

ORDINANCE #

AN ORDINANCE BY THE TOWN OF ASHLAND CITY, TENNESSEE TO AMEND TITLE 8, CHAPTER 1: INTOXICATING LIQUORS

WHEREAS, the Mayor and City Council, after review of older ordinances that have been in effect in the City, have determined that some Ordinances need to be updated to be current with the needs of the City.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ASHLAND CITY, TENNESSEE, that Title 8, Chapter 1, be amended to read in its entirety as follows:

8-101. Sale, etc., of intoxicating liquor regulated. It shall be unlawful to purchase or to engage in the business of selling, storing, transporting, or distributing alcoholic beverages within the corporate limits of the Town of Ashland City, except as provided by Tennessee Code Annotated, § 57-3-101, et. seq. and by the rules and regulations promulgated hereunder, and as provided in this chapter. Nothing in this chapter regulates the transportation, storage, sale, distribution, possession, or receipt of or tax upon any beverage of alcoholic content of five percent (5%) by weight or less, and no ordinance related thereto is modified by this chapter. This chapter does not apply to beer as defined pursuant to Tennessee Code Annotated 57-5-101 (b).

8-102. Definitions. Whenever used herein, unless the context requires otherwise:

- (1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every other liquid containing alcohol or spirits, and capable of being consumed by a human being, other than patented medicine and beer as defined pursuant to Tennessee Code Annotated 57-5-101 (b).
- (2) "License" means the license issued herein and "licensee" means any person to whom such license has been issued by the State of Tennessee Alcoholic Beverage Commission.
- (3) "Retail sale" means a sale of alcoholic beverage to a consumer.
- (4) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provision herein.
- (5) "Manufacturer" means and includes a distiller, vintner and rectifier.
- (6) "Wholesale" or "sale at wholesale" means a sale to any person for purposes of resale.
- (7) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provision of Tennessee Code Annotated, §§ 57-3-101 through 57-3-110.
- (8) "Words" importing the masculine gender shall include the feminine and the neutral, and the singular shall include the plural.
- (9) "Person" means a private individual, partnership, joint venture, corporation, or any other business entity or association.
- (10) "Premises" means the property owned, leased or controlled by the licensee and so connected with the liquor business in which the licensee is engaged as to form a component or integral part of it, including, but not limited to, the building and parking areas surrounding it.
- (11) "Curb service" means all sales transacted outside of the building where the business is carried on. The intent of this provision being to insure that the sale and purchase of alcoholic beverages is transacted in a face-to-face meeting between the salesperson and the customer, with the customer outside of a motor vehicle and under such circumstances that the salesperson has a reasonable opportunity to determine if the customer is then in an intoxicated condition or is a minor.
- (12) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct including champagne, sparkling, and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes

- descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine. (13) "Federal license" shall not mean tax receipt or permit.
- (14) "Distiller" means any person who owns, occupies, carries on, works, conducts, or operates any distillery either personally or by agent.
- (15) "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale.
- (16) "Manufacture" means and includes a brewer of high content beer, distiller, vitner and rectified.
- (17) "Rectifier" includes any person who rectifies, purifies or refines distilled spirits or wines by any process other than as provided for on distillery premises.
- (18) "Vitner" means any person who owns, occupies, works or operates any winery.
- (19) "Alcoholic Beverage Commission" hereinafter referred to as "ABC" is the state commission that regulates liquor and wine as set out pursuant to Tennessee Code Annotated 57-3-101 et.seq.

8-103. State laws to be complied with. No person, firm, corporation, association, or partnership shall engage in the wholesale or retail liquor business unless all the necessary state licenses and permits have been obtained. The person, firm, or corporation must have a license with the Alcoholic Beverage Commission. This includes all wineries and distilleries.

8-104. Restrictions on operators of retail liquor stores.

- (1) Residence requirements. No person, member or firm, corporation, partnership or association shall own or operate a retail store for the sale of alcoholic beverages as herein defined if he/she shall not have been a resident of Cheatham County for a period of at least eighteen (18) months prior to making application for a license. This requirement as to residence in the case of a corporation, firm, associations, or a partnership shall apply to all of its officers, stockholders, and partners.
- (2) Criminal record. N Criminal record. No retailer shall have been convicted of a felony or of any law regulating intoxicating liquors or controlled substances within a ten (10) year period.
- (3) Employees. No retailer shall employ in the sale, storage, or distribution of alcoholic beverage any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony or of any law regulating intoxicating liquors or controlled substances, and in case an employee should be so convicted after becoming employed he shall immediately be discharged.
- (4) Transfer or sale of license prohibited. The holder of a license may not sell, assign, or transfer such license to any other person, and the license shall be good and valid only for the calendar year in hich the same was issued and at the location specified in the license.
- (5) Undisclosed interest prohibited. It shall be unlawful for any person to have ownership in or to be a partner in or a stockholder, director, or officer, or to participate directly or indirectly in the profits of any business for which a license is granted hereunder, unless his interest in the business and the nature, extent and character thereof shall appear on the application.

8-105. Application for certificate of good moral character. Before any character certificate or city license is issued. In regard to a retailer license

- (1) An application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:
 - (a) Name, age and address of the applicant.
 - (b) Number of years of residence in Cheatham County.
 - (c) Occupation or business and length of time engaged in such occupation or business.
 - (d) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
 - (e) If employed, the name and address of employer.
 - (f) If in business, the kind of business and location thereof.
 - (g) The location of the proposed store for the sale of alcoholic beverages.
 - (h) The name and address of the owner of the store.

