



CITY ORDINANCE 04-O-0936

**A SUBSTITUTE ORDINANCE BY
COUNCILMEMBERS HOWARD SHOOK AND
H. LAMAR WILLIS**

AN ORDINANCE TO AMEND SECTION 10-1, ARTICLE I, SECTION 10-88, ARTICLE II AND SECTION 10-88.1, ARTICLE II TO CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA, SO AS TO CREATE A DEFINITION OF WINE SPECIALTY SHOPS; TO SET THE DISTANCE REQUIREMENTS APPLICABLE TO WINE SPECIALTY SHOPS; AND FOR OTHER PURPOSES.

WHEREAS, to promote public safety and general welfare, the City of Atlanta has promulgated ordinances which regulate the sale of beer, wine and distilled spirits; and

WHEREAS, the State of Georgia has promulgated distinct laws and regulations which govern and at times treat differently, the sale of beer, wine and distilled spirits; and

WHEREAS, the City of Atlanta Code of Ordinances provides for distinct taxing schemes for the sale of each of beer, wine and distilled spirits products; and

WHEREAS, wine is a product which is produced and consumed worldwide; and

WHEREAS, the City of Atlanta has been and continues to be a burgeoning international city and destination for visitors from throughout the region, nation and world; and

WHEREAS, consumer interest in and demand for wines has increased; and

WHEREAS, the City of Atlanta has taken affirmative steps to create a diversified urban environment where people can live, work and recreate; and

WHEREAS, the City of Atlanta has taken affirmative steps to create an environment with appropriately scaled, pedestrian accessibility to retail goods and services; and

WHEREAS, the City of Atlanta Code of Ordinances presently distinguishes between various types of establishments which sell beverage alcohol by the package including retail grocery stores, pharmacies, and businesses which sell less than five percent (5%) of their gross sales from the sale of beverage alcohol;

WHEREAS, it will be beneficial to the citizens of the City of Atlanta to have available to them in their neighborhoods, small, neighborhood oriented businesses to sell wine collectibles



and wine by the package in limited quantities while maintaining the beneficial characteristics of neighborhoods; and

WHEREAS, the City of Atlanta has promulgated legislation, including distance regulations, which has had the effect of limiting the ability of small wine specialty shops from opening in the City of Atlanta; and

WHEREAS, due to the restrictions placed on such businesses in the City of Atlanta, small wine specialty shops have opened in incorporated cities and unincorporated counties surrounding the City of Atlanta, which have not severely restricted their location; and

WHEREAS, the City of Atlanta wishes to enact legislation which provides the opportunity for small neighborhood wine specialty shops to open within the city;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1:

That Chapter 10, Article I, Section 10-1, of the City of Atlanta Code of Ordinances be amended by adding the following definition:

“Wine Specialty Shop” means a retail establishment:

- (1) Which shall deal in the sale of table wine, fortified wines, port, sherry for consumption off the premises and/or wine accessories; and at which on-premises consumption of alcoholic beverages is specifically prohibited;
- (2) Which shall not maintain on the premises or offer for sale malt beverages or distilled spirits;
- (3) Which shall maintain on the premises and offer for sale at all times a variety of wines from not less than 100 nor more than 200 manufacturers of wine;
- (4) Which shall maintain and replenish an inventory of at least thirty six (36) bottles of wine from each manufacturer of wine referred to in subsection (3) above; provided however, that any inventory which is depleted to less than thirty six (36) bottles of wine must be replenished to at least thirty six (36) bottles of wine within fifteen (15) days of the date that the inventory falls below thirty six (36) bottles;
- (5) Which shall submit an inventory list of all wines maintained on the premises and offered for sale to the licenses and permits unit of the police department. Such inventory list shall be submitted to the licenses and permits unit on a



quarterly basis by the first day of each of the following months: **January, April, July and October; and**

- (6) **Whose total interior floor area, inclusive of storage area, shall not exceed 2,000 square feet.**

SECTION 2:

That Chapter 10, Article I, Section 10-1, of the City of Atlanta Code of Ordinances be amended by adding the following sentence that appears in boldface below to the end of the current definition of "package store":

Package store means an establishment engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine, and whiskey for consumption off the premises and at which on-premises consumption is specifically prohibited, as distinct from a bar, restaurant or similar establishment which is licensed for the retail sale of alcoholic beverages of any type by the drink and/or for consumption on the premises. The term "package store" is considered synonymous with the term "liquor store". A package store shall include any premises classified as Industry No. 5921 in the Standard Industrial Classification (SIC) Manual 1972, prepared by the Executive Office of the President, Office of Management and Budget. **The term "package store" shall not include a "wine specialty shop".**

SECTION 3:

That Chapter 10, Article II, Section 10-88.1(b), of the City of Atlanta Code of Ordinances be amended by adding the following language that appears in boldface below:

(b) No package store, as defined in section 10-1, shall be located within the following distances of the specified other uses:

- (1) From any structures in residential use, 600 feet.
- (2) From any public or private school, 600 feet.
- (3) From any public or private park or recreation facility, 600 feet.
- (4) From any public library branch, 600 feet.
- (5) From any church or similar place of religious worship, 600 feet.
- (6) From any public or private hospital or mental health care facility, 600 feet.
- (7) From any child care or day care facility, 600 feet.



