

**CITY OF JONESBORO
STATE OF GEORGIA**

ORDINANCE NO. 2015 - 002

CITY OF JONESBORO, GEORGIA

PREAMBLE AND FINDINGS

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF JONESBORO, GEORGIA; TO ADD A NEW ARTICLE X, SOCIAL HOSTING, TO CHAPTER 6, ALCOHOLIC BEVERAGES; TO AMEND ARTICLE III, NUISANCES, OF CHAPTER 34, ENVIRONMENT; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the City of Jonesboro (the "City") has determined that to serve the needs of the community, certain amendments are needed in the City's Code of Ordinances; and

WHEREAS, the City desires to amend its chapter on alcoholic beverages to provide regulations for the service of alcoholic beverages at private residences, which regulations shall be codified as the "Jonesboro Social Hosting Ordinance"; and

WHEREAS, the City also desires to amend its chapter on nuisances to classify violation of the Jonesboro Social Hosting Ordinance as a public nuisance; and

WHEREAS, Article I, "Incorporation and Powers," Section 1.13, "Examples of Powers," Paragraph 21, "Nuisance," of the City Charter grant the City the power to "define a nuisance and provide for its abatement whether on public or private property"; and

WHEREAS, these amendments are necessary to further the general health and welfare of the community by curbing underage consumption of alcoholic beverages;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, GEORGIA:

SECTION ONE

The City's Code of Ordinances is hereby amended by deleting Section 34-81(b)(14) of Article III, "Nuisances," of Chapter 34, "Environment," in its entirety and inserting the following Section 34-81(b)(14) in lieu thereof and adding the new Section 34-81(b)(15) immediately thereafter as follows:

- (14) Violation of the Jonesboro Social Hosting Ordinance, as set forth in section 6-211 et seq.
- (15) Any other condition constituting a nuisance under state law.”

SECTION TWO

The City’s Code of Ordinances is hereby amended by inserting new Sections 6-202 to 6-210 in Article IX, “Vested Rights,” of Chapter 6, “Alcoholic Beverages,” which Sections 6-202 to 6-210 shall be inserted immediately following Section 6-201 and shall read as follows:

“Secs. 6-202—6-210. – Reserved.”

SECTION THREE

The City’s Code of Ordinances is hereby amended by adding a new Article X, “Social Hosting,” to Chapter 6, “Alcoholic Beverages,” which Article X shall be inserted immediately following Article IX and shall read as follows:

“ARTICLE X – SOCIAL HOSTING

Sec. 6-211. - Findings and intent.

The Mayor and the Jonesboro City Council finds and declares as follows:

- (a) In 2007, the U.S. Surgeon General issued a report entitled "The Surgeon General's Call to Action to Prevent and Reduce Underage Drinking," which can be found at <http://www.surgeongeneral.gov/topics/underagedrinking/calltoaction.pdf>. ("Surgeon General's Call to Action").
- (b) "Early alcohol consumption by some young people will result in an alcohol use disorder—that is, they will meet diagnostic criteria for either alcohol abuse or dependence." Surgeon General's Call to Action, at page 4.
- (c) "[A] higher percentage of youth in 8th, 10th, and 12th grades used alcohol in the month prior to being surveyed than used tobacco or marijuana, the illicit drug most commonly used by adolescents." Surgeon General's Call to Action, at page 5.
- (d) Various surveys have found that: approximately ten percent of children who are nine to ten years old have started drinking alcoholic beverages; nearly 33 percent of youth start drinking alcoholic beverages before the age of 13; more than ten percent of youth who are 12 to 13 years old; and over 33 percent of youth who are 14 to 15 years old reported drinking a whole alcoholic beverage in the year before they were surveyed; and the peak years of alcohol initiation

are when youth are in 7th and 8th grades. Surgeon General's Call to Action, at page 6.

