58. Prohibition of certain types of entertainment, attire and conduct.

(a) *Findings, public purpose.* Based on the experience of other urban counties and municipalities, which experiences are relevant to the problems faced by the city, the mayor and city council takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country. Moreover, it is particularly circumstances related to the sale and consumption of alcoholic beverages, begets criminal behavior and tends to create undesirable community conditions. Among the acts or criminal behavior identified with nudity and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior hereinabove described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the prohibition of nude conduct in establishments licensed to sell alcoholic beverages is in the public welfare and it is a matter of governmental interest, and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments which serve alcohol and also allow and/or encourage nudity. To that end, this section is hereby adopted.

(b) *Enactment.* The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or disperse alcoholic beverages.

1. The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or any portion of the male or female pubic hair, anus, cleft or the buttocks, vulva and genitals.
2. Live entertainment where any person appears in the manner described in subsection (1) of this subsection or where such persons (or person) perform(s) acts of or acts which simulate any of the following:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.
 - b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.
 - c. The displaying of the male or female pubic hair, anus, vulva or genitals.
3. The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed

establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) above.

ARTICLE V. CONSUMPTION-OFF-THE-PREMISES (Malt Beverages & Wine Only)

Sec. 6-70. Requirements

When licenses are restricted for the sale of malt beverages and wine for off-the-premises consumption only, the licensee and purchaser shall each have the duty not to open the liquid container on the premises or consume any of the liquid on the premises. In each retail sales location, and place of business, when so restricted, there shall be prominently posted and clearly visible to customers, a black and white notice in letters at least two (2) inches high, the following language:

**NOTICE
UNLAWFUL TO OPEN MALT BEVERAGES OR
WINE CONTAINERS ON PREMISES**

Sec. 6-71. Prohibitions

It shall be unlawful for any person to consume any malt beverages or wine within 100 yards of any establishment possessing an off-the-premises consumption license to sell malt beverages or wine. The business establishment possessing said license for the sale of malt beverages or wine shall be responsible for enforcing this section within all reasonable means necessary.

Sec. 6-72. Illumination of premises.

The interior and exterior of each building in which alcoholic beverages are sold shall contain sufficient lighting indoors, so that all public areas of the store are clearly visible at all times of operation, and outdoors, so that all sides of the building and all entrances thereto are clearly visible at all times.

ARTICLE VI. GENERAL PROHIBITIONS -- RESTRICTIONS -- REQUIREMENTS

Sec. 6-90. Distance requirements from schools, churches, parks, and other facilities.

(a) No licensee shall knowingly and intentionally sell alcoholic beverages:

1. Within 100 yards of any church building, as measured from the front door of the structure from which beverage alcohol is sold or offered for sale, in a straight line to the front door of the church building;
2. Within 200 yards of any school building or school grounds, as measured from the front door of the structure from which beverage alcohol is sold or offered for sale, in a straight line to the front door of the building, or to the nearest portion of the grounds, whichever is applicable;
3. Within 100 yards of any alcoholic treatment center owned and operated by

the State of Georgia or any county or municipal government therein, as measured from the front door of the structure from which beverage alcohol is sold or offered for sale, in a straight line to the front door of the building of the alcoholic treatment center;

4. Within 100 yards of any child day care facility licensed to operate by the State of Georgia or any county or municipal government therein, as measured from the front door of the structure from which beverage alcohol is sold or offered for sale, in a straight line to the front door of the building or to the nearest portion of the grounds, whichever is applicable; or

(b) No person knowingly and intentionally may sell any alcoholic beverages for consumption on the premises within 100 yards of any housing authority property, as measured from the front door of the structure from which beverage alcohol is sold or offered for sale, in a straight line to the front door of the building or to the nearest portion of the grounds, whichever is applicable. As used in this subsection, the term "housing authority property" means any property containing 300 housing units or fewer owned or operated by a housing authority created by Article 1 of Chapter 3 of Title 8, the "Housing Authorities Law."

State law references: Sale of alcoholic beverages near churches, schools or college campus, O.C.G.A. § 3-3-21.

Sec. 6-91. Hours of sale.

Licensees shall only engage in the sale and service of alcoholic beverages between the hours of 11:00 a.m. and 11:00 p.m. Monday through Thursday, with consumption of purchased beverages on the premises until 12:00 midnight; on Friday and Saturday from 11:00 a.m. to 12:00 midnight for sales, with consumption of purchased beverages on the premises until 1:00 a.m.

Sec. 6-92. Advertising (Signs, Posters, Etc.)

No licensee shall advertise the sale of alcoholic beverages by the use of posters, signs, billboards, loud speaker, or other public displays or devices. Nothing herein shall prevent the use of posters, signs, or similar devices for advertisement of alcoholic beverages within the licensee's place of business.

