AN ORDINANCE 03-O-2148

BY COUNCLMEMBER CEASAR C. MITCHELL

AS SUBSTITUTED BY PUBLIC SAFETY AND LEGAL ADMINISTRATION

AN ORDINANCE TO AMEND CHAPTER 10 OF THE ATLANTA CITY CODE OF ORDINANCES BY ADDING DIVISION 6 "SERVICE PERMIT" SO AS TO REQUIRE A SERVER OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES TO BE PERMITTED; AND FOR OTHER PURPOSES.

WHEREAS, the City has the responsibility to regulate, and prohibit any act, practice, conduct, or use of property which is detrimental, or likely to be detrimental, to the health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards; and

WHEREAS, the City has the power to make, ordain, and establish such bylaws, ordinances, rules, and regulations as shall appear necessary for the security, welfare, convenience, and interest of the city and the inhabitants thereof and for preserving the health, peace, order, and good government of the city; and

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

SECTION 1

That Chapter 10 is amended by adding DIVISION 6, which shall read as follows:

DIVISION 6. Service Permit

10-229. Service permit required; waiver.

(1) Any person employed by a licensee who participates in any manner in the mixing, selling or service of alcoholic liquor for consumption on the premises where served or sold shall have a valid service permit.

(2) No licensee shall permit any person to mix, sell or serve any alcoholic liquor for consumption on licensed premises unless such person has a valid service permit.

(3) A permitted server shall make the service permit available at any time while on duty for immediate inspection by any inspector or investigator employed by the city or by any other peace officer.

(4) The service permit requirement may be waived for an employee of a licensee whose primary function is not the sale of alcoholic liquor or food, including but not limited to public passenger carriers, hospitals, or convalescent, nursing or retirement homes.

10-230. Characteristics of permit; verification of identity of person permitted.

(1) A service permit shall be a purely personal privilege, valid only upon licensed premises, for the period of time stated thereon, and may be suspended or revoked for any reason set forth in 10-234.

(2) No service permit shall be used by any person other than the person to whom it is issued. Except as provided in 10-232, the licensee shall verify the identification of the permitted person and determine that the person has in possession a service permit before allowing the person to mix, sell or serve alcoholic liquor for consumption on the licensed premises.

10-231. Expiration.

Unless sooner suspended or revoked, a service permit shall expire on the anniversary date of the permitted person's birthday five years after the date of issuance of the permit.

10-232. Application; requirements; fee.

(1) Any person who has not had a permit refused or revoked or whose permit is not under suspension may mix, sell or serve alcoholic beverages for consumption on licensed premises for a period of thirty (30) days, if the person prepares and submits to the license and permits section, in duplicate, an application for a service permit prior to mixing, selling or serving any alcoholic beverage for consumption on licensed premises and the application is indorsed as required under subsection (2) of this section. A copy of the indorsed application must be kept on the licensed premises by any licensee for whom the person mixes, sells or serves alcoholic beverages and must be made available for immediate inspection by any inspector or by any other peace officer until the applicant receives the service permit.

(2) An application for a service permit under subsection (1) of this section must be indorsed by one of the following persons:

(a) The licensee under whose license the applicant will mix, sell or serve alcoholic beverages. If a licensee indorses an application, the licensee must immediately transmit the application to the commission with the fee required by subsection (4) of this section.

(b) An officer or employee of a company that provides servers to licensees on a temporary basis. The license and permit section must give a company written approval to indorse service permit applications before an application may be indorsed under this paragraph.

(c) An employee of an alcohol server education course provider that has been certified by the license and permit section. The employee must be specifically designated by the provider to indorse applications under this section.

(3) An application for a service permit may be indorsed by an employee under subsection (2)(c) of this section only if:

(a) The applicant is not employed by a licensee; and

(b) The applicant completes the alcohol server education course certified by the license and permits section before making the application; and

(4) An applicant for a service permit must be 18 years of age or over. Application for a service permit shall be made on a form supplied by the license and permit section. The applicant shall truly answer all questions, provide any further information required, and pay a fee of $25.

