ORDINANCE NO. 2006-06-42

STATE OF GEORGIA

COUNTY FULTON

AN ORDINANCE AMENDING CHAPTER 7, ALCOHOLIC BEVERAGES ARTICLE 1, SECTION 3 PENALTIES FOR VIOLATIONS OF CHAPTER, SECTION 10 (H) LICENSING QUALIFICATIONS, SECTION 12 FEES FOR LICENSES, SECTION 18 SUSPENSION OR REVOCATION OF LICENSE, SECTION 19 LICENSE REVIEW BOARD: HEARINGS, SECTION 32 REGULATIONS AS TO EMPLOYEES AND MANAGERS (PARTIAL) SECTION 43 ALCOHOLIC AWARENESS TRAINING, ARTICLE 2 SECTION 4 DAYS ALLOWED FOR SALE, SECTION 7 NO SALES TO MINORS OR PHYSICALLY OR MENTALLY INCAPACITED PERSONS, AND SECTION 9 EMPLOYMENT OF MINOR OF THE CODE OR ORDINANCES OF THE CITY OF SANDY SPRINGS, GA

BE IT ORDAINED by the City Council of the City of Sandy Springs, GA while in regular session on June 20, 2006, at 7:00 p.m. as follows:

SECTION 1. That the Ordinance relating to Amending Chapter 7, Alcoholic Beverages, is hereby adopted and approved; and is attached hereto as if fully set forth herein, and;

SECTION 2. All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

SECTION 3. That the First Reading of this Ordinance was on June 6, 2006; and

SECTION 4. That the Second Reading of this Ordinance was on June 20, 2006; and

SECTION 5. This Ordinance shall become effective on July 1, 2006.

ORDAINED this the 20th day of June 2006.

Approved:

Eva Galambos

Eva Galambos, Mayor

Attest:

Jeanette R Marchiafava

Jeanette R. Marchiafava, City Clerk

(Seal)

Article I: Section 3: Penalties for Violations of Chapter
Any person who violates any provisions of the sections in this chapter may, upon conviction, be punished by a fine of not less than $300.00 for each offense and/or up to thirty (30) days in the City Jail, unless a different penalty is set out in specific sections of this chapter.

Article I: Section 10: Paragraph H: Licensing Qualifications
(h) All licensed establishments must have and continuously maintain in the Fulton County, Georgia a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of the county. The licensee shall file the name of such agent, along with the written consent of such agent, with the City Manager and shall be in such form as he may prescribe.

Article I: Section 12 Fees for Licenses
License fees for the privilege of selling any alcoholic beverage, either retail or wholesale, shall be set by Resolution of the City Council, and shall remain in effect from year to year, until modified or amended by subsequent Resolution adopted by the City Council. The license fees so established shall be in addition to any excise tax lawfully imposed.

Article I: Section 18: Suspension or Revocation of License
The City Manager shall impose a suspension of a license, or revoke a license, upon receiving information of occurrence of any one of the following events:
(a) A license may be denied, or immediately suspended or revoked where the licensee furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of this chapter and state law.
(b) Whenever the state shall revoke any permit or license to sell alcoholic beverages the City license shall thereupon be automatically revoked. The chief of police, upon receiving notice of the state revocation, shall take the necessary steps to see that signs are removed and that all alcoholic beverage sales cease.
(c) Any licensed establishment that is found to be in violation of the provisions of this ordinance shall be subject to immediate license revocation.
(d) The license shall be revoked of any licensee whose license has been suspended three or more times in any consecutive twelve (12) month period.
(e) The license shall be revoked of a licensee of any premises where alcoholic beverages have been sold or distributed during a period of suspension.
(f) The license may be suspended or revoked of any establishment which does not meet the licensing qualifications set forth in this chapter at any time such knowledge becomes known to the City officials.
(g) An act or omission of a licensee, owner of more than 20 percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this chapter will subject the licensee to suspension or revocation of its license in accordance with the provisions of this chapter, regardless of whether any criminal prosecution or conviction ensues; provided, however, in the case of an employee, it shall be established that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.

(h) Whenever it can be shown that a license under this chapter no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the City.
(i) Whenever this chapter permits suspension of any license, but does not mandate the period of suspension, the following guidelines shall apply:

(1) First suspension in a twelve (12) month period shall not exceed thirty (30) days.

