



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission onto the October 18, 2011 City Council Meeting Agenda

Agenda Item: A Resolution to clarify the Resolution adopted by City Council on August 16, 2011, authorizing a referendum to allow package sales on Sundays by retailers of package malt beverages, wine and distilled spirits and an Ordinance to amend the City's Code of Ordinances to allow for Sunday package sales of malt beverages, wine and distilled spirits; to provide for adoption and an effective date; and to provide for other lawful purposes.

City Attorney's Recommendation:

The City Attorney's Office recommends that the City Council consider the attached Resolution and Ordinance and, if deemed appropriate, that it be approved.

Background and Discussion:

On August 16, 2011, City Council adopted a Resolution authorizing the City election superintendent to issue the call for a referendum for the purpose of submitting the question of Sunday package sales by retailers of alcoholic beverages to Sandy Springs electors for approval or rejection. Since that date it has come to our attention that certain provisions of the Resolution should be clarified. These suggested clarifications are shown on the redlined version of the Resolution attached hereto as Exhibit A. The revisions shown on Exhibit A resolve any ambiguities in the Resolution previously adopted by Council to ensure that it meets the requirements of Georgia law. The revisions do not change City Council's intent in adopting the Resolution on August 16, 2011.

Attached as Exhibit B is a copy of the proposed Ordinance revisions amending Section 6-133 and Section 6-134 of Chapter 6 (Alcoholic Beverages) of the City Code of Ordinances to allow Sunday package sales by retailers of alcoholic beverages in Sandy Springs. This amendment will become effective the first Sunday after the Sunday sales issue receives a majority of votes in the referendum and the results have been certified to the Georgia Secretary of State. If the referendum is not approved, the Ordinance will be null and void.

Alternatives:

Not to approve the attached Resolution and Ordinance authorizing Sunday sales of alcoholic beverages.

Attachments:

- Exhibit A – Resolution adopted by City Council on August 16, 2011 indicating revisions.
- Exhibit B – Ordinance amendments to provide for Sunday Sales (Section 6-133, Section 6-134, Chapter 6 (Alcoholic Beverages) of the Code of Ordinances

STATE OF GEORGIA
COUNTY OF FULTON

A RESOLUTION AUTHORIZING A REFERENDUM TO ALLOW PACKAGE SALES ON SUNDAYS BY RETAILERS OF PACKAGE MALT BEVERAGES, WINE AND DISTILLED SPIRITS

WHEREAS, package sales of malt beverages, wine and distilled spirits by retailers are currently lawful within the City of Sandy Springs, Georgia (“City”); and

WHEREAS, sales of malt beverages, wine and distilled spirits are currently subject to regulation on Mondays through Saturdays in the City by the governing authority of the City (“City Council”); and

WHEREAS, O.C.G.A. § 3-3-7(q) authorizes the governing authority of a municipality to allow package sales by retailers of malt beverages, wine and distilled spirits on Sundays between the hours of 12:30 P.M. and 11:30 P.M., if such sales are approved by referendum.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City Clerk is hereby authorized and directed to certify and transmit this Resolution to the ~~Elections~~election ~~Superintendent~~ superintendent for the City (“Election Superintendent”) to issue the call for a referendum for the purpose of submitting to the voters of the City the question of authorizing Sunday package sales by retailers of malt beverages, wine and distilled spirits between the hours of 12:30 P.M. and 11:30 P.M.

BE IT FURTHER RESOLVED that, upon receipt of this Resolution, the ~~Elections~~Election Superintendent shall issue the call and shall conduct the election on the 8th day of November, 2011 in the manner prescribed by O.C.G.A. § 21-2-540.

BE IT FURTHER RESOLVED that, the conducting of a referendum for the City by the ~~Elections~~Election Superintendent shall be contingent upon a referendum going forward concurrently on November 8, 2011, on behalf of the School Board of Fulton County for an E-Splost referendum.

BE IT FURTHER RESOLVED that, the City Manager and City Attorney are authorized by Council to complete negotiations for the amount of cost to be borne by the City in conducting the City referendum as authorized herein.

BE IT FURTHER RESOLVED that the ~~Elections~~Election Superintendent shall cause the date and purpose of the election to be published once a week for four (4) weeks immediately preceding the date of the election in the official organ of Fulton County.

