

**ORDINANCE ENACTING ARTICLE III OF CHAPTER 2 OF THE
DURHAM COUNTY CODE OF ORDINANCES, REGULATING THE POSSESSION,
SALE, AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON COUNTY PROPERTY**

WHEREAS, Chapter 18B of the North Carolina General Statutes provide extensive regulation of the possession, sale and consumption of alcoholic beverages, including malt beverages, wine (fortified and unfortified), and spiritous liquors; and

WHEREAS, G.S. §18B-300 allows a County, by ordinance, to regulate or prohibit the possession of alcoholic beverages on property owned or controlled by it; and

WHEREAS, the County of Durham, as a property owner, does permit the use of its property by other legal entities, some of which may wish to sell or serve alcoholic beverages; and

WHEREAS, the County of Durham has recently renovated a building, specifically to permit part of the facility to be used as a commercial food service establishment; and,

WHEREAS, the Board of County Commissioners wishes to enact an Article III of Chapter 2 of the Durham County Code of Ordinances in order to permit and properly regulate the possession, sale and consumption of alcoholic beverages on County owned or controlled property;

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY
OF DURHAM DOETH ORDAIN:**

1. That Durham County Code of Ordinances Chapter 2, Article III – Alcoholic Beverages on County Owned or Controlled Property shall be as follows:

Sec. 2-70 Definitions

As used in this Article the following term shall have the meaning set forth herein unless the context clearly indicates otherwise:

- (a) *Alcoholic beverages* means any beverage containing at least one-half of one percent alcohol by volume, including malt beverages, wine (fortified or unfortified), spiritous liquor, and mixed beverages.

Sec. 2-71. Alcoholic beverages on County owned or controlled property.

- (a) *Possession and consumption.* Except as otherwise provided in this Code, it shall be unlawful for any person to consume, or possess open containers of, wine (fortified or unfortified), malt beverages, spiritous liquors, or other alcoholic beverages, or to offer same to another person, whether accepted or not, anywhere on the premises (including streets, drives and parking areas used in connection therewith) of any County-owned or controlled property, including, but not limited to, buildings, parking lots, recreational areas, or the Durham County Memorial Stadium.
- (b) *Possession by persons entering facility.* Except as otherwise provided in this Code, admittance to any event on, or in, County-owned property by any person (attendee or sponsor) with alcoholic beverages in their possession shall be unlawful, except when authorized by a special concession or brown bagging permit issued by the State.

- (c) *Discarding containers.* It shall be unlawful for any person to discard or deposit any malt beverage, wine (fortified or unfortified), spiritous liquors, or other alcoholic beverage container in any public place, or upon any public street, or upon the private premises of another, without permission of the owner or person entitled to possession of such premises.

Sec. 2-72. Sale or service of alcoholic beverages by the County.

Sale or service of alcoholic beverages. It shall be lawful for the County, when in compliance with the alcoholic beverage control (ABC) laws of this State, to sell or otherwise serve, alcoholic beverages for consumption on-premises of County-owned property.

Sec. 2-73. Sale or service of alcoholic beverages on leased property; service during special events.

- (a) *Designated County-owned property.* Alcoholic beverages may be served in the following County-owned property, subject to the provisions of this Article, county policy, and applicable state laws.
1. The restaurants and meeting rooms on the ground floor of Admin II
 2. Library facilities (all branches)
 3. The Durham Center for Senior Life
 4. Durham County Memorial Stadium, when approved by the Stadium Authority and pursuant to any additional restrictions or requirements which it may adopt.
- (b) *Long-term Agreements.* It shall be lawful on designated County-owned property, subject to a contract or lease for use of the property for a period longer than 30 days, where the agreement specifically provides for the service and/or sale of alcoholic beverages, for the lessee, renter or operator to serve or sell alcoholic beverages in areas designated in the agreement, as well as complying with the other provisions of the agreement, this article, and State law.
- (c) *Short-term Agreements.* It shall be lawful on designated County-owned property, subject to a contract or lease for use of the property for a period not to exceed 30 days, where the agreement specifically provides for the service and/or sale of alcoholic beverages, for the lessee, renter or operator to serve or sell alcoholic beverages in areas designated in the agreement, as well as complying with the other provisions of the agreement, this article, State law, and the County's Facility Use policy.

