

MEMORANDUM

To: Mayor and City Council
From: Richard Hathcock, Senior Planner
Date: February 10, 2020
Subject: Text Amendment
Chapter 4—Alcoholic Beverages

ITEM DESCRIPTION

This item is a request to consider zoning text amendments to *Chapter 4- Alcoholic Beverage Ordinance*. The proposed revisions are attached to this memo.

DISCUSSION

Staff has been approached by multiple City Councilmembers to develop entertainment districts similar to those that have been adopted by the City of Roswell, City of Alpharetta, and City of Woodstock. This ordinance would allow for open container within the boundaries shown within the ordinance, which is generally the Dunwoody Village.

Businesses wishing to participate within the confines of this ordinance shall place a sign by the door stating that their patron takes fully responsibility for their actions once they leave the establishment. These businesses shall not allow alcoholic beverages to be removed from their premises after midnight. The on-street limit shall be one (1) drink per person that shall not exceed 16 ounces and shall be placed in a clear plastic cup.

RECOMMENDATION

Staff recommends **APPROVAL**.

Planning Commission recommends **APPROVAL**.

AN ORDINANCE TO AMEND CHAPTER IV (ALCOHOLIC BEVERAGES) OF THE CITY OF DUNWOODY CODE OF ORDINANCES TO PROVIDE ADDITIONAL DEFINITIONS; OPEN CONTAINER PROHIBITIONS AND PROVISIONS; DEFINE ENTERTAINMENT CONTAINMENT DISTRICT; AUTHORIZE CERTAIN REQUIREMENTS FOR THE OUTDOOR CONSUMPTION OF ALCOHOL; REQUIRED SIGNAGE; AUTHORIZE ANCILLARY TASTING OF ALCOHOLIC BEVERAGES; 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 prohibits off-premises consumption of alcoholic beverages in the City; and

WHEREAS, in order to encourage a more business-friendly environment in the City’s entertainment district and foster a more pedestrian-friendly atmosphere, the Mayor and City Council desire to relax the City’s restrictions on outdoor consumption of alcohol purchased from a licensed consumption-on-the-premises dealer in the entertainment district; and

WHEREAS, the Mayor and City Council find that, under certain conditions, removing that restriction will foster the welfare of the citizens and be a vibrant addition to licensed establishments in the entertainment district.

NOW, THEREFORE, the Mayor and City Council of the City of Dunwoody HEREBY ORDAIN that Chapter IV is amended as follows:

Section I: Alcohol Beverages, Chapter IV of the City of Dunwoody Code, Article I (In General), Section 4-2 (Definitions) is hereby amended to include the additional terms with definitions as follows:

Barrel means 31 gallons when applied to brewers and 53 gallons when applied to distillers.

Brewer means a manufacturer of malt beverages.

Brewery a facility involved in the creation of malt beverages that produces fifteen thousand (15,000) barrels or more (or the equivalent) per year of malt beverages.

Distance means the measurement in horizontal lineal feet.

Distiller means a manufacturer. In the case of distilled spirits, "manufacturer" means any person engaged in distilling, rectifying, or blending any distilled spirits; provided, however, that a vintner that blends wine with distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits.

Growler means a container made of a material customary to the industry provided that the container is 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 12 ounces, but not to exceed 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.

Microbrewery means a facility involved in the creation of malt beverages that produces fewer than fifteen thousand (15,000) barrels per year.

Premises means a definite closed or partitioned establishment, whether a room, shop or building, wherein alcoholic beverages are sold or consumed. The term "premises" also includes any privately owned or leased courtyard or patio which is architecturally visibly defined.

Wine specialty shop means a retail establishment which has both package sales of wine and limited consumption on the premises of wine and draft craft beer.

Section II: That Chapter IV of the City Code, is further amended by adding a new Code Section 4-140, to be entitled "Open container prohibited," to Article V (Business Regulations), to read as follows:

Sec. 4-140. – Open container prohibited.

