

**ORDINANCE NO. 2020-01**

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING REGULATIONS FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF WESTLAKE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR CLASSIFICATION OF VENDORS AND DISTRIBUTORS; PROVIDING FOR LICENSING OF NON-RESTAURANT RETAIL BEVERAGE STORES AND RETAIL LIQUOR STORES; PROVIDING THE OPERATING HOURS OF RETAIL PACKAGE STORES, RETAIL BEVERAGE STORES, RETAIL LIQUOR STORES AND CLUB VENDORS; PROVIDES RESTRICTIONS AS TO PUBLIC CONSUMPTION IN A PUBLIC OR IN CERTAIN PRIVATE PLACES, WHICH SHALL BECOME PART OF THE CODE OF ORDINANCES, ENTITLED "ALCOHOLIC BEVERAGE CODE", PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, on or about May 3, 2018, the Florida Department of Economic Opportunity provided the City with notice of intent to find the City's initial comprehensive plan in compliance, and the same is now the effective and controlling Comprehensive Plan for the City of Westlake ("Comprehensive Plan"); and

**WHEREAS**, the purpose of this ordinance is in the interest of the health, safety, peace and general welfare of the residents of the City, and under the authority of the City to regulate the sale and consumption of alcoholic beverages within the corporate limits of the City of Westlake; and

**WHEREAS**, the intent of the City Council is to establish reasonable and uniform regulations with regards to location and hours of operation that will protect the health, safety, property values, and general welfare of the people, businesses, and industries of the City; and

**WHEREAS**, this ordinance was written in accordance with Florida State Statutes Chapter's 561, 562, 563, 564, 565, 567 and 568; and collectively referred to as "Florida Beverage Law"; and

**WHEREAS**, the Local Planning Agency has conducted a hearing on October 28, 2019, and made a recommendation to the City Council with respect to the adoption of the alcoholic beverages ordinance; and

**WHEREAS**, the City Council has conducted a public hearing on November 4, 2019, considered the recommendation of the Local Planning Agency Board, the City staff and comments from the public into consideration and has determined that the adoption of this alcoholic beverages ordinance is in the best interest, health, and welfare of the City of Westlake.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, as follows:**

**Section 1. Incorporation:** The above recitals are confirmed, adopted and are incorporated herein and made a part hereof by this reference.

**Section 2. Establishment of Alcoholic Beverages Code:** The Code of Ordinances for the City of Westlake shall contain a chapter entitled "*Alcoholic Beverages*" which code shall contain the provisions as specifically set forth herein.

## **Chapter 19 Alcoholic Beverages**

### **Article I**

#### **Section 19:1 Purpose and Intent:**

The City Council for the City of Westlake finds, determines and declares that it is in the best interest of the health, safety and welfare of the City and its residents and visitors that it enact the following regulations governing the location of alcoholic beverage establishments within the City. The purpose of this chapter is to provide uniform operational regulations for all establishment in the City dealing directly or indirectly with the sale or consumption of alcoholic beverages.

#### **Section 19:2 Definitions**

For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Alcoholic beverage** means any beverage containing one-half of one percent or more of alcohol by volume, as determined in accordance with F.S. § 561.01(4).

**Alcoholic beverages** shall have the meaning ascribed in, F.S. § 561.01, as it may be amended from time to time.

**Beer or malt beverage** shall have the meaning ascribed in F.S. § 563.01, as it may be amended from time to time.

**Beverage law** means F.S. chapters 561, 562, 563, 564, 565, 567, and 568.

**Commercial establishment** parking lot means any area appurtenant to commercial establishments used by the public for parking thereto.

**Consumption off the premises** only means deemed to permit only the sale of alcoholic beverages in their original sealed containers.

**Container** means any can, bottle, carton, or other vessel of alcoholic beverage.

**Distributor** means all persons selling the beverages herein referred to at wholesale in the manner prescribed by the Florida Beverage Law, F.S. chapters 561 et seq.

**Intoxicating beverage and intoxicating liquor** shall have the meaning ascribed in F.S. § 561.01, as it may from time to time be amended.

**Liquor or distilled spirits** includes all spirituous beverages created by distillation and by mixture of distilled beverages by what is commonly termed blending, shall have the meaning ascribed in F.S. 561.01, as it may be amended from time to time.

