

ORDINANCE 2017-12

AN ORDINANCE OF THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF CHAPTER 6, ALCOHOLIC BEVERAGES, SEC. 6-34, TYPES OF LICENSES, (13); SEC. 6-37, LIMITATIONS ON USE, (b); SEC. 6-45, CONSUMPTION ON PACKAGE LICENSED PREMISES PROHIBITED; SEC. 6-61, HOURS OF OPERATION, (b); SEC. 6-62, SUNDAY SALES PERMIT, (a); SEC 6-80 CIGAR SPECIALTY SHOPS; SEC. 6-118, DISTANCE FROM CERTAIN LOCATIONS, (b) (2) (4) & (6); SEC. 6-124, POURING REQUIREMENTS; TO READ AS FOLLOWS:

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) Manufacturer.
- (13) Cigar Specialty Shop

(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 or Growler Specialty Shop or Cigar Specialty Shop.

- (c) Except in wine specialty shops, 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 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 except that in locations having a license to sell packaged wine, wine may be consumed on such premises during a wine tasting. However, wine or malt beverages may be sold by the drink and consumed on the premises, provided that a license for a specialty wine shop, Growler Specialty Shop, hotel sundry shop/hotel reception license 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. 6-61. - 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 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.* Licensees in pouring distilled spirits and licensees in pouring wine and malt beverages 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 12:30 p.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, but not including wine specialty shop, Growler Specialty Shop Cigar Specialty Shops or educational tasting permits, may sell and serve on Sundays from 12:30 p.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.
- (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. 6-80 - Cigar Specialty Shop

- (a) As used in this section, the term "Cigar Specialty Shop" means a retail establishment that is limited to:
 - (1) Which shall maintain on the premises and offer for sale at all times a variety of cigars from not less than 10 manufacturers or importers of cigars or any combination thereof and have a Walk-in Humidor;
 - (2) Is in a location whose total interior floor area does not exceed 4,000 square feet;
 - (3) Which shall maintain and replenish a total inventory of at least 1000 cigars; provided however, that any inventory which is depleted to less than 750 cigars must undertake efforts to be replenished to at least 1000 cigars within 15 days of the date that the city learns that the inventory falls below 750 cigars;
 - (4) Where no less than 40 percent of the gross revenue is derived from the sale of cigars and cigar- related products for consumption on or off the premises, and that does not sell, or permit the use of, (i) vape products such as electronic smoking devices, component parts or e-liquids, or (ii) hookah products such as hookahs, glass pipes or bongs or, glass pipes or water pipes.
 - (5) Where no more than 25% of the gross revenue is derived from the sale of alcoholic beverages to be consumed on the premises.
 - (6) 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
 - (7) 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 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.
- (b) A cigar specialty shop may obtain a license for the sale of alcoholic beverages for on-premises consumption, provided that it derives no more than 25% of its gross revenue from the sale of alcoholic beverages. For the purposes of this ordinance only, gross revenue shall mean revenue from the in-store sales only and shall not include sales made online.
- (c) No alcoholic beverages shall be removed from the licensed premises.

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.
- (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, 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, a suitable distance is 600 feet from a school, and it is 600 feet from a church, park, public building, library, or residence.
 - (6) 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 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.
 - (7) 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.

- (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)

Sec. 6-124. - Pouring requirements.

No pouring license, except a license for a wine specialty shop, Growler Specialty Shop , Cigar Specialty Shop, hotel sundry shop/hotel reception or educational tasting, shall be issued to, or held by, any applicant unless at least 50 percent of the business by volume, when considering the total of sales from alcoholic beverages and food prepared to be consumed on the premises, shall be from the sale of prepared foods to be consumed on the premises.

- (1) All establishments licensed to pour shall submit a quarterly audit showing the sales of alcoholic beverages and food prepared on the premises and nonalcoholic drinks to the

city business license office no later than at the time of renewal for the coming license year.

- (2) Authorized officials of the city may examine the records of applicants at any reasonable time to ascertain that the requirements of this section are met.
- (3) The dining area or serving area of the applicant must have a minimum seating capacity of 40.

(Ord. No. 95-03, § 3-2-24, 5-1-95; Ord. No. 2004-27, 8-2-04; 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)

Approved by Mayor and Council this 5th day of September, 2017.

A. Max Bacon, Mayor

Attest:

Terri Graham, City Clerk

Approved as to form:

Scott Cochran, City Attorney