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**CITY COUNCIL AGENDA ITEM**

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**TO:** Mayor & City Council

**DATE:** November 25, 2014

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** Proposed amendments to the "Carry-Out of Alcoholic Beverage Unlawful" Ordinance, Section 6-7 of the Code of Ordinances of the City of Sandy Springs

**MEETING DATE:** For Submission onto the December 2, 2014, City Council Regular Meeting Agenda

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*BACKGROUND INFORMATION: (Attach additional pages if necessary)*

See attached:

Memorandum  
Ordinance

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CITY MANAGER APPROVAL: \_\_\_\_\_

PLACED ON AGENDA FOR: **12/02/2014**

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES (  ) NO

CITY ATTORNEY APPROVAL: \_\_\_\_\_

**To: Honorable Mayor and City Council Members**

**From: Wendell K. Willard**

**Date: For Submission onto the December 2, 2014 City Council Meeting Agenda**

**Agenda Item:**

**Proposed amendments to the “Carry-Out of Alcoholic Beverage Unlawful” Ordinance, Section 6-7 of the Code of Ordinances of the City of Sandy Springs**

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**City Attorney’s Recommendation:**

That the proposed amendments to the “Carry-Out of Alcoholic Beverage Unlawful” ordinance, set forth hereafter, be considered, and if approved, adopted.

**Background:**

The City Attorney was contacted by a Sandy Springs restaurant holding a consumption on the premises license regarding the State of Georgia’s allowing the removal of a partially consumed bottle of wine from the premises if the patron has purchased a meal and consumed a portion of the bottle of wine purchased on the premises and if the bottle of wine is securely sealed as required by the state statute. The Sandy Springs Department of Revenue had correctly advised the restaurant owner that this is not permitted by ordinance in Sandy Springs, although City ordinance does permit the taking out of a partially consumed bottle of wine, resealed, which was brought to the restaurant by a patron and uncorked by the restaurant.

O.C.G.A. § 3-6-4 was enacted by the General Assembly of Georgia in 2008 and became effective on July 1, 2008, thus allowing local governing authorities to permit the removal of a partially consumed bottle of wine as provided by the state statute, should the local governing authorities choose to do so by ordinance.

**Discussion:**

This is not a matter which has previously been raised or addressed by this Council, although the brownbagging provisions, § 6-8 of the Sandy Springs Code of Ordinances, were amended in 2010 and 2012 so as to permit retail establishments licensed to sell wine for consumption on the premises or holding a limited pouring permit of wine only to permit their patrons to bring an unopened bottle of wine into the establishment, to uncork the bottle in the establishment, and to allow the removal of any wine not consumed so long as the

establishment is able to reseal and repackage the opened bottle as required by O.C.G.A. § 3-6-4.

Some surrounding local governments have amended their ordinances since 2008 to permit the removal of a partially consumed bottle of wine under those specific circumstances set forth by State law at O.C.G.A. § 3-6-4.

Subsection (a) and (b) of Sec. 6-7 of the Code of Ordinances of the City of Sandy Springs currently read as follows:

“(a) All alcoholic beverages sold or otherwise dispensed for [*sic*] consumption on the premises licensees shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises, and it shall be unlawful for the licensee to permit any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises. The licensee shall be responsible for ensuring that no person so removes any alcoholic beverages from the premises in any type of container.

(b) Each consumption on the premises licensee shall post in a prominent place at each exit from the licensed premises a sign in substantially the following form:

"It is a violation of the code of Ordinances of the City of Sandy Springs to take any type alcoholic beverage out of this establishment." Such sign shall be in uniform letters not less than one inch in height."

It is proposed to amend the above subsections (a) and (b) as provided in the attached ordinance.

**Alternatives:**

To do nothing and leave as is, which would continue to prohibit the carrying out of a partially consumed bottle of wine from an eating establishment.

**Concurrent Review:**

City Manager, John McDonough

STATE OF GEORGIA  
COUNTY OF FULTON

**AN ORDINANCE TO AMEND CHAPTER 6, ARTICLE I, SEC. 6-7(a) AND SEC. 6-7(b) OF THE CITY OF SANDY SPRINGS CODE OF ORDINANCES TO ALLOW THE REMOVAL OF A PARTIALLY CONSUMED BOTTLE OF WINE UNDER SPECIFIC CIRCUMSTANCES**

**WHEREAS**, the current City of Sandy Springs Code of Ordinances provides at Chapter 6, Article I, Sec. 6-7(a) that it shall be unlawful for any person to remove, and for the licensee to permit any person to remove, from the licensed premises any alcoholic beverages sold for consumption on the premises; and

**WHEREAS**, Chapter 6, Article I, Sec. 6-7(b) requires the licensee to post a sign at each exit stating that it is a violation of the Code of Ordinances of the City of Sandy Springs to take any type alcoholic beverage out of the establishment; and

**WHEREAS**, O.C.G.A. § 3-6-4 was enacted by the General Assembly of the State of Georgia in 2008, thus allowing local governing authorities to permit the removal of a partially consumed bottle of wine if a patron has purchased a meal and consumed a portion of the bottle of wine on the restaurant's premises and if securely sealed as provided by the statute; and

**WHEREAS**, the City has previously amended Sec. 6-8 of the Sandy Springs Code of Ordinances to allow retail establishments holding consumption on the premises licenses or a limited pouring permit of wine only to permit their patrons to bring an unopened bottle of wine into the establishment, to be uncorked in the establishment, and to allow the removal of any wine not consumed so long as the establishment is able to reseal and repackage the opened bottle as required by O.C.G.A. § 3-6-4; and

**WHEREAS**, the City desires to allow not only the removal of a partially consumed bottle of wine brought by the patron, uncorked on the premises, and securely resealed as required by State Statute, but also a bottle of wine partially consumed along with a purchased meal on the restaurant's premises and securely resealed as required by State Statute;

**NOW, THEREFORE**, in order to accomplish the foregoing, the Mayor and Council of the City, pursuant to their authority do hereby amend Chapter 6, Article I, Sec. 6-7(a) by adding the following highlighted bold language to the existing Sec. 6-7(a), as well as correcting a typographical error so that "premises licensees" shall now read "licensed premises":

- (a) All alcoholic beverages sold or otherwise dispensed for consumption on the ~~premises licensees~~ **licensed premises** shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises, and it shall be unlawful for the licensee to permit any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises. The licensee shall be responsible for ensuring that no person so removes any alcoholic beverages from the premises in any type of container.

**Notwithstanding the foregoing and as authorized by O.C.G.A. § 3-6-4, any eating establishment in Sandy Springs which is licensed to sell wine for consumption on the premises may permit a patron, who has purchased a meal and consumed a portion of a bottle of wine, to remove one partially consumed bottle of wine off premises, if the bottle of wine has been securely resealed by the licensee, placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and has a dated receipt for the bottle of wine and meal attached by the licensee. If transported in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.**

and by amending Sec. 6-7(b) by replacing the form of the sign required to be posted by the licensee, so that the required sign shall hereafter read as follows:

(b) Each consumption on the premises licensee shall post in a prominent place at each exit from the licensed premises a sign in substantially the following form:

**It is a violation of the Code of Ordinances of the City of Sandy Springs to take any type alcoholic beverage out of this establishment unless specifically permitted by State law and Sandy Springs ordinance.** Such sign shall be in uniform letters not less than one inch in height."

**SO ORDAINED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Approved:

\_\_\_\_\_  
Russell K. Paul, Mayor

Attest:

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Michael Casey, City Clerk  
(SEAL)