



MEMORANDUM

To: Mayor & City Council
From: Steve Foote, AICP
 Community Development Director
Date: June 9, 2014
Subject: Discussion and 2nd Reading
 Revision to Chapter 4 Alcoholic Beverages, Location of Sales

BACKGROUND

A situation recently occurred that brought to light the fact that all businesses conducting the sale of any form of alcoholic beverages are currently required to comply with the same distance regulations. There is no distinction between an "ABC" type liquor store and a grocery store selling limited amounts of beer and wine.

Staff was asked to suggest an amendment to the alcohol regulations that may allow for a more reasonable approach to siting these (grocery and pharmacy type) retail establishments. This memorandum and the attached ordinance present an option for consideration by the City Council. During 1st reading it was also requested by the Council that staff delete the provision in 4-29(a) that allowed for a two hour extension of operating hours. That has been removed from the proposed ordinance.

DISCUSSION

As shown in the attached ordinance the City's regulations currently include three sections that prescribe location criteria for "package malt beverage licenses and package wine licenses"; "package distilled spirits licenses"; and all package licenses generally (Sec. 4-99(a-c)). The first two categories address the distance between these uses and church/school uses. The last category addresses the distance from areas zoned for one or two family residences.

Changes include: 1) the reference in 4-99(c) that refers the reader to Section 4-102 for exemptions, and 2) Section 4-102 which is a new paragraph that provides an exemption for "retail sales" and "food and beverage retail sales" uses from the distance requirement of 200 yards to properties zoned for single family or two family residential uses. These uses are defined as:

Retail Sales - Businesses involved in the sale, lease or rent of new or used products or merchandise to consumers. Typical uses include drug stores, department stores, florists, quick-service copy shops, TV and electronics stores, jewelry stores, camera shops, bike shops, sporting goods stores, office supply stores, furniture stores and apparel stores.

Food and beverage retail sales. Retail sale of food and beverages for off-premises consumption. Typical uses include groceries, liquor stores and wine stores.



The above exemption is based on compliance with each of the following two criteria. The area used for the display, sale, and storage of the regulated products shall not exceed six (6) percent of the GFA of the business/facility, and the business shall not be located on a property that directly abuts property zoned for single family or two family residential uses.

In attempting to arrive at an ideal percentage to use staff requested typical information from Publix, Walgreen's, Kroger and Walmart. At the time this memo was prepared we had not received any response from any of the contacted businesses. Information provided indirectly from Sprouts indicated that they use approximately four (4) percent of their GFA for these activities. Based on this information and other estimates staff is recommending the six percent limitation.

Staff also received a request from some on the Council to include a change to the maximum number of temporary permits that may be issued per calendar year from six to ten. This has been included in the attached ordinance.

RECOMMENDATION

Staff recommends approval of the proposed ordinance amending Chapter 4 on 2nd reading.

AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY OF DUNWOODY CODE OF ORDINANCES BY AUTHORIZING AN EXEMPTION TO RESIDENTIAL DISTANCE REQUIREMENTS FOR CERTAIN PACKAGE LICENSE HOLDERS; AND FOR OTHER PURPOSES

WHEREAS, the City of Dunwoody is charged with protecting the health, safety and welfare of the citizens of the City; and

WHEREAS, the City of Dunwoody’s Alcohol Beverages Ordinance, Chapter 4, currently requires that all establishments having a license for Package sales be set off from a residential dwelling by at least 200 yards; and

WHEREAS, in order to encourage a more walkable community and thus to encourage more grocery stores and other necessities retail businesses, who, as an accessory also sell beer and wine, closer to residential neighborhoods, the City desires to relax certain distance requirements for said retail stores; and

WHEREAS, the Mayor and City Council find that, under certain conditions, removing said distance requirements helps to encourage better health, safety and welfare for the City’s citizens; and

WHEREAS, the Mayor and Council further find that increasing the number of special events which may be sponsored by non-profit entities will help in creating a more cohesive community for the citizens of the City.

NOW, THEREFORE, the Mayor and City Council of the City of Dunwoody hereby ordain as follows:

Section 1: Alcohol Beverages, Chapter 4 of the City of Dunwoody Code, Article IV (Location of Sales), Section 4-99(c) (Distance from Churches, Schools, Etc.) is hereby amended, and new Section 4-102 (Exemptions) is hereby added, as follows:

Sec. 4-99. Distance from Churches, Schools, Etc.

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...

(c) No package license shall be issued for any place of business which is located within 200 yards of a private single-family or two-family dwelling in a zoning district that permits single- and/or two-family dwellings; provided, however, this prohibition shall not apply with respect to a private dwelling located in a zoning district in which alcoholic beverage outlets are authorized and which dwelling is on the same street as the premises for which a package license is applied, or as exempted in Section 4-102 herein.

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Sec. 4-102. Exemptions.

The distance restrictions contained in Section 4-99(c) of this Article shall not apply to a Retail Sales or Food and Beverage Retail Sales Establishment, as defined in Section 27-114, when requesting a Package Malt Beverage License or Package Wine License for off-site consumption, subject to meeting each of the following criteria:

- (1) The area dedicated to the display, storage and sale of the above products does not exceed six (6) percent of the gross floor area of the business/facility; and
- (2) The business is located within an independent building site or shopping center which is not directly abutting property zoned for single-family or two family residential uses.

Section 2: Chapter 4 of the City of Dunwoody Code is further amended by revising Article II (Licensing), Sections 4-28 and 4-29 to read as follows:

Sec. 4-28. Nonprofit Civil Organization Temporary Permit.

- (a) To be eligible to apply for a temporary permit to sell alcoholic beverages at an authorized event, a bona fide non-profit organization must be the applicant; a nonprofit authorization letter (Federal Form 501-C) must be produced; any required event permit must be obtained; and the authorized event for which the event permit is issued must be associated with and benefit the cause of a charitable or civic organization.
- (b) Pursuant to state law, a temporary permit shall authorize the organization to sell alcoholic beverages for consumption only on the premises for a period not to exceed one day, subject to all laws and ordinances regulating the time for selling such beverages; the temporary permit shall be valid only for the place specified in the permit; and no more than ten (10) such permits may be issued to the applicant organization in any one calendar year.
- (c) Each application for such a temporary permit shall be accompanied by a nonrefundable fee in an amount as set by resolution of the city council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council.

Sec. 4-29. Special Event Temporary Permit.

- (a) A retail consumption dealer may apply for an on-premises special event temporary permit.
- (b) No more than ten (10) such permits may be issued to any location in any one calendar year.
- (c) Each application for such a temporary permit shall be accompanied by a nonrefundable fee in an amount as set by resolution of the city council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council.

Section 3: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ____ day of _____, 2014.

Approved:

Michael G. Davis, Mayor

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk (Seal)

Cecil McLendon, City Attorney