

CITY OF DULUTH
STATE OF GEORGIA

ORDINANCE

WHEREAS, the General Assembly of Georgia passed HB 879 during the 2020 Regular Session amending provisions of state law which govern the regulation of alcohol by municipalities; and

WHEREAS, the City Council of the City of Duluth desires to amend portions of its Municipal Code governing the regulation of the sale of alcohol within the City of Duluth in accordance with this new State law and;

WHEREAS, the City Council further desires to make additional amendments to its Municipal Code governing the regulation of the sale of alcohol within the City of Duluth.

NOW THEREFORE, the City Council of the City of Duluth hereby ordains as follows:

PART I

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended by the creation of a new Section 3-113, Article I, Chapter 3 of the Duluth Code of Ordinances to read as follows:

Sec. 3-113 Delivery of Package Off Premises

- a. Retail Package Licensees: Notwithstanding any other provision in this Chapter, after providing a letter to the City Clerk of its intent to do so, licensees possessing a retail package license may deliver package beer, wine and/or liquor under the rules and restrictions set forth in O.C.G.A. § 3-3-10.
- b. Retail Consumption on the Premises: Notwithstanding any other provision in this Chapter, after providing a letter to the City Clerk of its intent to do so, licensees possessing a retail license for consumption on the premises may deliver package beer and wine under the rules and restrictions set forth in O.C.G.A. § 3-3-10.
- c. Penalty: In addition to any criminal penalties that may be provided by law, the City Clerk is authorized to enforce compliance with this section. Upon each violation of any provision of O.C.G.A. § 3-3-10 a licensee shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) and a suspension of the authorization to deliver alcohol for up to thirty (30) days.

PART II

The Council of the City of Duluth hereby further ordains that the Duluth Code of Ordinances is hereby amended by deleting in its entirety Section 3-264, Article II, Chapter 3 of the Duluth Code of Ordinances and replacing said section with language to read as follows:

Sec. 3-264. - Sales restricted to premises only.

No retail consumption dealer shall sell or deliver any alcoholic beverages to any person except in said licensee's place of business, except as provided for in [section 3-113 \(Delivery of Package Off Premises\)](#), [section 3-260](#) (licensed caterers), [section 3-259](#) (outdoor golf course sales), [section 3-266](#) (patio sales) and [section 3-265](#) (open areas/outside consumption).

PART III

The Council of the City of Duluth hereby further ordains that the Duluth Code of Ordinances is hereby amended by deleting in its entirety Section 3-112, Article I, Chapter 3 of the Duluth Code of Ordinances and replacing said section with language to read as follows:

Sec. 3-112. - Hours of operation.

(a) Consumption on the premises.

(1) 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. The sale of beer and/or wine for consumption on the premises is permitted on Sundays from 11:00 a.m. until 12:00 Midnight in any licensed establishment which derives a minimum of ~~sixty (60)~~ **fifty percent (50%)** of its total annual gross sales from the sale of prepared meals or food and in any licensed establishment which derives at least as much of its total annual gross income from the rental of rooms for overnight lodging

(2) No dealer shall remain open:

- a. Between 2:30 a.m. and 4:30 a.m. Monday through Sunday;
- b. At any time in violation of a local ordinance or regulation or of a special order of the city clerk, chief of police, city manager, or their designee.

(b) *Retail package spirituous liquor.* No retail license holder holding a license under the ordinance from which this chapter is derived shall furnish, sell, or offer for sale any spirituous liquor or distilled spirits by the package except between the hours of 8:00 a.m. to 11:45 p.m. Monday through Saturday and ~~12:30 p.m.~~ **11:00 a.m.** until ~~11:30 p.m.~~ **12:00 a.m. (midnight)** on Sunday. No retail license holder shall furnish, sell, or offer for sale any spirituous liquor or distilled spirits by the package at any time in violation of state law, local ordinance or regulation, or special order of the city clerk, city manager or their designee.

(c) *Retail package malt beverage and wine.* Retail licensees shall not engage or permit 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.~~ **11:00 a.m.** and ~~11:30 p.m.~~ **12:00 midnight** on Sunday. No retail license holder shall furnish, sell, or offer for sale any beer/malt beverage or wine at any time in violation of state law, local ordinance or regulation, or special order of the city clerk, city manager or their designee.