Sec. 6-93. Pricing of alcoholic beverages.

(a) This section shall be construed to cover, include and apply to every type of alcoholic beverages licensed to be sold, including beer, wine, fortified wine, malt beverages and distilled spirits.

(b) No licensee or holder of any license to sell alcoholic beverages for consumption on the premises or in any part thereof, or employee or agent of a licensee, shall;

1. Offer to deliver any free alcoholic beverages to the general public, or at a price less than the wholesale price paid for the alcoholic beverage. This

subsection shall not apply to tasting rooms of farm wineries where wine is offered in a quantity to only taste the product.

2. Deliver more than two alcoholic beverage drinks to one person at one time, or allow any patron to possess more than two alcoholic beverage drinks at one time.
3.
 - a. Sell, offer to sell, or deliver any alcoholic beverages to any person or group of persons during any special period of the day at prices lower than those customarily charged during the remainder of the day.
 - b. However, any on-premise consumption licensee may sell, offer to sell, or deliver to a person only during the period from 5:00 p.m. to 7:00 p.m., any alcoholic beverage for no less than one-half the price customarily charged, provided that the following five conditions are met. This provision does not permit a licensee to sell, offer to sell, or deliver any alcoholic beverages during this two-hour period to any person or group at a price lower than is offered to the general public during this two-hour period.
 - (1) The City Council shall not have ruled that the restaurant licensee, or any of his current employees, or persons in his employ within the prior 12 months has violated at or on the licensed premises within the last 12 months of such sale any provision of this chapter, or state statute regarding alcoholic beverages; and
 - (2) The municipal court shall not have found the licensee, or any of his current employees, or persons in his employ within the prior 12 months guilty of violating at or on the licensed premises any of the Springfield Ordinances.
 - (3) The police department shall not have responded to requested dispatches to the licensed premises more than 25 times in the last 12 months for any reason other than to investigate a traffic accident, or to provide assistance to the fire department or emergency medical services during one of their emergency calls; and
 - (4) Such sales shall only take place on a day when sales of alcoholic beverages for consumption-on-the-premises are allowed by this chapter and state statute.
 - (5) The 12-month period referred to above is inclusive of the time period of the 365 days immediately preceding the proposed sales date.
4. Sell, offer to sell, or deliver to any person or group of persons two or more or an unlimited number of alcoholic beverages during any set period of time at a fixed price, except at private functions not open to the public.

5. Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public.
6. Sell, offer to sell, or deliver alcoholic beverages, by the pitcher or carafe, except for consumption by two or more persons at any one time.
7. Increase the volume of alcohol contained in a drink without increasing proportionately the price customarily charged for such alcoholic beverage.
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 two or more alcoholic beverages for a price substantially the same as is charged for one such alcoholic beverage.
10. Require the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the first such beverage has been consumed.
11. 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 a subsequent day.
12. Sell, offer to sell, or deliver to a customer in any container other than: a) a glass or plastic cup for distilled spirits; or b) a standard wine glass or plastic cup, carafe or original winery bottle for any wine or fortified wine; or c) a glass or plastic cup, pitcher, or the original bottler's can or bottle for any beer or malted beverage.
13. Sell, offer to sell, deliver or allow any alcoholic beverage to be inserted into the mouth of a customer in any manner by anyone other than by the customer.
14. Sell, offer to sell, or deliver any alcoholic beverages in pitchers or in jumbo or extra-large containers for less than the normal retail price charged for an equivalent volume of that specific alcoholic beverage in a normal size glass or pitcher. Nothing herein shall preclude the serving of a bottle of wine with a full meal(s) at a price less than the cumulative price of the equivalent volume of wine poured from said bottle into wine glasses.

(c) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, 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.

ARTICLE VI. EXCISE TAX UPON ALCOHOLIC BEVERAGES

Sec. 6-100. Imposition.

In addition to all other taxes or license fees imposed upon the sale of alcoholic beverages as defined under the laws of the state, there is hereby imposed and levied upon all the sale of alcoholic beverages within the incorporated area of the city an excise tax, to be computed and collected as set forth in this article.

Sec. 6-101. Amount of Tax.

The excise taxes on alcoholic beverages shall be set forth in the "Schedule of Fees for Alcoholic Beverages" on file in the office of the city council.

Sec. 6-102. Computation, payment, duties of wholesale dealer or distributor licensee.

