

ORDINANCE

STATE OF GEORGIA
GWINNETT COUNTY
CITY OF DULUTH

AN ORDINANCE TO ADDRESS ALCOHOL LICENSING FOR PROPERTIES ZONED PLANNED UNIT DEVELOPMENT (PUD)

WHEREAS, the City of Duluth has adopted a variety of regulations limiting the sale of alcohol to certain zoning districts; and

WHEREAS, the City of Duluth's alcohol sales regulations do not contemplate Planned Unit Developments (PUDs) as part of the current regulatory scheme; and

WHEREAS, the City of Duluth desires to clarify alcohol sales regulations for Planned Unit Developments (PUDs).

THEREFORE, the Mayor and Council of the City of Duluth, Georgia, hereby ordains as follows:

Section 1:

That the definitions of Art Shop, Performing Arts Facility and Tavern found in Section 3-103, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in their entirety and replaced with the following:

Sec. 3-103. - Definitions.

Art shop means a retail business located in the CBD zoning district or in a Planned Unit Development with an underlying zoning of CBD or in a Planned Unit Development where expressly permitted through a condition of zoning, devoted exclusively to providing art education that is limited to instructing in painting, sculpture, and similar crafts; or to selling and displaying portraits, paintings, sculptures, and similar art work and crafts. An art shop may sell art supplies in addition to providing art education or to offering artwork for sale. An art shop shall not allow any activities that would cause the business to be an "adult entertainment establishment" as defined in chapter 7, article XIV, sections 7-601 et seq. of this Code.

Performing arts facility shall mean and is limited to an establishment:

(1) Which is located in the CBD zoning classification or in a Planned Unit Development with an underlying zoning of CBD or in a Planned Unit Development where expressly permitted through a condition of zoning;

(2) Which has as its principal objective or business the presentation of live music, mainline dramatic arts, plays, theatre productions and stand-up comedy; and

(3) Which does not feature, show, allow, promote or advertise adult businesses as defined and regulated in chapter 7, article XIV of the Duluth Code, including but not limited to adult dancing establishments, adult mini-motion picture theatres, adult motion picture theatres, adult motion picture arcades and erotic dance establishments.

Tavern shall mean an establishment located in the CBD or in a Planned Unit Development with an underlying zoning of CBD or in a Planned Unit Development where expressly permitted through a condition of zoning and licensed to sell alcoholic beverages to be consumed on the premises.

Section 2:

That Section 3-250, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-250. - License permitting the sale of alcoholic beverages on the premises for consumption on the premises.

(a) No alcoholic beverages shall be sold for consumption on the premises or distributed for educational or instructional purposes in a wine and malt tasting room except under a license granted by the city clerk, as provided in this article.

(b) No license permitting the sale of alcoholic beverages for consumption on the premises shall be granted unless such person, business or proposed business falls under one (1) of the following categories, in accordance with the definitions and regulations set forth in this chapter: (1) Restaurant. (2) Tavern. (3) Brewpub. (4) Private club. (5) Special events facility. (6) Performing arts facility. (7) Hotel. (8) Lounge. (9) Indoor commercial recreational establishment. (10) Golf course. (11) Alcoholic beverage caterer. (12) Growler sales. (13) Grocery store. (14) Ancillary alcohol sales. (15) Temporary special event. (16) In a brewery, provided that only beer and malt beverages are sold and such establishment meets all requirements of O.C.G.A. § 3-5-24.1. (17) Wine bar.

(c) No license permitting the sale of alcoholic beverages for consumption on the premises shall be granted unless the business or proposed business is located in the CBD, HC-R, HC-A, C-2, M-1 or M-2 zoning classifications or in a Planned Unit Development with an underlying zoning of CBD, HC-R, HC-A, C-2, M-1 or M-2 or where in a Planned Unit Development where expressly permitted through a condition of zoning. Licenses for performing arts facilities shall not be granted unless such facility is located in the CBD zoning classification and has obtained a special use permit to operate as a performing arts facility. A license shall only be granted for a business that is a permitted use in its particular zoning district. No license shall be granted to any business which operates as an adult entertainment establishment as set forth in article XIV of chapter 7 of this Code.

Section 3:

That Section 3-255, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-255. - Taverns.