BE IT FURTHER RESOLVED that the ~~Elections~~Election Superintendent shall cause the following language to be written or printed on the ballot:

- YES Shall the governing authority of ~~(name of county or municipality)~~Sandy Springs, Georgia be authorized to permit and regulate package sales by
- NO retailers of ~~both~~ malt beverages, ~~-and wine~~ wine and distilled spirits on
Sundays between the hours of 12:30 P.M. and 11:30 P.M.?

BE IT FURTHER RESOLVED that the Election Superintendent shall review the ballots cast and certify the results to the Georgia Secretary of State.

BE IT FURTHER RESOLVED that upon passage of the Sunday package sales referendum and certification to the Georgia Secretary of State, the City Council shall be authorized to permit and regulate package sales by retailers of malt beverages, wine and distilled spirits within the municipal limits of the City on Sundays between the hours of 12:30 P.M. and 11:30 P.M., to be effective the first Sunday after the results of the referendum are canvassed by the Election Superintendent, the Election Superintendent has declared that the majority number of votes for passage and approval of the referendum was positive, and the Election Superintendent has certified the results to the Georgia Secretary of State.
~~to be effective the first Sunday after the results of the referendum are certified by the Election Superintendent that the majority number of votes for passage and approval of the referendum was positive.~~

RESOLVED this the 16th day of August, 2011.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk

(Seal)

STATE OF GEORGIA
COUNTY OF FULTON

**A RESOLUTION AUTHORIZING A REFERENDUM TO ALLOW PACKAGE SALES
ON SUNDAYS BY RETAILERS OF PACKAGE MALT BEVERAGES, WINE AND
DISTILLED SPIRITS**

WHEREAS, package sales of malt beverages, wine and distilled spirits by retailers are currently lawful within the City of Sandy Springs, Georgia (“City”); and

WHEREAS, sales of malt beverages, wine and distilled spirits are currently subject to regulation on Mondays through Saturdays in the City by the governing authority of the City (“City Council”); and

WHEREAS, O.C.G.A. § 3-3-7(q) authorizes the governing authority of a municipality to allow package sales by retailers of malt beverages, wine and distilled spirits on Sundays between the hours of 12:30 P.M. and 11:30 P.M., if such sales are approved by referendum.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City Clerk is hereby authorized and directed to certify and transmit this Resolution to the election superintendent for the City (“Election Superintendent”) to issue the call for a referendum for the purpose of submitting to the voters of the City the question of authorizing Sunday package sales by retailers of malt beverages, wine and distilled spirits between the hours of 12:30 P.M. and 11:30 P.M.

BE IT FURTHER RESOLVED that, upon receipt of this Resolution, the Election Superintendent shall issue the call and shall conduct the election on the 8th day of November, 2011 in the manner prescribed by O.C.G.A. § 21-2-540.

BE IT FURTHER RESOLVED that, the conducting of a referendum for the City by the Election Superintendent shall be contingent upon a referendum going forward concurrently on November 8, 2011, on behalf of the School Board of Fulton County for an E-Splost referendum.

BE IT FURTHER RESOLVED that, the City Manager and City Attorney are authorized by Council to complete negotiations for the amount of cost to be borne by the City in conducting the City referendum as authorized herein.

BE IT FURTHER RESOLVED that the Election Superintendent shall cause the date and purpose of the election to be published once a week for four (4) weeks immediately preceding the date of the election in the official organ of Fulton County.

BE IT FURTHER RESOLVED that the Election Superintendent shall cause the following language to be written or printed on the ballot:

- YES Shall the governing authority of Sandy Springs, Georgia be authorized to permit and regulate package sales by retailers of malt beverages, wine and distilled spirits on Sundays between the hours of 12:30 P.M. and 11:30 P.M.?
- NO

RESOLUTION NO. 2011-08-71

BE IT FURTHER RESOLVED that the Election Superintendent shall review the ballots cast and certify the results to the Georgia Secretary of State.

