

AN ORDINANCE TO AMEND THE ALCOHOLIC BEVERAGE CODE OF THE CITY OF MORROW, TO REVISE THE DEFINITION OF A RESTAURANT; TO PROVIDE AN ALTERNATIVE HEARING PROCEDURE; AND FOR OTHER PURPOSES.

IT IS HEREBY ORDAINED by the Governing Authority of the City of Morrow that:

Section 1. Section 9-2-2(17) of the Code of Ordinances of the City of Morrow, as amended, is further amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

“(17) *Restaurant.* Any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, the place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 60 people, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six days per week, with the exception of holidays, vacations and periods of redecorating; and the serving of these meals shall be the principal business conducted. Closure of an establishment for more than four weeks in any calendar year for vacation, redecorating or other purposes shall void any alcoholic beverage license held by such establishment as a restaurant. For restaurants designating breakfast as their meal for purposes of this definition, the establishment must be open for business a minimum of three consecutive hours and the period of 6:00 a.m. to 7:00 a.m. must be included within such three hour block. For restaurants designating lunch as their meal for purposes of this definition, the establishment must be open for business a minimum of three consecutive hours and the period of 11:30 a.m. to 12:30 p.m. must be included within such three hour block. For restaurants designating dinner as their meal for purposes of this definition, the establishment must be open for business a minimum of three consecutive hours and the period of 7:00 p.m. to 8:00 p.m. must be included within such three hour block.”

Section 2. Section 9-2-24(b) of said Code is further amended by deleting the provisions of that section in its entirety and inserting the following in lieu thereof:

“(b) In the event the City Manager denies an application for a license, the applicant shall have the right to appeal the denial to the Mayor and Council by filing a notice of appeal with the City Clerk within five business days of the date of denial. A hearing shall be held and decision rendered in accordance with the procedure established by Section 9-2-84 of this Chapter.”

Section 3. Section 9-2-50 of said Code is further amended by adding a new subsection (e) to said Section that shall read as follows:

“(e) Employee permits allowing the sale of alcoholic beverages may be revoked or suspended by the City Manager following ten calendar days’ notice, hearing and a determination that such employee has violated any provision of this Code regulating alcoholic beverages or upon a finding that the employee no longer possesses the qualification for holding of such permit. The decision of the City Manager with respect to suspension or revocation shall be a final decision of the City and may be appealed by Writ of Certiorari to the Superior Court of Clayton County as provided by law.”

Section 4. Section 9-4-55(a) of said Code is further amended by deleting the language of that paragraph in its entirety and inserting the following language in lieu thereof:

“(a) In order to distribute or sell distilled spirits, malt beverages, or wine at an off-premises catered function, the licensed alcoholic beverage caterer shall apply to the City Manager for an event permit. The application for the event permit shall include the name of the caterer, the date, address, and time of the event, and the licensed alcoholic beverage caterer’s license number. For alcoholic beverage caterers licensed by the City, no further event permit fee is required, and all alcoholic beverage excise and sales taxes attributed to the sale or use of alcohol at the catered event shall be reported through the alcoholic beverage caterer’s primary alcoholic beverage license.”

Section 5. Section 9-2-72(c) of said Code is further amended by deleting the language of that paragraph in its entirety and inserting the following language in lieu thereof:

“(c) Violation of any provisions under this section shall constitute an offense hereunder and shall be punishable as follows:

“(1) On a first offense there shall be a minimum fine of \$250.00.

“(2) On the second offense, if within 12 months of the first, there shall be a minimum fine of \$350.00.

“(3) Any conviction or acceptance of a plea of guilty or nolo contendere as well as any alternative sentencing imposed on a defendant appearing in Municipal Court for a violation of this Chapter shall be reported by the Judge to the City Manager at the close of the Court session.”

Section 6. The third paragraph of Section 9-2-81 of said Code is amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

“The applicant for an alcoholic beverage license whose license is not issued based on this Code section may file a written appeal with the City Manager not later than five business days after receiving written notice from the City that the license will not be issued because of noncompliance with the City Code of Ordinances. The City Manager shall render his decision in writing within five business days of the receipt of the appeal. In the event the appeal to the City Manager is denied, the applicant for an alcoholic beverage license may appeal the City

Manager's decision to the Mayor and Council by filing written notice with the City Clerk within five business days of the City Manager's decision. Such appeal shall be heard and decided in accordance with the procedures established by Section 9-2-84."

Section 7. Subsection (a) of Section 9-2-84 of said Code is further amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

"(a) Except as provided for herein, no license which has been issued or which may hereafter be issued by the City to any person under this Chapter shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon the prior 10 day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charge upon which the hearing shall be held."

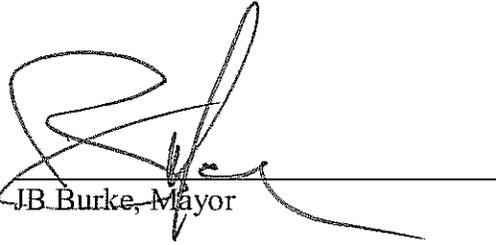
Section 8. Subsection (c) of Section 9-2-84 of said Code is further amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

"(c) The hearing may be conducted by the Mayor and Council or, alternatively, the Mayor and Council may appoint a Hearing Officer to conduct the hearing on its behalf. Any such hearing officer shall be either licensed to practice law in the State of Georgia and possess a minimum five years' experience involving local governments or have a minimum of five years' experience as a City Manager within the State of Georgia. The hearing shall be held within 30 days of the date notice of appeal is received; provided, such hearing may be rescheduled for one additional 30 day period upon good cause. In the event the Mayor and Council appoints a hearing officer to conduct the hearing, the Hearing Officer shall conduct the hearing and make a recommendation to the Mayor and Council. Such recommendation shall include a statement of findings, and a recommended action to be taken. At any hearing conducted pursuant to this Section, the licensee shall be entitled to present evidence and to cross examine witnesses. The City shall make a tape recording of proceedings. Should a licensee desire the availability of a court reporter, the licensee shall be responsible for making those arrangements and paying the costs thereof. The licensee shall present a list of City officers and employees it wishes to have present for hearing no later than five business days in advance of hearing. Provided such notice is timely received, the City shall produce such witnesses for hearing. Prior scheduled leave time for vacation, school or other legitimate purposes of a necessary witness is due grounds for continuance of a hearing at either party's request. If a Hearing Officer is used, such Hearing Officer shall reduce his recommendation to writing and provide it to the Mayor and Council within 14 days of conclusion of the hearing. Final determination of all appeals shall be made by the Mayor and Council by vote in regular session no later than the next regularly scheduled meeting at which a quorum is present after receipt of the Hearing Officer's recommendation or at the next meeting after close of the hearing if conducted by the Mayor and Council."

Section 9. All ordinances, or parts of ordinances in conflict with this Ordinance, are, to the extent of such conflict, hereby repealed.

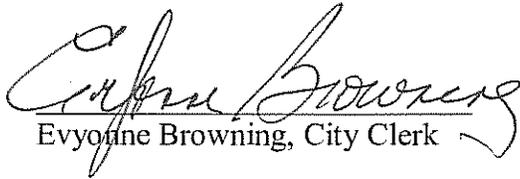
Section 10. This Ordinance shall take effect immediately upon its adoption.

So Ordained, this 13TH day of November, 2012.



JB Burke, Mayor

ATTEST:



Evyonne Browning, City Clerk



First Reading: October 23, 2012
Second Reading: November 13, 2012