

10-0-0780
 (Do Not Write Above This Line)

AN ORDINANCE BY *WAV*
 COUNCILMEMBER KWANZA HALL

AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE II, DIVISION 2, SECTION 10-94 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO PROVIDE AN EXEMPTION FROM DISTANCE REQUIREMENTS FOR CERTAIN ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC BEVERAGES ON PROPERTY REGISTERED ON THE NATIONAL REGISTER OF HISTORIC PLACES WHEN SUCH ESTABLISHMENTS MEET OTHER REQUIREMENTS; TO WAIVE THE PROVISIONS OF CHAPTER 10, ARTICLE II, DIVISION 2, SECTION 10-66 (B) AS SUCH PROVISIONS APPLY TO THE RENOVATION OF AN ESTABLISHMENT ON PROPERTY REGISTERED ON THE NATIONAL REGISTER OF HISTORIC PLACES AND FOR OTHER PURPOSES.

SUBSTITUTE

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

Date Referred: *04/19/10*
 Referred To: *Public Safety & Security*
 Date Referred: _____
 Referred To: _____
 Date Referred: _____
 Referred To: _____

First Reading
 Committee _____
 Date _____
 Chair _____
 Referred To _____

PSLA Committee

Date: *4/27/10*
 Chair: _____

Action: *Hold* (see rev. side)
 Other: _____

Members: _____

Refer To: _____

Date: *5/11/10*
 Chair: _____

Action: _____

Fav, Adv, Hold (see rev. side)

Other: _____

Members: _____

3 years, 1 year, 1 abatement

Motion: 5 votes

Refer To: _____

Committee _____

Date _____

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 RC Vote

CERTIFIED

CERTIFIED
 JUN 07 2010

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

CERTIFIED
 JUN 07 2010

Ronald Dampier
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

JUN 16 2010

WITHOUT SIGNATURE
 BY OPERATION OF LAW



CITY COUNCIL
ATLANTA, GEORGIA

ORDINANCE 10-O-0780

AN ORDINANCE BY COUNCILMEMBER KWANZA HALL

AS SUBSTITUTED BY

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE II, DIVISION 2, SECTION 10-94 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO PROVIDE AN EXEMPTION FROM DISTANCE REQUIREMENTS FOR CERTAIN ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC BEVERAGES ON PROPERTY REGISTERED ON THE NATIONAL REGISTER OF HISTORIC PLACES WHEN SUCH ESTABLISHMENTS MEET OTHER REQUIREMENTS; TO AMEND CHAPTER 10, ARTICLE II, DIVISION 5, SECTION 10-209 TO ESTABLISH THE TIMES DURING WHICH SUCH ESTABLISHMENTS MAY SELL ALCOHOLIC BEVERAGES; TO AMEND CHAPTER 10, ARTICLE II, DIVISION 2, SUBDIVISION I, SECTION 10-62 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO AFFIRM THAT BARS AND BREWPUBS ARE ELIGIBLE FOR LICENSES TO SELL DISTILLED SPIRITS BY THE DRINK; TO AMEND CHAPTER 10, ARTICLE I, SECTION 10-1 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO CONFIRM THE DEFINITION OF A BREWPUB AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in maintaining the public safety and welfare of citizens of the City of Atlanta and its visitors; and

WHEREAS, the City of Atlanta has an interest in regulating, through the lawful exercise of its police powers, the sale of alcoholic beverages within its territorial limits; and

WHEREAS, the City of Atlanta is authorized to regulate the location of establishments which are licensed to sell alcoholic beverages for on premises consumption and which are licensed to brew malt beverages; and

WHEREAS, it is the policy of the City of Atlanta to encourage a sympathetic balance between old and new buildings to enhance Atlanta's urban environment and preservation of its physical heritage; and

WHEREAS, it is the policy of the City of Atlanta that the standing of this city as the capital of government, culture, business and education and as a major tourist and convention center must be maintained and enhanced by preserving the historical and architectural heritage of the city and by preventing the destruction of its cultural assets; and



