

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2017- 10-04

AN ORDINANCE TO AMEND SECTION 4.2.10, SECTION 4.5.3, SECTION 4.5.14, AND SECTION 4.5.20 OF CHAPTER 4 - ALCOHOLIC BEVERAGES, OF THE CITY OF STONECREST, GEORGIA CODE OF ORDINANCES

WHEREAS, the Georgia Alcoholic Beverage Code (O.C.G.A. § 3-1-1 et al.) regulates state-wide alcoholic beverage related activities in the State of Georgia;

WHEREAS, Pursuant to Section 1.03 of the Charter of the City of Stonecrest, Georgia, the City of Stonecrest (the "City") has been vested with substantial powers, rights, and functions to generally regulate the use of real property and the sale of alcohol for the purposes of maintaining health, morals, safety, security, peace, and the general welfare of the City;

WHEREAS, the City has the power to define, regulate, license, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare and safety of the inhabitants of the City, and to provide for the enforcement of such standards;

WHEREAS, the Mayor and City Council find it desirable and in the interest of the health, safety, and welfare of the citizens of the City to amend the City's alcohol ordinance in light of the evolving Georgia Alcoholic Beverage Code and the formation of the City; and

WHEREAS, the Mayor and City Council hereby find that regulating, prohibiting and/or defining certain conduct as set forth both below will further the goals set for in the Charter and protect the public health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT RESOLVED,

SECTION 1:

Section 4.2.10, of Article V, Division 1, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.2.10. - Issuance of license and employee permits; employee permit fees.

- (a) All employees of any licensed establishment must hold an employee permit, unless otherwise exempt under this Chapter. The conditions and procedures governing the issuance of alcohol permits for employees are set forth in this section.

- (b) An employee permit shall be issued unless the applicant fails to meet the qualifications for an employee permit under this chapter. Any employee permit identified in this chapter will be issued or the issuance of an employee permit will be denied within thirty (30) days after submission of a properly completed application or within fifteen (15) days of the records in subsection (d), whichever is later. An application for an employee permit is complete when it contains the information required by this chapter and is accompanied by the permit fee in the amount established by action of the city council. A permit shall be valid for twelve (12) months from the date of issuance. If a permit is not issued or denied within the time frame specified herein, the permit shall be automatically approved.
- (c) No person requiring a permit may be employed by or work in an establishment as defined in this chapter until such person has filed an application, paid the fee for and obtained a work permit from the City Manager or his designee. No person shall be issued a permit who has been convicted in this city, county, state, or in any federal court within five (5) years immediately prior to the application for employment for soliciting for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses or any charge relating to the manufacture or sale of intoxicating liquors or any felony or misdemeanor of moral turpitude.
- (d) An application for a permit shall include the applicant's legal name, all of the applicant's aliases and/or any other name by which the applicant has ever been known, mailing address, written proof of age (in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency), and a list of all prior criminal convictions. The City Manager or his designee shall make a complete search relative to any police record of the applicant. As a prerequisite to the issuance of any such initial permit or license, the employee shall furnish a complete set of fingerprints to be forwarded to the Georgia Bureau of Investigation, which shall search the files of the Georgia Crime Information Center for any instance of criminal activity during the two years immediately preceding the date of the application. The Georgia Bureau of Investigation shall also submit the fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records.
- (e) Any permit for employment issued hereunder shall expire twelve (12) months from the date of issuance unless earlier revoked or suspended. The City Manager or his designee may prescribe reasonable fees for certifying the eligibility for employment.
- (f) An employee holding a permit issued pursuant to this chapter shall at all times during his working hours have the permits available for inspection at the premises.
- (g) An employee shall provide his employer with a legible copy of his permit which copy shall be maintained by the employer as part of its business records.

SECTION 2:

Section 4.5.3, of Article V, Division 1, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.5.3. - Age restriction for employees in licensed establishments.

- (a) No person shall be employed in or about the premises of any establishment licensed to sell alcoholic beverages at retail if the employment violates state law, nor shall any person under the age of eighteen (18) years sell, take orders for, or deliver alcoholic beverages.
- (b) Nothing in subsection (a) of this section shall not be construed to prohibit employees employed in supermarkets, convenience stores, or drug stores from selling or handling alcoholic beverages which are sold for consumption off the premises as provided in O.C.G.A. § 3-3-24.

SECTION 3:

Section 4.5.14, of Article V, Division 2, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.5.14. - Employees.

