

ORDINANCE 2018-20

**AN ORDINANCE OF THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF CHAPTER 6, ALCOHOLIC BEVERAGES, SEC. 6-2, SEC. 6-34 – TYPES OF LICENSES, SEC. 6-37 – LIMITATIONS ON USE, SEC. 6-46 – CARRY-IN PROHIBITED, SEC. 6-62 – SUNDAY SALES PERMIT, SEC. 6-118 – DISTANCE FROM CERTAIN LOCATIONS AND ADDING SEC 6-81- BREWERIES**

**WHEREAS**, State law provides that the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law; and

**WHEREAS**, the Mayor and Council of the City of Smyrna are charged with the protection of the public health, safety, and welfare; and

**WHEREAS**, the Mayor and Council now wish to update the City of Smyrna Code of Ordinances regarding the sale of alcoholic beverages, Chapter 6, Alcoholic Beverages, Article I, In General Section 6-2 – Definitions; Article II, “Licenses”, Division 1 – “Generally,” Section 6-34 – “Types of Licenses”, Section 6-37 – “Limitations on Use”, Section 46 – “Carry-in prohibited”, Section 6-62 – “Sunday Sales Permit”; Division 2., Section 6-118 – “Distance from Certain Locations. Adding to Article II, Division 1, Section 81 – “Breweries”.

**NOW, THEREFORE**, the Mayor and Council of the City of Smyrna, pursuant to their authority, do hereby adopt the following amendments:

Sec. 6-2. - Definitions.

- (a) All definitions as may be set forth in the state alcoholic beverage code are adopted by this chapter.
- (b) The following additional words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Alcoholic beverage* means all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

*Applicant* means generally a person requesting to be a licensee responsible for the sale of alcoholic beverages on the premises applied for.

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*Arrests* means all arrests and dispositions thereof for all violations of municipal, state, or federal law, both felonies and misdemeanors, during the five years immediately preceding the date of the application.

*Barrel* means 31 gallons.

*Brewery* means any establishment other than a Brewpub, which is licensed by the state as contemplated by the Official Code of Georgia at, Article 2, Chapter 5 of Title 3, as amended, where malt beverages are manufactured and sold for consumption on and off of the premises.

*Brewpub* means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36. As used in this paragraph, the term “eating establishment” means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food; provided, however, that when determining the total annual gross food and beverage sales, barrels of malt beverages sold to licensed wholesale dealers, or to the public for consumption off the premises, shall not be used.

*Church* means a permanent freestanding building located in an area designated for such use by the zoning ordinances where persons regularly assemble for religious worship, which shall be publicly designated as a church, but shall not include a residence also used for religious purposes.

*Closed function* means a private event not open to the general public. Closed functions can only occur at the community center, Aline Wolfe Adult Recreation Center, Brawner Hall, Taylor-Brawner House, Tolleson Park Day Room, Aunt Fanny's Cabin or Reed House. No pay-at-the-door or uninvited guests are permitted. Alcoholic beverages must be served without charge. The offer and sale of alcoholic beverages at such functions is prohibited, except that a general admission fee permitting attendance at the closed function may be collected in advance. During the time of the closed function, an off-duty city police officer or city park ranger must be hired to oversee the event while alcohol is being served.

*Distilled spirits:* Any alcoholic beverage obtained by distillation or containing more than twenty-four percent (24%) alcohol by volume.

*Drink* means any alcoholic beverage not in its original package which is served for consumption on premises which may or may not be diluted by any other liquid.

*Grocery store* means a retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed five percent of its total gross sales from all sources as evidenced in a public hearing by a certified audit showing the sales for the calendar year most recently ending at the proposed location or for a similar store at a similar location. For the purposes of this definition, retail establishments selling gasoline shall not be considered grocery stores.

*Hotel* means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms, with adequate and sanitary kitchen and a minimum seating capacity

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of at least 40, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant or nightclub on their premises, and the holder of such franchise shall be included in the definition of hotel under this definition.

*Immediate family* means any person related within the first degree of consanguinity or affinity as determined according to civil law.

*License* means the authorization by the governing authority of the city to engage in the sale of alcoholic beverages as provided for in this chapter.

*Licensee* means generally the person to whom a license is granted and who is responsible for the sale of alcoholic beverages as prescribed in this chapter.