(a) An establishment may be licensed to sell alcohol for consumption on the premises as a tavern where the establishment meets all other applicable requirements under this chapter and:

(1) is located in the CBD zoning district or in a Planned Unit Development with an underlying zoning of CBD, HC-R, HC-A, C-2, M-1 or M-2 or where in a Planned Unit Development where expressly permitted through a condition of zoning

(2) Is equipped with direct access to adequate and sanitary bar equipment including but not limited to glassware, dishwashing facilities, and refrigerators; and

(3) At the time of the initial application, meets a ratio of one (1) restaurant to one (1) tavern in the CBD zoning district. The subsequent closure of restaurants after the initial granting of a tavern license shall have no negative impact on license renewal for a licensed tavern. (b) Establishments licensed as taverns shall prohibit smoking on the premises. (c) No individual under the age of twenty-one (21) shall enter or be allowed to enter a tavern unless he or she is accompanied by his or her parent, guardian, or spouse who is twenty-one (21) years of age or older. This subsection shall not apply to an individual while he or she is attending a live musical concert or live presentation of the performing arts for which he or she has paid an admission charge.

Section 4:

That Section 3-257, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-257. - Performing arts facility.

(a) Alcohol may be sold and/or dispensed at a performing arts facility only where the facility meets the definition for a performing arts facility set forth in section 3-103 (establishment located in the CBD zoning classification or in a Planned Unit Development with an underlying zoning of CBD or in a Planned Unit Development where expressly permitted through a condition of zoning); has its principal objective or business the presentation of live music, mainline dramatic arts, plays, theatre productions and stand-up comedy; and does not feature, show, allow, promote or advertise adult businesses as defined and regulated in chapter 7, article XIV of the Duluth Code, including but not limited to adult dancing establishments, adult mini-motion picture theatres, adult motion picture theatres, adult motion picture arcades and erotic dance establishments).

(b) A business meeting the definition of a performing arts facility under this Code shall be eligible to apply for and be considered for an annual license to allow alcohol consumption on the premises from the city clerk in the same manner as set forth in division 3 of this chapter.

(c) A business granted a performing arts facility license for consumption of alcohol on the premises shall be required to obtain all required licenses from the state and to follow all state and local laws, ordinances and rules governing the consumption of alcohol on the premises.

(d) Alcohol may also be sold and/or dispensed at a performing arts facility as defined in section 3-103 of this Code by a licensed caterer in the same manner set forth in section 3-260 of this Code without the need for the facility or the caterer to obtain a performing arts facility license.

(e) Alcohol may be sold or dispensed at a performing arts facility only at a bar located in the lobby area of the facility or by a waiter or waitress serving patrons within the facility on days where a performance will take place in the facility.

(f) In addition to the hours of sale requirements set out in section 3-112 of this division alcohol may not be dispensed at a performing arts facility earlier than one (1) hour before the start of a performance or later than one (1) hour after the performance has ended.

Section 5:

That Section 3-274, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-274. - Art shop license.

(a) The city clerk may grant an art shop license to an establishment which meets each of the following criteria:

(1) The business is located in the CBD zoning district or in a Planned Unit Development with an underlying zoning of CBD or in a Planned Unit Development where expressly permitted through a condition of zoning;

(2) The sale, service or consumption of alcohol is not the primary business of the licensed establishment;

(3) The establishment meets the definition of an art shop set forth in section 3-103 of this chapter; (4) The individuals applying for the license on behalf of the business meets all application requirements set forth in this chapter.

(b) An art shop licensed under this section may allow customers to bring in a bottle or bottles of wine and beer to be consumed on the premises. Customers must remove any unconsumed wine or beer from the premises.

(c) An art shop shall not store, keep, or handle any wine or beer belonging to the customer, and no owner, employee or agent of the art shop shall pour, handle or have any contact with the wine or beer.

(d) No customer of an art shop shall consume more than two (2) six (6) ounce servings of wine or two (2) twelve (12) ounce servings of beer during a three-hour period or four (4) six (6) ounce servings of wine or four (4) twelve (12) ounce servings of beer within a single business day.

(e) An art shop licensed under this section shall be subject to the other provisions of this code and state law. An art shop shall prohibit any one to consume alcohol who is under twenty-one (21) years of age or who is intoxicated.

