

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF ALPHARETTA, GEORGIA TO AMEND CHAPTER 3 (ALCOHOLIC BEVERAGES) OF THE CODE OF THE CITY OF ALPHARETTA, GEORGIA; TO DELETE, MODIFY AND ADD PROVISIONS GOVERNING THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES; TO PROVIDE EXCEPTIONS APPLICABLE TO ART STUDIOS, GALLERIES AND COOKING CLASSES FROM CERTAIN REGULATIONS GOVERNING ON-PREMISES CONSUMPTION; TO DELETE, MODIFY AND ADD PROVISIONS GOVERNING ANCILLARY WINE TASTING LICENSES; TO DELETE, MODIFY AND ADD PROVISIONS GOVERNING BREWERIES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, Chapter 3 (Alcoholic Beverages) of The Code of the City of Alpharetta, Georgia provides regulations governing the sale of alcoholic beverages within the City; and

WHEREAS, the Mayor and Council of the City of Alpharetta ("City Council") are charged with the protection of the public health, safety, and welfare of the citizens of the City of Alpharetta; and

WHEREAS, the City Council has determined that it is appropriate from time to time to modify alcoholic beverage regulations to comport with current conditions; and

WHEREAS, the City Council desires to amend Chapter 3 (Alcoholic Beverages) of The Code of the City of Alpharetta, Georgia in order to delete, modify and add certain provisions regulating the sale of alcoholic beverages.

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

Section 1: Section 3-1 of The Code of the City of Alpharetta, Georgia (the "Code") is hereby amended by adding the following terms and definitions in their appropriate alphabetical order:

"Art Gallery. A retail establishment primarily engaged in, and which derives at least seventy percent (70%) of its total annual gross sales from, the sale or display of art books, paintings, sculptures, or other works of art; but specifically excluding libraries, book stores, theaters, and establishments where the display of works of art is incidental to its primary use."

"Art Studio. A retail establishment primarily engaged in providing instruction in painting, sculpture, drawing,

photography, craft work, fiber art, or other visual or graphic art techniques, and which derives at least seventy percent (70%) of its total annual gross sales from the sale of such services and art products related to such services; but specifically excluding body art studios and tattoo parlors."

Section 2: Section 3-40 of the Code is hereby amended by deleting same in its entirety and inserting in lieu thereof the following:

"Sec. 3-40. Locations where prohibited.

No alcoholic beverages may be sold by the drink for consumption on the premises where sold except in: (1) eating establishments regularly serving prepared food, with a full-service kitchen consisting of a four-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the county health department and the city fire marshal, prepared to serve food every hour they are open; (2) supermarkets or wine bars, where these establishments are permitted to seat forty-five (45) or more persons pursuant to applicable building, fire and safety codes in effect for the city; (3) cigar shops; (4) art galleries or art studios; or (5) hotels, motels or high rise office and apartment buildings. When located in hotels, motels and high rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure. Unless otherwise expressly exempted in this Chapter from this requirement, establishments not located in hotel or motels shall derive a minimum of fifty (50) percent of their total annual gross food and beverage sales from the sale of prepared meals or food (except that wine bars shall derive a minimum of forty (40) percent). Hotels or motels containing such establishments shall derive a minimum of fifty (50) percent of their total annual gross income from the sales of prepared meals or food and from the rental of rooms for overnight lodging. For the purposes of this Chapter, the term "hotel" or the term "motel" means an establishment that contains not less than thirty-five (35) separate rooms for overnight lodging. On or before the 20th day of each calendar month, each such establishment shall file a report of the previous calendar month's operation with the office of the director of finance verifying compliance with the above provisions. Such reports shall be filed on forms designated by the city. These forms are also used to report excise taxes on the sale of distilled spirits by the drink, which are also due by the tenth day of each calendar month. Any licensed establishment that fails to meet the appropriate percentage requirements for two (2)

consecutive months shall be subject to immediate revocation. An audit may be required at any time to ensure compliance with these provisions. Nothing in this section shall be deemed to prohibit hotel room service of alcoholic beverages."

Section 3: Section 3-41 of the Code is hereby amended by deleting same in its entirety and inserting in lieu thereof the following:

"Sec. 3-41. - Hours of sale.

Alcoholic beverages shall not be sold for consumption on the premises except:

- (a) Monday through Saturday between the hours of 9:00 a.m. and 2:00 a.m. of the following day; and
- (b) on Sunday from 12:30 p.m. until 2:00 a.m. on Monday in any licensed establishment which derives at least fifty (50) percent of its total annual gross food and beverage sales from the sale of prepared meals or food or which derives a minimum of fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging."

