

ORDINANCE 2018-04

**ORDINANCE TO AMEND CHAPTER 6 “ALCOHOLIC BEVERAGES,”
ARTICLE II “LICENSE,” DIVISION 1 “GENERALLY,” SECTION 6-46 OF THE
CODE OF ORDINANCES OF THE CITY OF SMYRNA**

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 II – “License,” Division 1 – “Generally,” Section 6-46 – “Carry-in prohibited.”

NOW, THEREFORE, the Mayor and Council of the City of Smyrna, pursuant to their authority, do hereby adopt the following amendment: 1.

Chapter 6, Alcoholic Beverages, Article II, License, Division 1, Generally, Section 6-46, Carry-in prohibited of the Code of Ordinances of the City of Smyrna, Georgia is hereby amended to read as follows:

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 or Growler Specialty Shop 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 (e) of this Section. It shall be unlawful for any person to remove

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from the licensed premises any alcoholic beverages sold for consumption on the premises unless specifically permitted by state law or city ordinance.

- (d) Each consumption on the premises licensee shall post in a prominent place at each exit from the licensed premises a sign in substantially the following form:

“It is a violation of the Code of Ordinances of the City of Smyrna to take any type of alcoholic beverage out of this establishment unless specifically permitted by State law or City of Smyrna Ordinance.”

Such a sign shall be in uniform letters not less than one (1) inch in height.

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- (e) 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 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.

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(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. 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 recreation buildings.

(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..

2.

Severability. Should any court of competent jurisdiction declare any section or part of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

3.

Repeal of Conflicting Provisions. All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

4.

Renumbering. It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Smyrna, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

5.

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This Ordinance shall take effect and be in force from and after the day of its adoption, the public welfare demanding it.

The above Ordinance was read and approved by the Mayor and Council of the City of Smyrna, Georgia, on the _____ day of February 2018.

Max Bacon, Mayor

Attest:

Terri Graham, City Clerk

SEAL

As to form:

Scott Cochran, City Attorney