*Lounge* means a separate room connected with a part of an adjacent to a restaurant as defined herein with all booths, stools and tables being unobstructed and open to view. All lounges shall have a seating capacity of at least 40. The maximum area of said lounge shall be one-third the size of the food serving area.

*Malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than fourteen percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

*Package* means a bottle, can, growler, keg, barrel, or other original consumer container.

*Park* means any public lands owned or controlled and operated by the city, state, or any county of the state, in and upon which facilities are provided for the recreation of the general public.

*Person* means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

*Pouring* means the sale of alcoholic beverages by the drink.

*Premises* means the definite closed or partitioned-in locality, whether room, shop, or building wherein alcoholic beverages are sold, and may include an attached patio or deck when:

- (1) It is separated from the general public by a permanent wall, fence, hedge or similar approved device, and access to the patio or deck is limited only through the main premises;
- (2) The location of the patio or deck does not encroach upon any sidewalk, right-of-way, or other common area customarily used for ingress, egress, pedestrian or vehicular traffic; and

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- (3) The location and plans shall first have been approved by the city building inspector and fire marshal.

Use of a patio or deck as a part of the premises shall be suspended or revoked when its use interferes with other uses in the vicinity, or becomes in any way a public nuisance.

*Primary customer entrance* means the designated primary point of ingress and egress for customers of the commercial establishment.

*Private club* means a corporation organized and existing under the laws of the state, having at least 100 members regularly paying monthly, quarterly, semiannual or annual dues, organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any shareholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of servants, members, volunteers or employees for cooking, preparing and serving meals for its members and guests; provided, however, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages to the club or its members at any annual meeting of the club by its governing board out of the general revenue of the club.

*Privately held corporation* means an entity registered only through Georgia Secretary of State and not registered with the U.S. Securities and Exchange Commission.

*Public building* means any building owned by a federal, state or local government entity and used exclusively for federal, state and local governmental functions and/or purposes.

*Publicly traded corporation* means an entity which is traded on a major stock trading exchange or registered with the U.S. Securities and Exchange Commission.

*Purchase price* means the consideration received for the sale of alcoholic beverages by the drink valued in money, whether received in cash or otherwise, including all receipts, cash, credits and property, or services of any kind or nature and also, the amount for which credit is allowed by the licensee or his/her agent to the purchases, without any deduction therefrom whatsoever.

*Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served with a minimum seating capacity of 40, such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto.

*School* means the buildings, grounds, or campus of such state, county, city, church or other school with an enrollment in excess of 150 students, which teaches the subjects commonly taught in the public schools of Cobb County, not to include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational or technical occupations and other special subjects are taught.

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*Smyrna Central Downtown* means that area described as the Downtown Design District in the Urban Design Standards of the city adopted August 18, 2008, by the mayor and council and may be amended from time to time.

*Wholesale* means the sale of alcoholic beverages as a distributor to retailers for the purpose of resale.

*Wine specialty shop* means a retail establishment:

- (1) Where no less than 40 percent of the gross revenue is derived from the sale of table wine, fortified wines, port, sherry or malt beverages for consumption off the premises and/or wine accessories;
- (2) Where no more than 25 percent of the gross revenue is derived from the sale of table wine, fortified wines, port, or sherry for consumption on the premises.
- (3) Which shall maintain on the premises and offer for sale at all times a variety of wines from not less than 100 manufacturers or importers of wine or any combination thereof;
- (4) Which shall maintain and replenish a total inventory of at least 3,500 bottles of wine; provided however, that any inventory which is depleted to less than 3,500 bottles of wine must undertake efforts to be replenished to at least 3,500 bottles of wine within 15 days of the date that the city learns that the inventory falls below 3,500 bottles;
- (5) Which shall submit an inventory list of all wines maintained on the premises and offered for sale to the licenses and permits unit of the city's finance department. Such inventory list shall be submitted to the finance department on a quarterly basis by the first day of each of the following months: January, April, July and October; and
- (6) Whose total interior floor area, inclusive of storage area, shall not exceed 3,000 square feet.
- (7) On or before the 20th day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the city business license office in such form as the business license supervisor may prescribe for every licensee
- (8) All returns shall show, as to the preceding quarter, the total gross revenue of the licensed business, the gross revenue from the sale of alcoholic beverages sold to be consumed off the premises together with wine accessories and the gross revenue from the sale of alcoholic beverages sold to be consumed on the premises, as well as such other information as may be required by the business license supervisor.

