

ORDINANCE NO.14/15-07

**AN ORDINANCE TO AMEND TITLE 8 (ALCOHOLIC BEVERAGES) CHAPTER 2
(BEER) OF THE DANDRIDGE MUNICIPAL CODE**

WHEREAS, it is in the best interest of the citizens and visitors to the Town of Dandridge and the business community as a whole to revise the entire Chapter 2 of Title 8 of the Municipal Code and all amendments to said Chapter 2 preceding this Ordinance.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Board of Aldermen of the Town of Dandridge that:

SECTION 1: Chapter 2 of Title 8 of the Municipal Code of the Town of Dandridge along with all amendments to said Chapter 2 since the last edition of the Code are hereby deleted in its entirety and replaced with the following:

CHAPTER 2
BEER

SECTION

- 8-201. Beer Board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Contents of application.
- 8-211. Issuance of permit.
- 8-212. Notice.
- 8-213. Prohibited conduct or activities by beer permit holders.
- 8-214. Revocation, suspension, civil penalty.
- 8-215. Limitation on permits issued.
- 8-216. Fees for application and permit.
- 8-217. Legal Hours of Sale

8-2-01. Beer Board established. There is hereby established a Beer Board in and for the Town of Dandridge, Tennessee to be composed of seven (7) members appointed by the Board of Mayor and Aldermen. All members of the Beer Board shall be citizens and residents of the town. They shall be appointed for two (2) year terms, which terms shall be in conjunction with the Board of Mayor and Aldermen. A chairman shall be elected annually by the board from among its members. Members of the Beer

Board shall serve without compensation. (Ord.#94/95-4, March 1995)

8-202. Meetings of the beer board. All meetings of the Beer Board shall be open to the public. The board shall hold regular meetings in the town hall or the town's Municipal Public Work building or at any other location designated by the Beer Board at such times as it shall prescribe. When there is business to come before the Beer Board, a special meeting may be called by the chairman provided he gives a five (5) day notice thereof to each member.

The board may adjourn a meeting at any time to another time and place. (Ord.#94/95-4, March 1995)

8-203. Record of Beer Board proceedings to be kept. The recorder shall be the secretary ex officio without the power to vote and shall make a record on 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. (Ord.#94/95-4, March 1995)

8-204. Requirements for beer board quorum and 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 by a majority of the members present if a quorum is constituted. (Ord.#94/95-4, March 1995)

8-205. Powers and duties of the Beer Board. 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 Town of Dandridge in accordance with the provisions of this chapter. (Ord.#94/95-4, March 1995)

8-206. "Beer" defined. The term "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%) byweight. (Ord.#94/95-4, March 1995)

8-207. Permit required for engaging in beer business. 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. 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 and the town's policies and procedures. No beer permit under the terms of this chapter shall be transferred between persons. A beer permit may be transferred by the holder from one location to another where the holder of a permit changes his place of distribution as a result of an eminent domain proceeding, loss of the place of distribution by destruction caused by acts of God, fire, acts of the permit holder's landlord, construction of a new place of distribution with abandonment of the prior place of distribution, or any other transfer of location by the permittee approved by the Beer Board; however, the transfer of a

permit shall not be authorized where the permit holder sells or transfers by any means the business inventory, equipment and fixtures to another party. (Ord.#94/95-4, March 1995, as amended by Ord.#98/99-21, June 1999)

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, to the Town of Dandridge, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord.#93/94-8, Nov.1993)

8-209. Beer permits shall be restrictive. 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 retail sale of beer may be further restricted by the Beer Board so as to authorize sales for off premises consumption or on premises consumption. An on premise consumption permit shall be issued to the permittee whose business is

- (1) Primarily a restaurant or eating place.
- (2) Be able to seat a minimum of forty (40) people, including children, in booths and at tables, in addition to any other seating it may have,
- (3) Have at least seventy-five percent (75%) of all seating in the interior of the building under a permanent roof, except the same shall not apply to a marina located within a Premier Tourist Resort within the corporate limits of the town. (Ord.#13/14-03, June 2013)
- (4) The monthly beer sales shall not exceed fifty percent (50%) of the gross sales.