(2) Second suspension in a twelve (12) month period shall not exceed sixty (60) days.

(3) Third suspension in a twelve (12) month period shall cause a revocation of license and result in inability of licensee to obtain a license from the City for a term of three (3) years from the date of revocation.

Article 1: Section 19: License Review Board: Hearings

(a) There is hereby established a License Review Board ("Board") consisting of five (5) members appointed by the Mayor and subject to approval by the Council. Each member shall serve a term of four (4) years.
(b) The Board shall have the following duties:

(1) To hear deferred applications or appeals from administrative decisions by the City Manager with regard to issuance of licenses, transfers, renewals, change of ownership or other matters affecting such licenses.

(2) To hear appeals with regard to issuance or renewal of employee work permits.

(3) To hear any matter involving revocation or suspension of a license or other disciplinary action against a licensee, or employee under a work permit.

(4) To consider and act upon any other matter specifically delegated to the Board by City ordinance, resolution or action of the Council.

(c) Applicants or licensees shall be given written notice of the date, time and place when the Board will consider the respective matter. The applicant and interested parties shall be afforded the opportunity to be heard by the Board and present evidence to the Board prior to making its decision. No alcoholic beverage license having been issued shall be suspended or revoked except for due cause as defined in this section, after a hearing and upon written notice to the holder of such license of the time, place and purpose of the hearing and a statement of the charge or charges upon which the hearing shall be held. Ten (10) days notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the Board may deem the circumstances to justify. Due cause for the suspension or revocation of a license shall consist of the violation of any laws or ordinances regulating the business or for the violation of any state or federal law; or any reason which would authorize the City to refuse the issuance of a license; or any violation of this chapter. Further, the police department shall notify the City Manager of a licensee or anyone in the employ of a licensee (i) being charged with or arrested for selling alcoholic beverages (A) to an underage person or persons or (B) on Sunday without necessary Sunday sales license or (ii) being convicted of selling alcoholic beverages to an intoxicated persons pursuant to O.C.G.A. § 3-3-22 during the current license year. Once the City Manager becomes aware of such charge, charges, arrest or conviction he or she shall place the matter before the Board for hearing. The Board, at said hearing and after receiving evidence may order the license to sell or serve alcoholic beverages be suspended or revoked if the evidence so warrants. All decisions of the Board shall be in writing, and a copy furnished to the applicant or licensee.
(d) The Board shall have the authority to hear or determine any matter set forth in this chapter unless specifically prohibited therefrom.
(e) The decision of the Board shall be final unless appealed by applicant or licensee to the Council within ten (10) days of the date of its written decision. The appeal shall be in writing and

filed with the City Clerk. The Council shall conduct a de novo hearing at a regularly scheduled meeting within thirty (30) days of the filing of the appeal to hear evidence and, at conclusion of such hearing render a decision to uphold the decision made by the Board, reverse the decision made by the Board, or in its discretion, modify the decision made by the Board. The decision of the Council shall be rendered not later than its next regularly scheduled meeting.
(f) The decision of the Council as rendered on an appeal under this article shall be final unless licensee applies to the Superior Court of Fulton County by filing a Petition for Writ of Certiorari within thirty (30) days of the decision rendered by the Council.
(g) The Board shall meet at such times as necessary as determined by the Board and shall render decisions within a reasonable time. Three members of the Board shall constitute a quorum, and all decisions of the Board shall require a majority vote of the quorum. Such meeting shall not be scheduled later than thirty (30) days from the time a matter is filed for hearing or appealed to the Board.
(h) The Board shall select one of its members to serve as chair and one member to serve as secretary to serve at the pleasure of the Board. Minutes and records of all proceedings shall be kept and maintained in the office of the City Manager.

Article 1: Section 32: Regulations as to Employees and Managers (partial)
(f) An alcohol pouring permit shall be issued for a period of one calendar year from the date of the original application. As noted in subsection (k) below, the alcohol pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by members of the police department or the City Manager's staff. All persons employed to dispense, sell, serve, take orders, mix alcoholic beverages or serve in any managerial position in any establishment licensed under this chapter shall be required to complete an alcohol awareness training program to become a certified Alcohol Awareness Server, as defined in Section 43 of this Article, as a condition to the privilege of continuing to maintain a valid alcohol pouring permit.
(m) The licensee is required to maintain the exterior of the licensed premises, parking lot and all parts of premises abutting public right-of-ways during all hours the business is open and to do an inspection of the premises within three (3) hours after closing. The term "maintain" is defined as keeping the defined areas free of bottles, cans, cups, trash and other litter.