(Ord. No. 95-03, § 3-1-2, 5-1-95; Ord. No. 97-16, 12-1-97; Ord. No. 2001-0917C, 9-17-01; Ord. No. 2004-27, 8-2-04; Ord. No. 2006-7, 4-3-06; Ord. No. 2009-10, 8-17-09; Ord. No. 2009-14, 10-19-09; Ord. No. 2010-3, 5-3-10; [Ord. No. 2012-15](#), [7-16-12](#); [Ord. No. 2016-09](#), 4-18-16)

**Cross reference**— Definitions generally, § 1-2.

**State Law reference**— Definitions, O.C.G.A. § 3-1-2.

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Sec. 6-34. - Types of licenses.

The types of alcoholic beverage licenses which may be issued under this chapter are:

- (1) Pouring distilled spirits;
- (2) Pouring wine and malt beverage;
- (3) Wine specialty shop (add on to package license only);
- (4) Growler Specialty shop (add on to package license only);
- (5) Educational tastings of wine or malt beverages (add on to package license only);
- (6) Educational tastings of distilled spirits within a distillery (add on to a manufacturer's license only);
- (7) Brewpub (add on to malt beverage pouring license only);
- (8) Package distilled spirits;
- (9) Package wine and malt beverage;
- (10) Hotel sundry shop/hotel reception (separate or as add-on to pouring license);
- (11) Wholesale alcoholic beverages; and
- (12) Brewery
- (13) Cigar Specialty Shops

(Ord. No. 95-03, § 3-3-4, 5-1-95; Ord. No. 2004-27, 8-2-04; Ord. No. 2010-3, 5-3-10; Ord. No. 2010-4, 6-7-10; [Ord. No. 2012-15, 7-16-12](#); [Ord. No. 2013-04](#), 3-4-13; [Ord. No. 2015-03](#), 3-2-15)

Sec. 6-37. - Limitations on use.

- (a) It shall be unlawful for any person operating premises licensed for the sale of wine and malt beverages to store or have on the premises any distilled spirits without a license therefor.
- (b) No package sales shall be allowed in, or in connection with, any restaurant, cafe, eating place, private club or in any establishment other than a retail store, Wine Specialty Shop, Growler Specialty Shop, Cigar Specialty Shop, Brewery or Brewpub.
- (c) Except in wine specialty shops, Growler Specialty Shops, Breweries or Brewpubs, no package sales shall be allowed in the same room where pouring sales are allowed.

(Ord. No. 95-03, § 3-3-9, 5-1-95; Ord. No. 2004-27, 8-2-04; Ord. No. 2010-3, 5-3-10)

Sec. 6-45. - Consumption on package licensed premises prohibited.

Except as otherwise specified herein, it shall be unlawful for any person licensed for the operation of a package store only to permit or allow any consumption of alcoholic beverages on the premises of such package store location. It shall be the duty of the owner and/or operator of

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each establishment to police and prevent the consumption of any alcoholic beverages upon the premises of any package store location. Consumption on the premises shall be allowed only in those locations having a pouring license. However, wine or malt beverages may be sold by the drink and consumed on the premises, provided that a Wine Specialty Shop, Growler Specialty Shop, hotel sundry shop/hotel reception license, Brewpub, Brewery, educational tasting license or Cigar Specialty Shop is obtained and the requirements of such license are met as provided herein.

(Ord. No. 95-03, § 3-3-17, 5-1-95; Ord. No. 2004-27, 8-2-04; Ord. No. 2006-7, 4-3-06; Ord. No. 2010-3, 5-3-10; [Ord. No. 2012-15, 7-16-12](#); [Ord. No. 2013-04](#), 3-4-13; [Ord. No. 2015-03](#), 3-2-15)

Sec. 6-46. - Carry-in prohibited.

(a) Except as authorized herein, it shall be unlawful for any person operating any business establishment licensed to serve alcoholic beverages by the drink, or food, to permit the consumption of alcoholic beverages that are not purchased on the premises where they are consumed.

(b) It shall be unlawful for any pouring licensee, except those licensees holding a wine specialty shop Growler Specialty Shop, Brewery or Brewpub license, to sell, or offer to sell, or to give, to any customer or patron any alcoholic beverages by the package for carry out purposes.

