

ORDINANCE NO. 2023-09

AN ORDINANCE TO AMEND THE TOWN OF JONESBOROUGH MUNICIPAL CODE, TITLE 2, ENTITLED "ALCOHOLIC BEVERAGES" BY DELETING CHAPTERS 1 AND 2 IN THEIR ENTIRETY AND REPLACING THEM WITH NEW CHAPTERS 1 AND 2

SECTION 1. BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF JONESBOROUGH, TENNESSEE, that Title 2 of the Jonesborough Municipal Code, entitled "Alcoholic Beverages" is amended by deleting Chapters 1 and 2 in their entirety and replacing them with new Chapters 1 and 2 as follows:

TITLE 2

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 2-101. Definition of "alcoholic beverages."
- 2-102. Consumption of alcoholic beverages on premises.
- 2-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 2-104. Annual privilege tax to be paid to the town recorder.
- 2-105. Gross sales tax.
- 2-106. Sale otherwise prohibited.
- 2-107. Intoxicating liquor on public property.
- 2-108. Retail liquor stores.
- 2-109. Food stores selling wine.

2-101. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer as defined in Tennessee Code Annotated 57-5-101(b) as may be amended from time to time. Notwithstanding any provision to the contrary in this title, "alcoholic beverage" or "beverage" also includes any product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content, including any infused product. For the purposes of Title 2, Chapter 1, "alcoholic beverages" is not the same as "beer" as defined in Title 2, Chapter 2.

2-102. 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 Jonesborough, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Jonesborough, Tennessee, the same as if said code sections were copied herein verbatim. [as added by Ord. #2002-17, Dec. 2002]

2-103. 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 Town of Jonesborough General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Jonesborough alcoholic beverages for consumption on the premises where sold. [as added by Ord. #2002-17, Dec. 2002]

2-104. Annual privilege tax to be paid to the town 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 Jonesborough shall remit annually to the town recorder the appropriate tax described in § 2-103. Such payment 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 each 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. [as added by Ord. #2002-17, Dec. 2002]

2-105. Gross sales tax. It shall be the responsibility of the town recorder to ensure that the town receives its share of the fifteen percent (15%) tax levied on the gross sales of alcoholic beverages sold at retail for consumption on premises and collected by the commissioner of the alcoholic beverage commission under Tennessee Code Annotated, § 57-4-301(c), and distributed to the state and its political subdivisions under Tennessee Code Annotated, § 57-4-306. [as added by Ord. #2002-17, Dec. 2002]

2-106. Sale otherwise prohibited. Except as authorized by applicable laws, the provisions of this title and/or other ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Jonesborough. "Intoxicating liquor" shall be defined in Section 2-101 of this Chapter.

2-107. Intoxicating liquor on public property. That it shall be unlawful for any person to drink or consume, or have an opened container of beer or intoxicating liquor in or upon any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place, with the exception of restaurants permitted by the state alcoholic beverage commission for

the sale of alcoholic beverages that also obtain and have a current outdoor use area permit from the board of mayor and aldermen. [Ord. of September 10, 1984, as replaced by Ord. #2002-17, Dec. 2002, and amended by Ord. #2010-07, June 2010]

2-108. Retail liquor stores. (1) Sale authorized. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store within the corporate limits of Jonesborough; provided such retail license has been appropriately approved by the town and the state, and such sales are made in compliance with applicable state and federal statutes, rules and regulations, as well as the provisions established in this chapter.

"Retail liquor stores" are defined as stores licensed under Tennessee Code Annotated, § 57-3-208, to sell wine, intoxicating liquors and beer as defined in Section 2-101 of this Chapter; and "retail liquor stores" are not food stores permitted by the ABC to sell wine under Tennessee Code Annotated, § 57-3-806.

(2) License and certificate required. It shall be unlawful for any person, firm or corporation to sell alcoholic beverages at retail without first obtaining a license for such privilege in an off-premises liquor store through the State of Tennessee Alcoholic Beverage Commission, and without obtaining a certificate of compliance for a specific store location by the Jonesborough Board of Mayor and Aldermen as required by Tennessee Code Annotated, § 57-3-208.

(3) License restrictions. The requirements or restrictions established in Tennessee Code Annotated, §§ 57-3-204 to 57-3-210 apply to applicants for a retail liquor store license in Jonesborough, including, but not limited to, the following:

(a) No retail license shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, city or county except as specified in Tennessee Code Annotated, § 57-3-210(b)(2).

(b) No retailer or any employee shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time of the application, with the exception of such person whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. No license shall be issued to a retailer who within ten (10) years preceding the application has been convicted of any offense under the laws of Tennessee or any other state in the United States prohibiting or regulating the sale, possession, transportation, storing, or manufacturing or otherwise handling of intoxicating liquors.

(c) No person shall have ownership in, or participate in, either directly or indirectly, the profits of any wholesale or retail liquor business licensed through the Tennessee Code Annotated unless the interest in such business and the nature, extent and character thereof shall appear on the application or unless such interest is fully disclosed to the Alcoholic Beverage Commission and is approved by it.

(d) No person shall be employed unless they are a citizen of the United States.

