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MUNICIPAL COUNCIL OF THE CITY OF BAYONNE

AN ORDINANCE AMENDING AND SUPPLEMENTING THE GENERAL ORDINANCES OF THE CITY OF BAYONNE, CHAPTER 6, ALCOHOLIC BEVERAGE CONTROL

BE IT ORDAINED, by the Municipal Council of the City of Bayonne, as follows:

Section 1. That the Revised General Ordinances of the City of Bayonne, Chapter 6, ALCOHOLIC BEVERAGE CONTROL, is hereby amended and supplemented to include a new sub-section, 6-11, "Consumption In Retail Premises Without Liquor License," in its entirety, as follows:

6-11 CONSUMPTION IN RETAIL PREMISES WITHOUT LIQUOR LICENSE

6-11.1 Purpose and Intent

The purpose and intent of this section is for the City's restaurants to remain competitive with our neighboring municipalities who permit local restaurants and establishments to allow their patrons to bring their own alcoholic beverages on their premises, commonly known as "BYOB", and to enable the City to more effectively monitor the dispensation of alcohol with a BYOB licensing structure.

6-11.2 Prohibited acts; registration and permits required; violations and penalties.

a. It shall be unlawful for any person owning, operating, or working in a location open to the public to sell alcohol, beer, wine or other intoxicating spirits without a plenary license as set forth in Chapter 6-3, which license is properly sited in accordance with all local, state, and federal laws to sell such alcohol, beer, spirits or wine to any individual of the public.

b. It shall be unlawful for any person owning, operating, or working in a location open to the public to allow for the consumption of alcohol, beer, wine or other intoxicating liquors at a location open to the public without proper permits as provided for herein.

c. An establishment that is open to the public may allow customers of that public establishment to bring their own wine and/or malt alcoholic beverage (commonly known as "beer"), provided that they meet the criteria set forth herein and apply for proper registration and permits as provided for herein.

d. An establishment that meets and obtains all proper permits and registers shall be known as a "Bring Your Own Beer" ("BYOB") establishment.

e. Any establishment that obtains all proper permits and registers as a BYOB establishment shall not sell alcohol, beer, wine or other intoxicating spirits but may allow the patrons to bring their own malt alcoholic beverage (beer) and/or wine to the location open to the public for consumption by the patron.

f. Any person or establishment violating this article shall be subject to any and all fines and penalties set forth under any law of the State of New Jersey and the City of Bayonne. In addition to any fine or penalty set forth by the State of New Jersey and the City of Bayonne, the City of Bayonne may impose a fine of up to \$500 per violation and revocation of the license to operate a BYOB establishment. Each bottle found at the public location shall be considered a separate and distinct violation.

6-11.3 Permitted establishments.

The following establishments may offer BYOB and are defined as follows:

1. RESTAURANT

An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of food for its customers and in which no other business, except such as is incidental to such establishment, is conducted. In order to qualify as a restaurant, a location shall meet the following conditions:

a. A restaurant location must be licensed by the Health Department for the sale or service of food or liquid refreshments that are sold or served to the general public, and for which a license or permit authorizing the sale and/or consumption of alcoholic beverages has not been issued (even if such license or permit is suspended or in the process of being suspended);

b. That regularly employs a wait staff of at least one waiter or waitress;

c. Whose wait staff service is not confined exclusively to a counter;

d. Which maintains at least 10 dining tables and seating for a minimum of 25 patrons; and

e. Whose business is primarily engaged in the sale or service of food or liquid refreshments to the general public.

6-11.4 Application for permit.

a. Any establishment seeking to be allowed to have its patrons bring their own malt alcoholic beverages and/or wine must apply to the City Clerk on forms supplied by the Clerk for permission to allow that service to be offered to their customers.

b. Forms of the application should provide such information as the Clerk determines and, at a minimum, shall provide for the name and address of the entity seeking such permission and such other information as determined by the governing body.

6-11.5 Transfer of permit.

Under no circumstances may a permit allowing BYOB be transferred in either the ownership and/or location without the approval of the Municipal Council. Under all circumstances, the permit shall cease and terminate under such transfer. Nothing herein prevents a new or subsequent applicant from applying for a new BYOB permit for such premises.

