

ORDINANCE #: 587

To amend Chapter 3 of the Code of Ordinances of the City of Bainbridge by striking in their entirety sections 3-41,3-42,3-43 and 3-122 and inserting section 3-8,3-9,3-10 and 3-11.

Sec 3-8. Failure to request and properly check identification.

- (a) No licensee, or such licensee's employee or agent, shall furnish, serve or sell any alcoholic beverage to any person without first requesting to see and being furnished with proper identification as provided for in subsection (b) of this section in order to verify the age of such person.
- (b) For the purpose of this section, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. §§ 40-5-100. "Proper identification" shall not include a birth certificate and shall not include any traffic citation and complaint form.
- (c) Any person who fails to comply with the requirements of this Code section shall be guilty of a misdemeanor. In addition, the failure of a licensee, or such licensee's employer or agent, to comply with the provisions of this section shall constitute grounds for the suspension or revocation of a license, or the imposition of other penalties, as provided in section 3-9 of this Code.

Sec 3-9. Penalties.

- A. It is declared that any person who violates any provision of this chapter shall be guilty of a violation of the city code, and upon conviction in the municipal court, the punishment shall be as follows:
 - 1. First offense, minimum fine of \$150.00;
 - 2. Second offense, if within 12 months of the first, minimum fine of \$200.00;
 - 3. Otherwise punishment shall be as set by the municipal judge as allowed by the city charter.
- B. Upon conviction in the municipal court or other court of competent jurisdiction of any provision of this chapter or any violation of state or federal law, the city manager or his designee is authorized to revoke, probate or suspend as a civil matter the alcoholic beverage license previously granted herein as set forth below. The licensee shall be given written notification of such action and such notice shall contain a specification of the violation or violations and shall be served upon the licensee at least five days prior to the notice of the

hearing. The licensee shall be given notice of the time and place of the hearing. The license shall not be revoked, probated or suspended until a final decision is rendered by the city manager at the hearing.

1. First offense: Not less than 3 nor more than 5 day suspension of license and not less than six months nor more than 12 months probation of the license or adoption and implementation of City of Bainbridge Responsible Vendor program and six months probation of the license.

If the vendor is a current participant in the Responsible Vendor Program the vendor shall be required to provide proof that all requirements of the program have been met. Upon the provision of adequate proof that all program requirements have been met the vendor will be required to re-train all employees at the location where the violation occurred and the offense shall be treated as a first offense.

If the vendor is unable to provide proof that the Responsible Vendor Program has been implemented the offense shall be treated as a second offense under subpart 2(b) of this division.

2. Second offense: If the second offence occurs during the probationary period:
 - a. The license shall be suspended for no less than 15 nor more than 90 days and probation of the license may be extended up to an additional 12 months, or;
 - b. The preceding penalty shall apply unless the vendor is a certified City of Bainbridge Responsible Vendor in which case the probation of the license shall be extended an additional 6 months and the vendor shall pay a \$500 fine. In addition the vendor will be required to retrain all employees at the location where the violation occurred.
3. If a third offense occurs during the probationary period, then the license will be suspended for a period of sixty days with an additional 12 months probation. If the vendor is not a certified responsible vendor the license shall be revoked and if revoked, no new license shall be issued to any person, firm or corporation for a period of 12 months at that location.
4. Any offense beyond the third offence during a probationary period will be assigned to the City Council for disposition.

- C. Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the city license to manufacture

or deal in those products shall thereupon be automatically revoked without any action by the council or any municipal officer.

Sec 3-10. Hearing procedures; appeal.

- A. The order issued by the City Manager in accordance with the procedures outlined above shall be stayed for a period of ten (10) days after the issuance of the order. During this ten-day period, the licensee shall have the right to file an appeal to the city council. If the licensee files a timely appeal, the city manager's order shall be stayed until the appeal is heard or withdrawn. If the licensee does not file a timely appeal, the city manager's order shall be final.

- B. The notice of appeal to the city council shall be in writing and accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The grounds for the appeal shall be limited to issues that were addressed in the hearing. Upon receipt of a notice of appeal, the city manager shall submit the entire record of the case to the city council and may also submit a memorandum in response to the memorandum filed by the licensee. The city manager shall place the appeal on the agenda of the next regular council meeting occurring not less than ten (10) nor more than thirty (30) days after receipt of the appeal, unless the appellant stipulates to another date. The appellant shall have the right to be represented by legal counsel. At the hearing the city council will receive oral arguments on the written memoranda and the evidence in the record. The right to offer oral argument may be waived. No additional evidence or arguments shall be permitted at the council meeting, and the council shall base its decision on the memoranda, oral arguments (if any) and other evidence in the record. Following the appeal hearing, the council may sustain, overrule or modify the order of the city manager. The city council shall also have the option to refer the matter to the clerk for a de novo hearing, or for the taking of additional evidence on specific points, and in either of such cases, the city manager shall proceed as provided in this chapter. If the city council does not refer the matter back to the clerk, the decision of the mayor and council shall be final, and the appellant shall have the right to seek a writ of certiorari to the superior court of the county within thirty (30) days of the final action of the mayor and city council. The final action of the city council shall be reduced to a written order signed by the mayor. The original of the mayor's order shall be filed in the record of the case, and a copy of the order shall be included in the minutes of the city council meeting. It shall be the responsibility of the clerk to provide a copy of the order to the appellant.