(d) *Wholesale dealer.* The hours during which the sale of alcoholic beverages may be conducted in the city by any wholesale dealer licensed hereunder shall be from 6:00 a.m. to 11:00 p.m., exclusive of Sundays.

(e) *Alcohol sales on election day.* The sale of alcoholic beverages shall be legal on any election day. This authorization is approved by the city pursuant to the provisions of Georgia Laws, 1985, page 1508. Notwithstanding any other provisions of this article, it shall be unlawful for any person to sell alcoholic beverages within eighty-four (84) yards (two hundred fifty (250) feet) of any polling place or of the outer edge of any building within which such polling place is established on primary or election days.

PART IV

The Council of the City of Duluth hereby further ordains that the Duluth Code of Ordinances is hereby amended by deleting in its entirety Section 3-340, Article III, Chapter 3 of the Duluth Code of Ordinances and replacing said section with language to read as follows:

Sec. 3-340. - Drive-in window or curb service.

(a) It shall be unlawful to sell and dispense alcoholic beverages from a "drive-in" or "service" window.

~~(b) Curb service or other sales of alcoholic beverages outside the building licensed to sell is expressly prohibited except as may be permitted by [section 3-260](#) (licensed caterers), [section 3-259](#) (outdoor golf course sales), and [section 3-266](#) (patio sales).~~

PART V

The Council of the City of Duluth hereby further ordains that the Duluth Code of Ordinances is hereby amended by deleting in its entirety Section **3-285**, Article III, Chapter 3 of the Duluth Code of Ordinances and replacing said section with language to read as follows:

Sec. 3-285. – Retail Package Liquor Store Tasting Events.

- (a) Retail package liquor stores may conduct up to fifty-two (52) tasting events per calendar year.
- (b) Prior to holding a tasting event under this section, the licensee shall provide written notice to the City Clerk's office.
- (c) Tasting events as provided for in this section shall only be authorized to take place on the licensed premises and during the hours of operation provided for by Section 3-112 of this Chapter.
- (d) Tasting events may last no longer to four hours and are limited to one event per day.
- (e) Only alcoholic beverages that the licensee is licensed to sell on the licensed premises and which are part of the licensee's inventory may be served during a tasting event under this Section.
- (f) During a tasting event under this section, only one type of alcoholic beverage may be offered (i.e. malt beverages, wine or distilled spirits). Provided however, that multiple brands of one type of alcohol may be offered so long as no more than four (4) packages are open at any one time.
- (g) Packages opened for the purposes of a tasting event may not be sold, but should be kept locked in a secure room except when in use during the tasting event.
- (h) If the event is for malt beverages a customer shall not be served more than eight ounces of malt beverage during the event. If the event is for wine, a customer shall not be served more than five ounces of wine during the event. If the event is for distilled spirits, a customer shall not be served more than one and one-half ounces of distilled spirits during the event.

- (i) Only food that is lawful to sell on the licensed premises may be offered as part of a tasting event, and such food shall be offered at no cost to the consumer.
- (j) Licensee must comply with any and all provisions set out in O.C.G.A. §3-15-2 and any and all regulations enacted by the Commissioner of the Department of Revenue.

The Council of the City of Duluth hereby further ordains that the Duluth Code of Ordinances is hereby amended by deleting in its entirety Section 3-382, Article III, Chapter 3 of the Duluth Code of Ordinances and replacing said section with language to read as follows:

PART VI

Sec. 3-282. - Wine, beer, and malt beverage tasting licenses in grocery stores.

- (a) A grocery store holding a package beer and wine license shall be eligible for a wine, beer and malt beverage tasting license to provide samples of wine, beer and malt beverages offered for sale to customers under the conditions set forth in this section.
- (b) Wine, beer and malt beverage sampling shall be on limited occasions when a customer requests a sample of a wine, beer or malt beverage offered for sale within the premises, or in conjunction with education classes and sampling designed to promote wine, beer and malt beverage appreciation and education.
- (c) Wine, beer or malt beverage tasting for customers shall be conducted only at a counter area constituting no more than ten (10) percent of the entire floor area of the premises.
- (d) Such sampling for customers shall be limited to no more than one (1) time per day, on the days of the week authorized by state law to sell beer and wine by the package, for a period of not to exceed two (2) consecutive hours. Samples shall not exceed two (2) ounces, and no customer shall consume more than eight (8) ounces in any two-hour period; and
- (e) The holder of a wine, beer and malt beverage tasting license may conduct educational classes not to exceed two (2) consecutive hours. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- (f) Wine, beer and malt beverage bottles shall be opened by the licensee or an employee only, and samples shall be poured only by the licensee and/or an employee.
- (g) No open containers of wine, beer or malt beverage shall be removed from the licensed premises.