WHEREAS, it is the policy of the City of Atlanta that the identification, protection, enhancement, perpetuation and use of buildings, sites and districts of special character or of a special historic or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety, education and general welfare of the people; and

WHEREAS, it is the policy of the City of Atlanta to effect and accomplish the protection, enhancement and perpetuation of historic buildings, sites and districts which represent or reflect special elements of the city's cultural, social, economic and architectural history; and

WHEREAS, it is the policy of the City of Atlanta to safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such buildings, sites and districts, to stabilize and improve property values in such buildings, sites and districts, to foster civic pride in the beauty and noble accomplishments of the past, to protect and enhance the city's attractions to tourists and visitors and thereby support and stimulate business and industry, to strengthen the economy of the city, and to promote the use of such buildings, sites and districts for the education, pleasure and general welfare of the people of the city; and

WHEREAS, the National Park Service's National Register of Historic Places is authorized by the National Historic Preservation Act of 1966 and is a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources; and

WHEREAS, to be eligible for inclusion on the National Register of Historic Places, buildings and structures are evaluated for, without limitation, the quality of the buildings and structures and their significance in American history, architecture, archeology, engineering, and culture that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that are associated with events that have made a significant contribution to the broad patterns of United States history; or that are associated with the lives of significant persons in or past; or that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or that have yielded or may be likely to yield, information important in history or prehistory; and

WHEREAS, a building or structure that is included on the National Register of Historic Places has the opportunity to qualify for and to receive Federal preservation incentives, such as Federal preservation grants for planning and rehabilitation, Federal investment tax credits and Federal preservation easements; and

WHEREAS, the Atlanta Urban Design Commission nominates and regulates buildings and districts which are designated as Historic Buildings or Sites, Landmark Buildings or Sites, Conservation Districts, Historic Districts, or Landmark Districts in the City of Atlanta, many of which are included on the National Register of Historic Places; and



WHEREAS, it is the intent of the City's Historic Preservation Ordinance that any changes which occur to a property which is designated as a Historic Building or Site, Landmark Building or Site, Conservation District, Historic District, or Landmark District in the City of Atlanta, be in keeping with the historic character of the building or district; and

WHEREAS, Section 10-88 of the City of Atlanta Code of Ordinances provides that establishments seeking a license from the City of Atlanta to sell alcoholic beverages must comply with certain specified distance requirements; and

WHEREAS, Section 10-94 (a) of the City of Atlanta Code of Ordinances provides certain exemptions to the distance requirements of Section 10-88 of the City of Atlanta Code of Ordinances; and

WHEREAS, the regulations regarding distance requirements to sell and serve alcoholic beverages may prohibit the preservation and renovation of some historic buildings to maintain their historic character but promote and convert their use to an economically feasible use that is compatible with the City of Atlanta's Comprehensive Development Plan; and

WHEREAS, the City of Atlanta desires to exempt certain historic buildings that are listed on the National Register of Historic Places that seek to be used as brewpubs, convention centers, bars or combinations thereof from some of the requirements of Section 10-88 of the City of Atlanta Code of Ordinances provided that such establishments restrict the times during which such establishments sell or serve alcoholic beverages; and

WHEREAS, the City of Atlanta desires to establish permitted hours for the sale of alcoholic beverages in brewpubs, convention centers, bars or combinations thereof in historic buildings that are listed on the National Register of Historic Places and seek to be exempt from some of the requirements of Section 10-88; and

WHEREAS, Section 10-62 of the City of Atlanta Code of Ordinances sets forth the type of establishments from which the sale of distilled spirits by the drink may be permitted; and

WHEREAS, in 2004, the City of Atlanta created the definition of the term "bar" and has since issued numerous licenses for the sale of distilled spirits by the drink to bars but the term "bar" is not included in Section 10-62 of the City of Atlanta Code of Ordinances; and