Sec. 3-11 City of Bainbridge Responsible Vendor Program.

3-11-1. This section may be cited as the "City of Bainbridge Responsible Vendor Program."

3-11-2 Intent.

It is the intent of the City Council of the City of Bainbridge through the provisions of this section:

- (1) To eliminate the sale of alcoholic beverages to, and consumption of alcoholic beverages by underage persons;
- (2) To reduce intoxication and to reduce accidents, injuries, and deaths in the city which are related to intoxication; and
- (3) To encourage alcoholic beverage vendors to be prudent in their selling practices and to restrict or reduce the sanctions that may be imposed in administrative proceedings by the city against those vendors who comply with responsible practices in accordance with this section.

3-11-3 Definitions.

The following terms shall have the following meanings unless the context clearly indicates otherwise:

- (1) CITY: The City of Bainbridge City Council or its authorized agent(s).
- (2) VENDOR: A person who is licensed by the city to sell alcoholic beverages for on-the-premises consumption and/or for off-the-premises consumption.

3-11-4 Establishment of responsible vendors program.

The City Manager shall establish or cause to be established a responsible vendors program designed to encourage vendors and their employees and customers to treat alcoholic beverages in a responsible manner. The program must include, without limitation, comprehensive instruction on the prevention of the sale of alcoholic beverages to persons not of legal age.

3-11-5 Evidence of compliance; certification; renewal; rules and regulations; enforcement personnel.

- (a) A vendor who seeks to qualify as a responsible vendor must provide to the City Manager, pursuant to procedures adopted by the city, evidence of compliance with the requirements of this section. Upon satisfactory proof that the vendor has complied with the requirements, the city shall certify the vendor as a responsible vendor. Certification as a responsible vendor shall be renewed annually. At the time of renewal vendors must provide proof of compliance for each location at which they hold a license.
- (b) The City Manager or his designee shall adopt rules and regulations for monitoring compliance by certified vendors and for revoking or suspending a vendor's certification for noncompliance with this section.

3-11-6 Requirements for certification.

In order to qualify for certification, the vendor shall comply with the following requirements:

- (1) Provide a course of instruction for its employees approved by the City Manager or his designee which shall include subjects dealing with alcoholic beverages as follows:
 - a. Laws regarding the sale of alcoholic beverages for on-the-premises consumption and/or for off-the-premises consumption;
 - b. Methods of recognizing and dealing with underage customers; and
 - c. The development of specific procedures for refusing to sell alcoholic beverage to underage customers; for assisting employees in dealing with underage customers; and for dealing with intoxicated customers.
- (2) Require each employee who is authorized to sell alcoholic beverages in the normal course of his or her employment to complete the employee training course set out in subdivision (1) hereof within 30 days of commencing employment;
- (3) Require all such trained employees to attend additional meetings at least semiannually or such other schedule of meetings as may be approved by the City Manager, which meetings shall include the dissemination of existing and new information covering the applicable subjects specified in this section and explaining the vendor's policies and procedures relating to those subjects;
- (4) Maintain employment records of the training of its employees required by this section; and
- (5) Post signs on the vendor's premises informing customers of the vendor's policy against selling alcoholic beverages to underage persons.

3-11-7 Compliance as defense to license suspension or revocation; mitigation of administrative penalties or fines.

- (a) The license of a vendor certified as a responsible vendor under this chapter shall be subject to a reduction in penalty for an employee's illegal sale of an alcoholic beverage to a person who is not of lawful drinking age if the employee had completed the applicable training prescribed by this chapter prior to committing such violation, unless the vendor had knowledge of the violation or should have known about such violation, or participated in or committed such violation. No vendor may use as a defense to de-certification the fact that he was absent from the licensed premises at the time of noncompliance with this section.

- (b) The City shall consider certification by a vendor in the responsible vendors program in mitigation of administrative penalties or fines for an employee's illegal sale of an alcoholic beverage to a person who is not of lawful drinking age as described in section 3-9 of this chapter.

Done this 16th day of December, 2003.

Signed:

Attest:

B.K. Reynolds, Mayor

Steve A. McKown, Clerk

AFFIX CITY
SEAL