



Legislation Text

File #: 19-438, **Version:** 1

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Conduct the first reading of an ordinance amending Sections 3-3-3, 3-3-5, 3-3-10, 3-3-11, 3-3-12 and 3-3-14 of the Naperville Municipal Code pertaining to liquor license applications, liquor and tobacco violation penalties, liquor license and permit classifications, liquor license restrictions, and unlawful acts and conditions pertaining to liquor.

DEPARTMENT: Legal Department

SUBMITTED BY: Jennifer Lutzke, Senior Assistant City Attorney

BOARD/COMMISSION REVIEW:

The Liquor Commission considered revisions that were presented on April 4, 2019 and voted unanimously to recommend approval of the text amendments.

BACKGROUND:

The City has local liquor license regulations for the sale of retail and service of alcohol beverages within the City. The City's current liquor license regulations do not specifically address the ability to bring your own bottle (BYOB) into a public establishment. Balboa's Cheesesteaks expressed an interest in allowing the consumption of beer and wine brought onto its premises by patrons and asked if the City would consider an amendment to its liquor license and permit classifications.

Section 11-42-10.1 of the Illinois Municipal Code (65 ILCS 5/11-42.10.1) allows municipalities to license and regulate businesses operating as public accommodations that permit the consumption of alcohol on the premises.

The City previously had a BYOB license classification. The license restricted BYOB to the consumption of wine and allowed for consumption after 5:00pm on Monday through Friday with no time restrictions on weekends. On April 8, 2009, City Council eliminated the BYOB license classification due to a lapse in utilization. Contemporaneously, City Council created a provision allowing Class A - Restaurant, Class B - Restaurant and Tavern, Class I - Hotel/Motel, and Class J - Hotel/Motel and Tavern licensees to permit patrons to bring a bottle of wine onto the licensed premises for consumption in conjunction with the purchase of a full meal; the City referred to this practice as corkage.

In September 2016, there was a comprehensive rewrite done of the liquor code. During the rewrite, the portion of the code pertaining to corkage was eliminated.

DISCUSSION:

Initial staff research found that there was no language in the liquor code specifically addressing the

practice of allowing patrons to bring alcoholic liquor onto the premises of a business open to the public for consumption therein. Staff recommended a text amendment that would clarify regulations of this practice in Naperville.

On February 7, 2019, the Liquor Commission considered Balboa's Cheesesteaks' request. The Liquor Commission discussed management of unconsumed open alcohol, the service process, the proliferation of licenses, and whether the practice should be limited to wine. After discussion, the Liquor Commission directed staff to bring back proposed draft amendments for a BYOB license and corkage.

Since the comprehensive rewrite of the liquor code was implemented, staff has identified areas where additional revisions are necessary. Staff determined that it was appropriate for the Liquor Commission to consider additional amendments to the code along with the draft provisions for a BYOB license and corkage. An overview of additional amendments include:

- Deletion of Class O - Nightclub license classification and definitions of nightclub and brewery pub due to non-utilization
- Addition of growler definition for clarification
- Consistent penalties for tobacco and liquor violations
- Requirement that Class P licensees obtain Growler Permit
- Clean-up of Additional Liquor License Restrictions and Prohibited Acts and Conditions

On April 4, 2019, the Liquor Commission considered the proposed text amendments to the code. At the meeting, Christine Jeffries from the Naperville Development Partnership, stated that the Downtown Naperville Alliance members did not unanimously support the BYOB. After discussing problems that may arise because of allowing BYOB, the Liquor Commission recommended denial of a BYOB license and approval of a corkage permit allowing Class A, B, I and J licensees to permit patrons to bring in a bottle of wine.

The proposed amendments define corkage, create a permit, and make it unlawful, except for licensees possessing a corkage permit. to allow patrons to bring alcoholic liquor on the premises for consumption therein. The corkage permit requires: the service of wine exclusively with the service of food; no more than one bottle of wine (up to 750 milliliters) per patron; and staff, an employee or agent of licensee to open and serve wine. It also incorporates state law concerning securing a wine bottle upon leaving the premises.

During final review of the proposed amendments, the Liquor Commissioner suggested additional revisions clarifying that Class S - Specialty Wine Shops and Class S1 are allowed in the Downtown as well as authorizing the local Liquor Commissioner to grant exceptions to certain distancing requirements for the sale of liquor near churches, schools and other specified institutions.

Draft minutes from the April 4, 2019 Liquor Commission meeting pertaining to the BYOB discussion are attached as well as minutes from the February 7, 2019 Liquor Commission meeting.

FISCAL IMPACT:

N/A