

ORDINANCE \_\_\_\_\_, 2016

AN ORDINANCE AMENDING CHAPTER 6 – ALCOHOLIC BEVERAGES – OF THE CODE OF WOODSTOCK, GEORGIA

**Whereas**, the City of Woodstock, Georgia (hereinafter sometimes referred to as the "City") is a municipality duly formed and existing pursuant to Georgia Law; and

**Whereas**, the 1983 Constitution of the State of Georgia provides for the self government of municipalities without the necessity of action by the General Assembly<sup>1</sup>; and

**Whereas**, the City of Woodstock, Georgia has the legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs and local government for which no provision has been made by general laws, and which are not inconsistent with the Constitution or any charter provision applicable thereto<sup>2</sup>; and

**Whereas**, the City Council of the City of Woodstock, Georgia desires to amend Chapter 6 of the Code of Woodstock, Georgia as set forth herein.

**NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL ORDAINS, by the lawful authority vested in them as follows:**

**Section 1.** That Section 6-1 Definitions of Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia is hereby amended by deleting the following definitions:

*Church* means any permanent building which houses the main sanctuary in which persons regularly assemble for religious worship and which is publicly designated as a church, but shall not include a residence also used for religious purposes. The term "church" shall not include the temporary housing of a religious group in an otherwise commercial center.

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<sup>1</sup> Ga Const 1983, Article IX, Section II, Paragraph II provides in pertinent part as follows.

"The General Assembly may provide by law for the self government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to the municipalities may be dealt with without the necessity of action by the General Assembly."

<sup>2</sup> O.C.G.A. §36-35-3(a) provides as follows

"(a) The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable hereto. Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code Section. This Code Section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly, shall not pass any local law to repeal, modify or supersede any action taken by a municipal governing authority under this Code section, except as authorized under Code Section 36-35-6 "

*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.

*License* means the authorization by the city council to engage in the sale or consumption on the premises of alcoholic beverages.

*License* means a person, real or artificial, holding any class of license issued under the terms of this chapter.

*Malt beverage* 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 six 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.

*Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 60 people, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least two meals per day shall be served at least six days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted and food sales must be equal to or more than 50 percent of total sales.

*Wine* means any alcoholic beverage containing not more than 21 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, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. 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 this definition.

**Section 2.** That Section 6-1 Definitions of Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia is hereby amended by inserting the following definitions:

*Central Business District (CBD)* means any premises located in the DT-CBD Zoning District.

*Church* means any permanent building which houses the main sanctuary in which persons regularly assemble for religious worship and which is publicly designated as a church, but shall not include a residence also used for religious purposes. The term "church" shall not include the temporary housing or leased space of a religious group in an otherwise commercial center

*Distilled spirits* means any alcoholic beverage obtained by distillation or containing more than twenty-four (24) percent alcohol by volume, including, but not limited to, all fortified wines.

*License* means the authorization by the city council to engage in the sale or consumption of alcoholic beverages in the City of Woodstock and a person, real or artificial, holding any class of license issued under the terms of this Chapter.

*Grocery store* means a retail establishment which has a total retail floor space of at least 10,000 square feet of which at least 85 percent is reserved for the sale of food and other nonalcoholic items and conducts all of its sales inside the building containing its retail floor space, licensed under this Chapter for the retail sales of only wine and malt beverages for consumption off the premises.

*Malt beverage* 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 fourteen (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.

*Restaurant* means any means any business which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least fifty (50) percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

*Wine* means any alcoholic beverage containing not more than twenty-four (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, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. 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 this definition.

**Section 3.** That Sections 6-3, 6-4, and 6-5 of Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia are hereby deleted and replaced as follows:

Sec. 6-3. - Compliance with chapter required.

- (a) No person shall sell or offer for sale in the city at wholesale or retail any alcoholic beverages without having first complied with the provisions of this chapter.
- (b) *Familiarity with chapter.*
  - (1) It shall be the duty of each licensee and employee thereof to be familiar with this chapter.
  - (2) It shall be the responsibility of each licensee to provide all new employees at the time of their employment, and all employees annually, with an orientation and training on the alcoholic beverage ordinance; provided that, the failure of the employer to provide such orientation and training or of the employees to participate shall not be a defense for an employee who does not follow the provisions of the alcoholic beverage

ordinance; and provided that, a licensee shall keep a record of such orientation and training, which shall be subject to inspection.

- (3) Licensees shall be responsible for compliance with this chapter by their officers, agents, and employees.

Sec. 6-4. - License required.

