

ORDINANCE NO. 22-03

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF FOREST PARK, GEORGIA CLARIFYING THE DISTANCE REQUIREMENTS FOR ON-PREMISES CONSUMPTION OF ALCOHOL; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WITNESSETH:

WHEREAS, O.C.G.A. § 3-3-21, provides certain distance limitations for the sale of alcoholic beverages from schools, churches and other institutions;

WHEREAS, O.C.G.A. § 3-3-21(b)(3), specifically provides that licensees for the retail sale of alcoholic beverages for consumption on the premises only shall be subject to regulation as to distances from churches, schools, and college campuses by counties and municipalities; and

WHEREAS, it is proposed that the Code of Ordinances, City of Forest Park, Georgia be amended to clarify the distance requirements for consumption on the premises only;

Therefore, be it ordained by the Governing Body of the City of Forest Park, Georgia as follows:

SECTION 1. That Section 9-2-12(a) of the Code of Ordinances, City of Forest Park, Georgia, Georgia is hereby amended by deleting said section and replacing it the following in lieu thereof.

“Sec. 9-2-12(a). Except as provided for in Section 9-2-63, any business engaged in the sale of any alcoholic beverage shall comply with all distance requirements imposed by O.C.G.A. § 3-3-21 and any other applicable provision in Georgia law or in this Code.”

SECTION 2. That Section 9-2-63(a) of the Code of Ordinances, City of Forest Park, Georgia, Georgia is hereby amended by deleting said section and replacing it the following in lieu thereof.

“Sec. 9-2-63(a). (a)Business location. Subject to the specific prohibition set forth in O.C.G.A. § 3-3-21(e)(2), the premises licensed for sale of alcoholic beverages for consumption may be located anywhere within any commercial zoning distance of the City without respect to distances from other establishments.”

SECTION 3. Intention of the Governing Body. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Forest Park, Georgia, and the sections of the ordinance may be renumbered to accomplish such intention.

SECTION 4. Approval of Execution. The Mayor is hereby authorized to sign all documents necessary to effectuate this Ordinance.

SECTION 5. Attestation. The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate this ordinance, subject to approval as to form by the City Attorney.

SECTION 6. Codification and Severability.

(a) It is hereby declared to be the intention of the City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were upon their enactment believed by the City Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the City 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 City 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 section, paragraph, sentence, clause or phrase 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 City 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 sections, paragraphs, sentences, clauses, or phrases of the ordinance and that to the greatest extent allowed by law all remaining Sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 7. Repeal of Conflicting Provisions. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 8. Effective Date. This ordinance shall become effective immediately upon its adoption by the Mayor and City Council of the City of Forest Park as provided in the City Charter.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

SO ORDAINED this 4th day of April, 2022.

Mayor Angelyne Butler

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

ARTICLE G. - BREWERIES AND DISTILLERIES

Sec. 9-2-143. – Licenses and regulations generally.

The following regulations shall apply to licensed breweries and distilleries:

- (1) Subject to all applicable provisions of state law, a brewery or distillery licensee, or employee thereof, shall be permitted a limited exception under this article to taste draft beer, wine or distilled spirits at the licensed premises for quality control or educational purposes. At no time shall a brewery or distillery licensee and/or employee become intoxicated at the licensed premises.
- (2) An individual applying for a brewery or distillery license shall indicate on their application whether he or she intends to open and operate a brewery, distillery or brewpub.
- (3) All operations by a brewery or distillery shall be conducted within an enclosed building.
- (4) Nothing herein shall be interpreted as to prevent any brewery or distillery licensee from exercising any right or authority provided to it under state law.
- (5) The state regulations relating to the manufacture, sale, and distribution of malt beverages and distilled spirits, as revised from time to time, promulgated by the state revenue department, are hereby incorporated into and made a part of this chapter as if fully set out in this section.

Sec. 9-2-144. - Provisions applicable to breweries and distilleries only.

- (a) Breweries and distilleries shall be authorized to provide guided tours of their facilities, during which a "free tasting" of their products may be conducted. Said tours and tastings shall be permitted in accordance with the Official Code of Georgia, as amended from time to time.
- (b) No "free tasting" of products shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. any day of the week. In addition, no pouring or tasting shall be permitted on Sundays before 12:30 p.m. and after 11:30 p.m., or on any other days or times prohibited by state law. Promotional or educational tours shall also only be permitted within these allowed timeframes.
- (c) All products provided at the "free tasting" shall be served by a state-licensed representative of the facility and shall be products produced on-site by said facility.
- (d) The facility may elect to provide non-alcoholic food or beverages at no charge to customers or tour-attendees, either directly or indirectly.
- (e) As permitted by state law and subject to the restrictions therein, breweries and distilleries shall be authorized to operate an eating establishment and may offer for sale for consumption on the premises any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesaler.

- (f) No person who is a participant in an educational or promotional tour may bring alcoholic beverages obtained off the premises of the facility under any circumstances.
- (g) Souvenirs may be provided or sold, including souvenir containers that may be used in "free tastings" sponsored by the facility, in compliance with state law, as amended from time to time.
- (h) Except as set forth in this section, a breweries and distilleries shall be subject to all sections of this article.
- (i) Operation of a brewery or distillery shall prohibit such licensee from obtaining any other category of alcohol beverage license available under this chapter for the same premises.

Sec. 9-2-145. - Provisions applicable to brewpubs only.

- (a) A brewery licensee operating a brewpub shall be authorized to operate an eating establishment that shall be the sole retail outlet for such malt beverages and may offer for sale for consumption on the premises any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesaler.
- (b) Should a licensee operating a brewpub offer for sale other alcoholic beverages produced by other manufacturers on the premises of the brewpub, the licensee shall also be required to obtain an on-premises consumption license.
- (c) A licensee who is operating a brewpub shall be entitled by virtue of said license to sell alcoholic beverages by the package for consumption off the premises.
- (d) A licensee operating a brewpub shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesale dealers.
- (e) Except as set forth in this section, a licensee operating a brewpub shall be subject to all sections of this article.
- (f) Brewpubs may not pour or serve malt beverages between the hours of 12:00 a.m. and 8:00 a.m. any day of the week. In addition, no sale or pouring of malt beverages or wine shall be permitted on Sundays before 12:30 p.m. and after 11:30 p.m., or on any other days or times prohibited by state law. Where in conflict with the operating hours permitted for other establishments offering on premises consumption, the operating hours of this subsection shall control for brewpubs.

Sec. 9-2-146. - Prohibited locations.

It shall be prohibited to obtain a license under this Article G within the following areas of the city:

- (1) Within any residential zoning district or other prohibited zoning district established in the zoning ordinance; and
- (2) Within any area prohibited by state law.