

ORDINANCE NO. 405

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF CLARKSTON TO AMEND CHAPTER 3 OF THE CITY CODE CONCERNING ALCOHOL; TO PROHIBIT NEW PERMITS TO SELL ALCOHOL BY THE PACKAGE FOR CONSUMPTION OFF PREMISES WITH CERTAIN EXCEPTIONS; TO PROVIDE FOR GRANDFATHERING OF CURRENT LICENSES; TO PROVIDE FOR PROXIMITY LIMITATIONS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Clarkston has a high concentration of businesses licensed to sell package alcohol, with fifteen (15) such locations in the City; and

WHEREAS, the City Council hereby finds that the presence of businesses selling alcohol by the package has a negative impact on public health and welfare; and

WHEREAS, O.C.G.A. § 3-3-1 declares that engaging in the business of selling alcohol in Georgia is a privilege and not a right; and

WHEREAS, O.C.G.A. § 3-3-2(a) authorizes the City to exercise discretionary power to control the business of package alcohol sales; and

WHEREAS, there are presently no applications pending for new package alcohol licenses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSTON AS FOLLOWS:

SECTION 1. Section 3-33 of the City Code is hereby repealed and replaced with the following language:

“Section 3-33. – Sale without license prohibited.

Beer, malt beverages, wine and/or distilled spirits shall not be distributed, sold or possessed for the purposes of sale without a license granted by the city council. A separate application must be made and a separate license to sell beer, malt beverages, wine and/or distilled spirits must be obtained for each location where the same is sold at retail or by the drink.”

SECTION 2. Section 3-50 of the City Code is hereby repealed and replaced with the following language:

“Section 3-50. – Authority to sell by the drink; license required.

Beer, malt beverages and/or wine may be sold by the drink at bona fide restaurants in the incorporated limits of the city only under a license granted by the city council, upon terms and conditions provided by this article. No person

may hold a license for the sale of beer, malt beverages or wine to be sold by the drink at the same location where alcohol is sold in the original packages.”

SECTION 3. Section 3-51 of the City Code is hereby repealed and replaced with the following language:

“Section 3-51. – License fees.

Before any license for the retail sale of beer, malt beverages and/or wine by the package or by the drink shall be granted or renewed, the applicant therefore shall comply with all applicable regulations adopted by the city council and shall pay a license fee in an amount to be set by resolution of the city council and maintained as a public document by the city clerk.”

SECTION 4. Section 3-53 of the City Code is hereby repealed and replaced with the following language:

“Section 3-53. – Authority to sell by the package; license required; new licenses prohibited with certain exceptions.

- (a) Beer, malt beverages and/or wine may be sold at retail in the package within the incorporated limits of the city only under a license granted by the city council, upon terms and conditions provided by this article. No person may hold a license for the sale of beer, malt beverages and/or wine at retail in the original packages and a license for the sale of beer, malt beverages and/or wine for consumption on the premises at the same location.
- (b) Effective July 3, 2016, the City no longer issues new licenses for the package sale of beer, malt beverages and/or wine for package stores, convenience stores, other similar businesses, or for any business other than those specifically identified in Section 3-58 of this article. Licensees holding a City license for retail package beer, malt beverages and/or wine sales other than those pursuant to Section 3-58, or a DeKalb County license in the case of subsequently annexed locations, may renew and/or transfer such licenses only in strict conformance with the terms of Section 3-54 of this article.”

SECTION 5. Section 3-54 of the City Code is hereby repealed and replaced with the following language:

“Section 3-54. – Grandfathered licenses.

Licensees licensed for retail package beer, malt beverage and/or wine sales other than pursuant to Section 3-58 may renew such license annually pursuant to the terms of this Chapter so long as they comply with the following terms and conditions:

- (a) Such licenses may only be renewed for the same location;
- (b) A grandfathered licensee may not expand the area of its retail space dedicated to package alcohol for sale;
- (c) A grandfathered licensee may not add a type of alcoholic beverage for sale for which it was not licensed on July 3, 2016; and
- (d) Prior to January 1, 2023, a grandfathered license may be transferred to a new qualified licensee, at the same location only, pursuant to Section 3-7 of this Chapter. After such date, grandfathered licenses to sell beer, malt beverages and/or wine by the package may not be transferred to another licensee.”

SECTION 6. Section 3-55 of the City Code is hereby repealed and replaced with the following language:

“Section 3-55. – Proximity of establishment to school ground, church, library, public park or adult entertainment establishment.

