

STATE OF GEORGIA
COUNTY FULTON

AN ORDINANCE AMENDING CHAPTER 7, ALCOHOLIC BEVERAGES ARTICLE 2, SECTION 5, (b) and (f) 4, HOURS, AND REPLACING ARTICLE 3, SECTION 3, HOURS AND DAYS OF SALE WITH SUBSECTIONS (A), (B), (C), (D), (E), (F), AND (G), AND REPLACING ARTICLE 9, SECTIONS 1 THROUGH 13 WITH ARTICLE 9, SECTIONS 1 THROUGH 7 OF THE CODE OF ORDINANCES OF THE CITY OF SANDY SPRINGS, GA

BE IT ORDAINED by the City Council of the City of Sandy Springs, GA while in regular session on May 16, 2006, at 7:00 p.m. as follows:

SECTION 1. That the Ordinance relating to Amending Chapter 7, Alcoholic Beverages, is hereby adopted and approved; and is attached hereto as if fully set forth herein, and;

SECTION 2. All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

SECTION 3. That the First Reading of this Ordinance was on May 2, 2006; and

SECTION 4. That the Second Reading of this Ordinance was on May 16, 2006; and

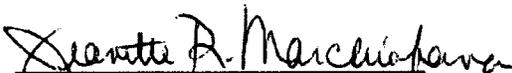
SECTION 5. This Ordinance shall become effective on July 1, 2006.

ORDAINED this the 16th day of May, 2006.

Approved:


Eva Galambos, Mayor

Attest:


Jeanette R. Marchiafava, City Clerk

(Seal)



Article 2: Section 5: Hours

The sale of distilled spirits by the drink for consumption on premises shall be permitted only during the following hours and days of the week, as indicated:

- (a) Monday through Saturday, from 9:00 am. until 2:00 am. of the following day.
- (b) Sunday from 12:30 pm. until 2:00 am. of the following day; provided, however, any licensed establishment which serves alcohol on Sunday shall derive at least fifty percent (50%) of its total annual gross sales from the sale of prepared food or meals [see O.C.G.A. § 3-3-7 (j)(1)].
- (c) All licensed premises shall close their premises to the public and clear the premises of patrons within thirty (30) minutes after the time set in this section for discontinuance of the sale of alcoholic beverages on the premises.
- (d) The sale of alcoholic beverages shall not be permitted within 250 feet of any polling place on primary or election days
- (e) The sale of alcoholic beverages shall not be permitted on Christmas day [see O.C.G.A. § 3-3-20]
- (f) In addition to other requirements under this ordinance, a licensed premise for the sale of distilled spirits by the drink shall comply with the following:
 - (1) The licensed business shall be open for, at least five (5) days each week.
 - (2) The licensed business shall open its business each day it is open by not later than 5:00 pm.
 - (3) The licensed business shall offer to its patrons prepared food and meals during all hours it is open.
 - (4) The licensed business shall have a fully equipped kitchen, including cooking range, oven, refrigeration, food preparation area, sink and other items necessary for preparation of food and meals to be served on the premises.
 - (5) Comply with all requirements of Article 1: General Provisions; Section 3, relating to the manner by which premises shall be maintained.
- (g) This section shall not apply to private clubs.

Article 3: Section 3: Hours

The sale of beer or malt beverages and/or wine by the drink for consumption on premises shall be permitted only during the following hours and days of the week, as indicated:

- (a) Monday through Saturday, from 9:00 am. until 2:00 am. of the following day.
- (b) Sunday from 12:30 pm. until 2:00 am. of the following day; provided, however, any licensed establishment which serves alcohol on Sunday shall derive at least fifty percent (50%) of its total annual gross sales from the sale of prepared food or meals [see O.C.G.A. § 3-3-7 (j)(1)].
- (c) All licensed premises shall close their premises to the public and clear the premises of patrons within thirty (30) minutes after the time set in this section for discontinuance of the sale of alcoholic beverages on the premises.
- (d) The sale of beer or malt beverages and/or wine shall not be permitted within 250 feet of any polling place on primary or election days
- (e) The sale of beer or malt beverages and/or wine shall not be permitted on Christmas day [see O.C.G.A. § 3-3-20]
- (f) In addition to other requirements under this ordinance, a licensed premise for the sale of beer or malt beverages and/or wine by the drink shall comply with the following:
 - (1) The licensed business shall be open for, at least five (5) days each week.
 - (2) The licensed business shall open its business each day it is open by not later than 5:00 pm.
 - (3) The licensed business shall offer to its patrons prepared food and meals during all hours it is open.
 - (4) The licensed business shall have a fully equipped kitchen, including cooking range, oven, refrigeration, food preparation area, sink and other items necessary for preparation of food and meals to be served on the premises.
 - (5) Comply with all requirements of Article 1: General Provisions; Section 3, relating to the manner by which premises shall be maintained.
- (g) This section shall not apply to private clubs