The distances in subsection (b)(1--7) are to be measured in a straight line from the closest point of the property line of the site proposed to be occupied by the package store to the closest property line of any use identified above.

Package stores that derive less than five percent of their gross receipts from the sale of alcoholic beverages shall be exempt from the distance requirements set forth in subsection (b)(1--7) above.

In order to be exempt from the distance requirements set forth in subsection (b)(1--7) above, an applicant for a license to sell alcoholic beverages by the package **which is not a wine specialty shop**, is required to file with the police department a sworn statement stating that it is the applicant's belief that the subject package store will derive less than five percent of the package store's gross receipts from the sale of alcoholic beverages. This statement shall accompany the original application for a license to sell alcoholic beverages by the package.

In order to obtain exempt status when renewing a license to sell alcoholic beverages by the package, the applicant for renewal must provide the police department with a statement from a certified public accountant that proves that during the preceding year, the package store did in fact derive less than five percent of its gross receipts from the sale of alcoholic beverages. For the purposes of this section, revenue derived from the sale of lottery tickets or related games of chance shall not be calculated when determining gross receipts.

The failure of an applicant for renewal to provide the police department with a statement from a certified public accountant evidencing that the package store derived less than the percentage established by ordinance of gross receipts from the sale of alcoholic beverages, shall result in the denial of a renewed license.

SECTION 4:

That Chapter 10, Article II, Section 10-88.1, of the City of Atlanta Code of Ordinances be amended by adding a new subsection (e) as follows:

(e) No wine specialty shop, as defined in section 10-1, shall be located within the following distances of the specified other uses:

- (1) From any other wine specialty shop, 600 feet as measured by the most direct route of travel on the ground, in accordance with O.C.G.A. § 3-4-49.**
- (2) From any public or private school, 600 feet.**
- (3) From any public or private park or recreation facility, 600 feet.**
- (4) From any public library branch, 600 feet.**



- (5) From any church or similar place of religious worship, 600 feet.
- (6) From any public or private hospital or mental health care facility, 600 feet.
- (7) From any child care or day care facility, 600 feet.

The distances in subsection (e)(2--7) are to be measured in a straight line from the closest point of the property line of the site proposed to be occupied by the wine specialty shop to the closest property line of any use identified above.

SECTION 5:

That Chapter 10, Article II, Section 10-88 (d), of the City of Atlanta Code of Ordinances be amended by adding the following language that appears in boldface below:

(d) The distance requirements and exemptions set forth in this section shall no longer apply to package stores which must meet the distance requirements set forth in section 10-88.1; provided, however, that the provisions of this section shall not apply to locations licensed prior to the effective date of this section or to renewals thereof. **The distance requirements and exemptions set forth in this section shall not apply to wine specialty shops which must meet the distance requirements set forth in section 10-88.1 (e).**

SECTION 6:

Should any ordinance or part thereof be found to conflict with this ordinance or the provisions thereof, then those sections contained herein shall be deemed controlling.

A true copy,

Flonda Daughkin Johnson
Municipal Clerk, CMC

ADOPTED as amended by the Council
APPROVED by the Mayor

JUL 19, 2004
JUL 22, 2004

RCS# 5932
7/19/04
3:38 PM

Atlanta City Council

Regular Session

04-O-0936

AMEND 10-1 ART I 10-88.1 ART II CHPT 10
CREATE DEFINITION WINE SPECIALTY SHOPS
ADOPT SUB AMEND

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

Y Smith	Y Winslow	Y Shook	NV Martin	Y Mitchell
Y Starnes	Y Archibong	Y Muller	Y Maddox	Y Norwood
Y Young	Y Fauver	NV Moore	B Mosley	Y Willis

04-O-0936

04-0-0936

(Do Not Write Above This Line)

AN ORDINANCE BY COUNCILMEMBER HOWARD SHOOK

H. Shook
H. Shook

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ADOPTED BY

JUL 19 2004

COUNCIL

Substitute as Amended

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 5/17/04

Referred To: *Public Safety*

Date Referred 7/6/04

Referred To: *Public Safety & Legal Administration*

Date Referred

Referred To:

First Reading

Committee Date Chair Referred to
PST A *7/13/04* *H. Shook*

Committee Date Chair
PST A *6/11/04*

Chair

Action:

Fav. Adv. Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav. Adv. Hold (see rev. side)

Other:

Members

Refer To

Committee Date
PST A *7/13/04*

Chair

Action:

Fav. Adv. Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav. Adv. Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

2nd 1st & 2nd 3rd

Readings

Consent V Vote RRC Vote

CERTIFIED

[Signature]
CITY PRESIDENT PROTEM

JUL 19 2004

MAYOR'S ACTION

APPROVED
[Signature]
MAYOR