

Review by P&Z Commission: _____ 05/25/16
Public Hearing: _____ 06/20/16
Sponsor: Councilman Johnson
First Reading: _____ 06/20/16
Ord. No.: _____ 005-16

AN ORDINANCE TO AMEND APPENDIX A (“ZONING”) OF THE TOWN CODE OF THE TOWN OF SMYRNA TO PERMIT OUTDOOR SEATING AND EXPANDED HOURS OF OPERATION FOR DISTILLERIES AND MICROBREWERIES IN THE IORP ZONE

WHEREAS, the Town Council of the Town of Smyrna is authorized by 22 *Del. C.* Chapter 3 and Section 4.2.37 the Town Charter to enact zoning regulations in the town and has enacted zoning regulations in the Town of Smyrna; and

WHEREAS, the Town Council finds that it will be beneficial to the Town to allow outdoor seating and expanded hours of operation for microbreweries and distilleries in the IORP zone.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend Appendix A – Zoning, section 5 (“District regulations”), subsection 14 (“Industrial/office/research park district”), by making insertions as shown by underlining and deletions as shown by ~~strike through~~ as follows:

(10) Craft distillery and microbrewery establishments, as defined at 4 *Del. C.* Sections 512C and 512E, provided that:

- a. All permits and approvals required by the Delaware Alcoholic Beverage Commissioner to operate a craft distillery or microbrewery are obtained and remain in full force and effect.
- b. On-site consumption or tasting of alcohol shall be limited to those products brewed or distilled on the premises. All facilities licensed by the Delaware Alcoholic Beverage Control Commissioner for tastings pursuant to 4 *Del. C.* § 525 or for on-site consumption of alcohol in accordance with a license issue pursuant to 4 *Del. C.* §§ 512C or 512E shall only operate as follows: (a) between the hours of 11:00 a.m. and ~~9:00 p.m.~~ 11:00 p.m. Monday through Saturday; (b) between the hours of 1:00 p.m. and ~~6:00 p.m.~~ 9:00 p.m. on Sundays; and (c) at such other times specifically authorized by the town council for special events (e.g. new product release or promotional events).
- c. All aspects of the distilling or brewing process are completely confined within a building.
- d. Such establishment offers the public, on a regular and continuing basis, various activities ancillary to its distilling and/or brewing process, which activities are limited to the following: tours of the premises, educational classes, demonstrations, tasting rooms, and retail sales areas limited to the sale of beer, mead, cider, or spirits brewed or distilled on the premises and other retail items identified in 4 *Del. C.* § 512E(c)(5).
- e. All food sales shall be limited to prepackaged snack items such as pretzels, chips, crackers, and nuts.
- f. Outdoor seating shall be permitted subject to the following requirements:

- i. Total size shall not exceed 1,000 square feet.
- ii. Food and beverages shall be served only to seated patrons.
- iii. Outdoor cooking facilities are prohibited.
- iv. No overflow of patrons on sidewalks and/or street rights-of-way shall be permitted.
- v. A minimum four-foot wide clear pedestrian path between any obstruction and the outdoor seating shall be maintained at all times, but in no case shall the outdoor seating encroach into the public right-of-way.
- vi. Tables, chairs, umbrellas, and any other objects provided in connection with a facility located directly on sidewalks shall be secured in an orderly fashion or removed from the sidewalk area when dining facility is closed to the public.
- vii. No tables and chairs nor any other parts of the outdoor seating areas shall be attached, chained, or in any manner affixed to any tree, post, sign, or other public fixtures.
- viii. Tables, chairs, umbrellas, and any other objects associated with an outdoor seating area shall be maintained in a clean and attractive appearance and shall be in good repair at all times.
- ix. No vending machines of any kind shall be permitted.
- x. For facilities directly on sidewalks, such facilities shall be swept and washed daily by the business operator, including the adjoining sidewalks to the street curb. Raised decks, porches, and similar structures shall also be swept daily. Debris shall be disposed of properly in the owner's/manager's trash containers.

Section 3. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

SYNOPSIS

This ordinance amends the Zoning Code to expand the hours of operation and to permit outdoor seating for microbreweries and distilleries in the IORP zone.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2016.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the “Smyrna/Clayton Sun Times” on _____, 2016 and posted at the Town Hall on _____, 2016.

So Certifies:

Town Clerk