(h) Holders of a tasting license of wine, beer and malt beverage tasting license shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.

(i) Such sampling and tasting is permitted within the enclosed portion of the premises only.

~~(j) The annual fee for an tasting wine, beer and malt beverage tasting license shall be two hundred dollars (\$200.00).~~

~~(k) Wine tastings on Sundays are prohibited.~~

PART VII

The Council of the City of Duluth hereby further ordains that the Duluth Code of Ordinances is hereby amended by deleting in its entirety Section 3-241, Article II, Chapter 3 of the Duluth Code of Ordinances and replacing said section with language to read as follows:

Sec. 3-241. - Alcohol handling permit; renewal.

(a) Any permit issued hereunder shall expire ~~one (1) year~~ **two (2) years** from the date of issuance ~~(two (2) years for owners, managers and non managerial employees of package stores)~~ unless earlier canceled by the city clerk or chief of police. All individuals (if still employed in such establishment) holding alcohol handling permits shall be required to submit an application to renew their permits in advance of the expiration date on forms prescribed by the city clerk. A minimum of seven (7) days shall be required for review prior to issuance of a renewed permit. If such renewal application is not made prior to the expiration date a penalty of fifty (50) percent of the renewal fee shall be imposed. If the permit expiration date falls on a weekend or holiday, no penalty shall be imposed so long as the renewal application is filed with the office of the city clerk before 5:00 p.m. on the next business day. Handling alcohol without a valid permit is expressly prohibited.

(b) The penalty for an individual being convicted or pleading guilty or entering a plea of nolo contendere for a violation of this article shall be punished by a fine of up to but not more than two hundred fifty dollars (\$250.00) unless otherwise stated.

PART VIII

The Council of the City of Duluth hereby further ordains that the Duluth Code of Ordinances is hereby amended by deleting in its entirety Section 3-335, Article II, Chapter 3

of the Duluth Code of Ordinances and replacing said section with language to read as follows:

Sec. 3-335. - Classification of licenses; fees.

The licenses listed below are the only licenses authorized to be issued by this article and each such license is a separate and distinct license and shall require the payment of separate license fees as provided for in this chapter. The fee for an alcohol handling permit shall be ~~seventy dollars (\$70.00)~~ ~~thirty-five dollars (\$35.00)~~ and ten dollars (\$10.00) per additional handling permit or for a replacement of a lost permit. The types of licenses, the restrictions on the issuance of each, and the fees for such licenses are as follows:

- (1) License permitting the sale of alcoholic beverages for consumption on the premises, three thousand five hundred dollars (\$3,500.00).
- (2) License permitting the sale of malt beverages and wine only, for consumption on the premises, one-thousand dollars (\$1,000.00).
- (3) License permitting the sale of wine only, for consumption on the premises, five hundred dollars (\$500.00)
- (4) License permitting the sale of malt beverages only, for consumption on the premises, five hundred dollars (\$500.00).
- (5) License permitting the sale of malt beverages and wine only for consumption through outdoor golf course sales, one hundred fifty dollars (\$150.00). Note that this license requires that the licensee also hold a license described in subsection (1) or subsection (2) above.
- (6) License permitting the sale of malt beverages and wine for consumption on the premises, and manufacture or brewing of beer for retail consumption on the premises and solely in draft form through operation of a brewpub, two hundred fifty dollars (\$250.00). Note that this license requires that the licensee also hold a license described in subsection (1) or subsection (2) above.
- (7) License permitting the sale of alcoholic beverages only for consumption off the premises by a licensed alcoholic beverage caterer, one hundred fifty dollars (\$150.00) and fifteen dollars (\$15.00) per event. Note that this license requires that the licensee also hold a license described in subsection (1) above.
- (8) License permitting the sale of malt beverages and wine only for consumption off the premises by a licensed alcohol beverage caterer, one hundred dollars (\$100.00) and fifteen dollars (\$15.00) per event. that this license requires that the licensee also hold a license described in subsection (1) or subsection (2) above.

