

ORDINANCE 2016-09

AN ORDINANCE OF THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF THE CODE OF ORDINANCES OF THE CITY OF SMYRNA, CHAPTER 6, ALCOHOLIC BEVERAGES, ARTICLE I, IN GENERAL, to amend Section 6-2

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.

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.

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form.

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 means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines.

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 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 and 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 six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term 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
- (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.

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 75 percent of the gross revenue is derived from the sale of table wine, fortified wines, port, sherry for consumption off the premises and/or wine accessories;
- (2) 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;
- (3) 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;
- (4) 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
- (5) Whose total interior floor area, inclusive of storage area, shall not exceed 3,000 square feet.

Approved by Mayor and Council this 18th day of April, 2016

A. Max Bacon, Mayor

Attest:

Terri Graham, City Clerk

Approved as to form:

Scott Cochran, City Attorney