**Manufacturer** means all persons who make alcoholic beverages, except those who make beer or wine for personal or family consumption pursuant to F.S. § 562.165.

**Motor vehicle** means any land vehicle which is not powered by muscular power.

**Night club** means a restaurant, dining room, or other establishment where intoxicating liquor is sold, given away, or consumed on the premises, and where floor shows or other forms of entertainment, subject to the federal tax thereon, are provided for guests at any time between the hours of midnight and 7:00 a.m.

**Premises or place of business** means a room or group of rooms within a building connected by doorways not less than three and one-half feet in width and six feet eight inches in height; provided that the rooms shall be contiguous and have common walls.

**Public or semi-public area** open for vehicular travel means all public roads, streets, sidewalks, highways, lanes, parkways, parks, ball fields, City Hall, libraries, alleys, parking lots, and parking areas on which the public is expressly or implicitly invited to travel by motor vehicle or which is otherwise open for vehicular travel. It shall not include areas such as golf courses, go-cart tracks, motocross tracks, and similar areas, or private driveways and property serving a single dwelling unit.

**Sale or sell** means any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a licensed club, licensed under the Beverage Law.

**Vendor** means all persons selling the beverages herein referred to at retail in the city in any quantity.

**Wine** shall have the meaning ascribed in F.S., § 564.01, as it may be amended from time to time.

### **Section 19.3 Classification of Vendors:**

For purposes of regulating the retail and wholesale sale and distribution of alcoholic beverages within the city, as specified in this Chapter, vendors are hereby classified as follows:

(1) **Package store.** A package store is a retail vendor of alcoholic beverages sold in sealed containers for consumption off premises only.

(2) **Retail store.** A retail store is a retail vendor of alcoholic beverages for consumption off the premises, which primarily offers for sale products others than alcoholic beverages. Retail stores include, without limitation, grocery stores, specialty stores, convenience stores, any gas stations/filling stations.

(3) **Consumption-on-premise vendors.** A consumption-on-premise vendor is a retail vendor of alcoholic beverages, with the corresponding state licensure, for consumption on premises.

(4) **Restaurant.** Restaurant is a business with full kitchen facilities, which primarily serves full meals and alcoholic beverages (through a corresponding state license) for consumption on premises;

(5) **Alcoholic beverage establishment.** Alcoholic beverage establishment is a business primarily devoted to serving alcoholic beverages for consumption on premises, including, without limitation, bars, pubs, tasting rooms, wine cafes and cigar bars.

(6) **Entertainment establishment.** Entertainment establishment is a business primarily devoted to serving alcoholic beverages and in which the service of food and/or entertainment is secondary to the consumption of alcoholic beverages. Entertainment establishments include, without limitation, dance halls, night clubs, adult entertainment venues, and any commercial establishment determined to meet the following factors:

(1) If the establishment regularly charges a cover charge, door charge, required contribution, or one-time membership fee which is paid at the door or has a minimum drink requirement;

(2) If none of the factors listed in subsection (1) above are present, then if four of the following conditions exist, then the establishment is an "entertainment establishment":

a. The establishment has a dance floor or other open area used by patrons for dancing or for viewing of entertainment (such dance floor or open space may be established by the removal or rearrangement of furniture or tables);

b. The hours of operations during which the use is open to the public include time between 11:00 a.m. and 2:00 a.m.; The maximum capacity for the establishment as set by the building and fire officials through fire, building, structure, and other relevant regulatory considerations is 100 or more persons. The fact that the facility may restrict its capacity to

some number shall not prevent the building official from applying Code provisions that determine a different and increased capacity. The building and fire officials may use various codes for this purpose (i.e., fire code provisions);

c. Alcohol is sold and consumed on the premises of the establishment at any time;

d. Advertisements for the establishment describe specific entertainment events or engagements (e.g. "House Party Saturday Night"; "DJ Saturday night"; "Live Music tonight"); or

e. The establishment features a platform or musical staging area used in connection with performances or entertainment. The presence of karaoke machines shall not be deemed entertainment for the purpose of this subsection. The presence of live entertainment provided by one person, not utilizing pre-recorded music, incidental to a restaurant or bar shall not be deemed entertainment for the purpose of this subsection.

