

ORDINANCE #101

AN ORDINANCE FOR ASHLAND CITY MUNICIPAL CODE FOR THE SALE, STORAGE, DISTRIBUTION, MANUFACTURE AND CONSUMPTION OF BEER

BE IT ORDAINED BY THE CITY OF ASHLAND CITY, TENNESSEE, AS FOLLOWS:

BEER

2-201. Interpretation and enforcement. This chapter and the provisions herein shall be interpreted and enforced in conjunction with the laws of the State of Tennessee in regard to beer and other beverages of less than five percent (5%) alcoholic content. In the event of conflicts or inconsistencies, the laws of the State of Tennessee shall control.

2-202. Definitions. (1) "Beer" as used in this chapter shall mean and include all beers, ales and other malt liquors having an alcoholic content of not more than five percent (5%) by weight, and excluding "wine," as defined in T.C.A. § 57-3-101(a)(20).

(2) "Moral turpitude" as used in this chapter shall mean premeditated murder, all sex related crimes, the illegal sale of Schedule I and II controlled substances as designated under T.C.A. §§ 39-17-405 through 39-17-408, and embezzlement.

2-203. Hours of sale. (1) No beer shall be sold between 12:00 midnight and 6:00 a.m. Monday through Saturday, or on Sunday, from 12:00 midnight until 12:00 noon.

(2) No such beverage shall be consumed or opened for consumption, on or about any premises licensed hereunder, in either bottle, glass or other container, after 12:15 a.m.

2-204. Taxes to be collected. The city's finance director is hereby directed to take appropriate action to ensure payment to the city of the wholesale beer tax levied by the Wholesale Beer Tax Act, as set out in T.C.A. § 57-6-101 et seq. The finance director is further directed to take appropriate action to ensure payment to the city of the privilege tax imposed on the business of selling, distributing, storing or manufacturing beer under T.C.A. § 57-5-104(b).

2-205. Establishment: membership. There is hereby established a beer board to be composed of all the members of the board of commissioners. The board shall elect a chairman of the beer board. All members of the beer board shall serve without additional compensation.

2-206. Meetings. All meetings of the beer board shall be open to the public. When there is business to come before the beer board, a meeting may be called by the chairman, the city manager or recorder, provided that a reasonable notice thereof is given to each member. The board may adjourn a meeting at any time to another time and place.

2-207. Record of proceedings. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

2-208. Requirements for quorum action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided only by a majority of the total membership of the beer board. Any member present but not voting shall be deemed to have cast a "nay" vote. Applicants or permit holders adversely affected by a vote of the beer board at a meeting in which the total membership is not present may request a rehearing before the full board.

2-209. Powers and duties. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the city in accordance with the provisions of this chapter.

2-210. Permit required for engaging in beer business. (1) It shall be unlawful for any person to sell, store for sale, distribute for sale or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

(2) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate or association.

(3) The periodic renewal of beer permits shall not be required. However, a permit shall be valid:

(a) only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner;

(b) only for a single location, and cannot be transferred to another location, provided that where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all such businesses pursuant to the same permit. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business; and

(c) only for a business operating under the name identified in the permit application.

(4) A beer permit shall not be valid if beer is not sold, distributed or manufactured by the permit holder during any continuous six-month period after issuance of the permit.

(5) A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change in name of the business; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change in name of the business.

2-211. Restrictive nature. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

2-212. Temporary permits. Temporary beer permits not to exceed thirty (30) days' duration may be issued at the request of an applicant upon the same conditions governing permanent permits. Such a temporary permit shall not allow the sale, storage or manufacture of beer on publicly owned property, except that a temporary permit authorizing the sale of beer on public property may be issued to a bona fide charitable or nonprofit or political organization as defined in T.C.A. § 57-4-102, subject to the approval of the appropriate governmental authority charged with the management of such publicly owned property.

2-213. Conditions of permits. Every permit issued by the beer board shall be issued subject to the following conditions:

(1) The premises for which such permit is issued are declared to be a public place for the purpose of inspection by the City's codes inspection officers and police officers or by any other duly authorized law enforcement officer.