(i) *General standards*

The lessee, renter or operator shall enter into an agreement with the County, or Stadium Authority as appropriate, at least 30 days in advance of the scheduled event, and adhere to the same;

The lessee, renter or operator shall pay any required rental fees at least 30 days in advance of the scheduled event;

The lessee, renter or operator shall obtain all legally required licenses or permits at least 30 days in advance of the scheduled event;

The lessee, renter or operator shall ensure that all applicable health and ABC laws are complied with;

The lessee, renter or operator shall ensure that the contents of malt beverage bottles or cans, or wine bottles shall be poured into appropriate cups or glasses;

The lessee, renter or operator shall ensure that all empty bottles or cans shall be handled and stored in such a manner as not to be broken or left on County property;

The lessee, renter or operator will be responsible for maintaining decorum and order, to include the presence of such security personnel as are determined to be necessary by the County Security Manager and leaving the premises in a clean condition and maximizing the amount of material which is recycled; and,

The lessee, renter or operator shall post on site at all times during which alcoholic beverages are consumed one or more persons who shall be responsible for ensuring that no malt beverages, wine (fortified or unfortified), spiritous liquors, or other alcoholic drinks are provided to underage or intoxicated persons;

Participants, guests and attendees of functions where alcohol is served shall not be permitted to bring their own alcoholic beverages to an event except when authorized by a special concession or brown bagging permit issued by the State;

- (ii) *Inspection/release/indemnity/insurance.* In consideration for serving alcoholic beverages as allowed above, the lessee, renter or operator must sign an agreement which contains the following:

A statement accepting the area to be used "AS IS";

A statement releasing and forever discharging the County, its officers, agents and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage arising out of the use of the County's property and the service of alcoholic beverages;

A statement agreeing to indemnify, defend, and hold harmless the County, its officers, agents and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature to the extent proximately caused by the intentional, negligent or reckless acts or omissions of the lessee, renter or operator, or their respective agents, officers, employees or guests; and

Evidence that the lessee, renter, or operator has secured general liability insurance to protect the lessee, renter or operator against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the negligent acts or omissions of the lessee, renter, or operator, and their respective employees, officers, agents or guests. The insurance shall also include coverage for liquor liability, explosion, collapse, and underground hazards, where applicable. This insurance shall provide bodily injury and property damage limits, in an amount to be determined by the County's Risk Manager. All insurance required under this subsection shall be written with

a company licensed to do business in North Carolina. Such insurance shall provide that the policy shall not terminate or be canceled prior to the expiration date except upon 30 days advance written notice to the County. Certificates of insurance for all of the insurance coverages described herein shall be submitted with the agreement referenced herein and shall be maintained for the duration of the lease/event. The lessee, renter or operator may have the authorized server of alcoholic beverages, malt beverages, or wine during the event, such as a caterer, join on the agreement referenced herein and include the server's certificate of insurance to satisfy the requirement for liquor liability insurance.

(d) *Revocation.* Permission to sell or serve alcoholic beverages at any County facility or amenity addressed in this section shall be withdrawn for failure of the renter or operator, or the employees, officers, guests, invitees of either to comply with the requirements set forth in this section or any applicable laws.

Sec. 2-74. Penalty

The violation of any provision of this Ordinance declaring certain actions to be unlawful shall be a misdemeanor and may be punishable upon conviction as provided in Sec. 1-6.

Sec. 2-75. Severability.

It is hereby declared to be the intention of the Board that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and that if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, as the same would have been enacted by the Board without incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

Secs. 2-76-2-120. -Reserved.

2. This Ordinance shall be effective upon its adoption.

Approved by the Durham County Board of Commissioners by Ordinance this _____ day
of _____, 2019.

SIGNED: _____
Wendy Jacobs, Chairperson
Durham County Board of Commissioners