Article 9: Excise Taxes

Section 1: Bottled Distilled Spirits by the Package and Wine by the Package; Rate

(a) An excise tax is levied on the sale of distilled spirits by the package, at the wholesale level, and is set at the rate of \$0.22 per liter of distilled spirits, excluding fortified wines, and a proportionate tax at like rates on all fractional parts of a liter.

(b) An excise tax is levied on the first sale or use of wine by the package at the wholesale level and is set at \$0.22 per liter, and a proportionate tax at like rates on all fractional parts of a liter.

(c) The excise taxes imposed shall be collected by all wholesalers selling wines and alcoholic beverages to persons holding retail licenses for sale to the same, in the City of Sandy Springs. Said excise taxes shall be collected by the wholesalers at the time of the wholesale sale of such beverages. It shall be the duty of each wholesaler to remit the proceeds so collected to the Business Occupation and Excise Tax Division of the City of Sandy Springs, on or before the 15th day of each month, for the preceding calendar month. This remittance shall be submitted on forms as prescribed or authorized by the Business Occupation and Excise Tax Division of the City of Sandy Springs. Remittances shall be accompanied by a statement under oath from a responsible person employed by the wholesaler showing the total sales of each type of wine and alcoholic beverage, by volume and price, disclosing for the preceding calendar month the exact quantities of wine and alcoholic beverages, by size and type of container, constituting a beginning and ending inventory for the month, sold to every person holding a retail license for the sale of wine and alcoholic beverages in the City of Sandy Springs. Failure to file such a statement, or to remit the tax collected on or before the 15th day of each month, shall be grounds for suspension or revocation of the license provided for by this chapter.

Section 2: Levy of Excise Tax on Sale of Malt Beverages; Reporting of Sales; Payment of Tax.

(a) An excise tax is levied on the first sale and use of malt beverages at the wholesale level and is set at \$0.05 per 12 ounces, or proportionate part thereof as to graduate said amount of tax on smaller containers, and an excise tax on draft beer of \$6.00 per container of not more than 15 ½ gallon size, or proportionate part thereof within a bulk container commonly used for tap or draft beer.

(b) The excise taxes imposed shall be collected by all wholesalers selling alcoholic beverages to persons holding retail licenses for sale to the same, in the City of Sandy Springs. Said excise taxes shall be collected by the wholesalers at the time of the wholesale sale of such beverages. It shall be the duty of each wholesaler to remit the proceeds so collected to the Business Occupation and Excise Tax Division of the City of Sandy Springs, on or before the 15th day of each month, for the preceding calendar month. This remittance shall be submitted on forms as prescribed or authorized by the Business Occupation and Excise Tax Division of the City of Sandy Springs. Remittances shall be accompanied by a statement under oath from a responsible person employed by the wholesaler showing the total sales of each type of malt beverage, by volume and price, disclosing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, constituting a beginning and ending inventory for the month, sold to every person holding a retail license for the sale of malt beverages in the City of Sandy Springs. Failure to file such a statement, or to remit the tax collected on or before the 15th day of each month, shall be grounds for suspension or revocation of the license provided for by this chapter.

Section 3: Sales of Distilled Spirits by the Drink

(a) An excise tax is levied upon every sale of alcoholic beverages containing distilled spirits purchased by the drink at the retail level and is set at the rate of 3 percent of the purchase price of each drink.

(b) Every licensee for the sale of distilled spirits by the drink operating a place of business in the City of Sandy Springs shall, at the time of sale for food and drinks served, itemize separately the price of each

sale of alcoholic beverages containing distilled spirits.

(c) Every licensee is required to pay the tax imposed herein for sale of alcoholic beverages containing distilled spirits by the drink within the licensed premises. Such licensee shall furnish all information as may be requested by the City to facilitate the collection of this tax. Any licensee who shall neglect, fail, or refuse to pay the tax herein provided, upon all retail sales made by licensee of alcoholic beverages containing distilled spirits by the drink shall be liable for and pay the tax himself.

