



4800 Ashford Dunwoody Road
Dunwoody, Georgia 30338
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To: Mayor and City Council

From: Cory Betterson, Accounting Generalist

Date: March 19, 2018, for submission on the agenda of the March 26th City Council Meeting

Subject: First read of ordinance amending Chapter 4 of the City's Code of Ordinances to provide for the licensing and regulation of brewpubs and sale of growlers

ITEM DESCRIPTION

First read of ordinance amending Chapter 4 of the City's Code of Ordinances to provide for the licensing and regulation of brewpubs and sale of growlers

BACKGROUND

With the growing popularity of craft beer and the recent passing of SB85, which allows alcohol manufacturers to sell directly to consumers, a brewpub has expressed interest about opening within city limits. The proposed amendment to the alcohol ordinance will allow for the licensing and regulation of brewpubs. Additionally, the proposed amendment will address the sale of growlers. Growlers are presently being sold in Dunwoody, but our ordinance does not clearly define what a growler is and what is required to sell them.

Local economies have benefitted from the steady growth of the brewing industry over the last few years. Neighboring cities have adopted a similar ordinance to the amendment being proposed to support the growth of this industry. The proposed ordinance would allow brewpubs to sale beer for consumption on the premises with a valid Dunwoody consumption on premises license as well as by the package with a valid Dunwoody retail package license. The sales made by the brewpub would be subject to the barrel production limitation prescribed in O.C.G.A. 3-5-36.

Additionally, the ordinance amendment specific to growlers will clearly define what a growler is and what is required by the business to make these sales. A retail package license will be required to sale growlers for consumption off the premises.

ALTERNATIVES

Council may choose to reject staff's recommendation to provide for the licensing and regulation of brewpubs and regulate the sale of growlers.

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



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RECOMMENDED ACTION

First read to consider staff's recommendation to provide for the licensing and regulation of brewpubs and regulate the sale of growlers.

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Sharon Lowery, CMC City Clerk

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STATE OF GEORGIA
CITY OF DUNWOODY

ORDINANCE 2018-04-xx

AN ORDINANCE TO AMEND CHAPTER IV (ALCOHOLIC BEVERAGES) TO PROVIDE FOR THE LICENSING OF BREWPUBS; TO AMEND ARTICLE 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, Georgia Law grants municipalities the authority to regulate the sale of alcoholic beverages within their jurisdiction; and

WHEREAS, the Mayor and Council of the City of Dunwoody wish to change the City of Dunwoody Code to allow the manufacturers of alcoholic beverages and brewpubs to conduct business within the City of Dunwoody.

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 I: Section 4-2 of the code is hereby amended as follows:

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form. In calculating the total annual gross food and beverage sales for any such establishment for the purpose of determining whether the establishment constitutes an eating establishment as defined herein, barrels of malt beverages sold to licensed wholesale dealers, as authorized pursuant to subparagraph (D) of paragraph (2) of O.C.G.A §3-5-36, or to the public for consumption off the premises in accordance with subparagraph (A) and (D) of paragraph (2), paragraph (3) and paragraph (4) of O.C.G.A. § 3-5-36, shall not be used.

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Growler means a bottle capable of being sealed with a tamper-proof cap, top or other seal for the purpose of complying with open container laws, and further provided that the container may hold less than twelve (12) ounces, but not to exceed sixty-eight (68) ounces, and is filled with malt beverage drawn from a barrel, cask, tank, or keg by a licensee, or an employee of a licensee, holding a package malt beverage license issued by the City of Dunwoody.

Section II: Section 4-24(a) is amended as follows:

Sec. 4-24. – Retail Package Licenses

(a) Applicants may apply for one or more of the following type retail licenses:

- (1) Package malt beverage license: Retail sale of malt beverages in the original package **and retail sale of growlers as authorized herein.***
- (2) Package wine license: Retail sale of wine in the original package.*
- (3) Package distilled spirits license: Retail sale of distilled spirits in the original package.*
- (4) Ancillary wine or malt beverage tasting license.*

Section III: Section 4-137 is amended as follows:

Sec. 4-137. - Delivery and storage.

- (a) **Except as may be otherwise specifically provided herein as to brewpubs, Alcoholic** beverages shall be delivered to and received at licensed premises in the original container and in a conveyance owned and operated by a licensed wholesale dealer (or a licensed common carrier acting for a wholesaler) with a permit from the city to make deliveries in the city. Alcoholic beverages shall be sold at retail only on the licensed premises.*
- (b) A retail licensee shall store alcoholic beverages only on the licensed premises and at no other place. All stock shall be available at all times for inspection by any authorized agent of the city. **Except as may be otherwise specifically provided herein as to brewpubs, Aa**Any alcoholic beverages*

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found in any retail licensee's stock which were not received from a wholesaler licensed to make deliveries in the city shall be subject to immediate confiscation.

Section IV: Section 4-138 is amended as follows:

Sec. 4-138. - On-premises consumption unlawful.

- (a) It shall be unlawful for any person to consume any alcoholic beverages on premises licensed for the sale of alcoholic beverages by the package. It shall be unlawful for any package licensee to open or break the package of any alcoholic beverages for a purchaser or to permit the consumption of alcoholic beverages on the licensed premises. This section shall not apply with respect to sales pursuant to a license for consumption on the premises.*
- (b) Notwithstanding the foregoing, the sale of growlers, as defined in subsection 4-2, is authorized for and by those licensees holding a package malt beverage license, with or without a package wine license, but not authorized under any circumstances for licensees holding a package distilled spirits license, and who do not sell, or offer for sell [sale], vehicular fuel. The filling of growlers with malt beverage drawn from a tap on a barrel, cask, tank, or keg on the premises shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or other provisions of this chapter, provided that no filled growlers may be consumed on the premises. Only professionally sanitized and sealed growlers may be filled and made available for retail sale. Each growler must be securely sealed and removed from the premises in its original sealed condition. In order to be securely sealed, the growler must be sealed with a tamper-proof cap or seal. With the exception of brewpubs pursuant to subsection (c), growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler.*
- (c) Notwithstanding any other provision of this chapter to the contrary, in the case of a brewpub holding a license to sell malt beverages by the package, growlers may be filled from barrels, casks, tanks, or kegs of malt beverages manufactured on the licensed premises, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36.*

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Section V:

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 VI:

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

Section VII:

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