(c) All alcoholic beverages sold by consumption on the premises licensees shall be consumed only on the licensed premises unless allowed by state law, city ordinance or as provided in subsection (d) of this Section. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises unless specifically permitted by state law or city ordinance.

(d) Exceptions – Outside consumption of alcoholic beverages permitted – Restaurant Districts

(1) For the purposes of this Chapter only, a Restaurant District is defined as follows:  
A specifically authorized and pedestrian oriented area of the City as established by resolution of Mayor and Council.

(2) *One drink per person on-street limit.* Within a Restaurant District, any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container that is not a can, bottle, or glass, for removal from the premises; provided, however, that no person shall remove more than one such alcoholic beverage per person from the licensed premises at a time.

(3) *Size limited to a maximum of sixteen (16) ounces.* Within a Restaurant District, no container in which an alcoholic beverage is dispensed and removed from the

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licensed premises shall exceed sixteen (16) fluid ounces in size. No person shall hold in possession on the streets and sidewalks, or in other public places within a Restaurant District any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.

- (4) *Drinking from can, bottle, or glass prohibited.* It shall be unlawful within a Restaurant District for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass, or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and/or parking lots, whether public or private.
- (5) *Purchase from licensed premises within the Restaurant District.* Alcoholic beverages consumed pursuant to this provision must be purchased from a licensed premise within the Restaurant District.
- (6) *Consumption limited to certain areas in the Restaurant District.* No alcoholic beverage purchased pursuant to this provision may be consumed outside of the Restaurant District or in buildings within the Restaurant District other than the building from which the alcoholic beverage was purchased. It shall be unlawful to consume any alcoholic beverage within a parking lot, whether public or private, unless specifically authorized by City of Smyrna. Nothing in this ordinance or any resolution enacting a Restaurant District shall be construed as to allow the possession or consumption of alcoholic beverages in City parks or inside public buildings unless specifically authorized by City of Smyrna.
- (7) *Consumption limited to lawful hours of operation.* Unless authorized by Mayor and Council in the Resolution creating the Restaurant District, no alcoholic beverage purchased within the Restaurant District pursuant to this provision shall be consumed within the Restaurant District on the streets, sidewalks, rights-of-way, and/or parking lots, whether public or private, prior to 11 A.M. or later than 12 A.M..

(Ord. No. 95-03, § 3-3-18, 5-1-95; Ord. No. 2004-27, 8-2-04; Ord. No. 2010-3, 5-3-10)

Sec. 6-61. - Hours of operation.

- (a) *Package, distilled spirits.* Licensees in package distilled spirits shall not sell except between the hours of 8:00 a.m. and 11:45 p.m., Monday through Saturday. Licensees may sell on Sundays between the hours of 12:30 p.m. and 11:30 p.m., provided the licensee applies for and receives a Sunday sales permit for such sales from the city.
- (b) *Package, wine and malt beverages with or without Wine Specialty Shop or Growler Specialty Shop add on and Cigar Specialty Shop.* Licensees in package wine and malt



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beverages with or without wine specialty shop or Growler Specialty Shop add on and licensees in Cigar Specialty Shops shall not sell except between the hours of 8:00 a.m. and 2:00 a.m., Monday through Friday (Saturday morning), and 8:00 a.m. through 11:45 p.m. on Saturday. Licensees may sell on Sundays between the hours of 12:30 p.m. and 11:30 p.m., provided the licensee applies for and receives a Sunday permit for such sales from the city.

- (c) *Pouring, distilled spirits and pouring, wine and malt beverages with or without Brewpub add on.* and Breweries, Licensees in pouring distilled spirits and licensees in pouring wine and malt beverages and licensees in Breweries shall not sell except between the hours of 8:00 a.m. and 2:00 a.m. the following morning, Monday through Friday (Saturday morning), and on Saturday from 8:00 a.m. until 2:55 a.m. Sunday morning. This section shall apply to private clubs as well. Provided that, these hours may be extended as provided by a special late hours sales permit and Sunday sales permit as described in this chapter.
- (d) *Wholesalers.* Business hours of any wholesaler licensed hereunder shall be limited to the hours from sunup to 9:00 p.m., exclusive of Sunday. No wholesaler shall be open on Sunday.
- (e) Hotel sundry shop/hotel reception licensees shall not sell except between the hours of 8:00 a.m. and 11:45 p.m. Monday through Saturday and Sunday between the hours of 11:00 a.m. and 11:30 p.m. Licensees shall not be required to hold a separate Sunday sales permit.
- (f) Election days. The sale of alcoholic beverages in the city shall be permitted on election days, as the same are defined in O.C.G.A. § 3-3-20.