BE IT FURTHER RESOLVED that upon passage of the Sunday package sales referendum and certification to the Georgia Secretary of State, the City Council shall be authorized to permit and regulate package sales by retailers of malt beverages, wine and distilled spirits within the municipal limits of the City on Sundays between the hours of 12:30 P.M. and 11:30 P.M., to be effective the first Sunday after the results of the referendum are canvassed by the Election Superintendent, the Election Superintendent has declared that the majority number of votes for passage and approval of the referendum was positive, and the Election Superintendent has certified the results to the Georgia Secretary of State.

RESOLVED this the 16th day of August, 2011.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk

(Seal)

CITY OF SANDY SPRINGS

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF SANDY SPRINGS, GEORGIA, TO ALLOW FOR SUNDAY PACKAGE SALES OF MALT BEVERAGES, WINE AND DISTILLED SPIRITS; TO PROVIDE FOR ADOPTION AND AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the City of Sandy Springs, Georgia ("City") is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, package sales of malt beverages, wine and distilled spirits by retailers are currently lawful within the City pursuant to Chapter 6, *Alcoholic Beverages*, of the City Code of Ordinances ("Code"); and

WHEREAS, sales of malt beverages, wine and distilled spirits are currently subject to regulation on Mondays through Saturdays in the City by the governing authority of the City ("City Council"); and

WHEREAS, Senate Bill 10, approved by the 2011 Georgia Legislative Session, signed by the Governor and codified as O.C.G.A. § 3-3-7(q), authorizes the governing authority of a municipality to allow package sales by retailers of malt beverages, wine and distilled spirits on Sundays between the hours of 12:30 P.M. and 11:30 P.M., if such sales are approved by referendum; and

WHEREAS, in order to place the question of Sunday sales on a referendum, a local governing authority must pass a resolution or ordinance permitting sales of malt beverages, wine and distilled spirits on Sundays as allowed pursuant to O.C.G.A. § 3-3-7(q), and forward a certified copy of same to the Elections Superintendent of the City ("Elections Superintendent") for placing on the ballot; and

WHEREAS, the City Council adopted a resolution on August 16, 2011 authorizing the question of Sunday sales of malt beverages, wine and distilled spirits to be placed on a referendum; and

WHEREAS, the City Council desires to amend the Code to provide for Sunday sales of malt beverages, wine and distilled spirits and desires to place the question for a referendum on the November, 2011, general election ballot.

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA, HEREBY ORDAIN as follows:

Section 1: That Section 6-133, Chapter 6 (Alcoholic Beverages) of the Code of Ordinances, City of Sandy Springs, Georgia, is hereby amended to read as follows:

Sec. 6-133. Days when sales unlawful.

- (a) No licensee shall permit the sale of alcoholic beverages on any day or during any time of day when such sales are prohibited by state law. ^
- (b) No retail package licensee shall be permitted to sell package malt beverages, wine and distilled spirits on Sundays except between the hours of 12:30 p.m. and 11:30 p.m. No retail consumption on premises licensee shall permit the sale of alcoholic beverages on Sunday unless such licensee is a bona fide eating establishment, caterer, private club, or special events facility as defined in this chapter. Any licensee wishing to sell alcohol on Sunday pursuant to this chapter shall pay the requisite fee for Sunday sales, the amount of which shall be 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.

Section 2: That Section 6-134(a), Chapter 6 (Alcoholic Beverages) of the Code of Ordinances, City of Sandy Springs, Georgia, is hereby amended to read as follows:

Sec. 6-134. Hours of Operation.

- (a) Package licensees shall not engage in the sale of alcoholic beverages except between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday and between the hours of 12:30 p.m. and 11:30 p.m. on Sunday. Package licensees shall not permit their places of business to be open except between the hours of 7:00 a.m. and 12:00 midnight, Monday through Saturday, or between the hours of 12:30 p.m. and 11:30 p.m. on Sundays, except that where the primary business of a malt beverage package licensee or wine package licensee is other than the sale of alcoholic beverages, such restrictive hours shall apply only with respect to the sale of malt beverages or wine.

....

Section 3: That all ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 4: That this Ordinance shall become effective the first Sunday after the results of the referendum are canvassed by the Election Superintendent, the Election Superintendent has declared that the majority number of votes for passage and

approval of the referendum was positive, and the Election Superintendent has certified the results to the Georgia Secretary of State. If the referendum is not approved by a majority of the voters, this Ordinance shall be null and void.

SO ORDAINED, this _____ day of _____, 2011.