- (a) No malt beverages, wines, distilled spirits or any other alcoholic beverage shall be stored, delivered, sold or manufactured in the city except under a license issued pursuant to this chapter and then only for the specific beverage and manner of sale provided in the license.
- (b) The requirements of this chapter shall be in addition to any other requirements for business licenses under this Code and if other provisions of this Code conflict with this chapter then this chapter shall control.

Sec. 6-5. - Reserved.

**Section 4.** That Section 6-8 of Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia is hereby deleted and replaced as follows:

Sec. 6-8. – Liquor/package store - retail distilled spirits minimum requirements.

Any person seeking to license a liquor or package store – retail distilled spirits establishment — must demonstrate compliance with the following requirements prior to the acceptance of an application for said license:

- (1) Proposed premises of the retail distilled spirits establishment is greater than one (1) mile or 5,280 feet from another retail distilled spirits establishment licensed by the City of Woodstock. This distance is measured in accordance with Section 6-25.
- (2) Such premises shall be freestanding or if located in a shopping center or attached to any other building or establishment such premises shall have a floor area of not less than 5,000 square feet.
- (3) Proposed premises is compliant with all zoning requirements for the requested use.

**Section 5.** That Section 6-10 (c) (22) e. of Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia is hereby deleted and replaced as follows:

- e. A scale drawing from a registered surveyor identifying the location of the proposed premises and the distance to the nearest church, school, college, day care center, or residence located within 1,000 feet, by the appropriate method of measurement as defined in section 6-25, Measurement of distances. If the license requested is for

retail distilled spirits, the nearest retail distilled spirits establishment, liquor, or package store must also be identified within one (1) mile or 5,280 feet, measured using the method under Section 6-25.

**Section 6.** That Section 6-20 (a) of Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia is hereby amended as follows:

- (a) No bottle or other container of alcoholic beverages shall be opened or consumed by any person on the premises, upon which the place of business is conducted and licensed under this chapter, whether the bottle or other container so opened or consumed was bought or obtained at that place of business or elsewhere unless the premises is licensed for consumption on the premises under this chapter, except in accordance with the provisions of Code Section 6-117 of this Code of Ordinances in an entertainment district.

**Section 7.** That Section 6-25 Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia is hereby deleted and replaced as follows:

Unless otherwise provided by law, all measurements, to determine distances, required by this chapter, for the issuance of city beverage licenses, shall be measured in lineal feet by the most direct route of travel as detailed below.

- (1) Consumption on premises; shall be measured from any door of customer entry of the proposed premises of a license by the shortest route along a public thoroughfare (street, alley or sidewalk); as the traffic or pedestrian flows; to the nearest door of entry of any school, church, college or day care. Includes central business district (CBD).

The table below lists the distance in feet which various types of alcoholic beverage consumption on premises establishments must meet from an existing regulated land use.

| Distance of Type Beverage Sales From Existing Land Use<br>In Feet | Church | School | Day Care<br>Center |
|---|--------|--------|--------------------|
| Consumption on premises   | 300    | 300    | 300                |
| Central business district<br>Consumption on premises              | 150    | 150    | 150                |

- (2) Distance waiver for consumption on premises within the Central Business District – City Council, in its sole discretion, may consider a reduction in these distance requirements, using the standards set forth in Section 6-18, in addition to the information provided in the application. An applicant seeking a waiver, shall include the waiver requested in the notice required, Section 6-9 and detail the request in the application.
- (3) All other; shall be measured from any door of customer entry of the proposed premises of a license by the shortest route along a public thoroughfare (street, alley or sidewalk); as the traffic or pedestrian flows; to the property line of the tract on which is located the school ground, church, college campus or day care.

The table below lists the distance in feet which various types of alcoholic beverage sales establishments must meet from an existing regulated land use.

| Distance of Type Beverage Sales From Existing Land Use**<br>In Feet | Church | School or<br>College | Day<br>Care<br>Center | Liquor/<br>Package Store |
|---|--------|----------------------|-----------------------|--------------------------|
| Grocery store   | 300    | N/A                  | N/A                   | N/A                      |
| Retail malt beverages, wine   | 300    | 300                  | 300                   | N/A                      |
| Liquor/package store (retail distilled spirits)                     | 300    | 600                  | 600                   | 5,280                    |
| ** See also O.C.G.A § 3-3-21  |        |                      |                       |                          |

**Section 8.** That Section 6-27 of Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia is hereby created as follows:

Sec. 6-27. - Penalties; revocation of license.