(Ord. No. 95-03, § 3-3-33, 5-1-95; Ord. No. 2004-27, 8-2-04; Ord. No. 2010-4, 6-7-10; [Ord. No. 2011-22, 12-19-11](#); [Ord. No. 2012-15, 7-16-12](#); [Ord. No. 2012-18, 8-6-12](#); [Ord. No. 2015-08, 5-18-15](#))

Sec. 6-62. - Sunday sales permit.

- (a) In addition to the hours of operation specified in this chapter, licensees in pouring distilled spirits and licensees in pouring wine and malt beverages, *with or without Brewpub add on*, but not including Wine Specialty Shop, Growler Specialty Shop, Cigar Specialty Shop, Breweries or educational tasting permits, may sell and serve on Sundays from 11:00 a.m. until midnight and may continue to sell until 4:00 a.m. (Monday morning), provided that the licensee applies for and receives a Sunday sales permit for such sales from the city. The licensee must also hold a city alcoholic beverage pouring license.
- (b) Such applicants shall complete a form furnished by the city, supplying such information as may be requested. Prior to permit issuance, the applicant must make available records for audit purposes to determine and verify if the establishment is meeting all requirements prescribed in this chapter. The permit may be denied or removed for failure to so conform or failure to produce satisfactory evidence of conforming.

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- (c) All annual permit renewals shall be made in the same manner and during same time periods as other alcoholic beverage license renewals. All renewals are subject to audit prior to being renewed to ensure compliance with this section. All renewal applications shall be accompanied by a statement by a certified public accountant that no more than 50 percent of sales are derived solely from the sale of alcoholic beverages.
- (d) No Sunday sales permit is transferable.
- (e) A fee for issuance of the Sunday sales permit may be established and/or changed from time to time by the governing body by resolution, and a schedule of fees shall be maintained in the office of the city clerk.
- (f) The Sunday sales permit shall be subject to any requirements in this chapter pertaining to enforcement and revocation proceedings and shall be automatically revoked if the alcoholic beverage pouring license is revoked.

(Ord. No. 95-03, § 3-3-34, 5-1-95; Ord. No. 95-24, 12-18-95; Ord. No. 2004-27, 8-2-04; Ord. No. 2010-4, 6-7-10; [Ord. No. 2012-15, 7-16-12](#); [Ord. No. 2012-18, 8-6-12](#))

**State Law reference**— Local authorization and regulation of sales of alcoholic beverages on Sunday, O.C.G.A. § 3-3-7; sale of alcoholic beverages on Sundays, election days and Christmas Day, O.C.G.A. § 3-3-20.

Sec 6-81 Breweries

- (a) Breweries shall be licensed by the state of Georgia and operate in accordance with all state laws and regulations.
- (b) Breweries may not sell any alcoholic beverage except malt beverages that are produced at the brewer's facility.
- (c) Breweries may not hold a separate pouring license

Sec. 6-118. - Distance from certain locations.

- (a) It is the policy of the city that, in keeping with the purposes of this article, any premises proposed for license for the sale of alcoholic beverages shall be at a suitable distance from a school, church, park, public building, library, and residence. These requirements are in addition to distance requirements imposed by state law.
- (b) A suitable distance shall be as follows:
  - (1) For a license for package distilled spirits, a suitable distance is 600 feet from a school, and 300 feet from a church, park, public building, library, or residence.
  - (2) For a license for pouring distilled spirits, including a Cigar Specialty Shop, a suitable distance is 600 feet from a school, and 200 feet from a church, park, public building, library or residence; provided, however, in no event shall the

primary customer entrance of the proposed premises be located closer than 75 feet from the property line of the school, church, park, public building, library, or residence.