6-11.6 Fee; duration of permit.

a. The fee to apply for such a permit shall be a nonrefundable filing fee of \$250. After the application to allow the consumption of wine or malt alcoholic beverages to the applicant is approved by a resolution of the governing body, the applicant shall pay to the City the sum of \$1,000 as a one-time permit fee.

b. The applicant shall apply for a permit for each twelve-month period of time and pay an annual renewal fee of \$500. The term for which the initial permit is issued shall commence upon the date of approval by the Municipal Council and remain in effect until December 31 of the year following the approval of this article. Thereafter, all annual renewal periods shall commence on January 1 and remain in effect until the following December 31 of the following year.

6-11.7 Posting of permit required.

Upon approval by the Municipal Council of a BYOB permit, such permit must be posted on the inside of the perimeter walls of the establishment so as to be readily visible to the general public. Additionally, restaurants that are approved for BYOB must post on their doors a decal that shall be prescribed and printed by the Bayonne Police Department.

6-11.8 General provisions.

a. Any establishment which has been approved to allow the patrons to bring their own wine or beer may supply glasses, ice, etc., but may not impose a cover, corkage, or service charge of any kind and may not advertise the fact that wine or malt alcoholic beverages may be brought onto the premises.

b. The owner or operator shall not permit the consumption of wine or malt alcoholic beverages during the hours of 12:00 midnight to 12:00 noon.

- c. Persons under the age of 21 years or persons who are visibly or apparently intoxicated are prohibited from consuming wine or malt alcoholic beverages and are prohibited from bringing wine or malt alcoholic beverages onto the premises.
- d. The owner must mandate that a patron who brings an alcoholic beverage to a restaurant under this article take the alcoholic beverage with him or her at the end of their patronage. Under no circumstances may an owner allow an alcoholic beverage to remain on the premises which does not belong to a patron. In the event a patron does not take the alcoholic beverage with him or her at the end of their patronage, the owner or operator must ensure the alcoholic beverage contents and bottle are discarded. There shall be no storage of alcoholic beverages on the premises. Patrons shall not be permitted to deliver alcoholic beverages to the premises in advance or to leave alcoholic beverages on the premises to be consumed or to be picked up at a later time. For each bottle of an alcoholic beverage on the premises that does not belong to a patron, the owner shall be liable for a fine of up to \$500 for each bottle found on the premises.
- e. Any restaurant that opts to be a BYOB under this article irrevocably consents to allow the designated units authorized with enforcing compliance with all plenary licensing laws and their designees to conduct random inspections of BYOB restaurants to ensure compliance with this article.
- f. Notwithstanding anything contained herein, a violation of this article may result in revocation of the permit to allow the consumption of wine and malt alcoholic beverages.
- g. There shall be no consumption of wine or malt alcoholic beverages by employees of the premises, but only by patrons who are seated for meal service at a table. No person waiting to be seated for service may consume or possess an open container of an alcoholic beverage while waiting to be seated for service.
- h. Any establishment which has been approved under this chapter may permit outdoor consumption of alcoholic beverages of by patrons, provided:
- (1) The outdoor area is fully enclosed by a permanent structure or fence.
 - (2) Ingress and egress shall be through the main facility.
 - (3) If ingress and egress cannot be accommodated through the main facility, then an employee, at least 21 years of age, must be stationed at the outdoor entrance.
- i. No BYOB establishment or employee shall be permitted to serve, pour or distribute alcoholic beverages on the premises.
- j. Patrons who desire to consume wine or malt alcoholic beverages in the premises shall bring such beverages with them to the establishment. No delivery of

alcoholic beverages by any person, including a licensed alcoholic beverage establishment, shall be permitted.

k. Alcoholic beverages shall not be permitted to be stored, displayed or maintained on a service bar or service table and must be kept by the patron at the table at which the patron is seated.

l. No BYOB establishment shall permit a patron or any person to bring or deliver to the premises a large quantity of alcoholic beverages intended for consumption at a party or other special event to be attended by more than one table of patrons. Public or private parties to be attended by more than four persons and for which the host of the party provides alcoholic beverages to persons attending the function are not permitted. In these instances, a Social Affairs Permit or Catering Permit must be applied for through the New Jersey Division of Alcoholic Beverage Control.

Section 2. Ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistency.

Section 3. This ordinance shall take effect after final passage, publication and other provisions in accordance with applicable law. This ordinance shall remain in effect until April 30, 2018 unless extended to a later date prior to its expiration.