10-233. Grounds for refusing to issue permit; request for hearing.

(1) The license and permits section may refuse to grant a service permit if it has reasonable grounds to believe any of the following to be true:

(a) That the applicant is in the habit of using alcoholic beverages or controlled substances to excess.

(b) That the applicant has made false statements in the permit application.

(c) That the applicant is incompetent or physically incapable of performing the duties of a permitted person.

(d) That the applicant has been convicted of violating any of the alcoholic liquor laws of this state, general or local, or has been convicted at any time of a felony.

(e) That the application has not been indorsed as required by 10-232.

(f) That the applicant has not completed the alcohol server education course and examination required by 10-236.

(2) Notwithstanding ORS 183.435, if the license and permit section refuses to grant a service permit, an applicant who seeks review of the refusal must request a hearing before the License Review Board within 15 days after notification of the refusal.

10-234. Grounds for revoking or suspending permit or imposing civil penalty; responsibility of licensee.

(1) The License Review Board may revoke or suspend a service permit, or impose a civil penalty in lieu of or in addition to suspension, if it finds or has reasonable grounds to believe any of the following to be true:

(a) That the permitted person has made any false statement in the application for the permit.

(b) That the permitted person has been convicted of a felony, of violating any of the liquor laws of the state, general or local, or any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

(c) That the permitted person has performed or permitted any act which would constitute a violation of any provision of this chapter, if the act were performed or permitted by any licensee.

(2) The issuance, suspension or revocation of a permit does not relieve a licensee from responsibility for any act of an employee on the licensee's premises.

(3) When there has been a violation of this chapter or any rule adopted thereunder upon any premises licensed by the city, the city may revoke or suspend either the service permit of the employee who violated the law or rule or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(4) The city may revoke or suspend any license issued by the city if the licensee knowingly indorses a person's application for a permit when the person has been refused a permit or has had a permit suspended or revoked, or when the licensee fails to comply with any provision to be performed by the licensee.

10-235. Duplicate or new permit; fee.

(1) If a service permit issued under this division is lost, mutilated or destroyed, the permitted person shall apply immediately for a duplicate permit on a form to be supplied by the license and permit section and submit a fee of $5.

(2) If a permitted person changes name by marriage or otherwise, the permitted person shall apply immediately for a new service permit by forwarding the permit

and evidence of the change of name to the license and permits section with an application and a fee of $5.

10-236. Alcohol server education course required; content.

(1) Except as provided in subsection (2) of this section, the city shall require a person applying for issuance or renewal of a server permit or any license that authorizes the sale or service of alcoholic beverages for consumption on the premises to complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the permit or license.

(2) A person applying for issuance or renewal of a license that authorizes the sale or service of alcoholic beverages for consumption on the premises need not complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the license if:

(a) The license has been restricted by the commission to prohibit sale or service of alcoholic beverages for consumption on the premises; or

(b) The person applying for issuance or renewal of the license submits a sworn statement to the commission stating that the person will not engage in sale or service of alcoholic beverages for consumption on the premises, will not directly supervise or manage persons who sell or serve alcoholic beverages on the premises, and will not participate in establishing policies governing the sale or service of alcoholic beverages on the premises.

(3) A permitted person must comply with all permit requirements once every five years after completing the initial alcohol server education course and examination.

(4) The standards and curriculum of alcohol server education courses shall include but not be limited to the following:

(a) Alcohol as a drug and its effects on the body and behavior, especially driving ability.

(b) Effects of alcohol in combination with commonly used legal, prescription or nonprescription, drugs and illegal drugs.

(c) Recognizing the problem drinker and community treatment programs and agencies.

(d) State and local alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premises or off-premises consumption, hours of operation and penalties for violation of the laws.

(e) Drunk driving laws and liquor liability statutes.

(f) Intervention with the problem customer including ways to cut off service, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home.

(g) Advertising and marketing for safe and responsible drinking patterns and standard operating procedures for dealing with customers.

(8) The city shall authorize alcohol server education courses and examinations through independent contractors, private persons or private or public schools certified by the license and permits section.