

ORDINANCE #541

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE TOWN OF ASHLAND CITY, TENNESSEE TO AMEND TITLE 8 ALCOHOLIC BEVERAGES, CHAPTER 2: BEER, IN ITS ENTIRETY

WHEREAS, the Mayor and Council have previously adopted rules and regulations regarding beer sales;
and

WHEREAS, state regulations have been updated and changed since having adopted this chapter; and

WHEREAS, the Mayor and Council of Ashland City, Tennessee have given due consideration to change
the Code of Ordinances of the Ashland City and wish to update Title 8 Chapter 2.

**NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF
ASHLAND CITY, TENNESSEE**, Title 8, Chapter 2, be amended to read in its entirety as follows:

CHAPTER 2

BEER

- Section 8-201. Beer business lawful but subject to regulation.
- Section 8-202. Definitions
- Section 8-203. Beer Board established
- Section 8-204. Inspectors
- Section 9-205. Beer manufacturing, wholesale, and distribution.
- Section 8-206. Permit required for engaging in beer business
- Section 8-207. Applications for permits
- Section 8-208. Permits not transferable and limited to location
- Section 8-209. Tax
- Section 8-210. Interference with public health and safety
- Section 8-211. Issuance of permits to person convicted of certain crimes prohibited
- Section 8-212. Issuance of permits to hotels, clubs, etc.
- Section 8-213 Sale of draft beer for off premises consumption
- Section 8-214 Prohibited conduct or activities by beer permit holders, agents, servants or employees of
beer permit holders.
- Section 8-215 Suspension and revocation of beer permits and civil penalties

8-201. BEER BUSINESS LAWFUL BUT SUBJECT TO REGULATION. It shall be lawful to transport, store, sell, distribute, possess, receive, or manufacture beer of alcoholic content of not more than such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee, or any other beverages of like alcoholic content within the corporate limits of the Town of Ashland City. However, these activities, shall be subject to all the regulations, limitations, and restrictions hereinafter provided, and subject to the rules and regulations established by the City Council, privilege taxes, and regulations by the State of Tennessee.

8-202. DEFINITIONS.

- (1) "Beer" shall mean beer, ale, or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in TCA 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. Beer is currently defined in TCA 57-5-101 (b). In the event the TCA is amended in the definition of beer, then this amendment shall immediately be applicable to this section.

- (2) "Person" shall mean any private individual, partnership, joint venture, corporation and any other business entity or association.
- (3) "Premises" shall mean on the property owned, leased, or controlled by the permittee and so connected with the beer business in which the permittee is engaged as to form a component or integral part of it, including, but not limited to, the building, all decks, patios, and other outdoor service areas.
- (4) "Curb service" shall mean all sales transacted outside the building, patio, or deck where the beer business is carried on. Curb service does not include sales transacted within a designated sidewalk café, patio, or deck.
- (5) "Certified clerk" shall mean a clerk who has successfully satisfied the training requirements contained in this part, and who has received certification from a responsible vendor training program.
- (6) "Commission" shall mean the Tennessee Alcoholic Beverage Commission.
- (7) "Responsible Vendor" shall mean a vendor that has received certification from the commission pursuant to TCA 57-5-601 et. seq.
- (8) "Manufacturer" shall mean a person, partnership, corporation, or other business entity that produces beer from raw and/or processed ingredients.

8-203. Beer Board established.

- (1) A Beer Board is hereby established and created to approve and regulate all beer permits including suspension and fines for the selling, storing for sale, distributing for sale, and manufacturing of beer within the city in accordance with the provisions of this chapter and shall be known as the Town of Ashland City Beer Board.
- (2) The Town of Ashland City Beer Board shall consist of a committee composed of the Town of Ashland City Mayor and City Council. The Mayor shall serve as Chairman of the Beer Board.
- (3) 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 board. Any member present but not voting shall be deemed to have cast a "nay" vote.
- (4) All meetings of the Beer Board shall be open to the public. The Town of Ashland City Beer Board shall convene when called by the Mayor or when an application for a beer permit is submitted. All members shall receive at least seven (7) days notice before a meeting and the meeting shall be advertised in the newspaper of general circulation no less than seven (7) days prior to the meeting date.
- (5) The City 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 name 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 as well as any suspensions or fines. The City Recorder shall also maintain an up to date list of the names and addresses of all beer permit holders.