- (i) A copy of corporate paperwork as filed with the Tennessee Secretary of State, copy of any partnership agreement, or any other material to show ownership of a partnership or corporation as may be determined by the council.
- (j) A copy of any and all paperwork submitted to the alcoholic beverage commission including but not limited to the application filed with the ABC.
- (k) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business, or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.
- (l) The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner or by the president of the corporation.
- (m) The city shall, after examination and with approval within sixty (60) days, issue a certificate of compliance that is to be attached to the application provided to the state for state licensing. The city shall require a copy of all applications and information sent to the state.
- (2) Each application shall be accompanied by a non-refundable investigation fee of five hundred (\$500.00) dollars.
- (3) The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages.

8-106. Certificate of good moral character-issuance. A certificate of compliance shall be authenticated as any other resolution of the city council if the city council, while in session, shall find that the applicant fulfills all the following requirements:

- (1) The applicant or applicants who are to be in actual charge of the business are of good moral character and are personally known to a majority of the city council, or it is found that the applicant's general character is good.
- (2) If a corporation, partnership, association or firm, the executive officers or those in control and each owner, partner, or stockholder are of good moral character and personally known to a majority of the city council.
- (3) The applicant has not violated any of the provisions of this chapter or the laws of the State of Tennessee and of the United States which regulate the control of intoxicating liquors, within ten (10) years prior to the date of this application.
- (4) The applicant has not been convicted of a felony within (10) ten years prior to the date of application.
- (5) In the opinion of the city council the applicant is not likely to violate the law regarding sales of alcoholic beverages.
- (6) The applicant or applicants meets all the other requirements of this chapter and as set out in Tennessee Code Annotated 57-3-202.

8-107. Restriction to location.

- (1) Adequate off-street on-site parking space shall be available to any proposed retail liquor store as well as distillery or winery and be in conformance with the zoning ordinances of the Town of Ashland City. Any retail, wholesale, distillery, or winery must meet all zoning requirements and building codes.
- (2) No retail store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereafter provided. When a retail store is located on the corner of two (2) public streets, such retail store may maintain a door opening on each of the public streets. Said building shall be of a permanent type of construction and no store shall be located in a mobile home or other moveable type of building. Said store shall be of a minimum size of one thousand (1,000) square feet.

- (3) To the fullest extent, consistent with the nature of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale of alcoholic beverages there sold.

8-108. Minimum distance requirement. No liquor store shall be located within three hundred foot (300') distance of separation from a church, school. The distance of separation shall be determined by the length of a straight line drawn between the front door of the building of the church, school or public institution or a public entrance of the building and the front door of the building for which the license is sought.

8-109. Display of license. Persons granted a license to carry on the business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license.

8-110. Limitation on number of retailers. No more than three (3) retail licenses for the sale of intoxicating liquors shall be issued under this chapter.

8-111. Regulations of sale.

- (1) Hours of sales shall be in compliance with the ABC regulations.
- (2) Sales to minors prohibited. No retailer shall sell any alcoholic beverages to any person under twenty-one (21) years of age, and it shall be unlawful for such minor to purchase any alcoholic beverages. Also, it shall be unlawful for any person to present false evidence that he has attained the age of twenty-one (21). Any violations discovered by the City will be reported to the ABC.
- (3) Sales on certain holidays prohibited as set by the ABC

8-112. Inspection fee. The following shall apply regarding inspection fees:

- (1) There is hereby imposed an inspection fee on all gross purchases of alcoholic beverages made by licensees under this chapter. Said fee to be five percent (5%) as provided for in Tennessee Code Annotated 57-3-501.
- (2) The inspection fee shall be collected by the wholesaler from the retailer at the time of sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.
- (3) Every such wholesaler shall hold the fees imposed under the authority of this section until paid to the Town of Ashland City as hereinafter provided.
- (4) Each wholesaler making sales to retailers located within the corporate limits of the Town of Ashland City shall furnish the City of Ashland City a report monthly, which report shall contain the following:
 - (a) The name and address of the retailer;
 - (b) The wholesaler price of the alcoholic beverages sold to such retailer;
 - (c) The amount of tax due under this section; and
 - (d) Such other information as may be required by the Mayor and City Council of the Town of Ashland City. The monthly report shall be furnished to the city recorder of the town not later than the twentieth (20th) of the month following which the sales were made; and the inspection fees collected by the wholesaler from the retailers located within the Town of Ashland City shall be paid to the Town of Ashland City. The wholesaler shall be entitled to reimbursement for this collection service a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the Town of Ashland City.
- (5) Each wholesaler who fails to collect and/or remit in a timely manner the inspection fee imposed hereunder shall be liable in addition to the tax for a penalty of ten percent (10%) of the fee due the Town of Ashland City which shall be payable to the Town of Ashland City.

(6) The Town of Ashland City shall have the authority to audit the records of all wholesalers subject to the provision of this section in order to determine the accuracy of said monthly report.

8-113. Violations. Any violation of this chapter shall constitute a civil offense and shall, upon conviction be punishable by a penalty under the general penalty provisions of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

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

1st reading May 25, 2020

Public hearing June 8, 2021

2nd reading June 8, 2021

Attest:

Mayor Steve Allen

City Recorder Kellie Reed CMFO, CMC