

ORDINANCE 2016-10

AN ORDINANCE BY THE GOVERNING AUTHORITY FOR THE CITY OF STONE MOUNTAIN TO AMEND CHAPTER 3, ALCOHOLIC BEVERAGES, TO PROVIDE DEFINITIONS; TO REGULATE LICENSING; TO PROVIDE REGULATIONS FOR LICENSEES ALLOWING PATRONS TO BRING THEIR OWN ALCOHOLIC BEVERAGES; TO PROVIDE FOR FEES BY RESOLUTION; TO PROVIDE FOR TEMPORARY LICENSES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

PART I

The Council of the City of Stone Mountain hereby ordains that Chapter 3, Alcoholic Beverages, of the *The Code of the City of Stone Mountain, Georgia* be amended as follows:

1. Delete in its entirety the definition of “*Brown bagging*” from Section 3-2.
2. Delete in its entirety the definition of “*Brown bagging establishment*” from Section 3-2.
3. Delete in its entirety the definition of “*Distilled spirits or spirituous liquors*” from Section 3-2 and add the new definition to Section 3.2: *Distilled spirits* means any alcoholic beverage obtained by distillation or containing more than 24 percent alcohol by volume.
4. Delete in its entirety the definition of “*Fortified Wine*” from Section 3.2 and add the new definition to Section 3.2: *Fortified Wine* means any alcoholic beverage containing not more than 24 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, brandy.
5. Delete in its entirety the definition of “*Malt beverages*” from Section 3.2 and add the new definition to Section 3.2: *Malt Beverages* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.
6. Delete in its entirety the definition of “*Wine*” from Section 3.2 and add the new definition to Section 3.2: *Wine* means any alcoholic beverage containing not more than 24 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, vermouths, special natural wines, rectified wines, like products and combinations of such beverages. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed

to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in the Code section.

7. Delete in its entirety Section 3-70 and add new Section 3-70 which shall read as follows:

Sec. 3-70. Licenses

Except as authorized in Section 3-86, a license for consumption on the premises of alcoholic beverages may be granted only to a restaurant, private club, legitimate theater or hotel/motel as defined in Section 3-2.

8. Delete in its entirety Section 3-86 and add new Section 3-86 which shall read as follows:

Sec. 3-86. When bringing your own alcoholic beverages allowed.

It is prohibited for any person to bring his own alcoholic beverage into any retail establishment without regard to whether such establishment is licensed to serve alcoholic beverages except for the following specific exceptions:

- (1) This section shall not prohibit any person dining at a restaurant licensed to sell wine or malt beverages for consumption on the premises from bringing an unopened bottle of wine or malt beverage into said establishment for consumption where the establishment has a policy permitting same.
- (2) This section shall not prohibit any person who is a patron of a retail establishment from bringing an unopened bottle of wine or malt beverage into the establishment where: (a) the owners or their agents have a policy permitting a patron to bring an unopened bottle of wine or malt beverage into the retail establishment for consumption on the premises by the patron; and (b) the retail establishment is licensed as required hereinafter.
- (3) This section shall not prohibit any person who is a patron of a non-profit organization licensed under Section 3-43 from bringing an unopened bottle of wine or malt beverage onto the licensed premises where the licensee has a policy permitting a patron to bring an unopened bottle of wine or malt beverage for consumption on the premises by the patron.
- (4) Any wine not consumed at a restaurant as described in subsection (1) shall be disposed of at the premises and not carried out in an open container, unless the retail establishment is able to reseal and repackage the opened bottle of wine as required by O.C.G.A. § 3-6-4.
- (5) A retail establishment shall be required to be licensed by the city, meet all application requirements and be governed by the ordinance provisions as set forth in Article II of this chapter.
- (6) Licensed retail establishments and non-profit organizations shall have no employees under the age of 18.
- (7) Retail establishments and non-profit temporary licensees shall establish a closing time no later than 10:00 p.m.

- (8) All applicable state laws and city ordinances which address the use and serving of alcoholic beverages shall apply to this section.
- (9) For purposes of this section, the term retail establishment shall not include a private hotel room, guestroom or a private club.

9. Delete in its entirety Section 3-21(a) and add new Section 3-21(a) which shall read as follows:

Sec. 3-21. License required to sell alcoholic beverages.

(a) Licenses for the sale of alcoholic beverages shall be issued by the city clerk. The fees for such licenses shall be an amount set by resolution of city council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council. The following licenses are available:

- (1) Retail dealers occupying 4,000 square feet or less for the sale of malt beverages and wine by the package
- (2) Retail dealers occupying 4,000 square feet or more for the sale of malt beverages and wine by the package
- (3) Wholesale dealers of malt beverages and wine
- (4) Retail sales by restaurants or private clubs of malt beverages and wine for consumption only
- (5) Retail sales by restaurants or private clubs of distilled spirits, malt beverages and wine for consumption only
- (6) Brew pub
- (7) Temporary license pursuant to Section 3-43
- (8) Retail establishments pursuant to Section 3-86

10. Amend Section 3-22 (a) as follows:

Sec. 3-22. Contents of application for license.

(a) All persons desiring to obtain a license under this chapter for the sale of alcoholic beverages, except for a temporary license, shall apply to the city council upon forms to be prepared and provided by the city clerk and applications shall be considered only at the regular monthly meeting of the city council. Such application shall state:

11. Delete in its entirety Section 3-22(c) and add new Section 3-22(c) which shall read as follows:

(c) The licensee shall file with the city clerk a license for the sale of alcoholic beverages issued by the Georgia Department of Revenue within thirty days of the date the city license is issued. Failure to obtain a State of Georgia license shall be grounds for revocation of the city license.

12. Delete in its entirety Section 3-43 and add new Section 3-43 which shall read as follows:

Sec. 3-43. Temporary license.

The city clerk may issue a temporary license authorizing a bona fide nonprofit charitable organization to sell or serve malt beverages and wine for consumption on the

premises only upon the filing of an application as required by the city clerk and payment of the appropriate fee provided that:

(a) The application includes an Internal Revenue Service determination letter of its tax exempt status under Section 501(c)(3) of the Internal Revenue Service code.

(b) Temporary licenses shall be valid only for the place specified in the license and the zoning restrictions and distance restrictions contained in Section 3-29 shall apply.

(c) The licensee shall file with the city clerk a license for the sale of alcoholic beverages issued by the Georgia Department of Revenue prior to the sale of alcoholic beverages under the temporary license. Failure to obtain a State of Georgia license shall be grounds for revocation of the city license.

(d) The temporary license shall be valid for a time period and frequency equal to the time period and frequency allowed by the license issued by the Georgia Department of Revenue.

PART II

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

PART IV

This ordinance shall become effective immediately upon its adoption.

This ordinance was proposed by Council Member _____ with a motion to adopt. Thereafter, the motion was seconded by Council Member _____. _____ Council Members voted in favor of the motion and _____ Council Members voted against the motion.

Mayor Patricia Wheeler

Chaquias Thornton, City Clerk

Approved as to form: _____
City Attorney Joe Fowler

First read: _____ Second read: _____