(3) Business identified as entertainment venues, though they might meet factors in subsection (2) herein, shall not be deemed entertainment establishments.

(7) **Entertainment venues.** Entertainment venues are business or other locations primarily devoted to an entertainment purpose or use in which the serving of food and alcoholic beverages is secondary to the entertainment purpose or use. Entertainment venues including, without limitation, art galleries, theaters, state-chartered not-for-profit theaters with live performances, movie theaters, museums, banquet halls, bowling allies, billiard halls and other amusement facilities as determined by the planning and zoning director or his or her designee.

(8) **Manufacturer of alcoholic beverages.** A manufacturer of alcoholic beverages is a business engaged in the production of alcoholic beverages, including, without limitation, the fermentation of cider, beer, or other malted beverages, and/or wine, the distilling of spirits and/or liquors, or the blending of alcoholic beverages to make a derivative product, for the purpose of sale through an alcoholic beverage distributor or at retail, as regulated by state statute. A manufacturer of alcoholic beverages may sell alcoholic beverages in open containers for consumption on premises and in sealed containers for consumption off premises. Manufacturers of alcoholic beverages include, without limitation, breweries, distilleries, brewpubs, and/or similar uses as determined by the planning and zoning director or his or her designee.

(9) **Private club.** A private club is a charter or incorporated club or lodge, organized for lawful purposes and not for the purpose of evading beverage laws, vending alcoholic beverages and intoxicating liquors at retail to members and their guests only for consumption on the premises.

(10) **Alcoholic beverage distributor.** An alcoholic beverage distributor is a distributor and vendor, at wholesale only, of alcoholic beverages in sealed containers.

(11) **Hotels and motels.** Hotels and motels are businesses that provide temporary lodging on daily or short-term basis and may sell alcoholic beverages to guests as part of food and beverage offerings. This food and beverage offerings, including alcoholic beverages, may be offered independent of any restaurant, alcoholic beverage establishment, and/or entertainment venues that may be located within the hotel or motel or on the same premises as the hotel or motel.

## Article II

### Section 19:4 Location of Establishment:

A. **Distance Limitations:** No premises shall be used for the sale of any alcoholic beverages, as defined herein, to be consumed on or off the premises where the structure or place of business intended for such use is located within 1,000 feet from another place of business for which there is already issued a license for the retail sale of door to door alcoholic beverages for consumption on or off the premises; such distance to be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the existing business for which there is already a license for the retail sale of alcoholic beverages for consumption on or off the premises.

B. **Measurements:** The 1,000 feet distance requirement shall be measured by following a straight line from the nearest portion of the structure of the place of business, to an existing place of business having a legally established alcoholic beverage use.

C. **Sketch indicating location:** For the purpose of establishing the distance between alcoholic beverage uses, and between such uses and churches, public parks or public schools, the applicant for such use shall furnish a certified sketch of survey from a registered engineer or surveyor. Such sketch shall indicate the distance between the proposed place of business and any existing alcoholic beverage establishment and any religious facility, public park or school within 1,000 feet. In case of dispute, the measurement scaled by the City Manager or the City Manager's designee shall govern.

### Section 19.5 Exceptions from Distance Requirements:

A. **Downtown Mixed Use:** Cocktail lounges, breweries, bars and restaurants located in the mixed used downtown district which comply with the requirements of such districts and serve cooked, full course meals, daily prepared on the premises, or such other cocktail lounges, breweries, bars or restaurant where alcoholic beverages are sold only to persons seated at tables.

(1) Limited musical entertainment is permitted in restaurants having a seating capacity of not less than 50 seats.

(2) Such entertainment shall be strictly incidental to the restaurant use.

(3) Outdoor entertainment and speakers may be permitted when the minimum distance from a single-family residential home is 1,500 feet, measured from property line to property line.

(4) Music that is plainly audible and/or creates a vibration at a distance of more than 150 feet from the premises shall constitute prima facie evidence of a violation of this chapter.

(5) No entertainment activity shall violate the City's noise ordinance.

(6) All entertainment activity shall cease at 2:00 a.m.