(2) The permit holder shall keep invoices and all other memoranda relating in any way to the storing, sale, distribution or manufacture of beer, and shall permit the City's finance director or his designees to inspect, at any time during business hours, all such articles, containers, packages, invoices, books, papers and memoranda as may be deemed necessary in the opinion of the finance director or his designees in determining whether or not all local taxes have been paid or in determining the amount of such taxes that may be due.

(3) The permit holder shall display all permits issued pursuant to this article in a conspicuous place, together with all other permits, licenses and stamps required by law.

(4) The name of the manager responsible for the sale, distribution or manufacture of beer from the location for which the permit is granted shall be provided to the City. In the event of a change in management, the name of any subsequent manager shall be provided to the City within seven (7) days following such change.

2-214. Interference with public health, safety, morals. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches or other places of public gathering or would otherwise interfere with the public health, safety and morals. In no event will a permit be issued authorizing the storage, sale or manufacture of beer at places within two-hundred fifty(250)feet of any school, church or other such place of public gathering, as measured in a straight line from the nearest public entrance of such school, church or other such place to the nearest public entrance of the business in which beer is to be sold, stored or manufactured. No permit shall be suspended, revoked or denied on the basis of proximity to a school, church or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, provided that the sale, distribution or manufacture of beer at such location is not discontinued for any continuous six-month period.

2-215. Persons convicted of certain crimes deemed ineligible. In order to receive a beer permit, an applicant must establish that he has not been convicted of any violation of the laws against the possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude or any felony within the past ten (10) years, and that no person to be employed by the applicant in the sale or distribution of beer has been so convicted. If the applicant is not an individual, it must establish that no person, firm, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against the possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude or any felony within the past ten (10) years.

2-216. Prohibited conduct or activities by permit holders, agents, servants or employees. The beer board shall have the power and authority to revoke or suspend any permits issued by it for any violation of any provisions of state law regulating the sale, storage, and transportation of alcoholic beverages or for any violation of any provisions of this code or any other ordinance of the City of Brentwood or when the permittee:

- (1) operates a disorderly place.
- (2) permits gambling on his premises.
- (3) permits boisterous or disorderly conduct on the premises.
- (4) has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude or any felony.
- (5) permits minors to loiter about the premises, the burden of ascertaining the age of minor customers being upon the owner or operator of the place of business.
- (6) has made a false statement or misrepresentation of a material fact in any application or notice to the board.
- (7) sells or allows to be sold on the premises of the permittee any beer to any minor, provided that the board's power and authority to suspend or revoke permits on the grounds on sales to minors shall be limited by the provisions of T.C.A. § 57-5-109(b).
- (8) sells or allows to be sold on the premises of the permittee beer to any person using food stamps issued pursuant to state or federal law for the purchase of such beer.
- (9) brings, causes, or allows to be brought onto the premises of any permittee any prohibited drugs under the provisions and within the meaning of the Tennessee Code Annotated.
- (10) employs any person in the sale or distribution of beer who has been convicted of any violation of the laws against the possession, sale, manufacturing, or transportation of beer or other alcoholic beverages, or any crime involving moral turpitude within the past ten (10) years.
- (11) makes or allows any sale to any intoxicated person, or to any insane or otherwise mentally incapacitated person.
- (12) allows any intoxicated person to loiter on or about the premises.
- (13) fails to provide and maintain separate sanitary toilet facilities for men and women or fails to comply with any state, county or local health laws and regulations.

2-217. Revocation and suspension proceedings. No beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to the permit holder, except that if a permit holder fails to pay the annual privilege tax established under T.C.A. § 57-

5-104(b) or fails to provide the information required under T.C.A. § 57-5-104(c), then the permit shall be considered void in accordance with said statutes. Revocation or suspension proceedings may be initiated by the city manager or the police chief or by any member of the beer board.


2-218. Civil penalties. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. The holder's payment of a civil penalty shall not affect his ability to seek review of the civil penalty pursuant to state law.

2-219. Fees. All applications for the issuance of permits from the beer board shall be accompanied by an application fee of \$250 or such other amount as may be established by state law for use in off-setting and defraying the expenses of investigating the applicant and processing the application. No portion of such fee shall be refunded to the applicant notwithstanding whether an application is approved or denied.

SECTION 2. That this ordinance shall take effect from and after its passage, the general welfare of the City of Ashland City, Cheatham Co., Tennessee, requiring it.

1st reading

2nd reading



Mayor

Attest

