

An ordinance of the City of Ashland City, Tennessee, authorizing the sale of packaged beer for off-site consumption and establishing an Ashland City Beer Permit Board to regulate and promulgate rules pursuant to the sale of packaged beer for off-premises use.

Be it ordained by the City of Ashland City that:

SECTION I: The role of packaged beer is authorized for off-site or off-premises use or consumption. The term "beer" is used in this ordinance to mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five (5) percent by weight.

SECTION II: The beer law shall be administered by a three (3) person committee of the Ashland City Council which shall be known as "The Ashland City Beer Board." Said members are to be appointed by the Mayor.

SECTION III: There shall be one type of permit issued by the Ashland City Beer Board, described as follows: A permit which will allow the sale of beer that is not to be consumed on the premises but is to go from the premises with the purchaser.

SECTION IV: Before any permit is issued by the Beer Board, the applicant shall file with the Beer Board a sworn petition in writing on forms prescribed and furnished by the Board, and shall establish the following:

(A) The application is required to include a sufficient description of the location of the premises by street address.

(B) If the applicant is building new premises for the conduct of his or her business. He or she may apply for a permit prior to constructing the premises. He/she must present to the Board the final plans for the premises and the Board may vote to issue him/her a license but that license shall be valid only upon completion of the premises and presented to the Board. The premises must be completed according to the plans submitted to the Beer Board within one year of the date of original application of the original permit will be void and a new permit application will be required.

(C) That the application will not engage in the sale of such beverages except at the place or places for which the Beer Board has issued a permit or permits to said applicant. (TCA 57-5-104).

(D) The application must clearly state whether the person seeking the permit will conduct the business in person, or whether he/she is acting as agent for any other person, firm, corporation or association. Any person who makes a false statement on the application forfeits his/her permit and is not eligible to receive a permit for ten (10) years. (TCA 57-5-105(B)).

(E) That no such beverages will be made except in accordance with the permit granted. (TCA 57-5-105 (A) (1) through (6)).

(F) That no sales will be made to minors, and that the applicant will not permit minors to loiter around the place of business. (TCA 57-5-302).

(G) That the applicant will not allow gambling or gambling devices on his/her premises.

(H) That the applicant will not sell, or allow to be consumed on his/her premises, any beverage with alcoholic content other than beer.

(I) That the applicant acknowledges that any beer sold, or offered for sale by, or in the possession of, a retailer, purchased from any person or firm, except a Tennessee wholesaler or distributor licensed in this State, is declared to be contraband and is subject to confiscation. (TCA 57-5-409).

(J) That the applicant acknowledges that, unless authorized in writing by the Beer Board, it is unlawful for a retailer to store beer at any other place other than the address designated on his/her retailer's permit.

(K) That neither the applicant nor any person employed or to be employed by the applicant in such distribution or sale of such beverage, has ever been convicted of any violation of the law against prohibition, sale, manufacture or transportation of intoxicating liquor, or of any crimes involving moral turpitude within the past ten (10) years. (TCA 57-5-301).

(L) That the applicant acknowledges that no manufacturer, wholesaler or retailer, or any employee thereof, engaged in the physical manufacture, storage, sale or distribution of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any wholesaler or retailer to employ any such person under eighteen (18) years of age for the physical storage, sale or distribution of alcoholic beverages, or to permit any such person under said age of its place of business to engage in the manufacture, storage, sale or distribution of alcoholic beverages. (TCA 1-3-113).

(M) No such beverages as hereinabove approved to be sold except at places where such sale will not cause congestion of traffic or be a hazard to motorists in Cheatham County or interfere with any schools, churches or other places of public gathering or in any other way otherwise interfere with the peace, public health, safety and morals of the community. (TCA 57-5-105).

(N) The Beer Board is authorized to collect an application fee of two hundred fifty (\$250.00) dollars prior to consideration of an application to sell beer. This application fee shall be used to offset the expenses of investigation of the applicant and the publication of the required notices. The application fee is non-refundable. Regardless of whether the application is granted or refused, any portion of the fee collected in excess of the amount actually used in the investigation and publication becomes the property of the City governing body at the end of the calendar year to be used in its discretion. (TCA 57-5-105)(H)).

(O) Public notice of applications. Before issuing a permit, Beer Board shall publish a notice concerning the application in a newspaper or general circulation in the county. The notice must contain the name of the applicant, the address of the location for which the permit is requested. The notice must be published at least ten (10) days before the application is considered and must state the time, date and place of the meeting. The meeting must be a public hearing on the application and all interested parties must be allowed to speak. (TCA 57-5-105(E)).

(P) Granting and denying beer permits. Any applicant who complies with the conditions and provisions of TCA 57-5-105 shall be issued the necessary permit and, in the event the permit is denied, the applicant is entitled to have the denial reviewed before the Chancery or Circuit Court. (TCA 57-5-150(D)). If a permit is denied three (3) times, the applicant is not allowed to reapply for a permit on the same premises until one (1) year from the date of the third refusal. However, this does not affect the applicant's right to have the denial reviewed by the Court. (TCA 57-5-105(F)).

#### GROUNDS, PROCEDURE FOR SUSPENSION, REVOCATION OF PERMITS:

(A) All permits subject to suspension, revocation. All permits issued by the Beer Board under the provisions of the Beer Law shall be subject to the suspension or revocation by the said Board for the violation of any of the relevant provisions of Tennessee Code Annotated or any of the provisions of the Beer Law.