- (a) No bottle or other container of alcoholic beverages shall be opened or consumed by any person on the premises, upon which the place of business is conducted and licensed under this chapter, whether the bottle or other container so opened or consumed was bought or obtained at that place of business or elsewhere unless the premises is licensed for consumption on the premises under this chapter, except in accordance with the provisions of Sec. 4-143 in an entertainment district.
- (b) No establishment licensed under this chapter to sell alcoholic beverages shall allow a person to leave those premises with alcoholic beverages in an open cup, bottle, can or other open container, except in accordance with the provisions of Sec. 4-143 in an entertainment district. The provisions of this section shall not apply to city-sanctioned events.

Section III: That Chapter IV of the City Code, is further amended by adding a new Code Section 4-141, to be entitled "Open container provisions," to Article V, to read as follows:

Sec. 4-141. - Open container provisions.

(a) The purpose of this section is intended to set forth certain exceptions and provisions applicable only to licensees whose establishments:

(1) Are located within an entertainment district (as hereinafter defined).

(2) Possess a license to sell alcoholic beverages for consumption on the premises.

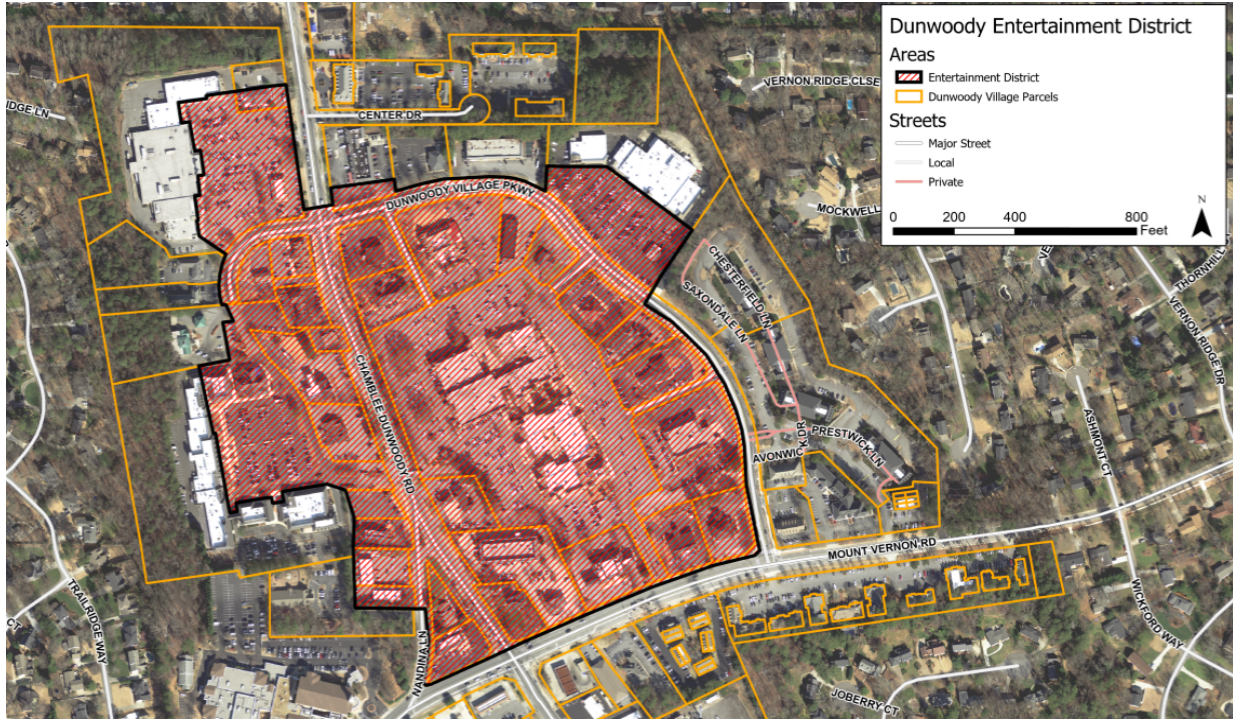
Section IV: That Chapter IV of the City Code, is further amended by adding a new Code Section 4-142, to be entitled "Definition of an entertainment containment district," to Article V, to read as follows:

Sec. 4-142. - Definition of an entertainment containment district.

For the purposes of this section only, the City's entertainment district is defined as follows:

Dunwoody Entertainment District:

The area generally bounded by the store frontage of Dunwoody Hall shopping center and The Shops at Dunwoody to the west; Dunwoody Village Parkway to the north and east, and Mount Vernon Road to the south. The district shall also include the parking lots to the east and west of Chamblee Dunwoody Road and any and all public plazas and sidewalks within the boundary. Also, for purposes of this definition, any licensed establishment fronting a street within the described entertainment containment district shall be considered to be located within the defined area.



