

STATE OF GEORGIA }
CITY OF EASTMAN }
 }
Ordinance 2024-011-A }

AN ORDINANCE TO AMEND CHAPTER 4 - ALCOHOLIC BEVERAGES, ARTICLE I:

SEC. 4-1 DEFINITION OF “RESTAURANT”;

SEC. 4-1 DEFINITION OF “CHURCH”;

SEC. 4-24(F) DISTANCE REQUIREMENTS PERTAINING TO RESIDENCES IN THE “RESTAURANT DISTRICT”;

SEC. 4-29.1. DEFINITION OF THE GEOGRAPHIC AREA OF THE “RESTAURANT DISTRICT”;

TO ADDITIONALLY PROVIDE FOR PROHIBITIONS AND REGULATIONS APPLICABLE TO THE “RESTAURANT DISTRICT” AND RESIDENCES AND/OR LIVING SPACES BY ENACTING SEC. 4-29.1(c)(9);

TO ADDITIONALLY PROVIDE AN ARTICLE PERTAINING GENERALLY TO PROHIBITIONS AND VIOLATIONS REGARDING ALCOHOL BY ENACTING ARTICLE VIII, SECTIONS 161 – 168; AND,

TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE ADOPTION AND EFFECTIVE DATES; AND, FOR OTHER LAWFUL PURPOSES.

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, entitled “Home Rule for Municipalities,” allows the General Assembly to provide by law for the self-government of municipalities and to that end is expressly given authority to delegate its power so that matters pertaining to municipalities may be dealt with without the necessity of action by the General Assembly; and,

WHEREAS, the Georgia legislature passed *The Municipal Home Rule Act of 1965*, codified under O.C.G.A. § 36-35-1, *et seq.*, authorizing municipal governments to adopt clearly reasonable ordinances, resolutions, or regulations for which no provision has been made by general law; and,

WHEREAS, the governing authority of the City of Eastman is the City Council; and,

WHEREAS, the City of Eastman, Georgia, has the legislative power to adopt ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law, and which are not inconsistent with the Constitution of the State of Georgia, or any charter provision applicable thereto; and,

WHEREAS, the governing authority of the City of Eastman desires to adopt a revised ordinance pertaining to alcohol, alcoholic beverages, points of sale, and implement additional prohibitions pertaining to same; and,

WHEREAS, the health, safety, and welfare of the citizens of Eastman, Georgia, will be positively impacted by the adoption of this Ordinance; and,

WHEREAS, the governing authority of the City of Eastman has read and considered the proposed Ordinance;

NOW THEREFORE, IT IS HEREBY ORDAINED by the City Council of the City of Eastman, pursuant to the authority vested in that body under the laws of the State of Georgia that the following amendments, editions and additions are hereby adopted:

Section 1.

The Code of Ordinances of the City of Eastman, **Chapter 4 – Alcoholic Beverages Article I** is hereby amended as follows:

Section 4-1 *Definitions* is hereby amended to substitute the following definition of *Church* as follows:

Sec. 4-1. Definitions.

Church means a permanent building in which persons regularly assemble for religious worship and the building is situated upon real estate owned by an entity qualified and registered as a non-profit organization with the Georgia Secretary of State or an exempt religious organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Section 4-1 Definitions is hereby further amended to substitute the following definition of Restaurant as follows:

Sec. 4-1. Definitions.

Restaurant shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place having a seating capacity of at least Fifty (50) people, and a full-service and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests. The serving of such suitable food shall account for at least fifty percent (50%) of revenues with the serving of spiritous

liquors to be consumed on the premises as only incidental thereto, excepting, however, restaurants in the “Restaurant District”, as defined in Sec. 4-29.1, where the seating capacity shall not be less than fifteen (15) and the serving of such suitable food shall account for at least twenty-five percent (25%) of revenues of said establishments.

Section 2.

The Code of Ordinances of the City of Eastman, **Chapter 4 – Alcoholic Beverages Article I** is hereby amended as follows:

Section 4-24 *Distance requirements from schools, churches, and other facilities*; Sec. 4-24(f) is hereby amended to exclude the ‘Restaurant District’ from restrictions pertaining to the sale of alcohol and the location of residences.