WHEREAS, in 1999, the City of Atlanta created the definition of the term "brewpub" with Ordinance 98-O-2324 and has since issued licenses for the sale of distilled spirits by the drink to brewpubs but the term "brewpub" is not included in Section 10-62 of the City of Atlanta Code of Ordinances; and



WHEREAS, the codifier of the City of Atlanta Code of Ordinances incorrectly published the definition of “brewpub” contrary to the definition of “brewpub” adopted by the City of Atlanta with Ordinance 98-O-2324; and

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

Section 1. The provisions of Chapter 10, Article II, Division 2, Subdivision II, Section 10-94 (a) of the City of Atlanta Code of Ordinances be amended to insert new language which shall be designated as Subsection (7) so that Section 10-94 shall read in its entirety as follows:

Sec. 10-94. Certain areas exempt from distance restrictions for sale for consumption on premises.

(a) Any applicant for a license for the sale of alcoholic beverages for consumption on the premises located within the following area shall not be required to comply with the distance requirements set forth in section 10-88:

- (1) Any property located on Peachtree Street or Road or any property located within a shopping center which has a frontage of at least 200 feet on Peachtree Street or Road.
- (2) Any property located on Stewart Avenue between Lakewood Freeway and I-85 or any property located within a shopping center which has a frontage of at least 200 feet on Stewart Avenue.
- (3) Any shopping center located on the east side of Monroe Drive between Eighth Street and Virginia Avenue.
- (4) Any property within Piedmont Park which has been leased by the city to an applicant for an initial term.
- (5) Any room or area within the Loudermilk Building, which is bounded by Auburn Avenue on the north, Edgewood on the south, Courtland Street on the east, and Peachtree Park Avenue on the west, which is controlled by a bona-fide nonprofit organization.
- (6) The Herndon Stadium, which is bounded by Martin Luther King, Jr. Drive on the south, Vine Street on the east, Rhode Street on the north and Sunset Street to the west, providing that such exemption shall be limited to use of Herndon Stadium by a duly incorporated division of a professional sports league in connection with official professional sporting events conducted by such league.



(7) Any brewpub, restaurant, convention center, bar or combination thereof located on property registered in the National Register of Historic Places.

(b) Any applicant for a license for the sale of malt beverages or wine for consumption on the premises located within the following area shall not be required to comply with the distance requirements set forth in section 10-88:

(1) Any property located in the Little 5 Points business district fronting on the east side of Moreland Avenue between Mansfield Avenue on the north and McLendon Avenue on the south and all properties fronting on the west side of Moreland Avenue between Mansfield Avenue on the north and McLendon Avenue on the south; any properties fronting on the south side of Euclid Avenue from 1097 on the west to 1189 on the east and all properties fronting on the north side of Euclid Avenue from 1118 on the west to 1190 on the east; any properties fronting on the east side of Seminole Avenue from 441 on the north to 420 on the south.

(2) Any property located in the east Atlanta business district fronting on the east side of Flat Shoals Avenue between McPherson Avenue on the north and May Avenue on the south and all properties fronting on the west side of Flat Shoals Avenue between McPherson Avenue on the north and 559 Flat Shoals Avenue on the south; any property fronting on the south side of Glenwood Avenue between 1323 Glenwood Avenue on the west and Brownwood Avenue on the east and all properties fronting on the north side of Glenwood Avenue between Haas Avenue on the west and 1246 Glenwood Avenue on the west.

(3) Any room or area within the Loudermilk Building, which is bounded by Auburn Avenue on the north, Edgewood on the south, Courtland Street on the east, and Peachtree Park Avenue on the west, which is controlled by a bona-fide nonprofit organization.

(c) This section shall not apply to applicants for alcoholic beverage licenses for adult entertainment establishments.