B. **Cocktail, Lounge, Bars and Restaurants:** Restaurants which serve alcohol for on premise consumption only, utilizing the cocktail lounge, bar as an accessory use and which meet the following criteria:

(1) The restaurant shall occupy 2,000 square feet of gross floor space.

(2) The restaurant shall have accommodations for service of 100 or more seats.

(3) The restaurant shall prepare and serve fully cooked meals daily.

(4) The restaurant shall contain full kitchen facilities with commercial grade burners, ovens, range hoods and refrigeration units of such size and quantity to accommodate the occupancy content of the restaurant.

(5) The restaurant shall be prohibited from advertising itself as a bar, cocktail lounge/bar, saloon, nightclub or similar type of establishment.

(6) The restaurant shall not have a separate entrance for patrons to access the cocktail lounge, bar.

(7) The cocktail lounge, bar shall be no larger than 20% of the gross square footage of the restaurant.

**C. Beer and Wine for Off Premise Consumption:** The sale of beer and wine as a grocery item for consumption off the premises, from grocery stores, convenience stores and the meat markets within the hours of operation for those facilities.

**D. Package Store in Shopping Center:** Only one package store shall be permitted per shopping center. Package stores shall not exceed twenty-five thousand square feet.

**E. Nightclubs in Hotels and Apartment Hotels:** The hotel or apartment hotel and nightclub must be located under the same roof. The hotel or apartment hotel must have at least 150 guest rooms or apartment units under the same roof. The music, dancing or disc jockey must be approved by the City Council.

**F. Cocktail Lounges, Breweries, Bars:** A cocktail lounge, brewery or bar which does not meet the criteria for food service as set forth in Section 19.5(A), or Section 19.5(B), may exist in the Downtown Mixed Use area as long as each business is located a minimum of two-hundred (200) feet from another business used as a cocktail lounge, brewery or bar. Cocktail lounge(s), brewery or a bar may not be located adjacent to one another.

#### **Section 19.6 Licensing Requirements:**

(A) Any person or entity engaging in any business selling beer, wine or alcoholic beverages shall obtain a certificate of use for the premises and shall be subject to the business tax licensure requirements of the City, and all regulations and laws of the State of Florida as applicable to the particular business.

(B) All prerequisites for the use of the premises for the sale of alcoholic beverage must be complied with by the applicant.

(C) Certificate of Use must be established on the premises within thirty (30) days of the date of the issuance of a certificate of use, otherwise said certificate of use shall be null and void.

#### **Section 19.7 Hours of Sale. Generally.**

(1) No intoxicating liquors or intoxicating beverages, including all malt beverages and wine, consumed, or served or permitted to be served, or consumed, in any place located within the city holding a license under the laws of the state and the city, authorizing same, between the hours of 2:00 a.m. and 7:00 a.m.

(2) For New Year's Eve, December 31, the prohibited hours of sale shall be 5:00 a.m. to 7:00 a.m. on the following day, January 1.

#### **Section 19.8 Limitation of Sales on Certain Premises, Places of Business**

(A) It shall be unlawful for any vendor to sell, offer for sale, or serve, or permit to be consumed, any alcoholic beverages upon any premises or in any place or places of business which do not meet the definition of and requirements for premises or place of business as provided for and defined in section 19.3.

##### **(B) Distance Limitation Between Vendors**

No license for the sale of alcoholic beverages at retail, including malt and wine beverages, for consumption on or off the premises, shall be issued where the place of business designated in the application therefor is located within 1,000 feet from another place of business for which there is already issued a license for the retail sale of alcoholic beverages for consumption on or

off the premises; such distance to be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the existing business for which there is already a license for the retail sale of alcoholic beverages for consumption on or off the premises.

(1) **Exception:** Such distance limitation shall not apply to the following:

(a) Vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

(b) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is licensed by the city as a bona fide hotel or motel.

(c) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is a veterans or fraternal organization of national scope or is a group of persons associated together as a chartered or incorporated club, including incorporated social clubs which have been in continuous active existence and operation for a period of not less than one year in the city.

(C) **Between vendor and place of worship.** No license for the retail sale of alcoholic beverages, including malt and wine beverages, shall be issued to a vendor whose place of business is located within 1,000 feet of an established place of worship. The distance shall be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the place of worship.