(f) Art shops licensed under this section shall not be permitted to allow patrons to consume alcohol on the premises on Sundays.

Section 6:

That Section 3-280, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-280. - License permitting the retail sale of package malt beverages and wine.

(a) The sale of package malt beverages or wine or both is prohibited except under a license granted by the city clerk, as provided in this article.

(b) Except as expressly provided herein, no license permitting the retail sale of package malt beverages or wine or both shall be granted unless the applicant falls under one (1) of the following categories, in accordance with the definitions and regulations set forth in this chapter:

(1) Specialty gift shop.

(2) Grocery store.

(3) Convenience store.

(4) Growler sales.

(5) Deli and food market.

(6) Wine tasting room.

(c) Except as expressly provided herein, no license permitting the retail sale of package malt beverages or wine or both shall be granted to any applicant hereunder unless the proposed premises is located in the C-1, C-2, HC-R or HC-A zoning districts. or in a Planned Unit Development with an underlying zoning of C-1, C-2, HC-R, HC-A, or where in a Planned Unit Development where expressly permitted through a condition of zoning A deli and food market and specialty gift shop licensed for the retail sale of package malt beverages or

wine or both may be located in the C-1, C-2, HC-R, HC-A or CBD zoning districts or in a Planned Unit Development with an underlying zoning of C-1, C-2, HC-R, HC-A, or where in a Planned Unit Development where expressly permitted through a condition of zoning.

Section 6:

That Section 3-281, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-281. - Sale of growlers.

(a) The sale of package malt beverages in growlers shall be allowed in an establishment licensed for the sale of growlers located in the C-2 and CBD districts or in a Planned Unit Development with an underlying zoning of CBD or in a Planned Unit Development where expressly permitted through a condition of zoning. The sale of package malt beverages in growlers may not be sold at any establishment engaged in the sale of distilled spirits.

(b) Sale of growlers under this section shall require that after the growler is filled the growler must be sealed on the licensed premises with a tamper-proof plastic cap and may not thereafter be opened or consumed on the premises. Licensees or employees of the licensed establishment may fill or refill growlers with draft beer at a licensed location for retail package sales as provided herein in a growler not smaller than twelve (12) ounces in volume and not to exceed sixty-eight (68) ounces in volume.

(c) Establishments licensed to sell malt beverages in growlers under this section shall be authorized to sell or offer without charge samples of draft beer to patrons over the age of twenty-one (21) years. Samples shall not exceed three (3) ounces in volume nor shall any one (1) individual be offered more than four (4) samples within a 24-hour period.

Section 7:

That Section 3-284, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-284. - Wine bars.

(a) Notwithstanding any other provision of this chapter to the contrary, the city clerk is authorized to issue a wine bar license to businesses:

(1) Located in the CBD zoning district; or in a Planned Unit Development with an underlying zoning of CBD or in a Planned Unit Development where expressly permitted through a condition of zoning

(2) Which meet all other license application requirements set forth in this chapter.

(b) A wine bar established under this section may:

(1) Sell and serve beer and wine by the drink for consumption on the premises except on Sundays; and

(2) Sell wine by the package.

(c) Nothing in this subsection shall prohibit a wine bar from serving food, provided that it meets all of the requirements for restaurants in this Code and is properly permitted by the city.

Section 8:

That Section 3-301, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-301. - Issuance of licenses limited to designated area.

No license permitting the retail sale of package spirituous liquors shall be granted to any applicant hereunder unless the proposed premises is located in an area of the city which is zoned C-2, HC-R or HC or in a Planned Unit Development with an underlying zoning of C-2, HC-R, HC-A, or where in a Planned Unit Development where expressly permitted through a condition of zoning.

Section 9:

That Section 3-324, Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Duluth, Georgia, is hereby deleted in its entirety and replaced with the following:

Sec. 3-324. - Issuance of licenses limited to designated area.

No license permitting the wholesale distribution of alcohol shall be granted to any applicant proposing to locate within the city unless the premises is located in an area of the city which is zoned for (C-2, HC-R or HC or in a Planned Unit Development with an underlying zoning of C-2, HC-R, HC-A, or M-1 or where in a Planned Unit Development where expressly permitted through a condition of zoning.

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

IT IS SO ORDAINED this _____ day of _____ 2021.

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