03- O -1452

AN ORDINANCE

BY COUNCIL MEMBER DEBI STARNES

AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE II, DIVISION 2, SECTION 10-93 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO PROVIDE AN EXEMPTION FROM DISTANCE REQUIREMENTS FOR AN ESTABLISHMENT LICENSED TO SELL ALCOHOLIC BEVERAGES BY THE PACKAGE WHEN SUCH ESTABLISHMENT IS RELOCATING FROM A LOCATION WITHIN MIDTOWN TO A NEW LOCATION IN MIDTOWN; WHEN SUCH ESTABLISHMENT AND LOCATION MEET OTHER REQUIREMENTS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in regulating the sale of alcoholic beverages within its city limits, and it has in place certain regulations which provide that distance requirements must be met in order to obtain a license to sell alcoholic beverages; and

WHEREAS, certain areas of the City of Atlanta are being revitalized and are being built to take advantage of the opportunity to establish an environment of in-town living which caters to the convenience of the residents and businesses therein; and

WHEREAS, one of the areas that is currently undergoing revitalization is the area known as "Midtown" within which Special Public Interest District 16 (hereinafter "SPI 16") is located; and

WHEREAS, on March 9, 2000, the City of Atlanta passed legislation which approved the creation of the Midtown Community Improvement District, a public improvement district created to offer enhanced safety, maintenance and capital improvement projects in Midtown; and

WHEREAS, in addition to the creation of the Midtown Community Improvement District, several studies have been performed in regard to "Midtown," including a comprehensive study known as "Blueprint Midtown" which contains numerous recommendations which encourage a compatible mixture of residential, commercial, cultural and recreational uses and which create an urban environment in which people can live, work, meet and play; and

WHEREAS, the City of Atlanta recognizes that this type of community presents many advantages, including safe, pleasant, and convenient pedestrian circulation, minimal conflict between pedestrians and vehicles, and the provision of the opportunity for continuous pedestrian oriented uses and activities; and

WHEREAS, the City of Atlanta desires to encourage opportunities for both residential and commercial economic development in Midtown; and

WHEREAS, the City of Atlanta recognizes that, on occasion, businesses which have been operating within the City of Atlanta at the same location for numerous years are sometimes required to relocate their business for reasons beyond the control of the business owners and/or operators; and

WHEREAS, the City of Atlanta recognizes that the economic development which is taking place within Midtown and specifically within SPI 16 and the Midtown Community Improvement District has caused some property owners to engage in the demolition or reconstruction of existing buildings and to replace such buildings with the construction of new mixed-use buildings which will be compatible with the goals of SPI-16, the Midtown Community Improvement District and Blueprint Midtown; and

WHEREAS, the City of Atlanta recognizes that the demolition or reconstruction of existing buildings will cause certain businesses, including some establishments which have been lawfully operating in the City of Atlanta for over fifteen (15) years, to cease operation at such locations; and

WHEREAS, the City of Atlanta recognizes that when a lawfully operating establishment is forced to cease operation of its business for reasons that are beyond the control of the owners and operators of the establishment, the owners and operators should be given the opportunity to relocate the business to a location within the same general area in order to continue to lawfully service businesses and residents in the same general area; and

WHEREAS, the City of Atlanta recognizes that when an establishment which sells alcoholic beverages by the package must relocate to a new location due to demolition or reconstruction of the building in which it is located, the new location is subject to any relevant regulations regarding distance requirements from such location to certain surrounding properties; and

WHEREAS, the regulations regarding distance requirements may prohibit the relocation of such established businesses to specific locations within Midtown even when such businesses are desirable to and compatible with the community surrounding the proposed location and the plans to develop a mixed-use neighborhood; and

WHEREAS, the City of Atlanta recognizes that the relocation of an existing package store within SPI 16 to another location within SPI 16 will not result in an additional package store in the SPI 16 District since the former store will no longer be in operation; and

WHEREAS, the City of Atlanta does not want to prohibit the relocation within SPI 16 of any business licensed to sell alcoholic beverages by the package when such business has lawfully operated in the same location in Midtown for more than fifteen (15)

years but is forced to cease operation due to demolition or reconstruction of the building in which the business is located and when such business desires to relocate to property which lies within 300 feet of the old location of the business; and

