



To: Naomi Levi, Government Affairs Manager for the City of Coral Gables

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "CL", is written over the name "Craig E. Leen".

RE: Legal Opinion Regarding Wolfe's Wine Shoppe

Date: February 8, 2017

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I have reviewed the analysis in your opinion below along with the relevant Code provisions. I agree with the analysis and distinguishing point that you raise, along with your conclusion that the Commission could approve the request pursuant to section 6-4 of the City Code. It is clear to me that the legislative intent, as indicated by the text, is that the phrase "sale of alcoholic beverages and intoxicating liquors shall not exceed 25 percent" in section 6-4(b) is referring to alcohol consumed on the premises. This is because 6-4(a) refers to "retail beverage and retail liquor store licenses." As indicated in the definition section, these licenses are both for alcohol consumed "on the premises." Thus, the logical conclusion is that this section allows (with Commission approval) art galleries, theaters, museums, and other nonrestaurant facilities to serve alcoholic beverages for consumption on the premises where the total receipts from that activity does not exceed 25 percent of the total receipts from its entire business. Here the business of Wolfe's Wine Shop is to sell wine in sealed containers for consumption off premises. As long as the sale of wine for consumption on premises would not exceed 25 percent of its total receipts, the request can be approved by the City Commission consistent with section 6-4 of the City Code.

Of course, I would note that Wolfe's Wine Shop will need to satisfy any state requirements for the sale of alcoholic beverages for consumption on premises including obtaining any necessary license. There is general language that the City places in these resolutions to that effect (which indicates there must be compliance with state requirements).

This opinion and interpretation, which includes the analysis in the opinion below, is adopted as a City Attorney Opinion pursuant to section 2-201(e)(1) and (8) of the City Code.

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Subject:** FW: Wolfe's Wine Shoppe request  
**Date:** Wednesday, February 08, 2017 10:42:24 AM  
**Attachments:** [image001.png](#)

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Please publish.

**Craig E. Leen, City Attorney**

*Board Certified by the Florida Bar in  
City, County and Local Government Law*  
City of Coral Gables  
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**From:** Leen, Craig  
**Sent:** Wednesday, February 08, 2017 10:40 AM  
**To:** Levi, Naomi <nlevi@coralgables.com>  
**Cc:** Ramos, Miriam <mramos@coralgables.com>  
**Subject:** RE: Wolfe's Wine Shoppe request

[City Attorney Opinion](#)

I have reviewed the analysis in your opinion below along with the relevant Code provisions. I agree with the analysis and distinguishing point that you raise, along with your conclusion that the Commission could approve the request pursuant to section 6-4 of the City Code. It is clear to me that the legislative intent, as indicated by the text, is that the phrase “sale of alcoholic beverages and intoxicating liquors shall not exceed 25 percent” in section 6-4(b) is referring to alcohol consumed on the premises. This is because 6-4(a) refers to “retail beverage and retail liquor store licenses.” As indicated in the definition section, these licenses are both for alcohol consumed “on the premises.” Thus, the logical conclusion is that this section allows (with Commission approval) art

galleries, theaters, museums, and other nonrestaurant facilities to serve alcoholic beverages for consumption on the premises where the total receipts from that activity does not exceed 25 percent of the total receipts from its entire business. Here the business of Wolfe's Wine Shop is to sell wine in sealed containers for consumption off premises. As long as the sale of wine for consumption on premises would not exceed 25 percent of its total receipts, the request can be approved by the City Commission consistent with section 6-4 of the City Code.

Of course, I would note that Wolfe's Wine Shop will need to satisfy any state requirements for the sale of alcoholic beverages for consumption on premises including obtaining any necessary license. There is general language that the City places in these resolutions to that effect (which indicates there must be compliance with state requirements).

This opinion and interpretation, which includes the analysis in the opinion below, is adopted as a City Attorney Opinion pursuant to section 2-201(e)(1) and (8) of the City Code.

**Craig E. Leen, City Attorney**

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**From:** Levi, Naomi

**Sent:** Wednesday, February 08, 2017 9:26 AM

**To:** Leen, Craig <[cleen@coralgables.com](mailto:cleen@coralgables.com)>

**Subject:** Wolfe's Wine Shoppe request

Good morning Craig,

Per our conversation yesterday, Wolfe's Wine Shoppe has requested the ability to sell wine by the glass on premises as part of a pilot program in anticipation of the upcoming Miracle Mile and Giralda Avenue overlay district. Per Cathy's direction, I will be submitting a Resolution regarding the pilot program to the Commission on February 14<sup>th</sup>.

In order for Wolfe's to sell wine by the glass, they need to obtain an on-premises alcoholic beverage license, for which they need approval under City Code, Section 6-4. Pursuant to Section 6-4, retail beverage and retail liquor store licenses may be issued to non-restaurant facilities on a case by case basis by the City Commission after administrative review by the City Manager.

In order for a non-restaurant facility to qualify for a retail beverage or retail liquor store license under this section, the following minimum requirements must be met:

Section 6.4(b)

- (1) That the non-restaurant facility shall have a valid certificate of use and occupational license.
- (2) The sale of alcoholic beverages and intoxicating liquors shall be only incidental to the primary function of the facility.
- (3) Permanent bars or counters with a surface area not exceeding 45 square feet shall be permitted.
- (4) Total receipts from the sale of alcoholic beverages and intoxicating liquors shall not exceed 25 percent of the total annual gross receipts.
- (5) Non-restaurant facilities holding a state retail beverage or retail liquor store license shall always be subject to inspection by the City Manager or her designee for the purpose of determining that such non-restaurant facilities are in compliance with the existing requirements.

I am writing to ascertain your opinion as to the applicability of Section 6.4(b)(2) and (b)(4). For the City to approve Wolfe's request, I think we can distinguish between the retail sale of wine by the bottle for consumption off premises, from the sale of wine by the glass to be consumed on site. In other words, for the purposes of subsections 2 and 4, the sale of wine by the glass should be construed as incidental to the primary function of the business (the primary function being the retail sale of wine by the bottle), and the total receipts from wine by the glass sales will be required not to exceed 25 percent of the total annual gross receipts of the business.

This Resolution will allow Wolfe's Wine Shoppe to obtain a license from the state to be able to sell wine by the glass, provided the applicant receives all other necessary approvals. Please let me know if you are in agreement with this interpretation.

Regards,

**Naomi Levi Garcia, Esq.**  
**Government Affairs Manager**  
**City of Coral Gables**  
**405 Biltmore Way**  
**Coral Gables, FL**  
**305-460-5248**