Section 4: Section 3-42 of the Code is hereby amended by deleting same in its entirety and inserting in lieu thereof the following:

"Sec. 3-42. Consumption sales only.

- (a) Except as may be otherwise expressly provided in this chapter, establishments holding a license to sell alcoholic beverages for consumption on the premises shall not hold a license for the sale of alcoholic beverages by the package.
- (b) The foregoing prohibition, however, shall not apply with respect to the following:
 - (1) Supermarkets and brewpubs, as defined in Sec. 3-1; provided, however, no such license shall include or authorize the sale of distilled spirits by the package; and
 - (2) Eating establishments, as defined in Sec. 3-1, may sell wine by the package for off-premises consumption, provided that no more than ten percent (10%) of the interior floor area of the establishment

is devoted to the display of package wine and no more than ten percent (10%) of the establishment's revenues derived from the sale of alcoholic beverages is derived from package wine sales. Notwithstanding the foregoing, the sales of wine by the package for off-premises consumption shall not be used in calculating the total annual gross food and beverage sales for the establishment for the purpose of determining whether the establishment constitutes an eating establishment as set forth in Sec. 3-1.

- (c) For the purposes of this chapter, where a person holds a license to sell alcoholic beverages by the package, including distilled spirits, at one establishment and a license to sell to sell alcoholic beverages for consumption on the premises at a contiguous establishment, and the licensed premises of each establishment are physically separate from the other, with the only interconnectivity between the establishments (if any) being an inside connecting service door or passage-way, such establishments shall be considered separate and distinct establishments, provided that:
- (1) each establishment operates under a trade name different from the other;
 - (2) all business transactions are kept separate;
 - (3) each establishment must operate in compliance with all other provisions of this Chapter and all other laws and regulations applicable to such business;
 - (4) each establishment has a separate entrance for the public and the establishments share no common entrance;
 - (5) the inside connecting service door or passage-way (if any) must be located behind the bar or service counter of each establishment or otherwise so situated or maintained as to be reasonably accessible only to the licensee or employees of the establishments, and only the licensee and employees of the establishments may use such door or passage-way; and
 - (6) all other conditions required by state regulations applicable to such contiguous operations are met."

Section 5: Section 3-46 of the Code is hereby amended by deleting same in its entirety and inserting in lieu thereof the following:

"Sec. 3-46. Brown-bagging or BYOB prohibited; exceptions.

It is prohibited for any person to bring his or her own alcoholic beverage (brown-bagging) into any retail establishment, without regard to whether such establishment is licensed to sell alcoholic beverages, for consumption on such premises.

(a) *Exceptions.* The foregoing prohibition is subject to the following specific exceptions:

- (1) *Furnishing of wine by patron of restaurant.* Any restaurant which is licensed to sell wine for consumption on the premises may permit a patron to bring into the restaurant one (1) unopened bottle of wine for consumption on the premises. In order for this provision to apply, the restaurant must establish a policy for permitting same and must charge a minimum corkage fee of ten dollars (\$10.00) per bottle. Nothing in this section shall be deemed to require a restaurant to establish such a policy. Any wine not consumed at a restaurant, shall be disposed of at the premises and not carried out in an open container, unless the restaurant is able to reseal and repackage the opened bottle of wine in accordance with Section 3-47.
- (2) *Patrons participating in cooking classes.* This section shall not prohibit any person who is participating in a cooking class offered by a retail establishment from bringing one (1) unopened bottle of wine into the retail establishment to consume with the meal prepared as part of such class provided:
 - (a) the retail establishment has a policy permitting a patron participating in a cooking class to bring an unopened bottle of wine into the retail establishment for consumption on the premises by the patron;
 - (b) the retail establishment does not charge a corking or other fee for same;
 - (c) the price of a cooking class offered by the retail establishment does not vary based on whether class participants will be permitted to bring wine into the retail establishment for consumption on the premises;
 - (d) no employee of the retail establishment under the

age of 18 shall be working in the establishment during the times such classes are offered; and (e) the retail establishment has an established closing time of no later than 10:00 p.m. Any opened bottle of wine not consumed at the retail establishment during the cooking class shall be disposed of at the premises and not carried out in an open container. All other applicable state and city laws, regulations and ordinances which address the use and serving of alcoholic beverages shall apply to this subsection.

- (b) For the purposes of this section, the term retail establishment shall not include a private hotel room or similar guest room or a private club."

Section 6: Article II of Chapter 3 of the Code is hereby amended by adding a new Section 3-49 to read as follows:

"Sec. 3-49. Art Gallery Exception.