8-204. Inspectors. The Town of Ashland City and the Cheatham County Sheriff's Department, or their designee, are authorized to inspect the premises and operations of permittees. The Tennessee Alcoholic Beverage Commission is also hereby authorized to inspect said premises and operations of permittees.

8-205. Beer manufacturing, wholesale, and distribution. The manufacturing of beer for human consumption is permitted in the Town of Ashland City but is subject to the limitations and restrictions set forth by the State of Tennessee including but not limited to the regulations set forth in TCA 57-5-101 et. seq as well as these regulations.

8-206. Permit required for engaging in beer business.

- (1) No person shall engage in the storing, selling, distribution, giving away, wholesaling, or manufacturing of beer, or other beverages of like alcoholic content, within the corporate limits of the Town of Ashland City until that person receive a permit to do so from the Beer Board. There are five types of permits that may be issued by the Board:
 - (a) Off premises permit. A retailer's "off premises" permit shall be issued to any person engage in the sale of beer for consumption and not for resale where the beer sold is not to be consumed by the purchaser upon or near the premises of the seller;
 - (b) On premises permit. A retailer's "on premises: permit shall be issued to any person engaged in the sale of beer where the beer is to be consumed by the purchaser or his/her guest upon the premises of the seller. The sell of beer may be allowed in outdoor areas as long as the outdoor area is roped off or otherwise separated by some sort of barrier from the businesses parking lot. Hotel, motels, golf courses, and private clubs may apply for on premises permit. The sale of beer at hotels, motels, golf courses, and private clubs shall be in compliance with all state laws as are applicable to these individual businesses;
 - (c) Manufacturer's permit. A manufacturer's permit to a manufacturer of beer, for the manufacture, possession, storage, sale, distribution, and transportation of the product of the manufacturer which product may be consumed upon the premises of the manufacturer to the extent permitted by state law of general application or sold for off premises consumption. A manufacturer's permit may also include the on-premises consumption of other beers manufactured by different companies and at different locations to the extent as permitted by state law. A manufacturer of beer may maintain a manufacturer's tap room for the purpose of selling beer for consumption on or off premises with a manufacturer's permit. A manufacturer's permit is subject to the limitations and restrictions set forth pursuant to all state regulations and specially those set out at TCA 57-5-101 et. seq. Only one permit is required under a manufacturer's permit for the manufacturer of beer as well as on premises and off premises consumption of beer.
 - (d) Special event permit. A "special events" permit is required to be issued to any charitable, nonprofit, or political organization engaged in the sale of such beverages where they are to be consumed by the purchaser or his/her guests upon the premises and are for the limited purpose of a limited engagement or special event. The permit shall require prior notification in writing ten days prior to the event with the organization holding the event and location of where the event is to be held. Each permit will be issued for a specific date and a specific period of time. A special event permit shall not exceed more than seventy-two (72) consecutive hours. An organization is limited to four (4) special event permits per year.
 - (e) Caterer permit. A "caterer" permit to any person or legal organization conducting a food and beverage catering business who or which has been previously issued a liquor by the drink certificate from the Tennessee Alcoholic Beverage Commission. The liquor by the drink certificate must be current and not expired or revoked at the time of the application for the caterer permit.
- (2) Fee. All applications for the issuance of any type of beer permit shall be accompanied by an application fee as specified in Appendix A for use in offsetting the expenses of investigating the applicant and processing the application. No portion of the fee shall be refunded to the applicant notwithstanding whether the application is approved or denied. Applications for a single permit for both on and off premises sales shall pay one application fee.
- (3) A permit holder must return to the town the beer permit within fifteen (15) days of termination of the business, change in ownership of more then fifty (50) percent, relocation of the business or change of the business's name; provided however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership of more than fifty (50) percent, relocation for the business or change of the business name. Upon any of these occurrences, a new permit will be required to be applied for by the business.

