

ORDINANCE NO. 648

**AN ORDINANCE REPEALING AND REPLACING THE CURRENT TITLE 8
OF THE MUNICIPAL CODE IN REGARDS TO ALCOHOLIC BEVERAGES
IN THE CITY OF CLINTON**

WHEREAS, Tennessee Code Annotated, § 57-4-301(b)(2) authorizes municipalities to levy and collect a privilege tax for on-premises consumption of alcoholic beverages; and

WHEREAS, the City Council of the City of Clinton desires to repeal the current Title 8 of the Municipal Code and in its place approve and establish a new Title 8 regarding the sale of alcoholic beverages in the City of Clinton.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Clinton, Tennessee that:

SECTION 1. Title 8, Chapter 1 and Chapter 2 and Chapter 3 of the Municipal Code are hereby repealed in their entirety, and a new Chapter 1, 2 and a new Chapter 3 are substituted as follows:

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.

CHAPTER 1

INTOXICATING LIQUORS²

¹Municipal code reference

Minors in beer places, etc. Title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Employee and server permits: *Tennessee Code Annotated*, § 57-3-701, *et seq.*

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Consumption of alcoholic beverages on-premises.
- 8-103. Privilege tax on the sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the recorder.
- 8-105. Concurrent sales of liquor by the drink and beer.
- 8-106. Advertisement of alcoholic beverages.
- 8-107. 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 this city/town except as provided by *Tennessee Code Annotated*, title 57.

8-102. 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 Clinton, Tennessee. It is the intent of the City Council that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the City of Clinton, the same as if said code sections were copied herein verbatim.

8-103. 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 City of Clinton 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 City of Clinton of alcoholic beverages for consumption on the premises where sold.

8-104. 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 City of Clinton 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.

8-105. 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 City of Clinton, pursuant to *Tennessee Code Annotated*, title

57, chapter 4, shall qualify to receive a beer permit from the city upon compliance of all Clinton beer permit requirements.

8-106. 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.

8-107. 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 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. Classes of permits.
- 8-211. Sale of beer permitted in specified zones.
- 8-212. Interference with public health, safety, and morals prohibited.
- 8-213. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-214. Revocation or suspension of beer permits.
- 8-215. Temporary Permit; application issued by city recorder.
- 8-216. Civil penalty in lieu of revocation or suspension.
- 8-217. Loss of clerk's certification for sale to minor.
- 8-218. Violations and penalty.

8-201. Beer board established. There is hereby established a beer board to be composed of the city council. The mayor shall be the chairman of the beer board.

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 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 gives an 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.³ 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.

8-207. Permit required for engaging in beer business.⁴ 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). Each applicant must be a person of good

³State law reference
Tennessee Code Annotated, § 57-5-106.

⁴State law reference
Tennessee Code Annotated, § 57-5-103.

moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax.⁵ 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 City of Clinton, 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 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.⁶

8-210. Classes of permits here shall be five (5) classes of permits issued by the beer board, as follows:

(1) Class "A" a manufacturer's permit to be a manufacturer of beer for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer. A manufacturer may also operate as a retailer at the manufacturer's location

⁵State law reference

Tennessee Code Annotated, § 57-5-104(b).

⁶State law reference

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.

or a site contiguous thereto for sales of not more than twenty-five thousand (25,000) barrels of beer or high alcohol content beer or both annually for consumption on or off the premises under this chapter as long as the requirements of this chapter concerning the licensing of such retail establishments are met.

(2) Class "B" An "off-site" permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

(3) Class "C" An "on-site" permit to any person or legal organization engaged in the operation of a restaurant wherein the sale of beer is for consumption on the premises. A restaurant shall be defined as a business establishment whose primary business is the sale of prepared food to be consumed on the premises.

(4) Class "D" An "on-site" permit to any person or legal organization engaged in the operation of any hotel/motel that does not sell food or beverages and that receives ninety percent (90%) of its revenue from the sale of room rentals may serve beer to patrons of such hotel/motel without a charge. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

(5) Class "E" A special event permit to any bona fide charitable, nonprofit, political or governmental organization engaged in a city-sanctioned and/or sponsored festival, celebration, or event. Special event beer permits must comply with all other regulations found in Title 8, Chapter 2, with the exception of sections 8-203 and 8-208. For the purposes of this section, bona fide charitable or nonprofit organization means any corporation or legal entity which has been recognized as exempt from federal taxes under section 501c of the Internal Revenue Code. Bona fide political organization means any political campaign committee as defined in T.C.A. §2-13-101. Special event beer permits are permissible in the City of Clinton with the following requirements:

(1) Permits are valid for 72 hours during city sanctioned and/or sponsored festivals, celebrations and events.