(1) **Exception:** Such distance limitation shall not apply to the following:

(a) Vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

(b) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is licensed by the city as a bona fide hotel, motel, or motor court.

(c) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is a veterans or fraternal organization of national scope or is a group of persons associated together as a chartered or incorporated club, including incorporated social clubs which have been in continuous active existence and operation for a period of not less than one year in the city.

(D) **Between vendor and school.** No license for the retail sale of alcoholic beverages, including malt and wine beverages, shall be issued to a vendor whose place of business is located within 1,000 feet of an established public or private elementary school, middle school, or secondary school. The distance shall be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the school grounds.

(1) **Exception:** Such distance limitation shall not apply to vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

(E) This section shall not be construed or held to affect the rights of any existing established business or its successors or assigns with respect to the location of the businesses.

(F) Whenever a business has been lawfully established and thereafter a place of worship or school is established within a distance otherwise prohibited by this section, the establishment

of the place of worship or school shall not be cause for the revocation of the occupational license or otherwise prevent the continuation of the business.

### **Article III**

#### **Section 19.10 City Council Exceptions to Distance Limitations Between Vendors**

The distance requirements set forth in this section are primarily intended to promote the safety, health, morals, and general welfare of the citizens of the city. The city council is of the opinion that certain businesses licensed by the state by special license to sell alcoholic beverages at retail may warrant an exception to the distance requirements above provided; these businesses are:

- (1) Vendors of alcoholic beverages, including wine and malt beverages, at retail for off-premises consumption only.
- (2) Vendors of alcoholic beverages, including wine and malt beverages, at retail for on-premises consumption only, where the sale thereof is the main function of the business.

#### **Section 19.11 City Council Distance Exception:**

The city council, and it alone, may upon written application for a miscellaneous petition by the vendors of alcoholic beverages, including malt and wine beverages, as defined in this section, by resolution, grant a variance to the distance requirements of the application shall be accompanied by appropriate survey material, maps, and site plan.

(A) No variance to the distance requirements shall be made until after a public hearing thereon is held, and a notice of the public hearing shall be published in a newspaper of general circulation in the city on a date no less than 15 days prior to the date set for the hearing.

(B) Further, no variance to the distance requirements shall be granted unless the city council finds the following requirements are met:

- (1) The established distance requirement of 1,000 feet from an established public or private elementary school, middle school, or secondary school is not violated. The distance shall be the airline measurement taken from the center of the main entrance of the school grounds.
- (2) In the opinion of the city council, the granting of the modification will not materially impair the safety, health, morals, or general welfare of the citizens of the city which this chapter is intended to promote.

#### **Section 19.12 Vendors of Malt and Wine Beverages for Consumption Off Premises Only**

The limitations provided in 19.4 shall not apply to vendors of malt and wine beverages for consumption off premises only.

#### **Section 19.13 Drinking Intoxicating Liquors in Streets and Parks**

(A) No person shall drink any spirituous, vinous, malt, or other intoxicating liquors in or upon any public street, avenue, alley, park, or other public way or place in the city. However, the city manager may authorize the consumption of alcoholic beverages in a city park pursuant to the regulations set forth in Chapter 16 (Parks & Recreation Chapter), of this Code.

(B) The City Manager shall not grant an authorization if in his opinion the public safety and peace may become impaired.



**Section 19.14 Consumption, Possession of Alcoholic Beverages in Commercial Establishment Parking Lots or Motor Vehicles. Findings and declarations.**

- (1) The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots contributes to lewd behavior, verbal harassment, intoxicated disorderly conduct, destruction of property, excessive noise, and litter.
- (2) The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots has led to an increase in the number of violent crimes committed on and near those commercial establishment parking lots.
- (3) Individuals consuming alcoholic beverages in and around commercial establishment parking lots deter the public's use and enjoyment of these areas.
- (4) No effective means exist to deter the violent, disorderly, destructive, or offensive conduct associated with the consumption of alcoholic beverages in and around uncontrolled commercial establishment parking lots other than to prohibit the consumption of alcohol in those areas.
- (5) Consumption of alcoholic beverages or possession of open containers of alcoholic beverages while in or on motor vehicles leads to and encourages the operation and control of motor vehicles while impaired and distracting and disorderly conduct of passengers including, but not limited to, littering. The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots and the consumption of alcohol in motor vehicles is detrimental to the health, safety, and general welfare of the public.

