



**AN ORDINANCE
BY COUNCILMEMBER NATALYN MOSBY ARCHIBONG**

**AS SUBSTITUTED BY PUBLIC SAFETY AND LEGAL ADMINISTRATION
COMMITTEE**

AS SUBSTITUTED BY CITY COUNCIL

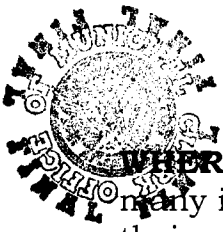
**AN ORDINANCE TO AMEND SECTIONS 10-1,
10-88 AND 10-88.1 OF CHAPTER 10
(ENTITLED "ALCOHOLIC BEVERAGES") OF
THE CODE OF ORDINANCES OF THE CITY OF
ATLANTA, GEORGIA SO AS TO AMEND THE
DEFINITION OF MALT BEVERAGE SUCH
THAT IT IS CONSISTANT WITH STATE LAW;
TO CREATE A NEW LICENSE
CLASSIFICATION TO BE KNOWN AS
"SPECIALITY FOOD SHOP"; TO ESTABLISH
DISTANCE EXEMPTIONS RESTRICTIONS,
AND REQUIREMENTS WITH RESPECT
TO SPECIALITY FOOD SHOPS; TO WAIVE
CONFLICTING ORDINANCES; AND FOR
OTHER PURPOSES.**

WHEREAS, the City of Atlanta has an interest in protecting the public safety and general welfare and is able to do so through the regulation of the sale of alcoholic beverages; and

WHEREAS, it is the stated purpose of the City's Alcohol Code that the City establishes reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcohol while preserving residential areas and promoting desirable living conditions and sustaining stability of neighborhoods and property values; and

WHEREAS, as portions of the City of Atlanta have become more densely populated with residences, there has become an increased demand for retail food shops; and

WHEREAS, the location of retail food shops within walking distance of structures in residential use, by promoting pedestrian travel, reduces motor vehicle traffic on the city streets and provides valuable services which support residential in-town living; and



WHEREAS, in order to provide a full range of products to its customers, in many instances retail food shops offer for sale, beer and wine by the package to their customers; and

WHEREAS, some retail food shops in the City of Atlanta have attempted to distinguish themselves in the marketplace by providing specialty food items and prepared gourmet meals not traditionally found in retail grocery supermarkets as well as wine and malt beverages by the package; and

WHEREAS, these specialty food shops have attempted to further distinguish themselves in the marketplace by choosing not sell distilled spirits, malt liquor, gasoline, diesel fuel, tires, lottery tickets or related games of chance, or tobacco; and

WHEREAS, malt beverages are defined by the State of Georgia as alcoholic beverages obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination of such products in water, containing not more than fourteen percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer, not including sake, known as Japanese rice wine; and

WHEREAS, specialty food shops are a unique, rapidly growing, and nationally recognized market segment within the retail food service industry; 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; and

WHEREAS, package stores which derive less than 5% of their gross receipts from the sale of alcoholic beverages shall are exempt from the requirement that there must be at least 600 feet between stores licensed to sell alcohol by the package and structures in residential use, public or private schools, public or private recreation facilities, public library branches, churches or similar places of worship, public or private hospital or mental health care facilities, and child care or day care facilities; and

WHEREAS, the demand for higher priced beer and wines in retail food shops has increased thereby making it more difficult for the above described specialty food shops to maintain gross receipts from the sale of alcoholic beverages to less than 5% of their total gross receipts; and

WHEREAS, the City of Atlanta wishes to enact legislation which provides for the opportunity for specialty food shops to open in the City.



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

Section 1: Section 10-1 of the City of Atlanta Code of Ordinances is amended as follows:

- (1) To change the definition of *malt beverage* which currently provides as follows:

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

so that when so amended, said definition shall provide as follows:

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination of such products in water, containing not more than **fourteen** percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

- (2) To create a definition of *specialty food shop* which shall provide as follows:

Specialty food shop means a retail establishment that

- (a) deals in the sale of foods, specialty foods, and wine, fortified wine, port, sherry, and malt beverages for consumption off the premises and at which on premises consumption of alcoholic beverages is specifically prohibited, except that if a specialty food shop is the holder of a license under Section 10- 60(a)(1)(c) of this Code, that licensed retail establishment shall be authorized to hold wine tastings in conjunction with educational programs on the subjects of enology or viticulture;
- (b) does not offer check cashing services; does not maintain a drive-thru window; and does not maintain on the premises for sale any of the following: distilled spirits, **malt beverages containing more than six percent alcohol by volume**, gasoline, diesel fuel, tires, lottery tickets or related games of chance, or tobacco;



(c) offers prepared food, made and packaged on the premise available for **on and off** premise consumption;

(d) maintains an inventory of saleable food products including, but not limited to, prepared foods, packaged foods, meat, dairy, vegetables, **fruits**, dry goods, and beverages;

(e) has an interior floor area of not more than 5000 square feet (inclusive of storage), of which more than **60%** of interior floor area is devoted to the display for sale of food products; and

(f) derives less than **30%** of its gross receipts from the combined sale of malt beverages and wine.

Section 2: Section 10-88(d), pertaining to distance requirements, which currently provides as follows:

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 subsection 10-88.1(e). The distance requirements and exemptions set forth in this section shall not apply to City Food Markets which must meet the distance requirements set forth in subsection 10.88.1(f).

Is hereby amended to include specialty food shops in the string of exemptions and to simplify the language pertaining to such exemptions, so that when so amended, said Section 10-88(d) shall provide as follows:

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 subsection 10-88.1(e); city food markets which must meet the distance requirements set forth in subsection 10-88.1(f); or specialty food shops which must meet the distance requirements set forth in subsection 10-88.1(g).**



Section 3: Section 10-88.1 entitled "Package stores" is hereby amended by adding a new subsection "(g)" pertaining to specialty food shops which shall provide as follows:

- (g) No specialty food shop, as defined in section 10-1, shall be located within the following distances, as defined in section 10-1, of the following specified other uses:
- (1) From any other specialty food shop, 600 feet.
 - (2) From any public or private school, 300 feet.
 - (4) From any public library branch, 300 feet.
 - (3) From any public or private park or recreation facility, 300 feet.
 - (5) From any church or similar place of religious worship, 250 feet.
 - (6) From any public or private hospital or mental health care facility, 300 feet.
 - (7) From any child care or day care facility, 300 feet.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby waived to the extent of any such conflict.

RCS# 2869
3/16/09
4:53 PM

Atlanta City Council

REGULAR SESSION

08-O-0843 AMEND SEC.10-1,10-88 AND 10.88.1 OF CHAP
 10 OF THE CODE OF ORDINANCES
 ADOPT ON SUB

YEAS: 11
NAYS: 2
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 2

Y Smith	Y Archibong	N Moore	Y Mitchell
Y Hall	Y Fauver	B Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	N Muller	B Sheperd	NV Borders

08-O-0843