An art gallery may obtain a license for the sale of alcoholic beverages for consumption on the premises without meeting the requirement that the establishment provides a full-service kitchen serving prepared foods or derives a minimum of fifty percent (50%) of its total annual gross food and beverage sales from the sale of prepared meals or food; provided that no more than ten percent (10%) of the establishment's total annual gross sales are derived from the sale of alcoholic beverages."

Section 7: Section 3-60 of the Code is hereby amended by deleting same in its entirety and inserting in lieu thereof the following:

"Sec. 3-60. Types of establishments where retail sale permitted.

- (a) No distilled spirits by the package shall be sold at retail except in: (1) retail establishments devoted exclusively to the retail sale of alcoholic beverages by the package; (2) retail establishments in which space has been set aside devoted exclusively to the retail sale of distilled spirits by the package, with ingress and egress provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building in which the facility is located, except as provided in item (3) of this subsection; or (3) in hotels, motels and highrise

office buildings where every public entrance to this use shall be from a lobby, hallway or other interior portion of the primary use structure.

- (b) Nothing in this section shall prohibit the retail sale within these establishments of liquid commodities and mixes normally used in the preparation and serving of distilled spirits."

Section 8: Section 3-160 of the Code is hereby amended by deleting same in its entirety and inserting in lieu thereof the following:

"Sec. 3-160. Ancillary wine tasting license; conditions.

The holder of a package wine license, with or without a package malt beverage license, but in no event with a package distilled spirits license, with licensed premises having a minimum of 200 square feet of floor space dedicated to the display of wine offered for sale, shall be eligible for an ancillary wine tasting license to sell or provide samples or tastings of wine offered for sale by the package to customers for consumption on the premises under the following conditions:

- (a) The licensee shall maintain on the premises and offer for sale by the package at least twenty-five (25) different brands of wine.
- (b) Wine sampling and tasting for customers shall only be conducted at a wine counter area constituting no more than ten percent (10%) of the entire floor area of the premises.
- (c) Wine samples shall not exceed two (2) ounces, and no customer shall consume more than eight (8) ounces in any calendar day.
- (d) Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.
- (e) No open containers of wine shall be removed from the licensed premises.
- (f) Wine sampling and tasting is only permitted within the enclosed portion of the premises.
- (g) Wine sampling and tasting is only permitted during the hours the licensed premises are authorized to provide package sales of alcoholic beverages; provided, however, no wine sampling and tasting shall be permitted on Sunday.

- (h) Wine sampling and tasting shall not be permitted prior to the City's approval of a package license holder's application for an ancillary wine tasting license and the package license holder's payment of the subject license fee. The annual fee for an ancillary wine tasting license shall be two hundred and fifty dollars (\$250.00), which fee may be revised from time to time by resolution of the mayor and council."

Section 9: Section 3-193 of the Code is hereby amended by deleting same in its entirety and inserting in lieu thereof the following:

"Sec. 3-193. Exception for breweries.

As a limited exception to the provisions of this chapter which implement and enforce the three-tier system for the manufacture, distribution and sale of malt beverages established under state law, a brewer's license authorizes the holder of such license to sell directly to the public on its licensed premises up to 3,000 barrels of malt beverages manufactured on such licensed premises per year for: (1) consumption on the premises; and (2) consumption off the premises (sales by the package), provided that such sales by the package shall not exceed a maximum of 288 ounces per consumer per day. Such retail sales are permitted on the days and at the times that the retail sale of malt beverages for consumption on the premises or by the package, as applicable, is authorized for other retailer licensees under this chapter. Under no circumstances shall such malt beverages be sold by a licensed brewer to a licensed retailer or retail consumption dealer for the purpose of resale. Any brewer engaging in the retail sales of malt beverages pursuant to this section shall remit all state and local excise taxes to the proper tax collecting authority. For the purposes of this article, "barrel" means thirty-one (31) gallons of malt beverages."

Section 10: It is the intention of the City Council and it is hereby ordained by the authority of the City Council that the provisions of this Ordinance shall become and be made a part of The Code of the City of Alpharetta, Georgia, and the codifier is authorized to make the specified deletions, insertions, additions, and to insert headings, article numbers and section numbers as and where appropriate.

Section 11: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 12: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

Section 13: Except for Section 9 hereof, this Ordinance shall become effective immediately upon adoption. Section 9 of this Ordinance shall become effective on September 1, 2017.

SO ORDAINED this _____ day of _____, 2017.

CITY OF ALPHARETTA, GEORGIA

By: _____
David C. Belle Isle, Mayor

COUNCIL MEMBERS

(SEAL)
Attest:

City Clerk

First Reading _____

Second Reading _____

Adopted _____