

CITY COUNCIL  
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# City of Hogansville



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Lisa Kelly, City Clerk  
Jeff Todd, City Attorney

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## COUNCIL ACTION FORM

**MEETING DATE:** April 16, 2018 **SUBMITTED BY:** Lynne Miller

**AGENDA TITLE:** Proposed Downtown Alcoholic Beverage Ordinance

**CLASSIFICATION** (City Attorney must approve all ordinances, resolutions and contracts as to form)

- |   |                                     |  |   |
|---|-------------------------------------|--|---|
| <input type="checkbox"/> Ordinance (No. _____)  | <input type="checkbox"/> Contract   | <input checked="" type="checkbox"/> Information Only | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> Resolution (No. _____) | <input type="checkbox"/> Ceremonial | <input type="checkbox"/> Discussion/Action           | <input type="checkbox"/> Other          |

**BACKGROUND** (Includes description, background, and justification)

The City has an Alcoholic Beverage ordinance. This proposed update would amend that ordinance. The proposed amendments would allow outside consumption of beer or wine in a defined downtown area during special events. These special events must conclude at 10 pm. A separate but related ordinance (Special Events Ordinance) defines special events, stipulates that special events cannot last more than 3 days nor later than 10 pm; describes permitting requirements, and requires the event sponsor to have comprehensive liability insurance.

No direct impact on City budget, if the special event permit fees fully recoup City costs.

**BUDGETING & FINANCIAL IMPACT** (Includes project costs and funding sources)

**STAFF RECOMMENDATION** (Include possible options for consideration)

When coupled with the proposed Special Events Ordinance, this Alcoholic Beverage ordinance update will clarify City requirements for controlled outdoor festivals with beer or wine. Relaxed but regulated drinking laws will add to the vibrancy and attractiveness of downtown for businesses, residents and visitors; create an atmosphere that is positive-sum for downtown merchants (our neighboring cities have seen increased sales as a result); and serve as a recruitment tool for new businesses and visitors.

## AN ORDINANCE

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF HOGANSVILLE TO DEFINE SPECIAL EVENTS THAT WOULD INVOLVE ALCOHOL SALES; TO SET FORTH THE REQUIREMENTS FOR PERMITTING THESE EVENTS; TO LIMIT THE DURATION OF EACH EVENT; TO REPEAL CONFLICTING ORDINANCES OR ORDINANCE SECTIONS; TO FIX AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

The Mayor and Council of the City of Hogansville, Georgia hereby ordain as follows:

### CHAPTER 103 - SPECIAL EVENTS

#### **Sec. 103.1 – Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Producer* means any person responsible for planning, producing and conducting a special event.

*Special event* means any organized for-profit or nonprofit activity sanctioned by the Hogansville Downtown Development Authority and having as its purpose entertainment, recreation and/or education which (i) takes place on public property; or (ii) takes place on private property, but requires special public services and which is permitted by the city under this chapter; and at which consumption or sale of alcoholic beverages is to be allowed.

By way of example, special events include, but are not limited to, assemblies, festivals, concerts, holiday celebrations, and block parties. Private social gatherings that will make no use of city streets other than for lawful parking purposes and do not require special public services by the city are not included. Garage sales, lawn sales, rummage sales, flea market sales, or any similar casual sales of tangible personal property are not included.

*Vendor* means any person or persons or entity engaging in the sale to the public of any food or food products, goods, services or merchandise of whatever nature from any location, either mobile or stationary, on a temporary itinerant basis on any public street, sidewalk, or right-of-way as an authorized participant of the special event.

#### **Sec. 103.2 – Penalties for violation.**

Violation of any section of this article or any part thereof shall be punished as provided in City Code Section 1.7.

#### **Sec. 103.3 - Permit conditions.**

- (a) It shall be unlawful for a special event to occur in the city without the producer having first obtained the sanction or sponsorship of the Hogansville Downtown Development Authority and a permit for such special event.
- (b) All permits issued pursuant to this chapter shall be temporary and shall not vest in the holder any permanent property rights in the permit.

- (c) The location of a special event must comply with all existing zoning requirements of the city, and there must be sufficient lawful parking available. An application for a permit shall be subject to review of the City Manager or his designee to determine compliance with zoning requirements. Administrative exceptions are subject to the approval of the city manager.
- (d) Unless specifically provided otherwise, a special event is subject to and must comply with any and all other applicable ordinances of the city.