(9) License permitting the sale of alcoholic beverages only for consumption through indoor commercial recreational establishment sales, seven hundred fifty dollars (\$750.00). Note that this license requires that the licensee also hold a license described in subsection (1) above.

(10) License permitting the sale of malt beverages and wine only for consumption through indoor commercial recreational establishment sales, five hundred dollars (\$500.00). Note that this license requires that the licensee also hold a license described in subsection (2) above.

(11) License permitting the sale of alcoholic beverages for consumption on the premises for a special events facility, one thousand five hundred dollars (\$1,500.00).

(12) License permitting the sale of malt beverages and wine for consumption at a special event by special events vendor, one hundred fifty dollars (\$150.00).

(13) License permitting the sale of malt beverages and wine for consumption on the premises of a performing arts facility, one thousand dollars (\$1,000.00).

(14) License permitting the sale of all alcoholic beverages consumption on the premises of a performing arts facility, three thousand five hundred dollars (\$3,500.00).

~~(15) License permitting wine and beer tasting at a grocery store, two hundred dollars (\$200.00).~~

(16) License permitting the retail sale of package spirituous liquors, five thousand dollars (\$5,000.00).

(17) License permitting ancillary sales, malt beverages (one hundred dollars (\$100.00)), wine (one hundred dollars (\$100.00)) or both (two hundred dollars (\$200.00)).

(18) License permitting the sale of all alcoholic beverages for consumption on the premises of a tavern, four thousand dollars (\$4,000.00).

(19) License permitting the sale of beer and wine only for consumption on the premises of a tavern, twelve hundred fifty dollars (\$1,250.00).

(20) License permitting the sale of alcoholic beverages for consumption in an open area, fifty dollars (\$50.00).

(21) License permitting the offering of wine and beer in a package wine tasting room, one hundred dollars (\$100.00).

(22) License permitting the sale of malt beverages in growlers, five hundred dollars (\$500.00).

- (23) Any request to amend any provision of a license granted under this article is subject to an additional one hundred fifty dollar (\$150.00) administrative application fee.
- (24) License permitting retail package malt beverages, five hundred dollars (\$500.00).
- (25) License permitting retail package wine, five hundred dollars (\$500.00).
- (26) License permitting the sale of alcoholic beverages for caterer off the premises by a nonresident, fifty dollars (\$50.00).
- (27) License permitting the sale of package beer and wine in specialty gift shops, one hundred dollars (\$100.00).
- (28) Art shop license; two hundred fifty dollars (\$250.00).
- (29) Rental fee for alcohol beverage sales advertisement signage twenty-five dollars (\$25.00), plus a deposit equivalent to the replacement cost.
- (30) License permitting wholesaler—Wine only, five hundred dollars (\$500.00).
- (31) License permitting wholesaler—Beer and malt, five hundred dollars (\$500.00).
- (32) License permitting wholesaler—Beer/wine combination, seven hundred fifty dollars (\$750.00).
- (33) License permitting wholesaler—Spirituuous liquors, five thousand dollars (\$5,000.00).
- (34) License permitting brewery for beer/malt beverages, five thousand dollars (\$5,000.00).

PART IX

The Council of the City of Duluth hereby further ordains that the Duluth Code of Ordinances is hereby amended by deleting in its entirety Section 3-364, Article III, Chapter 3 of the Duluth Code of Ordinances and replacing said section with language to read as follows:

Sec. 3-364. - Sales to underage or intoxicated persons prohibited.

- (a) No licensee hereunder shall serve or sell alcoholic beverages to:
 - (1) Any person under the age of twenty-one (21) years of age,
 - (2) Or to any person in an intoxicated condition.

(b) No licensee or employee thereof shall sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon on any day or at any time when the sale or consumption is prohibited by law.