- (e) While adolescents typically drink alcoholic beverages less often than adults, when they do drink alcoholic beverages, adolescents tend to drink more alcoholic beverages at each event than adults. Surgeon General's Call to Action, at pages 6-7.
- (f) Persons who are less than the age of 21 often possess or consume alcoholic beverages at social parties or gatherings held at or on private residences and other private property under control of a person who either has provided the alcoholic beverages or who knows or reasonably should know of such conduct, but fails to take steps to prevent it.
- (g) "Annually, about 5,000 people under age 21 die from alcohol-related injuries involving underage drinking." Surgeon General's Call to Action, at page 10.
- (h) Underage drinking "[p]lays a significant role in risky sexual behavior, including unwanted, unintended, and unprotected sexual activity, and sex with multiple partners. Such behavior increases the risk of unplanned pregnancy and of contracting sexually transmitted diseases (STDs), including infection with HIV, the virus that causes AIDS." Surgeon General's Call to Action, at page 10.
- (i) Underage drinking "[i]ncreases the risk of physical and sexual assault." Surgeon General's Call to Action, at page 10.
- (j) Underage drinking "[c]an cause a range of physical consequences, from hangovers to death from alcohol poisoning." Surgeon General's Call to Action, at page 11.
- (k) Underage drinking "[c]an cause alterations in the structure and function of the developing brain, which continues to mature into the mid-to-late twenties and may have consequences reaching far beyond adolescence." Surgeon General's Call to Action, at page 11.
- (l) Underage drinking "[c]reates secondhand effects that can put others at risk. Loud and unruly behavior, property destruction, unintentional injuries, violence, and even death because of underage alcohol use afflict innocent parties. For instance, about 45 percent of people who die in car crashes involving a drinking driver under the age of 21 are people other than the driver." Surgeon General's Call to Action, at page 11.
- (m) Law enforcement agency responses to disturbances involving underage consumption of alcoholic beverages at gatherings at or on dwelling units, private residences or other private property frequently require the use of

extensive public resources. Further, when law enforcement personnel respond to such disturbances it limits their ability to respond to other service calls in the community, thereby placing the community at increased risk. Law enforcement is not currently reimbursed for their expenses when called to a gathering at or on a dwelling unit, private residence or other private property.

- (n) The prohibitions found in this article are reasonable and expected to deter the possession and consumption of alcoholic beverages by persons under the age of 21 by holding responsible persons who encourage, are aware of, or should be aware of, the illegal conduct, yet fail to take steps to prevent it. In addition, the revenue received by the city, after cost reimbursement to the responding law enforcement agency, will be directed toward law enforcement strategies and prevention programs in the city.

Sec. 6-212. - Title.

This article shall be referred to as the "Jonesboro Social Hosting Ordinance."

Sec. 6-213. - Definitions.

The words, terms, and phrases used in this article shall have the meanings ascribed to them in this Section 6-213. If no meaning is ascribed for a particular word, term, or phrase in this Section 6-213, then said word, term, or phrase shall have the meaning set forth in Section 6-2 of Article I of Chapter 6 of this Code, if applicable, or the generally accepted definition of said word, term, or phrase if no definition appears in Section 6-2 of Article I of Chapter 6.

- (a) "Dwelling unit" means, without limitations, any of the following:

(1) Any single and/or multi-family residence including, but not limited to, any apartment, cabin, condominium, townhouse, duplex, house, or log cabin, and the land on which it is located, whether owned, leased, rented, or occupied for no compensation by the occupant or occupants;

(2) Any mobile home and the land upon which the mobile home is located, whether or not rent is paid for the mobile home, for the land upon which the mobile home is located, or for both;

(3) Any recreational vehicle, whether located on privately-owned or publicly-owned property, and whether rent or not is paid for the recreational vehicle, and the land upon which the recreational vehicle is located.

- (b) "Gathering" means an assembled group of two or more people for the purpose of a social occasion or activity.