**Sec. 103.4. - Application.**

- (a) The producer of a special event shall make application for a permit for the special event on a form prescribed by the City Manager.
- (b) An application for a special event permit shall be filed at least thirty (30) days prior to the date the special event is scheduled to take place; provided, however, no application shall be accepted earlier than one (1) year prior to the date of the special event.
- (c) All producers of a special event shall be properly identified on the application; provided, however, a special event permit shall be issued only to an individual person. Therefore, if a group, organization, association or other entity is producing the special event, a designated agent of the producer shall be named for purposes of the permit, and this individual shall be solely and fully responsible for compliance with all provisions, including all financial requirements of this article and other applicable laws.
- (d) The application shall include the following information:
  - (1) Purpose of the special event;
  - (2) Name, address, e-mail address, and telephone number of the sponsoring entity or person in addition to the person named in subsection (c) of this section;
  - (3) Proposed date, location, and hours of operation, but in no event earlier than 8:00 a.m. nor later than 10:00 p.m.
  - (4) Schedule of proposed activities;
  - (5) Projected attendance at the special event;
  - (6) Plans for parking, restroom facilities, and sanitation concerns;
  - (7) Plan for crowd and traffic control.

In addition, the city or any of its departments may require any other information deemed reasonably necessary to determine that the permit meets the requirements of this article.

- (e) Two (2) copies of a drawing of the proposed location for the special event shall accompany the application and shall accurately depict the proposed location of the special event, all buildings, structures, and parking located on the site. The drawing shall further show the proposed location of any and all temporary buildings, structures, and parking to be associated with the proposed special event.
- (f) Each city department and/or agency whose services would be impacted by the special event shall review the application and recommend in writing to the city manager any conditions or restrictions deemed necessary. Special conditions or restrictions recommended by the city manager, or his designee, shall become a condition of the permit.
- (g) The following standards shall be considered in reviewing the application:
  - (1) A special event permit may be issued only after an adequate plan for crowd and traffic control, as well as security, and, when deemed necessary, employment of uniformed and P.O.S.T. certified police officers has been verified by the city and obtained by the producer.

- (2) A special event permit may be issued only after an adequate plan for fire inspection/prevention and/or fire code enforcement and, when deemed necessary, employment of off-duty, uniformed fire personnel has been verified by the city and obtained by the producer.
- (3) A special event permit may be issued only after an adequate EMS plan and, when deemed necessary, employment of off-duty medics who are state-certified EMT or paramedics has been verified by the city and obtained by the producer.
- (4) A special event permit may be issued only after adequate waste disposal facilities have been determined by the city and obtained by the producer. The producer shall be required to clean the right-of-way or public property of rubbish and debris, returning it to its pre-special event condition, within twenty-four (24) hours of the conclusion of the special event. If the producer fails to clean such property refuse, cleanup shall be arranged by the city and the costs incurred for this service shall be charged to the applicant.
- (5) A special event permit granted by the city may provide for the city to close designated streets and intersections to allow use of the public right-of-way for the special event during designated hours.
- (6) The sound level of any special event must comply with city noise regulations (Chapter 5 – Offenses and Miscellaneous Prohibitions, Section 54-1 – Noise Problems ).
- (h) After all of the requested information pertaining to the special event has been submitted, reviewed and approved, a permit may be issued by the city manager upon payment of all applicable fees and costs. The city manager shall act on an application for a special request permit within thirty (30) days of a completed application. The special event permit, as well as any other permits required in conjunction with the special event, shall be posted on site during the special event.
- (i) Should a permit be denied, the producer shall be notified in writing of the denial.

**Sec 103.5. - Permit fees.**

- (a) Permit fees shall be set, commensurate with special events costs to the City.
- (b) A cash bond may be determined to be appropriate by the city, and in this event the city manager shall advise the producer of the amount, and this bond shall be remitted to the city before the special event permit is issued.
- (c) The initial permit fee shall be paid in full prior to the issuance of the permit and in any event no later than seventy-two (72) hours prior to the date of the event.
- (d) The fees required in this article shall be in addition to any other fees which may be required by any other applicable ordinances or regulations, including business licenses for all businesses working inside the City limits regardless of their home addresses.
- (e) No producer of any special event, except as may otherwise be provided herein, shall be exempt from the payment of the appropriate fees and charges required under this article.
- (f) Notwithstanding any provision to the contrary, the producer of any special event associated with and benefiting the cause of a charitable organization, recognized as such by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code, may be excused by the city manager from the permit fee requirement, but may be required to post the bond described in subsection (b) of this section. Criterion to be considered in determining the appropriateness of requiring a bond shall include the impact of the event on the cost of services to be provided by the city and on the general public health, welfare, or safety of the city.