- (3) For a license for package wine and malt beverages with or without the Wine Specialty Shop or Growler Specialty Shop add on, a suitable distance is 600 feet from a school, and 300 feet from a church, park, public building, or library; provided that the distance from a church, park, public building, or library shall be waived when the applicant is a grocery store.
- (4) For a license for pouring wine and malt beverages, with or without the Brewpub add on, including a Cigar Specialty Shop a suitable distance is 600 feet from a school, and 200 feet from a church, park, public building, library or residence; provided, however, in no event shall the primary customer entrance of the proposed premises be located closer than 75 feet from the property line of the school, church, park, public building, library, or residence. However, at a public hearing, advertised in the same manner that is specified in section 6-113 herein, the city may waive the distance requirements of this section if satisfactory evidence is produced to cause the city to conclude that there would be no adverse effect to the value of the property that is within the prohibited set back area if a license is granted.
- (5) For a license for wholesale, or for a license for manufacture, but not including Brewpubs or Breweries, a suitable distance is 600 feet from a school, and it is 600 feet from a church, park, public building, library, or residence.
- (6) For a license for a Brewery, a suitable distance is 600 feet from a school, and 300 feet from a church, park, public building, library, or residence.
- (7) Within the area defined as Smyrna Central Downtown or within property zoned to a mixed use zoning category, a license for the pouring of distilled spirits or for pouring wine and malt beverages with or without the Brewpub add on, or for a Cigar Specialty Shop, it shall be 100 feet from a school, and 100 feet from a church, and no distance requirement from a residence, park, public building or library. However, at a public hearing, advertised in the same manner that is specified in section 6-113 herein, the city may waive the distance requirements of this section if satisfactory evidence is produced to cause the city to conclude that there would be no adverse effect to the value of the property that is within the prohibited set back area if a license is granted.
- (8) Within the area defined as Smyrna Central Downtown or within property zoned to a mixed use zoning category, a license for package wine and malt beverages with or without the Wine Specialty Shop or Growler Specialty Shop add on, a suitable distance shall be 300 feet from a church, and no distance requirement from a residence, park, public building, or library.

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- (c) The measurement of suitable distance, unless otherwise specified in this chapter, shall be defined as:
- (1) The measure in lineal feet of the most direct route of travel on the ground by a pedestrian from the center of the nearest door of customer entry of the proposed license premises to the nearest property line of the church, school, park, public building, library, or residence. Such travel shall be measured as a straight line from the customer door to the property line and is not required to follow a line running along the nearest sidewalk or street route; provided that, when a straight line of travel would not be a customary and reasonable line of travel because of obstacles to such travel, the line of travel shall be angled around such obstacles and the distance shall be the sum of the segments of the line.
  - (2) Except as otherwise specified herein, the measurement of suitable distance within the Smyrna Central Downtown or within property zoned to a mixed-use zoning category shall be defined as the measure in lineal feet from the center of the front door of customer entry of the proposed license premises to the front door of the church, school, public building, library and/or residence, and the nearest property line of a park. Such travel shall not be measured as a straight line from front door to front door and is required to follow a line running along the nearest sidewalk or street route.
- (d) After issuance of any license, no change in the location of a customer entry shall be made which would affect compliance with any distance requirements of this article.
- (e) An application for a new license on an existing licensed location, or on a previously licensed location for a period of one year from expiration of the previous license to the date of application, shall not be required to comply with the distance requirements from a school, church, park, public building, library, or residence. An application filed under this section shall meet and qualify under all other requirements of this article for the granting of a new license.

**State Law reference**— Similar provisions, O.C.G.A. § 3-3-21.

(Ord. No. 95-03, § 3-2-18, 5-1-95; Ord. No. 2001-0917A, 9-17-01; Ord. No. 2001-0917B, 9-17-01; Ord. No. 2003-10, 2-17-03; Ord. No. 2004-27, 8-2-04; Ord. No. 2006-20, 9-8-06; Ord. No. 2009-10, 8-17-09; Ord. No. 2009-14, 10-19-09; Ord. No. 2010-4, 6-7-10; [Ord. No. 2015-09](#), 6-15-15)

This Ordinance shall take effect and be in force from and after the day of its adoption.

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CHAPTER 6  
ALCOHOLIC BEVERAGES

The above Ordinance was read and approved by the Mayor and Council of the City of Smyrna, Georgia, on the 17<sup>th</sup> day of December 2018.

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Max Bacon, Mayor

Attest:

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Terri Graham, City Clerk

SEAL

As to form:

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Scott Cochran, City Attorney