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To: Mayor and City Council

From: Cory Betterson, Accountant II

Date: April 9, 2018

Subject: Second read of ordinance amending Chapter 4, Article II of the City’s Code of Ordinances to create an exception for wholesale dealers of alcoholic beverages that do not maintain an inventory of their products at their business location

ITEM DESCRIPTION

Second read of ordinance amending Chapter 4, Article II of the City’s Code of Ordinances to create an exception for wholesale dealers of alcoholic beverages that do not maintain an inventory of their products at their business location and provide for the licensing of alcohol brokers

BACKGROUND

Per the request of council, staff has updated the ordinance amendment to allow brokers to be exempt from the stipulations of 4-99(c) of our code, which prevents any business from obtaining an alcohol license if the business is located within 200 yards of a private single family or two family dwelling.

Furthermore, the ordinance amendment would impose a requirement of a Dunwoody alcohol license for alcohol brokers so that alcohol brokers are regulated under the same provisions applicable to retail licensees. Fees for an alcohol broker license are set forth by resolution.

ALTERNATIVES

Council may choose to reject staff’s recommendation to create an exception for wholesale dealers of alcoholic beverages that do not maintain an inventory of their products at their business location and provide for the licensing of alcohol brokers

RECOMMENDED ACTION

Second read to consider staff’s recommendation to provide an exception for wholesale dealers of alcoholic beverages that do not maintain an inventory of their products at their business location and provide for the licensing of alcohol brokers

Denis Shortal Mayor
Eric Linton, ICMA-CM City Manager
Sharon Lowery, CMC City Clerk

Pam Tallmadge City Council Post 1
Jim Riticher City Council Post 2
Doug R. Thompson City Council Post 3

Terry Nall City Council Post 4
Lynn Deutsch City Council Post 5
John Heneghan City Council Post 6

**AN ORDINANCE TO AMEND CHAPTER 4 (ALCOHOLIC BEVERAGES)
TO AMEND ARTICLE II (LICENSING) TO CREATE AN EXCEPTION
FOR WHOLESALE DEALERS OF ALCOHOLIC BEVERAGES THAT DO
NOT MAINTAIN AN INVENTORY OF PRODUCTS AT THEIR BUSINESS
LOCATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR
OTHER PURPOSES**

WHEREAS, the Mayor and Council of the City of Dunwoody (“City Council”) are charged with the protection of the public health, safety, and welfare of the citizens of the City of Dunwoody; and

WHEREAS, wholesale dealers of alcoholic beverages who maintain a place of business within the City of Dunwoody are currently required to comply with the same provisions applicable to retail licenses.; and

WHEREAS, the Mayor and Council wish to change the code to allow brokers of alcoholic beverages who do not maintain an inventory of products to operate as a Type A home occupation (See. Sec. 27-168(b)(1)) subject to the complete requirements of Sec. 27-168 *et. Seq.*; and

WHEREAS, the City intends to utilize this policy and procedures in all applications which warrant such oversight.

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA HEREBY ORDAIN THAT CHAPTER IV IS AMENDED AS FOLLOWS:

Section 1: Chapter 4, relating to Alcoholic Beverages is hereby amended by revising

Section 26 to read as follows:

Sec. 4-26. - Wholesale licenses.

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(a) Any wholesale dealer in alcoholic beverages who is licensed by the State of Georgia and who does not have a place of business in the city shall be granted a license to distribute such beverages in the city upon application for such license to the city manager, submittal of an annual renewal affidavit, and a statement that he understands the alcoholic beverage rules and regulations of the city and the conditions under which retail licenses are issued. Distributors whose principal place of business is a location other than the city shall pay a registration fee of \$100.00 as authorized by O.C.G.A. § 3-5-43 (or such fee as may be authorized by any future amendment or revision thereto).

(b) Any wholesale dealer in alcoholic beverages who is licensed by the state and who has a place of business in the city shall procure a license under the same provisions applicable to retail licensees. The application for a resident wholesale dealer's license shall be accompanied by the requisite 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.

(c) Any broker in alcoholic beverages as defined by O.C.G.A 3-1-2 who is licensed by the state and who has a place of business in the city shall procure

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a license under the same provisions applicable to retail licensees, however, such broker shall be exempt from the location requirements of Sec. 4-99(c). The application for a broker's license shall be accompanied by the requisite 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.

(ed) No person who has any direct financial interest in a license for the retail sale of distilled spirits shall be allowed to have any interest or ownership in any wholesale distilled spirit license.

(de) No retailer shall knowingly and intentionally purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall knowingly and intentionally sell any distilled spirits to any person other than a retailer licensed.

(ef) No alcoholic beverage shall be delivered to any retail sales outlet in the city except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

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Section 2

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

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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 3

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

Section 4

This Ordinance shall be codified in accordance with state law and the Code of the City of Dunwoody, Georgia. This Ordinance shall become effective upon the effective date of Georgia Senate Bill 17 2018.

SO ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DUNWOODY, GEORGIA this the ____ day of _____, 2018.

Approved:

Denis L Shortal, Mayor

Attest:

STATE OF GEORGIA
CITY OF DUNWOODY

Sharon Lowery, City Clerk
Seal

Approved as to Form and Content

City Attorney