**Sec. 103.6. - Liability.**

- (a) Prior to issuance of a permit, the producer shall provide to the city proof of comprehensive liability insurance naming the city as an additional insured. The insurance requirement is a minimum of three hundred thousand dollars (\$300,000.00) personal injury per person, one million dollars (\$1,000,000.00) maximum, and one hundred thousand dollars (\$100,000.00) property damage against all claims arising from activities associated with permits issued pursuant to this article.
- (b) The producer of any special event shall provide a written agreement in a form satisfactory to the city providing the producer shall defend, pay, and save harmless the city, its officers, employees, and agents from liability of all personal or property damages arising from any acts or omissions emanating from a special event and from any and all claims, attorney fees or lawsuits for personal injury or property damage arising from or in any way connected to the special event. The agreement shall be filed with, and made a part of, the application form.
- (c) The city, its officials, employees, or agents shall not incur any liability or responsibility for any injury or damage to any person in any way connected to the use for which the permit has been issued. The city, its officials, employees, or agents shall not be deemed to have assumed any liability or responsibility by reasons of inspections performed, the issuance of any permit, or the approval of any use of the right-of-way or other public property.

**Sec. 103-7. - Vendors of food and merchandise.**

- (a) The sale of food and/or merchandise by vendors shall be allowed as a component of a special event provided each vendor is authorized to participate in writing by the producer of the event and provided further each vendor shall be subject to all conditions and limitations as shall be imposed in writing by the producer and submitted as part of the application for a permit. All vendors must also comply with any other applicable ordinance, including, but not limited to, the occupation tax ordinance.
- (b) The producer of a special event shall have sole responsibility and control of all food and merchandise vendors as a component of a special event and to designate the location and activities of such vendors.
- (c) Food vendors authorized by the producer shall be required to comply with rules and regulations of the county health department as to the preparation and service of food.

**Sec. 103.8. - Vendors of alcoholic beverages.**

The dispensing of alcoholic beverages, by sale or otherwise, shall be allowed as a component of a special event provided each vendor is authorized to participate by the producer and provided further each vendor dispensing alcoholic beverages shall be duly authorized in compliance with the provisions of the city code relating to the sale of alcoholic beverages.

**Sec. 103.9. - Miscellaneous provisions regarding vendors.**

- (a) Each vendor authorized by the producer of the special event shall prominently display on his or her person a badge provided by the producer and identifying the vendor as an authorized participant in the special event which shall bear the signature of the producer or his designated agent.
- (b) A special event permit granted by the city may provide for the city to close designated streets and intersections to allow use of the public right-of-way for the special event during designated hours and days. The producer shall bear all responsibility for having all vendors remove any structures and all trash and debris from the designated area by not later than the time stated under the permit for re-opening of all streets.

**Sec. 103-10. - Denial or revocation of a special event permit.**

- (a) Reasons for denial of a special event permit include, but are not limited to:
  - (1) The special event will unnecessarily disrupt traffic within the city beyond practical solution;
  - (2) The location of the special event will cause undue hardship to adjacent businesses or residents;
  - (3) The special event will cause unnecessary disruption of public services which would unreasonably impact the remainder of the city;
  - (4) The application contains incomplete or false information; and
  - (5) The producer fails to comply with any terms required by this chapter.
- (b) Reasons for revocation of a special events permit include, but are not limited to:
  - (1) False or incomplete information within the application;
  - (2) Failure to comply with all terms and conditions of the permit;
  - (3) Failure to arrange for or adequately remit all fees, deposits, insurance or bonds to the city; and
  - (4) Existence of disaster, public calamity, riot or other emergency as the city determines, in its sole discretion, to be an impact upon the public health, safety and welfare.
- (c) Further, a special event permit may be denied, suspended, or revoked by the city manager, if the city manager determines that the health, welfare, or safety of the public may be endangered.

**Sec. 103-11. - Appeals.**

- (a) Any producer whose special event permit application has been denied, suspended or revoked may request a review of this decision by the city manager. This request must be in writing and received by the city manager within five (5) days of the permit denial or revocation.
- (b) The city manager shall review the application and reasons for the denial or revocation of the special event permit and shall issue a decision, within five (5) days, whether to uphold or reverse the previous decision and grant or reinstate the permit with such additional conditions as the city manager may deem justified by the evidence.
- (c) Should the producer be dissatisfied with the decision of the city manager, an appeal may be filed with the city council within five (5) days of the decision of the city manager. The council shall set a hearing date within thirty (30) days of receiving an appeal. At the hearing, evidence may be submitted by the producer addressing why the permit should have been granted or not revoked and by the city manager addressing why the permit was denied or revoked. The city council shall determine whether the denial or revocation of the permit is justified, or it may reverse the previous decision and grant or reinstate the permit with such additional conditions as deemed justified by the evidence.

**Sec. 103-12. Severability.**

Any ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Sec. 103-12. Effective Date.**

This Ordinance after adoption by the Council and upon approval by the Mayor shall become effective immediately.

INTRODUCED AND FIRST READING (Date) \_\_\_\_\_

SECOND READING AND ADOPTED (Date) \_\_\_\_\_

SUBMITTED TO MAYOR AND APPROVED (Date) \_\_\_\_\_

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_