

ORDINANCE 2019 - 006  
1st reading and Introduction: February 18, 2019  
2nd reading: March 4, 2019

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**AN ORDINANCE AMENDING THE CODE OF ORDINANCES RELATING TO THE POWDER SPRINGS ALCOHOLIC BEVERAGE ORDINANCE TO CREATE AN ENTERTAINMENT DISTRICT; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

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**WHEREAS**, the Mayor and Council of the City of Powder Springs are authorized to adopt ordinances regulating the sale, possession, and consumption of alcohol; and

**WHEREAS**, the Mayor and Council desire to amend the existing code of ordinances to create an entertainment district and set forth rules and regulations for the consumption of alcohol in open containers within an entertainment district.

**NOW THEREFORE**, the Mayor and Council of the City of Powder Springs find that in the interest of the public health, safety and welfare it does hereby ordain that the Code of Ordinances is amended as follows with deletions shown with a strike-through and additions shown as underlined:

SECTION ONE

The Code of Ordinances is amended by adding the definition of Open Container to Chapter 3, Article I, Section 3-2:

**Sec. 3-2. - Definitions.**

Open Container means any container of an alcoholic beverage which is immediately capable of being consumed from, or the seal of which has been broken.

SECTION TWO

The Code of Ordinances is amended by making the following changes adding to Chapter 3, Article II, Division 1, Section 3-48:

**Sec. 3-48. - Carry-in and carry out.**

(a) It shall be unlawful for any person operating any business establishment licensed to serve alcoholic beverages by the drink, or food, to permit the consumption of alcoholic beverages that are not purchased on the premises where they are consumed, except as otherwise provided hereunder including Section 3-74.

(b) It shall be unlawful for any pouring licensee to sell, or offer to sell, or to give, to any customer or patron any alcoholic beverages by the package or drink for carry out purposes except as provided in Section 3-74.

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SECTION THREE

The Code of Ordinances is amended by making the following changes to Chapter 3, Article II, Division 1, Section 3-69:

**Sec. 3-69. - Prohibited activities.**

- (a) No alcoholic beverages shall be sold, possessed, or consumed by any person in any school building or on any school ground.
- (b) Except as provided in subsection (d) hereof and Sec. 3-74, no alcoholic beverages shall be sold, possessed or consumed by any person in any city park except at a closed function as defined herein and only at the locations specified in the definition, or at any golf course facility.
- (c) It shall be unlawful for any person to consume or to have in his or her possession while driving or operating any vehicle on any public road or street any alcoholic beverage in any open or unsealed original container or cup, can, bottle or other open or unsealed container.
- (d) Notwithstanding anything herein to the contrary, a person may possess alcoholic beverages at a city-sanctioned event in the City Square so long as any such beverage is contained within a discreet container which would leave no visible indication as to the alcoholic content therein, unless such event is related to the city's Fourth of July or Christmas events, at which no alcoholic beverages shall be allowed.

SECTION FOUR

The Code of Ordinances is amended by adding a new Section 3-74 Chapter 3, Article II, Division 1, to read as follows:

**Sec. 3-74. Consumption of alcohol; entertainment districts.**

- (a) Except as provided in subsection (c) below, it shall be unlawful for any establishment licensed to sell or serve alcohol within the City of Powder Springs to dispense any alcoholic beverage in an Open Container for removal from the premises.
- (b) Except as provided in subsection (c) below, it shall be unlawful for any person to remove from any establishment licensed to sell or serve alcohol within the City of Powder Springs any Open Container of alcoholic beverage or to drink or attempt to drink any alcoholic beverage from any Open Container or to possess in any Open Container any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private, within the corporate limits of the city.
- (c) Within any area of the City of Powder Springs designated as an "entertainment district," as depicted on the maps attached and incorporated into this ordinance by reference hereto, the following regulations shall apply:

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- (1) Any establishment within the boundaries of an entertainment district licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, and in no other type of Open Container, for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such Open Container of alcoholic beverage at a time for removal from the premises.
- (2) No person shall remove at one time more than one Open Container of alcoholic beverage from the licensed premises.
- (3) No Open Container in which an alcoholic beverage is dispensed and removed from the licensed premises within an entertainment district shall exceed 16 fluid ounces in size.
- (4) No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within an entertainment district any Open Container of alcoholic beverage that exceeds 16 fluid ounces in size.

