



CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council

DATE: December 30, 2011

FROM: John McDonough, City Manager

AGENDA ITEM: Allowing Patrons to Bring Bottles of Wine into Commercial Businesses for Consumption on Premises

MEETING DATE: For Submission onto the January 3, 2012, City Council Special Called Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Ordinance

APPROVAL BY CITY MANAGER: Jm APPROVED

_____ NOT APPROVED

PLACED ON AGENDA FOR: 1/3/2012

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: [Signature]

REMARKS:



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission onto the January 3, 2012 City Council Meeting Agenda

Agenda Item:

Proposed amendment to the BYOB Ordinance, Section 6-8 of the Code of Ordinances of the City of Sandy Springs

City Attorney's Recommendation:

That the proposed amendment to the BYOB ordinance set forth hereafter be approved and adopted.

Background:

Council member Collins was contacted by a prospective business interested in opening a Sandy Springs location where individuals attending art classes are permitted to bring a bottle of wine to drink while painting, etc. After further inquiry it was determined that some other jurisdictions do allow this.

A draft of an amendment to Sandy Springs existing BYOB ordinance was prepared, presented, and discussed at Council's last work session. In line with the discussion held and suggestions made, a proposed Ordinance amendment has been prepared which would allow this additional exception to the BYOB prohibition existing in Sandy Springs. A copy of this proposed Ordinance amendment is attached.

Discussion:

Section 6-8 currently reads:

"Sec. 6-8. – Brownbagging, BYOB prohibited.

"It is prohibited for any person to bring in his own alcoholic beverage in any retail establishment without regard to whether such establishment is licensed to serve alcoholic beverages. This section shall not apply to any person dining at an establishment licensed to sell wine for consumption on the premises from bringing an unopened bottle of wine into said establishment for consumption where the establishment has a policy permitting same. For purposes of this section, the term retail establishment shall not include a private hotel room or other similar guest room or a private club."

It is proposed to strike Section 6-8 in its entirety and replace it with the following new Section 6-8:

*City
Attorney*

“Sec. 6-8. - Brownbagging; when BYOB is allowed

It is prohibited for any person to bring his own alcoholic beverage into any retail establishment without regard to whether such establishment is licensed to serve alcoholic beverages except for the following specific exceptions:

1. This section shall not prohibit any person dining at a retail establishment licensed to sell wine for consumption on the premises from bringing an unopened bottle of wine into said establishment for consumption where the establishment has a policy permitting same.
2. This section shall prohibit any person who is a patron of a retail establishment where: (a) the owners or their agents have a policy permitting a patron to bring an unopened bottle of wine into the retail establishment for consumption on the premises by the patron; and (b) the retail establishment is licensed as required hereafter.
3. Any wine not consumed at a retail establishment, as described in subsections 1 and 2 of this Section, shall be disposed of at the premises and not carried out in an open container, unless the retail establishment is able to reseal and repackage the opened bottle of wine as required by O.C.G.A. § 3-6-4.
4. A retail establishment, as described in subsection 2, shall be required to be licensed by the city and meet all application requirements and be governed by the ordinance provisions as set forth in Division 2 of Article II of this Chapter for a limited pouring permit of wine only. Further, no retail establishment so licensed shall have any employee under the age of 18 working in the establishment, and the retail establishment must cease to operate no later than 10:00 P.M. The fee for a retail establishment to permit wine to be brought into the establishment, as described in subsection 2, shall be in an amount as set by resolution of the city council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council.
5. For purposes of this section, the term retail establishment shall not include a private hotel room or other similar guest room or a private club.”

Alternatives:

To do nothing and leave as is, which would continue to prohibit BYOB except for the one exception currently set forth.

Concurrent Review:

City Manager, John McDonough

*City
Attorney*

**STATE OF GEORGIA
COUNTY OF FULTON**

AN ORDINANCE TO AMEND CHAPTER 6, ARTICLE I, SECTION 6-8 SO AS TO MAKE PROVISION FOR RETAIL ESTABLISHMENTS TO HAVE A POLICY PERMITTING BYOB UNDER CERTAIN CIRCUMSTANCES.

WHEREAS, the City of Sandy Springs (the “City”) currently prohibits any person to bring in his own alcoholic beverage in any retail establishment without regard to whether such establishment is licensed, exempting from the term retail establishment only a private hotel or other similar guest room or a private club, and further excepting those retail eating establishments licensed to sell wine for consumption on the premises, which have adopted a policy allowing a dining patron to bring an unopened bottle of wine into the establishment for consumption on the premises and to charge what is known as a corkage fee; and

WHEREAS, other local jurisdictions have enacted ordinances which also allow other retail establishments to have a BYOB policy so long as certain requirements are met as set forth in the various ordinances; and

WHEREAS, the City Council has determined that provided certain licensing and other requirements are met, a BYOB policy should be left to the discretion of the individual retail establishment;

NOW, THEREFORE, in order to accomplish the foregoing, the Mayor and City Council of the City, pursuant to their authority, do hereby amend Chapter 6, Article I, Section 6-8 so that said Section 6-8 shall now read as follows:

“Sec. 6-8. - Brownbagging; when BYOB is allowed

It is prohibited for any person to bring his own alcoholic beverage into any retail establishment without regard to whether such establishment is licensed to serve alcoholic beverages except for the following specific exceptions:

1. This section shall not prohibit any person dining at a retail establishment licensed to sell wine for consumption on the premises from bringing an unopened bottle of wine into said establishment for consumption where the establishment has a policy permitting same.
2. This section shall not prohibit any person who is a patron of a retail establishment where: (a) the owners or their agents have a policy permitting a patron to bring an unopened bottle of wine into the retail establishment for consumption on the premises by the patron; and (b) the retail establishment is licensed as required hereafter.
3. Any wine not consumed at a retail establishment, as described in subsections 1 and 2 of this Section, shall be disposed of at the premises and not carried out in an open container, unless the retail establishment is able to reseal and repackage the opened bottle of wine as required by O.C.G.A. § 3-6-4.

4. A retail establishment, as described in subsection 2, shall be required to be licensed by the city and meet all application requirements and be governed by the ordinance provisions as set forth in Division 2 of Article II of this Chapter for a limited pouring permit of wine only. Further, no retail establishment so licensed shall have any employee under the age of 18 working in the establishment, and the retail establishment must cease to operate no later than 10:00 P.M. The fee for a retail establishment to permit wine to be brought into the establishment, as described in subsection 2, shall be in an amount as set by resolution of the city council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council.

5. For purposes of this section, the term retail establishment shall not include a private hotel room or other similar guest room or a private club.”

SO ORDAINED, this the _____ day of _____, 2012.

Approved:

Attest:

EVA GALAMBOS, Mayor

Michael Casey, City Clerk
(SEAL)