**19.15 Prohibited acts. The following unlawful acts are prohibited:**

- (1) It shall be unlawful for any person to drink or consume any alcoholic beverage in or within 1,000 feet of a commercial establishment parking lot in the city, except in those areas in which such consumption is permitted pursuant to the beverage law; special or general act of the state legislature; the state administrative code; or city ordinance, resolution, or administrative approval. Nothing in this section shall prohibit consumption on private property within 1,000 feet of a commercial establishment parking lot. It shall be unlawful for any person to possess any alcoholic beverage in or within 1,000 feet of a commercial establishment parking lot in the city, except in those areas in which such possession is permitted pursuant to the beverage law; special or general act of the state legislature; the state administrative code; or city ordinance, resolution, or administrative approval unless the alcoholic beverage is in the original container with the seal unbroken.
- (2) It shall be unlawful for any person to possess any container of alcoholic beverage, except an original container with the seal unbroken, or to consume any alcoholic beverage, in or on a motor vehicle being operated on a public or semipublic area open for vehicular travel.
- (3) It shall be unlawful for any person, without the consent of the city manager or his/her designee, to drink alcoholic beverages in any public place in the city. It shall further be unlawful for any person to drink alcoholic beverages in or upon any automobile, truck, motorcycle or other vehicle, when such vehicle is parked upon any public place without the consent of the city manager or his designee. Such consent shall be given by the city manager or his designee upon a showing that there is compliance with the chapter pertaining to special events.
- (4) It shall be unlawful for any person to consume any alcoholic beverage on private premises without the consent of the owner, tenant, or other person lawfully in possession of such private premises. It shall further be unlawful for any person to drink alcoholic beverages in or upon any automobile, truck, motorcycle or other vehicle, when such vehicle is parked upon any private premises without the consent of the owner, tenant, or other person lawfully in possession of such private premises.

**Section 19.16 Exceptions. This section shall not apply to:**

- (1) Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, nor to any person taking part in a litter control campaign.
- (2) The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages provided that such alcoholic beverage is being transported solely for commercial purposes.
- (3) The transportation of any open container of alcoholic beverage in or on any motor vehicle provided that such container is in a compartment of the vehicle not readily accessible to the driver or passengers, such as a locked (not merely latched) glove compartment, trunk, or other non-passenger or non-driver area of the motor vehicle.
- (4) The transportation of any open container or consumption of alcoholic beverage in or on any motor vehicle duly licensed and operated for hire to transport passengers, such as charter buses, regularly scheduled buses, taxicabs, and the separate passenger compartments of limousines; provided the operator thereof is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container of alcoholic beverage.
- (5) The operation, for a consideration, of any motor vehicle by an individual duly licensed and supplied by a chauffeur service, limousine service, taxicab company, or bus company provided the operator thereof is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container of alcoholic beverage, and is operating the vehicle while under, and in the scope of, the employment of a chauffeur service, limousine service, taxicab company, or bus company. The operator shall have in his/her possession evidence of employment by a bona fide chauffeur service, limousine service, taxicab company, or bus company.

**Section 19.17 Application of zoning code**

In all cases the location of any place of business for the sale of alcoholic beverages, including malt and wine beverages at retail, shall be in accordance with the permitted use provisions of the city zoning code.

**Section 3. Severability:** Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

**Section 4. Codification:** It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Westlake, Florida and the sections of this ordinance may be re-numbered or re-lettered to accomplish such intentions, and the word "ordinance" shall be changed to "section" or other appropriate word.

**Section 5. Scrivener's Error:** The City Attorney is hereby authorized to correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk without the need for approval by the City Council.

**Section 6. Effective Date:** This ordinance shall be effective upon adoption on second reading.

PASSED this 10<sup>th</sup> day of February, 2020, on first reading.


PUBLISHED this 10<sup>th</sup> day of February, 2020, in the Palm Beach Post.

PASSED AND ADOPTED this 24<sup>th</sup> day of February, 2020 on second reading.



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City of Westlake  
Roger Manning, Mayor



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Zoie P. Burgess, City Clerk



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Approved as to Form and Sufficiency  
Pam E. Booker, City Attorney