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 or enacted by ordinances. (Ord.#94/95-4, March 1995, as amended by Ord.#99/00-29, June 2000)

8-210. Contents of application. Before any person, firm, corporation, joint stock company, syndicate, or association shall be authorized to sell, store, and/or manufacture such beer and/or beverages as prescribed herein, he shall apply to the Beer Board and shall establish:

- (1) That the applicant is a citizen of the United States, or is a legal resident of the United States, or if a syndicate or association, that all of the members are citizens of the United States, or are legal residents of the United States, and shall give the name, age, and

- address of the applicant and all of the persons having an interest in the business, and shall give an apt description which definitely locates the proposed place of business. (Ord.#08/09-17, Dec.2008)
- (2) That no persons will be employed in the storage, sale, or manufacture of any such beverages except citizens of the United States, or a legal resident of the United States. (Ord.#08/09-17, Dec.2008)
 - (3) That no such beverages will be sold in a congested area; within 300 feet of a school, church, or other place of public gathering in all zones of the City except in the Historic District of the B-1 Zone and in the Historic District of the B-1 Zone within 300 feet of a school or church; no closer than 300 feet to a residence except in the B-3 Zone where a business also holds a license to sell mixed drinks issued by the Alcohol Beverage Commission (ABC) of the State of Tennessee and in said circumstance the distance regulations of the ABC regarding residences if any, and no distance requirement from a residence shall exist in the Historic District of the B-1 Zone shall apply to the sale of beer; or where such sale will interfere with the public health, safety and morals in the discretion of the Beer Board. (Ord.#13/14-24, July 2014)
 - (4) That no sale shall be made to persons under twenty-one (21) years of age.
 - (5) That neither the applicant nor any persons employed by him in such distribution or sale shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years.
 - (6) Whether the application is for off premises consumption or for on premises consumption.

The application shall distinctly state whether the person so aptly will conduct the business in person, or whether he is acting as agent for any other person, firm, corporation, syndicate, association, or joint-stock company, and any person making false statement in said application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years. (Ord.#94/95-4, March 1995, as amended by Ord.#99/00-29, June 2000)

8-211. Issuance of permit. Any applicant seeking a permit under this chapter and who complies with the conditions and provisions hereof shall have issued to them the necessary permit and in the event said permit is refused, the applicant shall be entitled to a hearing on his application for the issuance of a permit. The refusal to grant a permit may be reviewed as provided by law. (Ord.#94/95-4, March 1995, as amended by Ord.#98/99-4, Sept.1998, and

Ord.#00/01-21, May 2001)

8-212. Notice. Before the beer board shall issue a permit under this chapter, it shall cause to be published in a newspaper of general circulation a notice in which the name of the applicant and the address of the location for such permit and the date and time of its meeting at which such application shall be considered. The notice shall be published not less than ten (10) days prior to such meeting. Such meeting shall be a public hearing for the purpose of hearing the statement of any person or his attorney on any application for a permit. (Ord.#94/95-4, March 1995)

8-213. Prohibited conduct or activities by beer permit holders. The following conduct or activities by beer permit holders shall be prohibited:

- (1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer. This provision shall not apply to minors storing or stocking shelves in grocery stores selling beer for off-premises consumption only.
- (3) Make or allow any sale of beer outside the hours set forth in Section 8-217 herein.
- (4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.
- (5) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (6) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.
- (7) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (8) Allow drunk or disreputable persons to loiter about his premises.
- (9) Serve or allow the consumption of, on the premises, any alcoholic beverage except beer, which has an alcoholic content of five percent (5%) weight or less for an on premises consumption permit.
- (10) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
- (11) Allow any outdoor advertising on the premises for the sale of any alcoholic beverage.
- (12) Fail to commence the retail sale of beer within ninety (90) days of being issued a permit; however, if the beer permit is applied for and granted prior to the holder commencing new construction of the structure where the beer is to be sold or stored, the beer permit holder shall have one (1) year to commence the sale of beer. The one (1) year limit shall not apply to a beer permit holder who is adding on to an existing structure. If the permit holder incurs unforeseen circumstances which delay his

sale of retail beer, he may request an extension of the one year time limit from the board.