The following provisions apply to all establishments holding a license for consumption of beer, wine distilled spirits on the premises:

- (1) An employee shall meet the same character requirements as set forth in the general ordinances for the licensee, except for the residency requirements.
- (2) No person shall be employed by an establishment holding a license under this chapter until such person has been fingerprinted or cleared by the City Manager or his designee and a permit issued indicating that such person is eligible for employment. The permit issued to a person under this section shall be either of the following:
 - a. Alcoholic beverage permit, which shall be issued only to a person who must be eighteen (18) years of age or older and who sells, serves or dispenses alcoholic beverages.
 - b. Nonalcoholic beverage permit, which shall be issued to a person whose employment includes but is not limited to host, hostess, doorperson, and bouncer. All employees holding nonalcoholic beverage permits shall be prohibited from selling, serving, or dispensing alcoholic beverages.
- (3) No permit shall be issued until such time as a signed application has been filed with the City Manager or his designee and a search of the criminal record of the applicant completed. The application shall include the applicant's name, all of the applicant's aliases and/or any other name by which the applicant has ever been known, address, telephone number, the applicant's social security number, the date of birth with written proof thereof, and prior arrest record of applicant, though the fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.
- (4) The City Manager or his designee shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. If there is no record of a violation of this division, the City Manager or his designee shall issue a permit to the employee, stating that the person fingerprinted or cleared is eligible for employment. If it is found that the person

fingerprinted is not eligible for employment, the City Manager or his designee shall not issue a permit to the employee.

- (5) All permits issued through administrative error or through an error in completion of a background investigation can be terminated by the City Manager or his designee.
- (6) This section does not apply to employees whose duties are limited solely to those of a busperson, cook or dishwasher. This section does not apply to employees of theaters, as defined in Article 9 of Chapter 27 of the Code of the City of Stonecrest, whose duties are limited solely to those of concession sales, ticket sales, and ushers. All employees under this subsection shall be prohibited from selling, serving, or dispensing alcoholic beverages.
- (7) No licensee under this chapter shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
- (8) If any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the City Manager or his designee.
- (9) All permits issued hereunder remain the property of the city, and shall be produced for inspection upon the demand of the City Manager or his designee.
- (10) 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 this chapter. Failure of the employee to participate shall not be a defense for an employer whose worker or agent violates any provisions of this ordinance; and provided that a licensee shall keep a record of such orientation and training, which shall be subject to inspection.

SECTION 4:

Section 4.5.20, of Article V, Division 3, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.5.20. - Employees.

The following provisions apply to all establishments holding a license for consumption of beer and/or wine on the premises:

- (1) An employee shall meet the same character requirements as set forth in the general ordinances for the licensee, except for the residency requirements.
- (2) No person shall be employed by an establishment holding a license hereunder until such person has been fingerprinted or cleared by the City Manager or his designee and a permit issued indicating that such person is eligible for this employment. The permit issued to a person under this section shall be either of the following:
 - a. Alcoholic beverage permit, which shall be issued only to a person who must be eighteen (18) years of age or older and who sells, serves or dispenses alcoholic beverages.
 - b. Nonalcoholic beverage permit, which shall be issued to a person whose employment includes but is not limited to host, hostess, doorperson and bouncer. All employees holding nonalcoholic beverage permits shall be prohibited from selling, serving, or dispensing alcoholic beverages.

- (3) No permit shall be issued until such time as a signed application has been filed with the City Manager or his designee and a search of the criminal record of the applicant completed. The application shall include, but shall not be limited to, the name, date of birth and prior arrest record of the applicant, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.
- (4) The City Manager or his designee shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. If there is no record of a violation of this division, the department shall issue a permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the department shall not issue a permit to the employee.
- (5) All permits issued through administrative error or through an error in completion of a background investigation may be terminated by the City Manager or his designee or the City Manager or his designee.
- (6) This section does not apply to employees whose duties are limited solely to those of a busperson, cook or dishwasher. This section does not apply to employees of theaters, as defined in Article 9 of Chapter 27 of the Code of the City of Stonecrest, whose duties are limited solely to those of concession sales, ticket sales, and ushers. All employees under this subsection shall be prohibited from selling, serving, or dispensing alcoholic beverages.
- (7) No licensee shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
- (8) If any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the City Manager or his designee.
- (9) All permits issued hereunder remain the property of the city and shall be produced for inspection upon the demand of the City Manager or his designee.

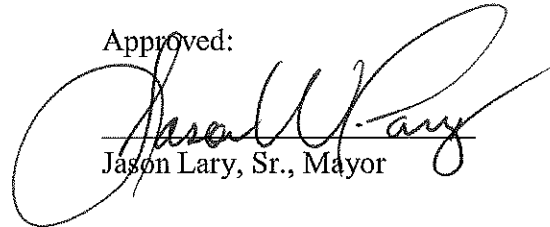
SECTION 5:

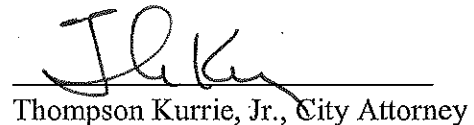
1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City 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 City 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.

3. 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 City 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.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO RESOLVED AND EFFECTIVE this the 16th day of October, 2017.

Approved:


Jason Lary, Sr., Mayor


Thompson Kurrie, Jr., City Attorney

Attest:


Brenda James, City Clerk