Any person(s) convicted of any violation(s) of this section shall receive a minimum fine of $200.00

Article 1: Section 43: Alcoholic Awareness Training
(a) Any person to whom an alcohol pouring permit is issued, and all licensee's managerial staff, shall be required to complete an alcohol awareness training program within thirty (30) days from date the person is issued an alcohol pouring permit.
(b) All persons employed within the City as of the enactment of the ordinance, holding a valid alcohol pouring permit, shall have through December 31, 2006, in which to complete an alcohol awareness training program.
(c) The City Manager shall maintain a list of schools, training facilities and trade associations (Training Facilities) located in Fulton County, Georgia that are authorized and approved by the City Manager to conduct alcohol awareness programs for the purpose of training servers of alcohol in intervention procedures when customers become intoxicated.
(d) The Training Facilities shall issue, upon completion of the course, a certificate which shows the individual has fulfilled the requirement for the course and is certified as an Alcohol

Awareness Server. The cost of the course will be the responsibility of the licensed establishment that employs such server.
(e) The establishment employing the individual required to complete an alcohol awareness program shall obtain the certificate stating the employee has successfully completed the course and have the same delivered to the business license department of the City to be kept with the record of the employee having an alcohol pouring permit.
(f) The privilege of a person to continue having a valid alcohol pouring permit is conditioned upon completing an alcohol awareness program and having a certificate of course completion provided to the City in a timely manner. Failure to do so is cause for suspension of the person's alcoholic pouring permit.

Article 2: Section 4: Days Allowed for Sale
The sale of alcoholic beverages on election day is limited to provision of state law, pursuant to O.C.G.A. § 3-3-20.

The sale of alcoholic beverages on Sunday and holidays is limited to provision of state law, pursuant to O.C.G.A. § 3-3-20 and O.C.G.A. § 3-3-7.

Article 2: Section 7: No sales to minors or physically or mentally incapacitated persons
No licensee shall sell or permit to be sold alcoholic beverages to a minor, as defined in O.C.G.A. § 3-3-23, as amended, which reads as follows:
(a) Except as otherwise authorized by law:

(1) No person knowingly, by himself or through another, shall sell, cause to be furnished, or permit any person in his employ to sell or furnish any alcoholic beverage to any person under 21 years of age.

(2) No person under 21 years of age shall purchase or knowingly possess any alcoholic beverage.

(3) No person under 21 years of age shall misrepresent his age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage.

(4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.

(b) The prohibitions contained in paragraphs (a)(1), (a)(2), and (a)(4) of this section shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption:

(1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state.

(2) At a religious ceremony.

(3) In the home with parental consent.

(c) The prohibition contained in paragraph (a)(1) of this section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, 'proper identification' means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and proper identification includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. tit. 40, ch. 5, art. 5 (O.C.G.A. § 40-5-100), requiring the department of public safety to issue identification cards to handicapped persons who do not have a motor vehicle driver's license. 'Proper identification' shall not include a birth certificate.

(d) No licensee shall allow or require a person in his or her employment under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverage. This section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises.
(e) Testimony by any person under 21 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this section, shall not be used in any administrative or judicial proceeding brought against such testifying person under 21 years of age.
(f) Nothing in this section shall be construed to modify, amend, or supersede O.C.G.A. tit. 15, ch. 11 (O.C.G.A. § 15-11-1 et seq.) (pertaining to juvenile proceedings); or to any person who is physically or mentally incapacitated due to the consumption of beverage alcohol. Nor shall any licensee violate O.C.G.A. § 3-3-22, as amended, which provides as follows: 'No alcoholic beverage shall be sold, bartered, exchanged, given, provided, or furnished to any person who is in a state of noticeable intoxication.' A violation of this section shall be cause for suspending or revoking such license in accordance with provisions of this article.

Article 2: Section 9: Employment of minor
No licensee hereunder shall allow any minor employed by a licensee to sell or otherwise handle alcoholic beverages who is under 18 years of age.