- (13) Fail to provide and maintain separate sanitary toilet facilities for men and women for an on premises consumption permit.
- (14) A holder of an on premises consumption permit which shall have beer sales exceed fifty percent (50%) of the businesses gross sales for more than two consecutive months shall have said permit revoked.
- (15) Sell or offer for sale any controlled substance as defined by Tennessee Code Annotated or any controlled substance analogue as defined by Tennessee Code Annotated or further defined herein to mean a capsule, pill, powder, product or other substance, however constituted:
 - a. The chemical structure of which is a derivative of, or substantially similar to, the chemical structure of a controlled substance; or
 - b. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance. (Ord.#11/12-15, March 2012)

Any beer permit holder who violates any one or more of the above provisions shall be subjected to revocation of their license or any other penalty set forth in § 8-214(2). (Ord.#94/95-4, March 1995, modified, as amended by Ord.#98/99-4, Sept. 1998, Ord.#99/00-29, June 2000, and Ord.#00/01-21, May 2001)

8-214. Revocation, suspension, civil penalty.

- (1) The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions hereof. However, no beer permit shall be revoked until a public hearing is held by the board after ten (10) days' notice to all known parties of interest. Revocation proceedings may be initiated by the mayor or the police chief.
- (2) Pursuant to Tennessee Code Annotated § 57-5-608 the beer board shall not revoke or suspend a permit because of the sale of beer to a minor if, at the time of the sale the permit holder was a responsible vendor, and the clerk who made the sale was certified under the responsible vendor program. If the permit holder certification has been revoked, the permit holder shall be punished by the beer board as if the vendor were not certified as a responsible vendor.
- (3) In lieu of any suspensions that might have been imposed but for the restrictions set forth in (2) above; the beer board may impose a civil penalty not to exceed \$1000. If the beer board determines that a clerk of

a beer permit holder certified under the responsible vendor program sold beer to a minor, the beer board shall report the name of the clerk to the Alcohol Beverage Commission within fifteen (15) days after such determination by the board.

- (4) In addition to the authority set forth in subsection (2) and (3) hereinabove, the beer board may at the time it imposes a suspension offer a permit holder the alternative of paying a civil penalty not to exceed \$1000 provided however that the amount of the civil penalty may be increased to an amount not to exceed \$2,500 in the case of a sale to a minor by a permit holder that is not a responsible vendor. 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.
- (5) A beer permit holder who incurs a violation of any provision of § 8-213 herein, may have that violation removed from its record for the purpose of determining the length of time of a suspension or a revocation, if said holder incurs no additional violation of any provision of § 8-213 within a twenty-four (24) month period.
- (6) In addition to the aforementioned penalty set forth herein and in other provisions herein, any individual(s) who actually consummate(s) the sale of beer to a minor may, in addition to any fine, costs or diversion, have a community service sentence imposed of not more than forty (40) hours. (Ord.#94/95-4, March 1995, as amended by Ord.#99/00-18, Jan. 2000)

8-215. Limitation on permits issued. There shall be one (1) off premises consumption permit and one (1) retail beer sales on premise permit per two hundred twenty five (225) residents and as the last census records the town as having two thousand, eight hundred twelve (2,812) residents. The beer board shall not issue permits exceeding twelve (12) for retail beer sales for off premises or on premises consumption. In the event there exists twelve (12) on premise consumption permits already issued and an applicant over and above that amount for on premise consumption holds a valid license for the sale of intoxicating liquors issued by the State of Tennessee through the Alcohol Beverage Commission, such an applicant shall also be considered for a beer permit. Businesses annexed into the town's corporate limits, which possess a valid beer permit or license at the time of annexation, shall not be denied a permit based upon the limitation of the number of permits to be issued by the Town set forth by this section; however, the annexed businesses with permits shall be included thereafter in the number of permits allowed. (Ord.#13/14-06, Aug. 2013)

8-216. Fees for application and permit. Any applicant seeking a permit under this chapter shall pay the recorder a \$279 non-refundable application fee. There is also imposed a \$100 per year privilege tax on the business of selling beer. Revenue from the tax may be used for any municipal purpose. The tax is due on January 1 of each year.

8-217. Legal Hours of Sale. The legal hours of sale for all classes of permit holders shall be the same as the legal hours of sale of beer authorized by the Tennessee Alcoholic Beverage Commission which are as follows:

Monday through Saturday 8:00 a.m. to 3:00 a.m. into the next morning.

Sunday 10:00 a.m. to 3:00 a.m. into the next morning.

SECTION 2: THIS ORDINANCE shall take effect immediately upon its third and final passage, the public welfare requiring it.

APPROVED: George Banta
MAYOR

ATTEST: Carly Dixon
TOWN RECORDER

Passed on 1st Reading: March 10, 2015

Passed on 2nd Reading: March 10, 2015

Passed on 3rd Reading: April 14, 2015