

MEMORANDUM

To: Mayor and City Council
From: David Howell, City Attorney
Date: July 9, 2018
Subject: **First Read of Text Amendment to Chapter 4 to Allow For Sale of Alcoholic Beverages for on Premises Consumption Beginning at 11:00 am on Sundays**

ITEM DESCRIPTION

First read of text amendment to Chapter 4 to allow for sale of alcoholic beverages for on premises consumption beginning at 11:00 a.m. on Sundays, subject to the passage of a referendum.

BACKGROUND

With the passage of SB 17 counties and municipalities have the ability to authorize the sale of alcoholic beverages for on premises consumption beginning at 11:00 a.m. on Sundays, subject to the passage of a referendum. The referendum can be held in conjunction with the General Election on November 6, 2018 and would be conducted by DeKalb County Elections. The proposed ordinance alters the existing alcohol code to allow for Sunday sales of alcohol for on premises consumption beginning at 11:00 AM, however, the enactment of such change is conditioned on approval of the referendum. If the referendum were to fail, the alcohol code would not be amended and would remain unchanged.

The legal department and the City Clerk’s office have developed the following proposed timeline for moving forward with this ordinance.

July 9, 2018	First Read
July 23, 2018	Second Read & Approval
September 12, 2018	Call of the Election
October 18, 2018	Publish 1 st Notice of Election in Champion Newspaper
October 25, 2018	Publish 2nd Notice of Election in Champion Newspaper
November 6, 2018	Election Day

RECOMMENDED ACTIONS

Staff recommends adoption of the ordinance to allow the sale of alcoholic beverages beginning at 11:00 a.m. on Sundays and to authorize the City Clerk to proceed with the Call of the Election upon adoption of the ordinance.

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2018-XX-XX

AN ORDINANCE TO AMEND CHAPTER 4 (ALCOHOLIC BEVERAGES); TO AMEND ARTICLE V (BUSINESS REGULATIONS); TO AMEND SECTION 4-135 (HOURS OF OPERATION); TO CONDITION THE AMENDMENT ON APPROVAL OF A REFERENDUM, TO CALL FOR A REFERENDUM AT THE NOVEMBER GENERAL ELECTION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, Georgia State law previously prohibited the sale of alcoholic beverages for consumption on the premises prior to 12:30 P.M. on Sundays; and

WHEREAS, the Georgia General Assembly passed Senate Bill 17 to provide local communities the option to allow the sale of alcoholic beverages for consumption on premises beginning at 11:00 A.M. on Sundays, subject to approval by referendum; and

WHEREAS, the Mayor and Council want to give Dunwoody citizens the option to decide whether to allow the sale of alcoholic beverages for consumption on premises beginning at 11:00 A.M. on Sundays by holding a referendum on November 6, 2018 during the regularly scheduled general election; and

WHEREAS, the Mayor and Council believe that the change in hours should become effective immediately upon certification of the referendum results by the DeKalb County Elections Board.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA HEREBY ORDAIN:

Section 1: Chapter 4, relating to Alcoholic Beverages is hereby amended by revising Article V Section 135 to read as follows:

Sec. 4-135. - Hours of operation.

- (a) Package licensees shall not engage in the sale of alcoholic beverages except between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday and between the hours of 12:30 p.m. and 11:30 p.m. on Sunday. Package licensees shall not permit their places of business to be open except between the hours of 7:00 a.m. and 12:00 midnight, Monday through Saturday, or between the hours of 12:30 p.m. and 11:30 p.m. on Sundays, except that where the primary business of a malt beverage package licensee or wine package licensee is other than the sale of alcoholic beverages, such restrictive hours shall apply only with respect to the sale of malt beverages or wine.
- (b) Consumption on the premises licensees shall sell alcoholic beverages only between the hours of 9:00 a.m. and 2:00 a.m. on the following day, Monday through Saturday. Sunday sales may be made by eating establishments, as

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2018-XX-XX

defined herein, or by a private club between the hours of ~~12:30 p.m.~~ **11:00 A.M.** and 2:00 a.m. the following day, provided license for Sunday sales has been granted and the fee paid. Consumption on the premises licensees shall not allow alcoholic beverages sold under this subsection to be consumed after 2:30 a.m.

- (c) The business hours of wholesale dealers shall be between the hours of 6:00 a.m. and 11:00 p.m., Monday through Saturday. There shall be no sales on Sunday.

Section 2

- a. The Municipal Election Superintendent is requested to call an election to be held in conjunction with the statewide general election on Tuesday, November 6, 2018 for the purpose of submitting the question of Sunday sales in certain establishments licensed for on-premises consumption and hotels during the hours of 11:00 a.m. until 12:30 p.m., pursuant to O.C.G.A. Sec. 3-3-7, to the qualified electors of the City for approval or rejection.
- b. The Municipal Election Superintendent shall cause the date and purpose of the election to be published in the legal organ of the City once a week for two weeks immediately preceding the date thereof. The ballot shall have printed thereon the words:
- "() YES *Shall the governing authority of the City of Dunwoody be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for beverage purposes by the drink from 11:00 A.M. to 12:30 P.M.?*"
- () NO *distilled spirits or alcoholic beverages for beverage purposes by the drink from 11:00 A.M. to 12:30 P.M.?"*

All persons desiring to vote for approval of such Sunday sales shall vote "Yes" and those persons desiring to vote for rejection of such Sunday sales shall vote "No."

- c. The amendments to the City Code contained in contained in Section 1 of this Ordinance shall only become effective if approved by a majority of the qualified electors of the City of Dunwoody voting in the referendum.
- d. The amendments to the City Code contained in contained in Section 1 of this ordinance shall become effective immediately upon the certification of the results of the referendum if the ballot question is approved by the electors.
- e. The amendments to the City Code contained in Section 1 of this ordinance shall be void *ab initio* upon the certification of the results of the referendum if the ballot question is rejected by the electors.

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2018-XX-XX

Section 3

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

Section 4

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

Section 5

This Ordinance shall be codified in accordance with state law and the Code of the City of Dunwoody, Georgia.

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2018-XX-XX

SO ORDAINED, this ____ day of _____, 2018.

Approved by:

Attest:

Denis L. Shortal, Mayor

Sharon Lowery, City Clerk
(SEAL)

Approved as to Form and Content:

City Attorney