

STATE OF GEORGIA

CITY OF JONESBORO

ORDINANCE NO. 2016-002

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF JONESBORO, GEORGIA, BY AMENDING SECTIONS 6-101 AND 6-103 OF CHAPTER 6, ALCOHOLIC BEVERAGES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER LAWFUL PURPOSES.

WHEREAS, the duly elected governing authority of the City of Jonesboro, Georgia (the “City”) is the Mayor and Council thereof; and

WHEREAS, the City has the power to adopt regulations promoting the public health, safety, and general welfare of its citizenry pursuant to Article IX, Section II, Paragraph II of the 1983 Constitution of the State of Georgia; the Municipal Home Rule Act (O.C.G.A. § 36-35-1 *et seq.*); and Section 1.13(11) of the City’s Charter; and

WHEREAS, the City desires to repeal, in its entirety, Chapter 6 (Alcoholic Beverages) of the Code of Ordinances of the City of Jonesboro, Georgia, and to adopt a new Chapter 6 (Alcoholic Beverages); and

WHEREAS, the regulation of alcoholic beverages is for a public purpose and provides for the public health, safety, and general welfare; and

WHEREAS, the public health, safety, and general welfare of the citizens of the City will be positively impacted by the adoption of this Ordinance.

BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF JONESBORO, GEORGIA, and by the authority thereof:

Section 1. Section 6-101 of the Code of Ordinances of the City of Jonesboro, Georgia, is hereby amended by deleting its existing text and inserting the following text in lieu thereof, to read as follows:

- (a) An employee identification card shall be required for any employee, agent, representative, or independent contractor of a licensee holding a license for the sale of alcoholic beverages for consumption on the premises who pours, handles, dispenses, or serves alcoholic beverages on the licensed premises or anyone who manages or supervises any employee who pours, handles, dispenses, or serves alcoholic beverages on the licensed premises.
- (b) No licensee shall employ any person required to have an employee identification card, in the capacity in which such a card is needed, until such person has procured such card.
- (c) Any person required to obtain an employee identification card shall apply to the city clerk or his designee for such a card. When issued, such card shall be valid for a period of two years and shall be renewed on or before its expiration. The application must be made on forms provided by and available from the city clerk or his designee. A fee of \$25.00 shall be paid with each card application, including renewals. This fee is non-refundable, even if the application is denied. Persons applying for cards shall make themselves available for, and supply such information as is necessary for, photographing, background checks, and such other investigation as may be required by the city clerk. The city clerk may engage the city's police chief in processing and investigating applications for employee identification cards.
- (d) When a person applies for an employee identification card, the city clerk or his designee will order a background check of such person through Georgia Crime Information Center and/or National Crime Information Center. The conviction of a felony or crime of moral turpitude, conviction of an alcohol statute or ordinance violation including but not limited to DUI, selling alcoholic beverages to persons under age 21, etc., conviction of a misdemeanor of a high and aggravated nature, within the past five (5) years, or a record of other conduct prohibited by this chapter, or evidence that the person's employment would adversely affect the public health, safety, or welfare shall preclude issuance of an identification card. A guilty plea or plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection.
- (e) The decision of whether to approve or deny the person's application for the employee identification card must be made in writing and mailed to the person at the address listed on his or her application within fourteen (14) calendar days of the date of receipt of said application by the city clerk or his designee. Upon receipt of a favorable investigation and report, the city clerk or his designee shall grant an employee identification card to the person applying for a card. If the investigation and report was not favorable, the city clerk or his designee shall

decline to issue said identification card to the person, with the reasons therefore set forth in writing and mailed to the person at the address provided in his or her application. In the event of such a denial, the person may appeal the decision to mayor and council by filing a written notice of appeal with the city clerk within seven (7) calendar days of the date of the city clerk's written denial of his or her application. The mayor and council shall hold a hearing on the person's application within thirty (30) calendar days of said person's notice of appeal. The mayor and council shall issue a written determination of the appeal within seven (7) calendar days of said hearing. Should the mayor and council uphold the city clerk's denial of the person's application for an employee identification card, the applicant may appeal said decision to the Superior Court of Clayton County by filing a petition for writ of certiorari with said Superior Court. Said appeal must be made within ten (10) calendar days from the date of the written notice of the denial of the application by mayor and council or it shall be deemed waived.

- (f) If the city clerk or his designee neither approves nor denies an application for an employee identification card within seven (7) calendar days of the date such application was received then, on expiration of the seventh day, the applicant shall have the right to begin or continue his or her employment in the manner for which application was made with the understanding that the city clerk may, at any time after said employee begins or continues his or her employment under these circumstances, deny said application, at which time the employee must cease working at the licensed premises in a capacity which requires issuance of an employee identification card.
- (g) The identification card must clearly display the number of the employee's identification card, the expiration date of the employee's identification card, and the employee's name as it appears in the employee's records with the city. The information displayed on the employee's identification card must also correspond to the information contained for that employee in the list of employee names, photographs, and information supplied by the licensee and licensee representative to the city clerk or his designee pursuant to Section 6-55(d).
- (h) Any employee required to obtain an employee identification card must wear it on his or her person at all times while on the premises. This identification card must be worn by the employee in a location that is clearly visible to any city police officer or other law enforcement officer, such as around the employee's neck or elsewhere outside of said employee's clothing. Should an employee be present on the licensed premises not wearing his or her identification card, wearing another employee's identification card, or wearing an identification card that does not correspond to any other active employee, such action shall constitute a violation of this chapter by said employee.
- (i) The city clerk may revoke an employee identification card and demand its return where the employee violates the provisions of this chapter or becomes one who adversely affects the public health, safety, or welfare. Revocation of an employee identification card is subject to Article V of Chapter 6.

- (j) It shall be unlawful for an employee whose employee identification card has been revoked and upon whom demand for return of the card has been made to refuse to return the card or to alter, conceal, deface, or destroy the card.
- (k) Alcoholic Beverages shall only be served by employees, agents, representatives, or independent contractors of the licensee who possess a validly issued employee identification card."

Section 2. Section 6-103 of the Code of Ordinances of the City of Jonesboro, Georgia, is hereby repealed in its entirety.

Section 3. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional

or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.


Section 5. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.


Section 7. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

ORDAINED this 8 day of February, 2016.

CITY OF JONESBORO, GEORGIA


JOY DAY, Mayor

ATTEST:


RICKY L. CLARK, JR., City Clerk

APPROVED AS TO FORM:

STEVE FINCHER, City Attorney