The tax imposed in this section shall be computable and payable monthly. Each wholesale dealer or distributor selling, shipping or delivering alcoholic beverages to any retail dealer in the incorporated area of the city shall fill out an application providing with pertinent company information and pay a license fee in the amount recorded on the schedule of fees on file in the office of the City Council, and as a condition to the privilege of carrying on the business:

1. Keep true and correct records of all sales, shipments or deliveries of such alcoholic beverages to any retail dealer in the incorporated are of the city, such records to be for a period of one year for malt beverages, fermented wine and distilled spirits and to be made available upon request to any duly authorized representative of the city.
2. Collect from each such retail dealer in the incorporated area of the city at the time of delivery of the alcoholic beverages the amount of tax due under the terms of this section and to hold such amount in trust for the city until such amount is remitted to the city as provided in this section.
3. Except as provided in O.C.G.A. §§ 3-5-81 or other applicable state law, on or before the 20th day of each calendar month make a verified and comprehensive report to the city clerk's office, which shall correctly show all sales and deliveries of alcoholic beverages to or for retail dealers in the incorporated area of the city for the month immediately preceding such report. Such report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this section, and such other information as may be called for by the city. This report shall be accompanied by remittance to the city for all taxes collected or due as shown on the report.

- (a) *Noncompliance by wholesale dealer or distributor.* If any wholesale dealer or distributor fails or refuses to make the report provided for in this section, the city shall notify the party in writing; and if the reports are not made and the taxes remitted within five days from the date of notice, the city may revoke the wholesale dealer's or distributor's license. In addition, such a wholesaler must pay a late payment charge of ten percent per month for each month of delinquency together with interest on the total amount due (including late payment fee) equal to one percent per month.
- (b) *Unlawful retail sales.* It shall be a violation of this section for any person to sell at retail within the limits of the incorporated area of the city any alcoholic beverages on which the taxes provided for in this section have not been paid. This section shall also apply to farm wineries.
- (c) *Unlawful deliveries.* It shall be unlawful and a violation of this section for any wholesale dealer or distributor to deliver any alcoholic beverages to any retail dealer in the incorporated area of the city without collecting the taxes provided for in this section at the time of delivery.
- (d) *Posting of bonds.* Each wholesaler dealer or distributor who sells malt beverages or fermented wines to retail dealers in the incorporated area of the city shall post a bond in the sum of \$10,000.00 as a condition that such dealer or distributor shall comply with every provision and make payment of any sums due under this section. If the wholesaler's license shall be revoked for cause, the bond shall be forfeited and paid to the city.
- (e) *Violations and penalties.* Any person violating any of the provisions of this section, or who shall assist any retail dealer in alcoholic beverages in the city to evade or avoid the payment of the taxes provided for in this section shall be punished as provided in section 6-3 and shall also be subject to having his license revoked.
- (f) *Farm wineries.* Wines sold at retail by a farm winery shall have levied thereon the excise tax that applies to wholesalers. Farm wineries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale.

State law references: Nudity and related acts on premises, O.C.G.A. §§ 3-3-41; employee solicitation of patrons for drinks on premises, O.C.G.A. §§ 3-3-42; display of prices of distilled spirits, O.C.G.A. §§ 3-4-26; levy of tax on sale of distilled spirits by the package authorized, O.C.G.A. §§ 3-4-80; sale of distilled spirits by the drink, O.C.G.A. §§ 3-4-90 et seq.; imposition of excise tax on malt beverages required, O.C.G.A. §§ 3-5-80; authorization to levy tax on wine, O.C.G.A. §§ 3-6-60.

Sec. 6-103. Computation, payment, duties of consumption-on-the-premises licensee.

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 council 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.

(a) Each licensee shall remit the amount of taxes collected and coming due under this article in any quarter (ending March 31, June 30, September 31, December 31) to the city not later than the 20th of the month following that respective quarter.

(b) On or before the 20th day of the month following each quarter, a return shall be filed with the city clerk for the preceding quarter by each licensee liable for the payment of tax under this article. Returns shall be in such form as the city council may specify and shall show the licensee's gross receipts from the sale of mixed drinks and the amount of taxes collected or coming due thereon.

Sec. 6-104. Duties of consumption-off-the-premises licensee.

Every consumption off-the-premises licensee shall pay the tax imposed by this article to the wholesale dealer or distributor at the time of purchase of the malt beverages or wine. The licensee shall furnish such information as may be required by the city council 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 payment of the tax at the time of delivery of the malt beverage or wine to the off-the-premises licensee.

Section 2. All ordinances or parts of ordinances, inconsistent with this Ordinance are hereby repealed.

Section 3. That this Ordinance shall be and remain in full force and effect from and after its adoption.

ADOPTED THIS 14th DAY OF March, 2008. March

ATTEST:


Barton Alderman, Mayor


Gaye Paquet City Clerk