- (a) No license shall be issued where an entrance to a place of business for the wholesale sale of beer, malt beverages or wine is located within one hundred (100) yards of the property line of any school ground.
- (b) No license shall be issued where an entrance to a place of business for the retail sale of beer, malt beverages or wine in original packages is located within two hundred (200) yards of the property line of a school, school ground or public park, or the entrance to any church or library, or the entrance to an existing establishment licensed for the retail sale of beer, malt beverages or wine in original packages. The provisions of this subsection shall not prevent the renewal of a license existing on July 3, 2016, at such location.
- (c) No license shall be issued where any entrance to a place of business for the retail sale of beer, malt beverages or wine for consumption on the premises is located within one hundred (100) yards of a school, school ground or public park, or the entrance to any church or library.
- (d) No license shall be issued where any entrance to a place of business for the retail sale of beer, malt beverages or wine for consumption on the premises is located within one hundred sixty-six (166) yards of the entrance to any adult entertainment establishment.
- (e) No license shall be issued where an entrance to a place of business for the retail sale of beer, malt beverages or wine is located within fifty (50) yards of a single-family residence.
- (f) The city council may, in their discretion, issue or deny any license for the sale

of beer, malt beverages or wine where there is evidence that the type and number of schools in the vicinity causes minors to frequent the immediate area, even though there is compliance with minimum distance from schools.”

SECTION 7. Section 3-58 of the City Code is hereby repealed and replaced with the following language:

“Section 3-58. – New licenses permitted for certain designated businesses.

After July 3, 2016, new licenses for the retail sale by the package of beer, malt beverages and/or wine may be obtained only for businesses that qualify as a “growler shop,” “specialty wine shop” or a “grocery store” as defined in this Section and meet the other criteria for a license set forth in this Chapter. As used in this Section, the following terms shall have the following meanings:

- (a) *growler* means a reusable glass jug, sized 32-64 ounces, used to transport beer for off premises consumption. The container shall be sealed, on-premises, with a tamper-proof plastic cap.
- (b) *growler shop* means a business engaged primarily in the sale of growlers of beer. A growler shop must offer at least 12 varieties of beer from at least 6 beer manufacturers for sale by the growler. A growler shop may dedicate up to 49% of its sales floor space to beer sold by the bottle or can.
- (c) *specialty wine shop* means a business engaged primarily in the sale of wine by the bottle. A specialty wine shop shall offer at least 50 varieties of wine from at least 25 wine manufacturers. A specialty wine shop may dedicate up to 25% of its sales floor space to beer for sale by the bottle or can.
- (d) *grocery store* means a retail establishment which is primarily engaged in the sale of uncooked food, 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.”

SECTION 8. Section 3-70 of the City Code is hereby repealed and replaced with the following language:

“Section 3-70. – New licenses prohibited; existing licenses grandfathered.

- (a) Effective July 3, 2016, the city no longer issues new licenses for the sale of distilled spirits by the bottle. Licensees holding a City license, or a DeKalb County license in the case of subsequently annexed locations, for package sales of distilled spirits on July 2, 2016, shall be permitted to continue operating under their existing licenses at their current locations in conformity with the terms of this article.

(b) Distilled spirits by the bottle may only be sold within the city under a license grandfathered under subsection (a) upon the terms and conditions set forth in this article. Grandfathered licenses as described in subsection (a) may be renewed at the same location only. A grandfathered licensee shall not expand its operation or facility. Prior to January 1, 2023, a grandfathered license may be transferred to a new qualified licensee, at the same location only, pursuant to Section 3-7 of this Chapter. After such date, licenses to sell distilled spirits by the package may not be transferred to another licensee."

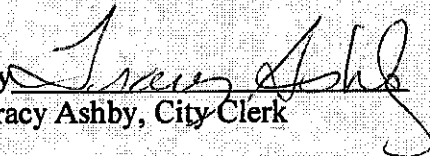
SECTION 9. This Ordinance shall be effective immediately upon its adoption by the City Council.

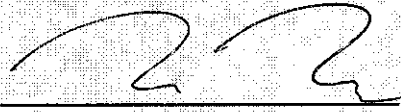
SECTION 10. All provisions of the City Code in conflict herewith are hereby repealed. The provisions of Chapter 3 of the City Code shall be construed consistent with the prohibition of new licenses consistent with this Ordinance but to allow the renewal of existing licenses for alcohol by the package consistent with this Ordinance.

SO ORDAINED, this 6 day of December, 2016.

ATTEST:

**CITY COUNCIL,
CITY OF CLARKSTON, GEORGIA**

By 
Tracy Ashby, City Clerk


Ted Terry, Mayor

Approved as to Form:

 12-7-16
Stephen G. Quinn, City Attorney