(c) It shall be a violation not to require and properly check identification to ensure an underage person is not sold, served, or has in his or her possession alcoholic beverages while in a licensed establishment. For the purpose of this subsection "identification" means any document issued by a governmental agency containing a description of the person, such person's photograph or both, and giving such person's date of birth, including but not limited to a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate, or any traffic citation and complaint form.

(d) The penalty for an individual found in violation of this section shall be as follows:

(1) For the first offense in a 36-month period, a fine of no more than five hundred dollars (\$500.00) and the permit holder shall be required to re-take the mandatory alcohol training class provided by the city within ninety (90) days of receipt of the notice sent by the city.

(2) For the second offense within a 36-month period, a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00). In addition, the individual's alcohol handling permit shall be suspended for a period of up to one (1) year.

(3) For the third offense within a 36-month period, a fine of one thousand dollars (\$1,000.00). In addition, the individual's alcohol handling permit shall be revoked.

(e) Any licensee who has an establishment where a violation of this section or O.C.G.A., § 3-3-23 has occurred by employees, managers, or owners of a licensee shall be subject to a suspension of their license by the City Clerk for a period of 1 to 30 days.

~~(1) For the first violation within any 36-month period, a fine of up to five hundred dollars (\$500.00). In addition, the alcohol license of the establishment may be suspended for a period not to exceed ten (10) days.~~

~~(2) For the second violation within any 36-month period, a fine of not less than five hundred dollars (\$500.00) and not greater than one thousand dollars (\$1,000.00). In addition, the alcohol license of the establishment shall be suspended for a period not to exceed thirty (30) days.~~

(1) For the third violation of this Code Section or O.C.G.A. 3-3-23 within any 36-month period, the establishment's alcohol license shall be revoked.

~~(2) Any licensee who has an establishment where a violation of this section or O.C.G.A. § 3-3-23 has occurred by employees, managers, or owners of a licensee. In addition to the above penalties, the city clerk shall have the discretion to initiate revocation hearings as outlined in this article.~~

(5) As to the penalties in this subsection, if there is a complete change in the licensed establishment's owners, or a change in partners or stockholders representing seventy-five (75) percent of the outstanding stock or shares of the firm owning the licensed establishment, the violations under the old ownership shall not count against the new owners.

(6) For purposes of this subsection, a single event resulting in the issuance of citations to more than one individual shall be counted as one violation.

(f) Any licensee who has been suspended under subsection (e) above shall be required to post signs, to be provided by the city clerk, on the exterior doors of the establishment which contains the following language: "An employee or owner of this store has violated state law and City of Duluth Ordinances by selling alcoholic beverages to a minor" for the period of the suspension imposed in subsection (e).

(g) Any licensed establishment where a second violation of this section or O.C.G.A. § 3-3-23 has occurred by employees, managers, or owners within any 36-month period shall not be used as a vendor by the city for any purchases by the city until such time as there are no violations within the previous 36-month period.

(h) The city clerk may relieve the licensee of any penalties that otherwise may be assessed under subsections (d), (e) or (f) of this section if it can be shown to the city clerk's satisfaction that such licensee freely and of its own volition reported such specific violations for which it may be charged to the chief of police or city clerk prior to such violation coming to the attention of the authorities. Such a report must have been specific and not speculative or general in nature. Documented evidence of such activities shall include, but shall not be limited to, written evidence that the licensee has promptly reported such violations or attempted violations of this chapter. In addition, the licensee must have fully cooperated with authorities in correcting such violations and participating in the prosecution of any other violators.

(i) The city clerk or chief of police, in accordance with O.C.G.A. § 3-3-2.1, shall notify the state department of revenue of any violation (violation being defined as a conviction or entry of a plea of guilty or nolo contendere) of this section or the O.C.G.A. § 3-3-23 by any licensee.

(j) The provisions of this section shall apply to any violation which has not been fully adjudicated at the time of the effective date of its adoption.

IT IS SO ORDAINED THIS ____ DAY OF _____, 2020

Mayor Nancy Harris

Those councilmembers voting in favor:

Marsha Anderson. Bomar, Post 1

Marline Thomas, Post 2

Billy Jones, Post 3

Kelvin J. Kelkenberg, Post 4

Greg Whitlock, Post 5

Those councilmembers voting in opposition:

ATTEST: _____
Teresa S. Lynn, City Clerk