(d) It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle when the vehicle is parked on any city street, alley, way or parking lot within the corporate limits of the city.

(e) No alcoholic beverage purchased pursuant to this provision may be consumed outside the boundaries of an entertainment district or within an entertainment district on any parcel used as a church, day care center, or school, as designated by such facility's certificate of occupancy. Coolers containing alcoholic beverages in cans or bottles for personal consumption may be brought into permitted areas within the entertainment district only during events allowed by issuance of a special event permit in accordance with Section 3-70.

(f) The distance requirements set forth in Section 3-120 shall not apply to establishments licensed to sell or serve alcohol within an entertainment district as defined in this section.

(g) Establishments licensed to sell or serve alcohol in Open Containers within an entertainment district may allow the removal of such Open Containers from the premises between the hours of 5:00 p.m. and midnight on weekdays and between the hours of 11:00 a.m. and midnight on weekends.

(h) Any licensed establishment that allows patrons to leave the establishment with an alcoholic beverage in an Open Container as provided in this section shall maintain posted inside all exit doors for clear public view a map of the current boundaries of the entertainment district and a sign of at least 11-inches by 8 1/2 inches that states the following:

"All patrons leaving this establishment with an alcoholic beverage in an open container do hereby assume full responsibility to consume such alcoholic beverage only if it has been served in a paper or plastic cup not to exceed 16 ounces in size and obtained from an establishment licensed to sell alcoholic beverages within the entertainment district outlined on the map below. Any individual who leaves the entertainment district with an alcoholic beverage in an open container is in violation of the Code of Ordinances, City of Powder Springs, Georgia and may be subject to a citation, arrest, incarceration, and/or fine."

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(i) The provisions of this section 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 or ordinances.

(j) No establishment licensed to sell or serve alcohol within an entertainment district will be required to offer Open Containers of alcohol for sale to its customers or to allow patrons to enter the establishment with Open Containers of alcohol purchased or obtained from outside the establishment.

(k) The boundaries of any entertainment district within the City of Powder Springs shall be established by the Mayor and Council and may be amended from time to time by the Mayor and Council under the procedures set out in the City Charter for amending an ordinance.

SECTION FIVE

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

SECTION SIX

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 SIX

This ordinance shall become effective five (5) days after its adoption by the City Council.

SO ORDAINED, this 4<sup>th</sup> day of March, 2019.

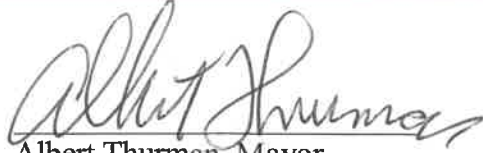
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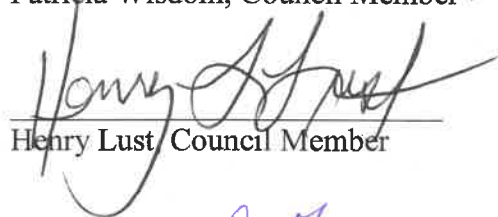
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Albert Thurman, Mayor

  
Patrick Bordelon, Council Member

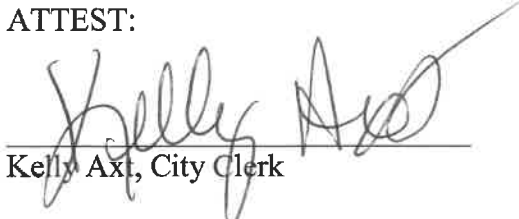
  
Doris Dawkins, Council Member

  
Patricia Wisdom, Council Member

  
Henry Lust, Council Member

*no*   
Thelma C. Farmer, Council Member

ATTEST:

  
Kelly Axt, City Clerk