WHEREAS, the City of Atlanta desires to exempt certain property located within SPI 16 from all relevant distance requirements which govern establishments licensed to sell alcoholic beverages by the package if such location will be occupied by a business which was licensed to sell alcoholic beverages by the package within the past 12 months and if such business was formerly located within SPI 16 but was forced to move to the new location due to the demolition or reconstruction of the building within which it was located; and

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

Section 1. That Chapter 10, Article II, Division 2, Section 10-93 of the City of Atlanta Code of Ordinances be amended to delete the existing title of said Section and insert in lieu thereof a new title; to designate the existing language of said Section as "Subsection (a)"; and to insert new language which shall be designated as "Subsection (b)" so that Section 10-93 shall read in its entirety as follows:

> **Section 10-93. Exemptions for the sale of alcoholic beverages by the package in Midtown.**
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> (a) Any applicant for a license to sell wine and/or malt beverages by the package, and not distilled spirits by the package, shall be exempt from the distance requirement provided for in section 10-88.1(b)(5) of the City Code of Ordinances from churches or similar places of religious worship if the location for which the license is being sought and the applicant for such license meet the following requirements:
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> > (1) The location for which a license to sell wine and/or malt beverages is being sought must have an address on Peachtree Street or Road, and it must be within the area designated by the city as the Midtown Community Improvement District; and
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> > (2) At the time of filing the application, the applicant for the license to sell wine and/or malt beverages by the package, or his agent, must hold a current license in the city to sell beer and/or wine for consumption on the premises in a restaurant which has a Peachtree Street or road address and which is located immediately adjacent to the location for which the applicant is seeking a license to sell wine and/or malt beverages by the package. For purposes of this Code section, the term "immediately adjacent to" shall mean directly next door or side by side to each other.

(3) In conjunction with the sale of wine and/or malt beverages by the package in the new location, the applicant must sell food to be consumed off premises which is prepared in the kitchen of the restaurant located immediately adjacent to the location which will sell packaged wine and/or beer.

(b) Any applicant for a license to sell alcoholic beverages, including beer, wine and distilled spirits, by the package shall be exempt from the distance requirements provided for in Section 10-88.1 of the City Code of Ordinances if the applicant for such license and the location for which the license is being sought meet the following requirements:

(1) At the time of filing the application for a license, the applicant for the license to sell alcoholic beverages by the package, or his agent, must have been issued a license to sell alcoholic beverages by the package within the past twelve (12) months in an establishment located within SPI 16;

(2) The applicant or his agent has filed an application for a license to sell alcoholic beverages by the package at a new location within SPI 16 because the business can no longer be operated at the former location due to either the planned demolition or reconstruction of the building within which the establishment was located; and

(3) The new location for which a license to sell alcoholic beverages is being sought lies within the following area:

All that tract or parcel of land lying and being in Land Lots 106 & 107 of the 17th District of Fulton County, Georgia and being more particularly described as follows: Beginning at a PK nail set at the intersection of the northwesterly right-of-way of Peachtree Place (50' R/W) and the southwesterly right-of-way of West Peachtree Street (75' R/W); thence along said right-of-way of Peachtree Place South 83 degrees 06 minutes 36 seconds West a distance of 182.35 feet to a PK nail set; thence departing said right-of-way North 13 degrees 58 minutes 14 seconds West a distance of 123.60 feet to a PK nail set; thence North 57 degrees 11 minutes 26 seconds East a distance of 169.77 feet to a PK nail set on said right-of-way of West Peachtree Street; thence along said right-of-way along a curve to the left an arc distance of 71.31 feet (being subtended by a chord distance of 71.29 feet, a bearing of South 21 degrees 35 minutes 28 seconds East and a 920.70 foot radius) to a point; thence along a curve to the right an arc distance of 42.84 feet (being subtended by a chord distance of 42.84 feet, a bearing of South 20 degrees 36 minutes 11 seconds East and a 7791.88 foot radius) to said PK nail set and the POINT OF BEGINNING.

Section 2. 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.