- (a) Upon conviction in the municipal court of any violation of any provision of this chapter, unless otherwise provided, the punishment shall be as follows:
- (1) First offense, a minimum fine of \$500.00;
  - (2) Second offense, if within 12 months of the first offense, a minimum fine of \$750.00;
  - (3) Third offense, if within 12 months of the second offense, a minimum fine of \$1,000.00; or

- (4) Otherwise punishment shall be as set by the municipal judge as allowed by the city Charter.
- (b) In addition to the penalties provided in subsection (a) of this section, a license issued pursuant to this chapter may be suspended, revoked or placed on probation by the city council for the following reasons:
- (1) Failure to pay excise fees or any other fees or taxes required by the city.
  - (2) Disorderly conduct of the establishment.
  - (3) Acts of disturbance on the establishment.
  - (4) Violence on the establishment.
  - (5) Gambling on the establishment.
  - (6) Conviction of violating this chapter by any court with jurisdiction.
  - (7) Charges of or conviction of a felony by the licensee.
  - (8) Creation or maintenance of a nuisance on the establishment.
  - (9) Any false statement or material misrepresentation given in the application for the license.
  - (10) For any and other just cause.
- (c) If it comes to the attention of the city council or city manager that the licensee has violated any provisions of this chapter, the following procedures shall apply:
- (1) The city manager or his designee shall issue a notice of objection which shall include the address of the location and the specific allegations as to the violations of any provision of this chapter or any other provision of this Code. The notice of objection shall also include the recommended action to be taken. Further, any license issued under this chapter may be temporarily suspended by the city manager in his notice of objection for any reason outlined in subsection (b) of this section if it is determined that it is in the best interest of the health, safety and welfare of the public. The city manager will then notify the licensee in writing by certified mail or in person that a notice of objection has been filed and of any applicable temporary suspension. The notice to the licensee will include a copy of the notice of objection, and the time, place and date for a hearing before the city council on the matter. The hearing shall be within seven days of the date of the notice to the licensee. Extensions and necessary investigations will be granted and conducted at the discretion of the city council.
  - (2) At the hearing, the city and the licensee shall be afforded an opportunity to present evidence and examine witnesses. After this hearing, the city council shall issue a notice of decision at which time the council will dismiss or affirm the objection and/or temporary suspension, and in case of affirmation, the city council may suspend, revoke or place on probation the license of the licensee.
  - (3) The decision of the city council shall be in writing and shall state the reasons for their decisions and shall be based upon the merits of the case.

- (4) The decision of the city council shall be final but may be appealed to the appropriate court within 30 days of the date of the written decision.
- (5) The decision of the city council shall be binding upon the retail party or holder of the license.
- (d) When the license of any establishment has been revoked, no further license shall be issued under this chapter to the same person, firm or corporation at that location for a period of 24 months from the date of revocation.
- (e) Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the city license to manufacture or deal in those products shall thereupon be automatically revoked without any action by the city council or any municipal officer.
- (f) All owners or officers of establishments licensed under this chapter shall be criminally responsible for any violation of this chapter by an employee thereof; provided the municipal court may only impose a just fine under this subsection.

**Section 9.** That Section 6-102 of Chapter 9 – Alcoholic Beverages - of the Code of Woodstock, Georgia is amended as follows:

- (f) Any person licensed under this chapter for the retail sale of distilled spirits, malt beverages, or wine for consumption on the premises may receive a Manager’s permit without duplicating the procedures sets forth in this section.

**Section 10.** Should any provisions of this Ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any provision thereof other than the provisions specifically declare to be invalid. The Mayor and Council hereby declare that it would have passed this Ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phrases may be declared illegal, invalid or unconstitutional.

**Section 11.** This Ordinance shall take effect immediately upon its adoption.

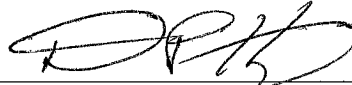


PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF  
WOODSTOCK, GEORGIA, THIS 9 DAY OF January, 2017.

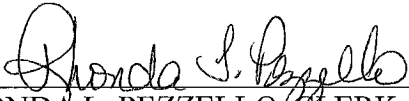
First Reading Date: 12-13-16

Second Reading Date: : 1-9-17

Final Adoption Date: 1-9-17



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DONNIE HENRIQUES, MAYOR  
CITY OF WOODSTOCK, GEORGIA



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RHONDA L. PEZZELLO, CLERK  
CITY OF WOODSTOCK

REVIEWED FOR LEGAL CONTENT

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ELDON L. BASHAM  
CITY ATTORNEY