Section 4-24(f) is amending by providing as follows:

Sec. 4-24(f). No license controlled by this chapter shall be issued to any person, firm or corporation to sell or offer to sell spiritous liquors, alcohol, alcoholic beverage, distilled spirits, wine or malt beverages within Fifty (50) yards of a residence, said distance being measured (1) in a straight line from the front door of the structure from which Alcoholic Beverages are sold or offered for sale; (2) to the front door of the building of a residence. The provisions of this section shall not apply at any location for which a license has been issued prior to the adoption of this section, nor to the renewal of such license nor shall these provisions apply to restaurants in the “Restaurant District” as defined in Sec. 4-29.1.

Section 3.

The Code of Ordinances of the City of Eastman, **Chapter 4 – Alcoholic Beverages Article I** is hereby amended as follows:

Section 4-29.1 defining the “Restaurant District” at Sec. 4-29.1(b)(1) is hereby struck in its entirety and the following shall be in its place, together with a map of said district at Sec. 4-29.1(b)(2):

Sec. 4-29.1. - Restaurant district.

(b) The restaurant district shall consist of the properties within the area described below:

(1) Beginning at the southeast corner of the intersection of Fifth (5th) Avenue and Oak Street: along Oak Street to Second (2nd) Avenue, Left/East on Second (2nd) Avenue and along said Avenue to Main Street, Left/North on Main Street to Third (3rd) Avenue, Right/East on Third Avenue to King Street, Left/North on King Street to Fourth (4th) Avenue, Right/East on Fourth Avenue to Foster Street, left/North on Foster Street to Fifth Avenue, Left/West on 5th Avenue to the point of beginning.

(2) Restaurant District Map:



Section 4.

The Code of Ordinances of the City of Eastman, **Chapter 4 – Alcoholic Beverages Article I** is hereby amended as follows:

The regulations applicable to the Restaurant district are amended to include restrictions and requirements pertaining to residences and/or living spaces within said District by adding the following regulation as Sec. 4-29.1(c)(9), as follows:

Sec. 4-29.1. - Restaurant district.

Sec. 4-29.1(c) The following regulations shall apply to this section:

(9) Any building containing an establishment licensed to dispense alcoholic beverages by the drink for consumption on the premises that also contains a residence or private living space shall establish separate postal addresses for each and maintain independent and separate entrances/exits for each, without any common area, and both equipped with side hinged permanently mounted doors to assure that each is unconnected from the other.

Section 5.

The Code of Ordinances of the City of Eastman, **Chapter 4 – Alcoholic Beverages** is hereby amended to **add Article VIII pertaining generally to violations regarding alcohol:**

ARTICLE VIII

Sec. 4-161. **Drinking publicly on private property.**

It is unlawful for any person to publicly drink any alcoholic beverage on private property located within the city without the consent of the owner thereof.

Sec. 4-162. **Possession by minor.**

It is unlawful for any person who is under the age of 21 years to have in such person's possession, or under such person's control, at any place whatsoever in the city, any whiskey, wine, beer or other intoxicating beverages.

Sec. 4-163. **Liquor sales prohibited.**

It is unlawful for any person to keep in any quantity whatsoever in any house, booth, stall or any other place in the city, for the purpose of sale, any alcoholic beverage, other than as permitted in licensed establishments.

Sec. 4-164. **Drinking publicly on city property.**

It is unlawful for any person to publicly drink any alcoholic beverage on the streets, sidewalks, or public recreation areas of the city, except as permitted in the Restaurant District, Sec. 4-29.1.

Sec. 4-165. **Public display of alcoholic beverage.**

It is unlawful for any person to publicly display any alcoholic beverage in any container on the streets, sidewalks, parking lots open to the public, or public recreation areas of the city, except as permitted in the Restaurant District, Sec. 4-29-1.

Sec. 4-166. **Penalties and/or fines for violations.**

Penalties and/or fines for violation of this Article shall be as set forth in Sec. 1-8 "Fines and penalties for general violations".

Section 6.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set forth herein.

Section 7.

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

Section 8.

In the event any phrase of this Ordinance shall, for any reason, 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 Council that such invalidity, unconstitutionality, or unenforceability shall, to the extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable any of the remaining phrases and that all remaining phrases shall remain valid and of full force and effect.

Section 9.

To the extent any portion herein conflicts with State law, State law shall govern.

Section 10.

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

Section 11.

The effective date of this Ordinance shall be the date of its second reading.

This Ordinance adopted by a majority vote of the City Council at a public meeting at which a quorum of its members was present on the following dates:

First Reading: _____ 2024 Second Reading: _____ 2024

CITY OF EASTMAN

Graham Snyder, Chair

Attest:

April Sheffield, City Clerk

(SEAL)