

ORDINANCE 19-02-11

WHEREAS, the Town of Gordonsville presently has existing an Ordinance governing the sale and distribution of beer and other alcoholic beverages within the limits of the Town of Gordonsville; and

WHEREAS, there have been recent changes in state law governing the sale and distribution of alcoholic beverages; and

WHEREAS, from time to time it becomes necessary for the Town of Gordonville to amend or replace its existing Ordinances to comply with changes in state law and to best serve the citizens of the Town of Gordonsville; and

WHEREAS, the Tennessee Municipal Technical Advisory Service has drafted and provided a sample ordinance for municipalities to consider and revise to take the place of current ordinances in effect;

BE IT APPROVED AND ADOPTED by the Legislative Body of the Town of Gordonsville, Smith County, Tennessee that Title 8 of the The Gordonsville Municipal Code be amended by the following Ordinance.

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER****1. INTOXICATING LIQUORS.**

¹ Municipal Code Reference: Minors in beer places, etc. title 11, chapter 1. State law reference: TENNESSEE CODE ANNOTATED, title 57.

2. BEER.

CHAPTER 1

INTOXICATING LIQUORS¹

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before board of mayor and aldermen; duty to give information.
- 8-105. Action on application.
- 8-106. Applicants for certificate who have criminal record.
- 8-107. Number of retail licenses to be held by retailer.
- 8-108. Where establishments may be located.
- 8-109. Retail stores to be on ground floor; entrances.
- 8-110. Limitation on number of retailers.

- 8-111. Sales for consumption on-premises.
- 8-112. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-113. Inspection fee.
- 8-114. Consumption of alcoholic beverages on-premises.

- 8-115. Privilege tax on the sale of alcoholic beverages for consumption on the

¹ Employee and Server permits: TENNESSEE CODE ANNOTATED, 57-3-701 et seq.

premises.

- 8-116. Annual privilege tax to be paid to the recorder.
- 8-117. Concurrent sales of liquor by the drink and beer.
- 8-118. Advertisement of alcoholic beverages.
- 8-119. Violations and penalty.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the Town of Gordonsville except as provided by *Tennessee Code Annotated*, title 57.

8-102. Application for certificate.¹ Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen, a request in writing shall be filed with the recorder, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residing at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store.

¹ TENNESSEE CODE ANNOTATED 57-3-208

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.

8-103. Applicant to agree to comply with laws. 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/town and rules and regulations of the Alcoholic Beverage Commission of the state for sale of alcoholic beverages.

8-104. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board.

8-105. Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the city/town attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed.

The board of mayor and aldermen may issue a certificate of good moral character to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen.

8-106. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years

preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

8-107. Number of retail licenses to be held by retailer.¹ No retail licensee shall, directly or indirectly, hold more than two (2) retail licenses. In no event shall a retail licensee, directly or indirectly, hold more than fifty percent (50%) of the licenses authorized for issuance in such municipality or county.

8-108. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city/town except at locations zoned for that purpose.

8-109. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city/town except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.²

¹ TENNESSEE CODE ANNOTATED 57-3-406.

² TENNESSEE CODE ANNOTATED 57-3-404(f)

8-110. Limitation on number of retailers.¹ No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued under this chapter.

8-111. Sales for consumption on-premises. No alcoholic beverages shall be sold for consumption on the premises of a retail seller.

8-112. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

8-113. Inspection fee. The Town of Gordonsville hereby imposes an inspection fee in the maximum amount allowed by *Tennessee Code Annotated*, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city/town.

8-114. Consumption of alcoholic beverages on-premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of the Town of Gordonsville, Tennessee. It is the intent of the Town Council that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the Town of Gordonsville the same as if said code sections were copied herein verbatim.

8-115. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter

4, section 301,) for the Town of Gordonsville to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Gordonsville of alcoholic beverages for consumption on the premises where sold.

8-116. Annual privilege tax to be paid to the recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Gordonsville shall remit annually to the recorder the appropriate tax described in § 8-115. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

8-117. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the Town of Gordonsville pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall, notwithstanding § 8-216 of the ordinances of the Town of Gordonsville, qualify to receive a beer permit from the city/town upon compliance of all Gordonsville beer permit requirements.

8-118. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code*

Annotated, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission.

8-119. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city/town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

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. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited. 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor. 8-216. Violations and penalty.

8-201. Beer board established. There is hereby established a beer board to be composed of the mayor sitting as chair, 2 members of the board of alderman and 2 private citizens.

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 city/town

hall 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/she gives adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

8-203. Record of beer board proceedings to be kept. 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; names of the board members present and absent; 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.

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. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board.¹ 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 this municipality in accordance with the provisions of this chapter.

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

¹ TENNESSEE CODE ANNOTATED 57-5-106.

8-207. 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, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Gordonsville. 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.

8-208. Privilege tax.² There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town of Gordonsville, 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.

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 so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer

¹ TENNESSEE CODE ANNOTATED 57-5-103.

² Tennessee Code Annotated 57-5-104(b)

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 in his permit.¹

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to two. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the Town of Gordonsville at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, 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 manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line

¹ TENNESSEE CODE ANNOTATED 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under TENNESSEE CODE ANNOTATED 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under TENNESSEE CODE ANNOTATED 16-18-302, city/town courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City/Town courts are thus prohibited from enforcing ordinances making violations of TENNESSEE CODE ANNOTATED 57-5-301(a) a local offense.

from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period.

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- (1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹
- (2) Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday.²
- (3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.³
- (4) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (5) Allow drunk persons to loiter about his premises.

¹ TENNESSEE CODE ANNOTATED 1-3-113(a).

² TENNESSEE CODE ANNOTATED 57-5-106(a) for cities with liquor by the drink, the Alcoholic Beverage Commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under Tennessee Compilation Rules and Regulations 0100-01-.03(2).

³ TENNESSEE CODE ANNOTATED 57-5-106(a).

- (6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.
- (7) Fail to provide and maintain separate sanitary toilet facilities for men and women.

8-213. Revocation or suspension of beer permits. 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 of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-214. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," *Tennessee Code Annotated*, § 57-5-601, *et seq.*

(2) Penalty, revocation or suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or 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.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city/town may impose.

8-215. Loss of clerk's certification for sale to minor.² If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board

¹ TENNESSEE CODE ANNOTATED 57-5-108(2)

² TENNESSEE CODE ANNOTATED 57-5-607.

shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

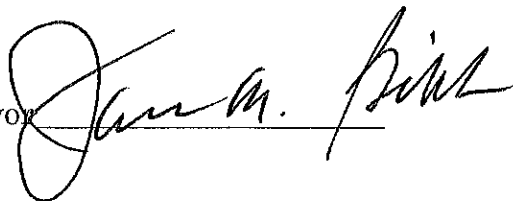
8-216. Violations and penalty. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

This ordinance will become effective immediately upon passage by the council on the second reading.

First reading 2-11-19

Second reading 3-11-19

Mayor



City Recorder

