

TOWNSHIP OF WALL

ORDINANCE NO. 3-2016

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF WALL AMENDING CHAPTER 62, ARTICLE III, SECTION 62-16 OF THE TOWNSHIP CODE TO PERMIT BRING YOUR OWN BEVERAGE (“BYOB”) BY CERTAIN BUSINESSES THAT OFFER ART CLASSES AND PERMITTING BYOB PREMISES TO OPERATE FROM 12:00 PM TO 11:00 PM

WHEREAS, pursuant to N.J.S.A. 2C:33-27, a municipality shall not regulate the consumption of alcoholic beverages in a restaurant, dining room or other public place where food or liquid refreshments are sold or served to the general public; and

WHEREAS, pursuant to the aforementioned statute, an owner or operator of a restaurant may permit Bring Your Own Beverage (“BYOB”); and,

WHEREAS, the Township Committee has recommended to amend its BYOB ordinance to authorize certain businesses that offer art classes to permit its customers to BYOB; and,

WHEREAS, the Township Committee has determined that it would be appropriate, proper and in the best interests of the residents of the Township of Wall to amend certain provisions in Chapter 62, Article III, Section 62-16 of the Township Code.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Wall as follows:

Section 1. Chapter 62, Article III, Section 62-16 of the Township Code shall be amended as follows:

Section 62-16 Consumption in unlicensed public premises prohibited; BYOB Exception.

- A. No person shall drink or otherwise consume, or offer to another person for the purpose of consumption, in any public place, lane or sidewalk, public parking lot, public or quasi-public place other than a place licensed to sell alcoholic beverages and dispense alcoholic beverages for consumption on the premises, or in public conveyance; provided, however, that the provisions of this subsection shall not apply to any place or establishment for which a valid alcoholic beverage consumption license has been issued by the New Jersey Division of Alcoholic Beverage Control. No person owning or operating any commercial establishment, whether or not food or beverages are sold or served on the premises, shall permit or allow the consumption of alcoholic beverages on the premises whether or not said alcoholic beverages are brought onto the premises by the owner or operator of the establishment or by any member of the general public.
- B. Except as defined below in section B. (1), only restaurants shall be permitted to offer customers BYOB services. The word "restaurant" shall have the meaning set forth in § 140-17 of the Land Use and Development Regulations of the Township and shall not include "fast-food/carry-out restaurants" as defined therein.
 - (1) In addition to restaurants, art galleries that charge customers a fee to participate in art classes may offer customers BYOB services at art gallery premises. Art classes require instructors who are compensated for teaching customers to paint or to engage in a similar artistic endeavor.

- (2) Art galleries shall be subject to all of the requirements of the Land Use and Development Regulations of the Township.

C. Rules and regulations. The following rules and regulations are applicable to all premises allowing patrons to BYOB:

1. Premises allowing patrons to BYOB must comply with all applicable state, federal and municipal rules, regulations, statutes and ordinances pertaining to the consumption of wine or malt alcoholic beverages on a premises that is not licensed or permitted to sell or serve alcoholic beverages.
2. Premises allowing patrons to BYOB shall provide notice in writing to the Wall Township Municipal Clerk by November 1 of the preceding year indicating BYOB will be permitted on said premises. The notice shall include the street address and the lot and block numbers of the premises on which the restaurant or business is conducted, and the name and telephone number of the manager of the restaurant or business.
3. The consumption of alcoholic beverages, other than wine or malt alcoholic beverages, shall not be permitted.
4. 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 or for art instruction. 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.
5. The consumption of alcoholic beverages by patrons may be permitted in fully enclosed indoor dining areas of the premises. Outdoor consumption of alcoholic beverages by patrons may be permitted, provided:
[Amended 8-10-2011 by Ord. No. 19-2011]
 - a. The outdoor area is fully enclosed by a permanent structure or fence.
 - b. Ingress and egress shall be through the main facility.
 - c. 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.
 - d. The outdoor seating area must have an emergency-alarmed exit.
6. The consumption of wine or malt alcoholic beverages shall be permitted only during the hours of 12:00 p.m. prevailing time to 11:00 p.m. prevailing time.
7. No BYOB establishment shall charge any admission fee or cover, corkage or service charge. Fees may be charged for art instruction.
8. No BYOB establishment shall advertise inside or outside of the premises or in any medium whatsoever that patrons may bring and consume their own wine or malt alcoholic beverages on the premises.
9. No BYOB establishment or employee shall be permitted to serve, handle, pour or distribute alcoholic beverages on the premises.

10. 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.
11. 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.
12. 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.
13. 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.
14. No BYOB establishment or employee shall allow, permit or suffer any alcoholic beverages to be consumed by any intoxicated person or by any person under the age of 21 years.
15. A BYOB establishment shall immediately report to the Police Department any incident of underage drinking or the presentation of false identification by an underage person and any incident involving the excessive consumption of alcohol by a patron.

Section 2. All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance, be and the same are hereby repealed to the extent of such inconsistency.

Section 3. The Mayor, Clerk, and such other Township officials are hereby authorized to take such ministerial actions as are necessary to effectuate the purposes of this Ordinance.

Section 4. Should any section, paragraph, clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

Section 5. This Ordinance shall take effect upon final passage and publication as provided by law.

Introduced on: **March 23, 2016**

Adopted: **April 27, 2016**

Attest: 
Roberta M. Lang, RMC
Township Clerk

Approve: 
Ann Marie Conte
Mayor