(2) The legal hours of sale or consumption at authorized events shall be the following:

Monday through Saturday 8:00 am to 10:00 pm
Sunday 12:00 noon to 10:00 pm

(3) No organization may be granted more than two Class E special event permits within a calendar year.

(4) Permit applications must be submitted 60 days prior to the start of the event for which a permit is requested.

(5) In addition to the permit application requirement described in 8-207 the following information must be submitted with an application for a Class E special event permit:

- (a) The organization applying for the special event permit, contact person, address and phone number.
- (b) Date(s) and time(s) of event.
- (c) The event manager's name, address and phone number. For the purposes of this section, event manager means the individual(s) responsible for the oversight and/or dispensing of such alcoholic beverages.
- (d) The specific location where beer is sold or served.
- (e) Plans for security and policing the area(s) where beer is to be sold.
- (f) If the event covered by the permit will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the special event application.

(6) Permit applications are valid only for on premise consumption inside an enclosed and/or fenced area with restricted ingress/egress points.

(7) Any signs or other displays promoting the sale of beer in general, or of a specific beer or beers must be within the enclosed and/or fenced area restricted for consumption.

(8) The applicant shall send a representative(s) to such City of Clinton Beer Board meeting to address any questions or issues arising out of the proposed special event.

(9) If approved the Class E special event permit shall have affixed on its face the name of the proposed vendor(s) of beer, the specified location(s) and date(s) where such vendor is permitted to sell beer under the permit.

8-211. Sale of beer permitted only in specified zones. It shall hereafter be lawful to sell, store for resale, distribute or manufacture beer in the City of Clinton, Tennessee, provided that permits authorized by this chapter shall be issued for locations that are now zoned or may be in the future zoned as follows:

- (1) Class "A" Permits: Zoning Districts B-1, B-2, B-4, M-1, M-2, and P-1.
- (2) Class "B" Permits: Zoning Districts B-1, B-2, and B-4.
- (3) Class "C" Permits: Zoning Districts B-1, B-2, B-4, and P-1. (as added by Ord. #141, amended by Ord. #329, and Ord. #428, March 2002, and replaced by Ord. #570, April 2010)
- (4) Class "E" Permits: All Zoning Districts

8-212. 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.

8-213. 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.⁷
- (2) Make or allow the sale of beer between the hours of 3:00 A.M. and 8:00 A.M. on weekdays and between the hours of 3:00 A.M. Saturday and 12:00 noon on Sunday.⁸
- (3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.⁹
- (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 intoxicated persons to loiter about his premises.
- (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.

8-214. 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

⁷State law reference

Tennessee Code Annotated, § 1-3-113(a).

⁸State law reference

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).

⁹State law reference

Tennessee Code Annotated, § 57-5-106(a).

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.

8-215. Temporary permit; application issued by city recorder. In the event a proposed buyer or transferee acquires the business operated under this permit, and such transfer is to become final upon condition that the buyer or transferee obtains a regular beer permit, the buyer or transferee may obtain a temporary permit from the City Recorder upon the determination of the City Recorder that the buyer or transferee is about to comply with this chapter. Such temporary permit shall be valid for twenty-one (21) days from the date of issuance or until the next beer board meeting. The holder of a temporary permit shall be subject to all restrictions and penalties provided for regular permit holders by this chapter. Temporary permits shall not be issued, except for premises for which the beer permit has been issued to another owner or operator at the time application is made for such temporary permit. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

8-216. 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.¹⁰ 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.

¹⁰State law reference

Tennessee Code Annotated, § 57-5-108(2).

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 may impose.

8-217. Loss of clerk's certification for sale to minor.¹¹ 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 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.

8-218. 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.

CHAPTER 3

WINE IN RETAIL FOOD STORES

SECTION

8-301. Inspection fee on retail food store wine licensees.

8-302. Application for certificate.

8-301. Inspection fee on retail food store wine licensees. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-3-501 *et seq.*, there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in *Tennessee Code Annotated*, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee.

8-302. Application for certificate. Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-806, 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 residence at applicant's address.

¹¹State law reference

Tennessee Code Annotated, § 57-5-607.

- (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.


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.

SECTION 2. This ordinance shall be effective immediately upon passage, the public welfare requiring it.

APPROVED:



Scott Burton, Mayor



Regina Ridenour, City Recorder

Passed First Reading: December 18, 2019

Passed Second Reading: January 27, 2020