8-207. Applications for permits. Each application for a beer permit shall be required to complete a written application in a form as provided by the Beer Board. Each application must state all of the following:

- (1) The name, age, and address of the applicant.
- (2) The location of the premises at which the business will be conducted.
- (3) The owner or owners of such premises where the business will be located.
- (4) Name and addresses of all persons with at least a five percent ownership interest in the business applying for a license. If the applicant is a partnership, a joint venture, or a corporation, the private individual who signs the application shall indicate, in words, that the signature is a valid, binding, and legal signature on behalf of the business entity. Where it deems appropriate, the Beer Board may require the applicant to furnish as a condition of approval a certified copy of a resolution approved by the managing body of the business entity authorizing the individual signing the application on behalf of the business entity to obligate the entity.
- (5) Applicants as well as any managers of the applicant's business shall provide, at their expense, a certified criminal background check from Tennessee Bureau of Investigation. Applicant must certify that they have not been convicted of a crime of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or of any felony, or of any crime involving moral turpitude within the last ten (10) years.
- (6) Applicants shall submit a copy of their business license.
- (7) Applications will be submitted to the building inspector for approval.
- (8) The completed application shall be submitted to the City Recorder at least fifteen days prior to the Beer Board meeting at which it is to be considered.
- (9) Any other relevant information as may be required by the Beer Board.

8-208- Permits not transferable and limited to location.

- (1) A permit shall be valid only for the owner to whom the permit is issued, and under the name identified in the application and cannot be transferred. If the owner is a corporation, an LLC, or a partnership, a change of ownership shall occur when control of at least fifty (50%) percent of the stock of the corporation is transferred to a new owner.
- (2) A permit is valid only for a single location and cannot be transferred to another location. A permit is valid for all decks, patios, and other outdoor serving area contiguous to the exterior of the building in which the business is located and that are operated by and remain under the control of the business.

8-209. Tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of \$100.00. Any person, firm, corporation, or any other type of business engaged in the sale, distribution, storage or manufacture of beer shall remit the tax annually on or before January 1 to the Town of Ashland City. Failure to remit the tax by January 1 may result in automatic revocation of the license. At the time a new permit is issued to any business, the permit holder shall be required to pay the privilege tax on a prorated basis for the remaining portion of the year remaining. The tax funds collected may be used for any valid public purpose.

There is further a Wholesale Beer Tax Act as established at TCA 57-6-101 et seq. that shall be paid by all applicants. The City Recorder is directed to take appropriate action to ensure payment of the tax to the Town of Ashland City.

8-210. Interference with public health and safety. No beer permit shall be issued when the business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would interfere with the public health or safety. No permit shall be issued at places within one hundred (100) feet of any school, church or other 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 the beer will be sold. No permit shall be suspended, revoked, or denied on the basis of its proximity to a school, church, or other place of public gathering if a valid permit had been issued to that business prior to January 1, 1993 as long as the permit is not discontinued for any continuous six month period.

8-211. Issuance of permits to person convicted of certain crimes prohibited. No beer permit shall be issued to any applicant if he/she 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 of 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.

8-212. Issuance of permits to hotels, clubs, etc. It shall be lawful for the Beer Board to issue a permit for the sale of any beverage coming within the provision of this chapter and pursuant to Tennessee Code Annotated by hotels, motels, clubs, or lodges.

8-213. Sale of draft beer for off-premises consumption. Draft beer may be sold for off-premises consumption only by the holder of an off-premises beer permit or manufacturer's permit. Both off-premises permit holders and manufacturer's permit holders may fill or refill growlers on demand with beer for off-premises consumption provided the label as required by this section is affixed to the growler.

Each growler must be securely sealed and removed from the premises in its original sealed condition. Each growler shall bear a twist type closure, cork, stopper, or plug. At the time of the sale and /or refilling, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extend over the top of the closure forming a seal that must be broken upon opening of the growler.