Approved:

Eva Galambos, Mayor

ATTEST:

Michael Casey, City Clerk

APPROVED AS TO FORM:

Wendell K. Willard, City Attorney

CITY OF SANDY SPRINGS

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF SANDY SPRINGS, GEORGIA, TO ALLOW FOR SUNDAY PACKAGE SALES OF MALT BEVERAGES, WINE AND DISTILLED SPIRITS; TO PROVIDE FOR ADOPTION AND AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the City of Sandy Springs, Georgia ("City") is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, package sales of malt beverages, wine and distilled spirits by retailers are currently lawful within the City pursuant to Chapter 6, *Alcoholic Beverages*, of the City Code of Ordinances ("Code"); and

WHEREAS, sales of malt beverages, wine and distilled spirits are currently subject to regulation on Mondays through Saturdays in the City by the governing authority of the City ("City Council"); and

WHEREAS, Senate Bill 10, approved by the 2011 Georgia Legislative Session, signed by the Governor and codified as O.C.G.A. § 3-3-7(q), authorizes the governing authority of a municipality to allow package sales by retailers of malt beverages, wine and distilled spirits on Sundays between the hours of 12:30 P.M. and 11:30 P.M., if such sales are approved by referendum; and

WHEREAS, in order to place the question of Sunday sales on a referendum, a local governing authority must pass a resolution or ordinance permitting sales of malt beverages, wine and distilled spirits on Sundays as allowed pursuant to O.C.G.A. § 3-3-7(q), and forward a certified copy of same to the Elections Superintendent of the City ("Elections Superintendent") for placing on the ballot; and

WHEREAS, the City Council adopted a resolution on August 16, 2011 authorizing the question of Sunday sales of malt beverages, wine and distilled spirits to be placed on a referendum; and

WHEREAS, the City Council desires to amend the Code to provide for Sunday sales of malt beverages, wine and distilled spirits and desires to place the question for a referendum on the November, 2011, general election ballot.

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA, HEREBY ORDAIN as follows:

Section 1: That Section 6-133, Chapter 6 (Alcoholic Beverages) of the Code of Ordinances, City of Sandy Springs, Georgia, is hereby amended to read as follows:

Sec. 6-133. Days when sales unlawful.

- (a) No licensee shall permit the sale of alcoholic beverages on any day or during any time of day when such sales are prohibited by state law.
- (b) No retail package licensee shall be permitted to sell package malt beverages, wine and distilled spirits on Sundays except between the hours of 12:30 p.m. and 11:30 p.m. No retail consumption on premises licensee shall permit the sale of alcoholic beverages on Sunday unless such licensee is a bona fide eating establishment, caterer, private club, or special events facility as defined in this chapter. Any licensee wishing to sell alcohol on Sunday pursuant to this chapter shall pay the requisite fee for Sunday sales, the amount of which shall be 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.

Section 2: That Section 6-134(a), Chapter 6 (Alcoholic Beverages) of the Code of Ordinances, City of Sandy Springs, Georgia, is hereby amended to read as follows:

Sec. 6-134. Hours of Operation.

- (a) Package licensees shall not engage in the sale of alcoholic beverages except between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday and between the hours of 12:30 p.m. and 11:30 p.m. on Sunday. Package licensees shall not permit their places of business to be open except between the hours of 7:00 a.m. and 12:00 midnight, Monday through Saturday, or between the hours of 12:30 p.m. and 11:30 p.m. on Sundays, except that where the primary business of a malt beverage package licensee or wine package licensee is other than the sale of alcoholic beverages, such restrictive hours shall apply only with respect to the sale of malt beverages or wine.

.....

Section 3: That all ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 4: That this Ordinance shall become effective the first Sunday after the results of the referendum are canvassed by the Election Superintendent, the Election Superintendent has declared that the majority number of votes for passage and

approval of the referendum was positive, and the Election Superintendent has certified the results to the Georgia Secretary of State. If the referendum is not approved by a majority of the voters, this Ordinance shall be null and void.

SO ORDAINED, this _____ day of _____, 2011.

Approved:

Eva Galambos, Mayor

ATTEST:

Michael Casey, City Clerk

APPROVED AS TO FORM:

Wendell K. Willard, City Attorney