(B) Authority of Board. The Board created by the Beer Law is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his/her permit should not be revoked for the

violation of the provisions of the Beer Law or of the provisions

of the Tennessee Code Annotated. (TCA 57-5-105).

(C) Complaints. Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the Beer Board.

(D) Notice to appear; contents, service. When the Beer Board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the Tennessee Code Annotated, the Board is authorized, in its discretion, to notify the permit holder of said violations and to cite said permit holder by written notice suspended or revoked for such violations. Any such notice to appear and show cause shall state the alleged violations charged and shall be served upon the permit holder either by certified mail, return receipt requested, addressed to the holder at the address shown on his/her permit, or by an officer of the Police Department. The notice shall be served upon the permit holder at least five (5) days before the date of the hearing.

(E) Hearing. At the hearing, the Board shall publicly hear the evidence both in support of the charges and on behalf of the permit holder. After such hearing, if the charges are sustained by the evidence, the Board may, in its discretion, suspend or revoke said permit.

(F) Effect of Board action. The action of the Board in all such hearings shall be final, subject only to review by the Circuit or Chancery Court as provided in the Tennessee Code Annotated. When a permit is revoked, no new permit shall be issued for the sale of beer at the same location until the expiration of one (1) year from the date said revocation becomes final and effective. The Board, in its discretion, may determine that issuance of a license or permit before the expiration of one (1) year from the date of revocation becomes final is appropriate. If the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of interstate succession. (TCA 57-5-109).

The permit required by these rules and regulations shall be posted in a conspicuous place on the premises of the permit holder.

Upon the denial of a permit, the Beer Board shall not hear another petition on behalf of the person denied or any agent of such person for a period of six (6) months, unless said denial was only for the purpose of allowing the applicant to correct an error in his/her application.

Public health and safety. Licenses herein granted may be revoked if there are any violations of any relevant provisions of the Tennessee Code Annotated, or any violations of the Beer Law, or whenever any such permitted business is being maintained and operated in such manner as to be detrimental to the peace, public health, or safety of the community.

Certain activities by permit holder prohibited. It shall be unlawful and it is hereby declared to be a misdemeanor for any person engaged in the business regulated herein to make or to permit to be made any sales or distribution of such beverages to minors or to any person intoxicated and/or to fail to provide proper sanitary facilities where such beverage is permitted to be consumed on premises.

No alcoholic beverages within scope of the Beer Law shall be sold or given away by any licensee or permit holder or be allowed to be consumed on the licensee premises between the hours of 12:01 A.M. and noon on Sunday.

#### Minors and the Beer Laws.

Several statutes dealing with the sale or possession of beer and like beverages have special provisions dealing with the purchase or possession of beer by minors.

1. It is unlawful for a person under the age of 21 to purchase or attempt to purchase beer and like beverages. (TCA 57-5-301(D)(1)).
2. It is unlawful for anyone to purchase beer or like beverages for anyone under the age of 21. (TCA 57-5-301(D)(2)).
3. It is unlawful for any person under the age of 21 to exhibit false identification or to make false statement to the effect that he/she is 21 years of age for the purpose of purchasing beer. (TCA 57-5-301(C)(3)).
4. It is unlawful for any person under the age of 21 to possess or transport beer, except in the course of his/her employment. (TCA 57-5-301(C)(1)).
5. It is unlawful for the management of any place where beer is sold to allow minors to loiter in such places. (TCA 57-5-301(C)).
6. It is unlawful for any person engaged in the business of selling beer to make or permit sales to persons under 21 years of age. (TCA 57-5-301(A)).

7. Notwithstanding any provision contained hereinbefore, persons 18 years old or older may transport, possess, sell or dispense beer in the court of their employment. (TCA 1-3-113).

Arrest of owner or operator. At any time a member of any law enforcement agency in Cheatham County, Tennessee, arrests an owner or operator of a business licensed by the Ashland City Beer Board. The arresting officer shall notify the Ashland City Police Department who shall take the permit or license as issued and give a receipt to the owner or operator and return the permit or license to the Ashland City Beer Board. The Ashland City Police Department shall also cite the individual, owner or operator to appear before the next meeting of the Ashland City Beer Board to whom cause why his/her licensed should not be revoked.

The receipt given by the Police Department shall allow the owner or operator to continue his/her business until the meeting of the Beer Board that he/she has been cited to appear. At the hearing of the Beer Board, that Beer Board must make a decision to determine whether that person's license shall be revoked or whether he/she shall be given his/her license back to continue operating.

Distribution of Copies of the Beer Law. A copy of the Beer Law shall be given to each applicant by the ashland City Clerk and he/she must certify to the Board at the hearing of his/her application that he/she has read and understands its terms and provisions and will abide by them if granted a permit pursuant to the said terms and provision.

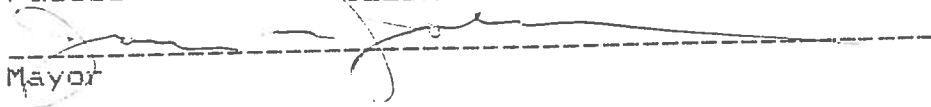
All persons holding a permit at the time of the adoption of the Beer Law shall be served with a copy of it.

This ordinance supersedes and repels ordinance 2-201.

This ordinance shall take effect twenty (20) days after passage the public welfare requiring it.

Passed 1st Reading 6-8-93

Passed 2nd Reading 7-13-93

  
Mayor

Attest:   
Recorder