- (c) "Legal guardian" is a person who is lawfully vested with the power and charged with the duty of taking care of an underage person.
- (c) "Other private property" includes the following locations when said location is: i) occupied by one or more persons on a temporary or permanent basis; and/or ii) occupied as a dwelling, permanent residence, or temporary residence for a gathering or for any other social function; and/or iii) owned, leased, rented, or used with or without compensation:
- a. A hotel or motel room;
 - b. An assembly hall or meeting room;
 - c. A common room of a dwelling unit used for a gathering (e.g., a recreation room of an apartment building or a common room of a condominium complex);
 - d. A site in a privately-owned campground;
 - e. A privately-owned vacant lot; or
 - f. Privately-owned land or real estate of any type.
- (e) "Parent" means any person who is a natural parent, an adoptive parent, a foster parent, a step-parent, or a person who stands in loco parentis.
- (f) "Person who has a right of possession" means, with respect to a private residence or other private property, as follows:
- (1) Owner of the dwelling unit, private residence, or other private property;
 - (2) The record owner of the title to the property as of the time of the gathering regardless of where that person currently resides;
 - (3) Tenant or lessee of the dwelling unit, private residence, or other private property;
 - (4) Landlord of another person who has a right of possession in the dwelling unit, private residence, or other private property;
 - (5) The person or persons who are in charge of the dwelling unit, private residence, or other private property; or
 - (6) Social host (as defined in Section 6-213(i) below).
- (g) "Private residence" means the following:

(1) A dwelling unit, whether occupied on a temporary basis, whether occupied as a dwelling or for a gathering or other social function, and whether owned, leased, rented, or used with or without compensation;

(2) Any other item on the same land parcel as the dwelling unit, which includes but is not limited to, any of the following: an animal pen, an animal shed, a barn, a boat dock, a boat house, a cabana, an equipment shed, a free-standing office, a garage, a gazebo, a granary, a hot tub, a hunting cabin, a corn crib, a sauna, a stable, a studio, a swimming pool, a private office, a shed, a silo, a tent, a tool shed, a tree-house, a tractor, or a vehicle of any type or nature;

(3) Other items or areas accompanying or on the same land parcel as the dwelling unit, whether improved or unimproved, such as a yard (whether fenced or unfenced), patio, outdoor grilling or eating area, open fields, jetty, pier, dock, or lake shore;

(4) Water bodies contiguous to or on the same land parcel as a dwelling unit, such as a basin, bayou, brook, creek, dam, lagoon, lake, marsh, pond, river, stream, or swamp.

(h) "Reasonable steps" mean steps that include, but are not limited to:

(1) Controlling access to alcoholic beverages;

(2) Controlling the quantity of alcoholic beverages;

(3) Verifying the legal minimum drinking age of persons at the gathering by inspecting drivers licenses or other government-issued identification cards of all those persons in attendance; and

(4) Supervising and monitoring the activities of underage persons at the gathering.

(i) "Social host" means:

(1) The person or persons who organize, supervise, officiate, conduct or control a gathering at or on a dwelling unit, a private residence, or other private property owned, leased, or otherwise controlled by that person or those persons; and

(2) The person or persons receiving money or any other type of consideration for granting access to a gathering at or on a dwelling unit, a private residence, or other private property owned, leased or otherwise controlled by that person or those persons.

(j) "Underage person" means any person under the age of 21.

Sec. 6-214. - Prohibition.

- (a) It shall be a violation of this article for a social host or any person who has a right of possession of a dwelling unit, a private residence, or other private property to knowingly host, permit, or allow a gathering to take place or continue at or on such dwelling unit, private residence, or other private property if any underage person at said gathering possesses or consumes any alcoholic beverage and the social host or person knows or reasonably should know, after taking all reasonable steps to prevent alcoholic beverage possession or consumption by the underage person, that the underage person is possessing or consuming any alcoholic beverage at the gathering.
- (b) It shall be a violation of this article for the parent or legal guardian of an underage person to knowingly allow that underage person to attend a gathering if that parent or legal guardian knows or reasonably should know that the underage person will possess or consume any alcoholic beverage at that gathering (except as may be permitted under O.C.G.A. § 3-3-23, as amended).
- (c) It is the duty of any person having a right of possession of a dwelling unit, a private residence, or other private property, who knowingly hosts, permits or allows a gathering at or on the dwelling unit, the private residence, or other private property, to take all reasonable steps to prevent the possession or consumption of alcoholic beverages by any underage person at the gathering. A breach of this duty shall be a violation of this article.
- (d) Any violation of O.C.G.A. § 3-3-23, as amended, shall also be a violation of this article.