Section 2. The provisions of Chapter 10, Article II, Division 5, Section 10-209 (c) and (d) be amended by striking Sections 10-209 (c) and (d) and replacing them as follows:

(c) *Sale of wine or malt beverages for on premises consumption.*

(1) Except as otherwise provided by O.C.G.A. § 3-3-7 and those licensees located within a special entertainment district as defined by Code Section 10-211 **and those licensees that elect to be subject to Code Section 10-94 (a) (7)**, all other licensees for the sale of wine or malt beverages for consumption on the premises



shall be authorized to engage in the sale of wine or malt beverages on Monday through Friday between the hours of 9:00 a.m. of one day and 2:30 a.m. of the following day and on Saturday from 9:00 a.m. to 2:30 a.m. on Sunday. Wine and/or malt beverages may be sold on Sundays between the hours of 12:30 p.m. and 12:00 a.m. midnight only in public stadiums, coliseums and auditoriums with a seating capacity in excess of 3,500 persons; and in restaurants (as defined in Code section 10-1). Wine and/or malt beverages may also be served on Sunday in conjunction with the issuance of both an outdoor festival permit pursuant to Code section 138-204 and a special event permit pursuant to Code section 10-8.

(2) Anytime December 31st falls on a Sunday, beer and wine may be sold by the drink for consumption on the premises between the hours of 12:30 p.m. Sunday, December 31st, to 2:30 a.m. Monday, January 1st, only in public stadiums, coliseums and auditoriums with a seating capacity in excess of 3,500 persons; and in restaurants (as defined in Code section 10-1). Anytime December 31st falls on a Sunday, all other establishments licensed to sell beer and wine by the drink for consumption on the premises may sell such beer and wine between the hours on 12:01 a.m. Monday, January 1st, to 2:30 a.m. Monday, January 1st. Anytime St. Patrick's Day, Memorial Day, Independence Day and Labor Day fall on a Monday, beer and wine may be sold by the drink for consumption on the premises between the hours of 12:30 p.m. of that particular prior Sunday, to 2:30 a.m. Monday, on the date of that particular holiday, only in public stadiums, coliseums and auditoriums with a seating capacity in excess of 3,500 persons; and in restaurants (as defined in Code section 10-1). Anytime Independence Day falls on a Sunday, beer and wine may be sold by the drink for consumption on the premises between the hours of 12:30 p.m. of that particular Sunday, to 2:30 a.m. Monday, the next day, only in public stadiums, coliseums and auditoriums with a seating capacity in excess of 3,500 persons; and in restaurants (as defined in Code section 10-1).

(3) This section shall apply in all respects to private clubs, as defined by Code section 10-1, except as provided by O.C.G.A. § 3-7-2.

(4) Those licensees that elect to be subject to Code Section 10-94 (a) (7) shall be authorized to engage in the sale of wine and malt beverage on Monday through Thursday between the hours of 9:00 a.m. and 11:00 p.m., on Friday and Saturday between the hours of 9:00 a.m. and midnight and on Sunday, subject to O.C.G.A. § 3-3-7, between the hours of 12:30 p.m. and 11:00 p.m.

(d) *Sale of distilled spirits by the drink or for on premises consumption.*

(1) Except as otherwise provided by O.C.G.A. § 3-3-7, and those licensees located within a special entertainment district as defined by Code section 10-211 **and those licensees that elect to be subject to Code Section 10-94 (a) (7)**, all licensees for the sale of distilled spirits by the drink or for the operation of a bottle house on the premises shall be authorized to engage in the sale of those distilled



spirits only on Monday through Friday between the hours of 9:00 a.m. of one day and 2:30 a.m. of the following day and on Saturday from 9:00 a.m. to 2:30 a.m. on Sunday. Distilled spirits may be sold on Sundays between the hours of 12:30 p.m. and 12:00 a.m. only in public stadiums, coliseums and auditoriums with a seating capacity in excess of 3,500 persons; and in restaurants (as defined in Code section 10-1). Distilled spirits may also be served on Sunday in conjunction with the issuance of both an outdoor festival permit pursuant to Code section 138-204 and a special event permit pursuant to Code section 10-8.