8-214. Prohibited conduct or activities by beer permit holders, agents, servants, or employees of beer permit holders. 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 or for any of the criteria set out below. It shall be unlawful for the following:

- (1) Operate a disorderly place by allowing boisterous or disorderly conduct or any other such activity.
- (2) Has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude or a felony.
- (3) Sales beer to a person under the age of twenty-one (21).
- (4) Has made a false statement or misrepresentation of a material fact to the board.
- (5) Brings, causes, or allows any illegal substance on the premises.
- (6) Makes or allows any sale to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person.
- (7) Sell on the premises any alcoholic beverage with an alcoholic content of more than eight percent (8%) by weight without the appropriate license from the Tennessee Alcoholic Beverage Commission.
- (8) Allow the place of business to become a public nuisance or a nuisance to law enforcing agencies of the Town of Ashland City, or contribute to creating or maintaining a public nuisance.
- (9) Fails to provide and maintain sanitary toilet facilities or fails to comply with any state, county, or local health laws and regulations.
- (10) Has their license with the Tennessee Alcoholic Beverage Commission suspended or revoked.
- (11) Not paying all taxes as due to the Town of Ashland City as set out by this Ordinance and state law.
- (12) Allow beer to be sold through any drive-through, delivery window or curb service.
- (13) Allows any intoxicated person to loiter on or about the premises in which said intoxicated person is a nuisance or becomes disorderly.
- (14) Allow the sale of draft beer for off premises consumption in any container that is not approved by this Ordinance and does not have the appropriate seal.
- (15) The permit holder shall be held strictly accountable for any actions of his employees which violate any of the above restrictions.

8-215. Suspension and revocation of beer permits and civil penalties. All permits issued by the Beer Board under the provisions of this chapter shall be subject to suspension or revocation by the board for the violation of any of the provisions of this chapter or of state law. Suspension or revocation proceedings may be initiated by the Police Chief, Mayor, City Attorney, or any member of the Beer Board. The board 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 permit shall not be suspended or revoked or a civil penalty imposed. Complaints may be filed against any permit holder by any citizen and shall be made in writing to the board.

For all hearings before the board for violations, the board shall notify the permittee of said violations by written notice to appear giving the date, time and location. Said notice shall be served on the permittee at the address indicated by the permittee and shall be served either in person or by certified mail. The notice shall be served at least five (5) days before the date of the hearing. Adequate public notice shall also be given. The chairman of the board is authorized to compel the attendance of witnesses by subpoena issued by the Court Clerk of the Town's Municipal Court.

All action taken by the board shall be final. No new permit shall be issued for the sale of beer at the same location once it is revoked unless one year has lapsed or there has been a change of ownership. A change in ownership means outside the immediate family of the original individual owners, and further means that no original owner or his/her immediate family continues to have any interest in the business.

If the permittee shall be certified as a Responsible Vendor pursuant to TCA 57-5-608 et.seq., the permittee shall furnish a copy of such certification to the Beer Board prior to the meeting. The Beer Board shall be subject to all restrictions as set out pursuant to TCA 57-5-608 in instituting any revocation, suspension, or civil penalty.

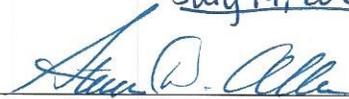
The Beer Board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500) subject to all other restrictions if the permittee is a Responsible Vendor. The permit holder shall have seven (7) business days to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time period, the revocation or suspension shall be deemed withdrawn. The Beer Board for all first-time violations shall consider giving the alternative for a civil penalty.

BE IT FURTHER ORDAINED, this Ordinance shall be effective twenty (20) days after the final passage, to the public welfare requiring it.

First Reading June 9, 2020

Public Hearing July 14, 2020

Second Reading July 14, 2020



Mayor Steve Allen



City Recorder Kellie Reed, CMFO, CMC

APPENDIX A- Town of Ashland City Beer Code

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| Application fee- beer permit, manufacturing on premises, off premises catering | \$250.00 each |
| Beer Permit Special Event | \$150.00 each |