Sec. 6-215. - Protected activities.

- (a) Nothing in this article should be interpreted to prohibit legally protected practices held at or on a dwelling unit, a private residence, or other private property that includes the possession and/or consumption of alcohol by persons under the age of 21:
 - (1) As part of religious practices on private property;
 - (2) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state and the consumption occurs on private property pursuant to and in accordance with that prescription; or

(3) When the parent or legal guardian of the underage person physically gives the alcohol to that underage person when in their own residence and while in their presence and as permitted under O.C.G.A. § 3-3-23, as amended.

(b) Notwithstanding the exemptions for protected activities found in section 6-215(a) of this article, if an underage person leaves said private property intoxicated where he or he was provided the alcohol and is found in public, then said furnishers of alcoholic beverages to that underage person shall be held responsible in the same manner as furnishers of alcoholic beverages to underage persons at non-protected activities.

Sec. 6-216. - Separate violation for each incident.

Each incident in violation of section 6-214 shall constitute a separate offense.

Sec. 6-217. - Enforcement authority.

The City police department, City code enforcement department, the City attorney, and any other person designated by the Mayor and City Council are authorized to administer and enforce the provisions of this article. The City police department, City code enforcement department, the City attorney, and any other person designated by the Mayor and the City council may exercise any enforcement powers provided by law.

Sec. 6-218. - Penalties and enforcement remedies.

- (a) Consistent with O.C.G.A. § 36-32-10(a), the first violation of O.C.G.A. § 3-3-23 shall also be a violation of this article. Any person who violates O.C.G.A. § 3-3-23 shall be punished by a fine of not more than the maximum fine for which the Georgia Statutes provide for a violation of O.C.G.A. § 3-3-23.
- (b) Any parent or legal guardian who violates section 6-214 (b) of this article may be assessed the maximum penalty for which the City's Code of Ordinances and Georgia State Statutes provide for a misdemeanor.
- (c) Any person who violates section 6-214 (a), (b), and/or (c) of this article has committed a public nuisance constituting an immediate threat to public health, safety, and welfare warranting summary abatement, and is guilty of violating section 34-81 of the City's Code of Ordinances, which section is set forth in Article III of Chapter 34 of the City's Code of Ordinances. Said individual shall therefore be subject to all penalty and enforcement procedures that apply to the commission of a public nuisance as set forth in sections 34-82, 34-83, and 34-86 of the City's Code of Ordinances."

SECTION FOUR

This Ordinance shall become immediately effective upon its adoption by the City Council.

SECTION FIVE

The Preamble of this Ordinance shall be construed to be, and is hereby incorporated by reference as if fully set out herein.

SECTION SIX

This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

SECTION SEVEN

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

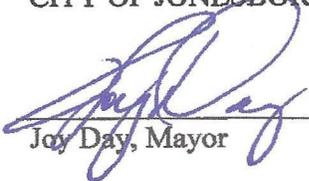
SECTION EIGHT

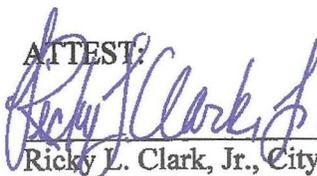
All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF JONESBORO, at a regular meeting of the Mayor and Council on the 13th day of April, 2015, by the following voting for adoption:

CITY OF JONESBORO, GEORGIA


Joy Day, Mayor

ATTEST:

Ricky L. Clark, Jr., City Clerk

APPROVED AS TO FORM:


Steven M. Fincher, City Attorney