(d) Due dates, returns and collection fees.

(1) All taxes collected by any licensee by this section shall be due and payable to the Business Occupation and Excise Tax Division of the City of Sandy Springs monthly on or before the 20th day of every month next succeeding each respective monthly period.

(2) The return for the preceding monthly period shall be filed with the City of Sandy Springs in such form as the City may prescribe or authorize and signed by the licensee liable for the payment of tax hereunder.

(3) Returns shall show the gross receipts from the sale of food, if applicable, alcoholic beverages containing distilled spirits, indicating the number sold, by the drink, amount of tax collected or authorized due for the related period, and such other information as may be required by the City, on forms prescribed or authorized by the City.

(4) The licensee shall deliver the return, together with the remittance of the net amount of tax due to the Business Occupation and Excise Tax Division of the City of Sandy Springs.

(5) Licensees collecting the tax shall be allowed three percent (3%) of the first \$3,000 of tax due and one-half percent (1/2%) of the amount in excess of \$3,000 as a vendor's credit under this section and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state law as now or hereafter amended.

Section 4: Deficiency Determinations.

(a) If the City of Sandy Springs is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the City of Sandy Springs by a party, the City may compute and determine the amount required to be paid upon the basis of any information within its possession or that may come into its possession. One, or more, deficiency determinations may be made of the amount due for any monthly period.

(b) The amount determined to be deficient shall bear interest at the rate of 1 percent (1%) per month, or fraction thereof, from the 15th day of the month after the close of the period for wholesale tax due, or from the 20th day after the close of the period for retail tax due, which the amount or any portion thereof should have been returned until paid, in addition to any other penalties which may be imposed.

(c) For any deficiency which is determined to be made due to fraud, or an intent to evade any provisions of this ordinance, a penalty of 25 percent of the deficiency shall be added thereto.

(d) The City shall give to the licensee written notice of the determination. The notice may be served personally or by mail; if by mail such service shall be addressed to the licensee at his address as it appears in the records of the City. In the case of service by mail of any notice required by this Article, the service is complete at the time of deposit in the United States Post Office.

(e) Except in the case of fraud, intent to evade this ordinance, or failure to make a return, every notice of deficiency determination shall be mailed within 3 years after the 20th of the calendar month following the monthly period for which the amount is proposed to be determined, or within 3 years after the return is filed, whichever period should last expire.

Section 5: Determination of Tax if no Return Made.

(a) If any licensee fails to make a return, the City of Sandy Springs shall make an estimate of the amounts of

the gross receipts of the licensee, or as the case may be, of the amount of the total sales in the City which are subject to the tax. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the City. Upon the basis of this estimate, the City shall compute and determine the amount required to be paid the City. One or more determinations may be made for each period.

(b) If the failure of any person to file a return is due to fraud or an intent to evade this ordinance, a penalty of 25 percent of the amount required to be paid by the party shall be added thereto in addition to any other penalties which are imposed under this ordinance.

(c) The City shall promptly give to the party written notice of the deficiency.

Section 6: Interest and Penalties for Failure to Pay Tax.

(a) Any party who fails to pay the tax herein imposed by the City of Sandy Springs or fails to pay any amount of such tax required to be paid by the party, shall in addition to the tax, pay an interest on the outstanding tax obligation at the rate of one percent (1%) per month, or fraction thereof, from the date the tax payment was last due until payment is made.

(b) Any party who fails to pay the tax herein imposed to the City or fails to file any required tax return to the City, within the time required shall pay a penalty of 15 percent of the tax, or amount of the tax and interest, due the City.

Section 7: Failure to Pay; Grounds for Suspension or Revocation of Retail License.

Failure to pay the taxes imposed by this article or file the required return shall be grounds for suspension or revocation of any retail license to sell alcoholic beverages in the City of Sandy Springs. In the event that any person holding a retail license shall fail to file the required return or to pay the taxes imposed by this article, it shall be grounds for suspension or revocation of any retail license to sell alcoholic beverages in the City. In the event that any person holding a retail license shall fail or refuse to pay to the wholesaler selling to him alcoholic beverages the tax imposed by the City, the wholesaler shall immediately report such failure to pay to the business license division of the City and shall make no further sales of any alcoholic beverages whatsoever to said retailer until receipt of written notification to do so from the City. In such event, the tax may be collected by the City by an action at law against the retailer.