Section V: That Chapter IV of the City Code, is further amended by adding a new Code Section 4-143, to be entitled "Outside consumption of alcoholic beverages permitted in a duly authorized Entertainment District," to Article V, to read as follows:

Sec 4-143. – Outside consumption of alcoholic beverages permitted in a duly authorized Entertainment District.

- (a) Container. No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed sixteen (16) fluid ounces in size. No person shall hold in possession on the public streets and sidewalks, plazas, in parks and/or any other public place within the defined area any open alcoholic beverage container which exceeds 16 fluid ounces in size. Any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a clear plastic cup for removal from the premises.
- (b) One (1) drink per person on-street limit. Within an entertainment district, any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises and/or any manufacturer (excluding distilleries) is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container that is not a can, bottle, or glass, for removal from the premises; provided, however, that no person shall

remove more than one (1) such alcoholic beverage per person from the licensed premises at a time.

- (c) Drinking from can, bottle, or glass prohibited. It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from an un/open can, bottle, or glass or to possess in an open can, bottle, or glass on the public streets, sidewalks, plazas, rights-of-way, and parking lots, whether public or private.
- (d) Purchase from licensed premises within the entertainment district. Alcoholic beverages consumed pursuant to this provision must be purchased from a licensed premises within the entertainment district.
- (e) Consumption limited to certain areas in entertainment district. No alcoholic beverage purchased pursuant to this provision may be consumed outside the entertainment district or upon any private property without the consent of the property owner.
- (f) Regulated hours. After midnight, consumption on premises licensees shall discontinue the sale of alcoholic beverages within clear plastic cups and shall not allow alcoholic beverages to be removed from their licensed premises.

Section VI: That Chapter IV of the City Code, is further amended by adding a new Code Section 4-144, to be entitled "Signage," to Article V, to read as follows:

Sec. 4-144. Signage.

Any establishment that allows patrons to leave an establishment with an alcoholic beverage as regulated herein shall have an 11-inch by 17-inch sign posted at the door within public view whereas patrons exiting the establishment can read the following:

"All patrons leaving this establishment with an alcoholic beverage do hereby take full responsibility to only consume an alcoholic beverage in the immediate entertainment district and any individual that leaves the permitted area with an alcoholic beverage is in violation of City Code and may be subject to a citation and/or fine."

Section VII: That Chapter IV of the City Code, is further amended by adding a new Code Section 4-145, to be entitled "No abrogation of other laws," to Article V, to read as follows:

Sec. 4-145. No abrogation of other laws.

The provisions of this article shall not be deemed to abrogate or otherwise impact any state law or local ordinance pertaining to public drunkenness, disorderly

conduct, driving with an open container or under the influence of alcohol, or similar laws.

Section VIII: That Chapter IV of the City Code, is further amended by adding a new Code Section 4-146, to be entitled "Ancillary tasting permitted," to Article V, to read as follows:

Sec 4-146. Ancillary tasting permitted.

- (a) The holder of a retail sales license shall be eligible for an ancillary tasting license to provide samples of malt beverages, spirits, and/or wine offered for sale to customers under the conditions set forth in this ordinance.
- (b) Tastings shall be on limited occasions either when a customer requests a sample of a malt beverage, spirit, or wine offered for sale within the premises or in conjunction with sampling designed to promote malt beverage or wine appreciation and education.
- (c) Tastings shall not exceed two (2) ounces, and no person shall consume more than eight (8) ounces in any one day on the premises.
- (d) Tastings are permitted on the licensed premises only.
- (e) The annual fee for an ancillary tasting license shall be published in the adopted fee schedule for the City of Dunwoody.

Section IX: That Chapter IV of the City Code, is further amended as the reserved section numbers to Article V, to read as follows:

Secs. 4-147—4-161. - Reserved.

Section X: 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 _____, 2020.

Approved:

Lynn Deutsch, Mayor

STATE OF GEORGIA
CITY OF DUNWOODY

ORDINANCE 2020-XX-XX

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk (Seal)

City Attorney