(2) Anytime December 31st falls on a Sunday, distilled spirits may be sold by the drink for consumption on the premises between the hours of 12:30 p.m. Sunday, December 31st, to 2:30 a.m. Monday, January 1st, only in public stadiums, coliseums and auditoriums with a seating capacity in excess of 3,500 persons; and in restaurants (as defined in Code section 10-1). Anytime December 31st falls on a Sunday, all other establishments licensed to sell distilled spirits by the drink for consumption on the premises may sell such distilled spirits between the hours on 12:01 a.m. Monday, January 1st, to 2:30 a.m. Monday, January 1st. Anytime St. Patrick's Day, Memorial Day, Independence Day and Labor Day fall on a Monday, distilled spirits may be sold by the drink for consumption on the premises between the hours of 12:30 p.m. of that particular Sunday, to 2:30 a.m. Monday, the next day, only in public stadiums, coliseums and auditoriums with a seating capacity in excess of 3,500 persons; and in restaurants (as defined in Code section 10-1). Anytime Independence Day falls on a Sunday, distilled spirits may be sold by the drink for consumption on the premises between the hours of 12:30 p.m. of that particular Sunday, to 2:30 a.m. Monday, the next day, only in public stadiums, coliseums and auditoriums with a seating capacity in excess of 3,500 persons; and in restaurants (as defined in Code section 10-1).

(3) This section shall apply in all respects to private clubs, as defined by Code section 10-1, except as provided by O.C.G.A. § 3-7-2.

(4) Those licensees that elect to be subject to Code Section 10-94 (a) (7) shall be authorized to engage in the sale of distilled spirits on Monday through Thursday between the hours of 9:00 a.m. and 11:00 p.m., on Friday and Saturday between the hours of 9:00 a.m. and midnight and on Sunday, subject to O.C.G.A. § 3-3-7, between the hours of 12:30 p.m. and 11:00 p.m.

Section 3. The provisions of Chapter 10, Article II, Division 2, Subdivision I, Section 10-62 of the City of Atlanta Code of Ordinances be deleted in its entirety and replaced with a new Section 10-62 which shall read as follows:

Sec. 10-62. Supplemental requirements for sale of distilled spirits by the drink or for bottle house liquors for on-premises consumption.

No license for the sale of distilled spirits by the drink or for the operation of a bottle house shall issue to any applicant who does not meet the requirements of a



restaurant, hotel, private club, lounge, nightclub, convention center, **bar, brewpub,** nonprofit performing arts theater, nonprofit museum, nonprofit zoological park, nonprofit botanical garden, auditorium, sports coliseum, suite hotel, open air cafe, government center, tasting room, sidewalk cafe, or continuing education center.

Section 4. The provision of Chapter 10, Article I, Section 10-1 which specifically defines brewpub which presently states:

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the solely in draft form. As used herein, the term "eating premises and establishment" means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

Be stricken and replaced with the following definition:

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form. As used herein, the term "eating establishment" means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

Section 5. Should any provision of the City of Atlanta Code of Ordinances or part thereof be found to conflict with this ordinance or the provisions thereof, then those provisions contained herein shall be deemed controlling.

A true copy,

Rhonda Dauphin Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

JUN 07, 2010

JUN 16, 2010

RCS# 290
6/07/10
3:36 PM

Atlanta City Council

REGULAR SESSION

10-O-0780

AMEND CHAPT.10 ART.II DIV.2 SEC.10-94 OF
THE CODE OF ORDINANCES
ADOPT ON SUB

YEAS: 13
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 1
ABSENT 0

Y Smith	E Archibong	Y Moore	Y Bond
Y Hall	Y Wan	N Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

10-O-0780