(e) No retailer or any employee thereof shall be a person under

eighteen (18) years of age.

(f) A retailer must currently be a resident of the State of Tennessee for two (2) years or previously for at least ten (10) years consecutively.

(4) License application. Any person, firm, or corporation desiring to sell alcoholic beverages at a retail liquor store and not for consumption on premises shall make application to the Tennessee Alcoholic Beverage Commission (ABC) for a retailer's license. The following conditions apply:

(a) Conditions established in Tennessee Code Annotated, § 57-3-204, must be met including a one (1) time initial application fee of three hundred dollars (\$300.00) or current application fee, an additional permit fee, as well as any applicable Rules and Regulations of the Alcoholic Beverage Commission.

(b) The license application must be accompanied by a properly executed certificate of compliance from the Town of Jonesborough.

(c) The license expires in twelve (12) months following the date of issuance. Each licensee must submit renewal applications annually to the ABC accompanied by the annual license fee.

(d) The applicant for a license must meet the public notice requirements established in section 0100-03-.09 (10) and (11) of the Rules of the Alcoholic Beverage Commission.

(5) Application for certificate of compliance. An applicant for a license shall first obtain a certificate of compliance from the Town of Jonesborough, as provided in Tennessee Code Annotated, § 57-3-208. The application for the certificate shall be in writing on forms prescribed and furnished by the town recorder. The application includes a request for a certificate of good moral character, as provided by Tennessee Code Annotated, §§ 57-3-101, et seq. Applications shall include, but not be limited to, the following information:

(a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the license as owner, partner, or stockholder, director, officer or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information herein required by the town.

(b) Statement that each applicant or member in the applicant group has been a bona fide resident of the State of Tennessee for at least two (2) years preceding the date the application is filed.

(c) The names and addresses of at least three (3) residents of the town or state that have known each applicant for at least two (2) years.

(d) Occupation or business name and location of such business of applicant or persons in the applicant group, and length of time engaged in such occupation or business, including the name of the licensee and address of any other off-premises liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group members holding each interest.

(e) In the case where the applicant is a partnership, corporation, limited liability company or other such legally recognized entity, the application shall be accompanied by a copy of the partnership agreement, corporate charter, operations agreement or other such document as well as a breakdown of all partners, shareholders, members, etc. with their ownership percentages.

(f) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the retail liquor store.

(g) Certification that the applicant or applicant group or any employee, now intended or in the future that will be employed to manage or assist in the operation of the retail liquor store has not been convicted of a felony involving moral turpitude within the ten (10) year period immediately preceding the date of the application, or any Jonesborough Municipal Ordinance alcohol violation. In order to satisfy the certification of no conviction of a felony involving moral turpitude, the applicant must at his or her own expense undertake a national background search of all individuals involved in the ownership, partnership, etc. of the retail liquor store and provide documentation to the Jonesborough Police Department that all individuals involved in the search are free of any felony convictions as designated. The applicant should contact the Jonesborough Police Department in advance to ensure that the firm used to undertake the background search(es) is acceptable.

(h) Name of the retail liquor store proposed in the application and the zoning designation applicable to such location.

(i) Address of the retail liquor store proposed in the application.

(j) A site plan drawn to a scale of not less than one inch (1") equals twenty feet (20') that includes the following information:

(i) The shape, size, and location of the lot which the retail liquor store is to be located.

(ii) The shape, size, height, number of floors and location on the lot of all buildings whether they are to be erected, altered, moved or existing upon the lot.

(iii) Off-street parking spaces and off-street loading/unloading area.

(iv) Ingress and egress to lot.

(v) Location of all doors accessing the building with designation of public access to building and designation of any landscaping, walls, fencing or other such possible obstruction limiting visual access to building entrances.

(vi) Designation of zone(s) of lot and adjoining properties.

(vii) Owners of adjoining properties, designation of use, and name of any business.

(viii) The identification of every parcel within two hundred feet (200') of the lot which the liquor store is to be operated, indicating ownership thereof, and the locations of structures situated thereon and the use being made of every such parcel.

(ix) Lighting of building exterior and parking area.

(k) Certification by the applicant stating that the premises of the proposed retail liquor store are in full compliance with the distance requirements established in § 2-108(8) of this chapter.

(l) The agreement of each applicant to comply with state and federal statutes, Jonesborough regulations governing retail liquor stores, and all state rules and regulations with reference to the sale of alcoholic beverages.

(m) Verification that the applicant has secured the location for the business at the location submitted in the application.

(n) A time schedule detailing any construction or renovation of the store building, improvements to grounds, and store opening date.

(o) The application form shall be signed and verified by each person who has any interest in the license either as owner, partner, stockholder, director, officer or otherwise.

(6) Application advertising requirements. Before a certificate of compliance application for a retail liquor store may be considered by the planning commission and then the board of mayor and aldermen, whether the application is for a transfer of an existing license to a new location or for a new license, the applicant must place at least one (1) advertisement, at his/her own expense, in a newspaper of general circulation in the town, a minimum of seven (7) days prior to the application being initially reviewed by the Jonesborough Planning Commission, with the published notice including the following information.

(a) Name and address of applicant.

(b) Nature and purpose of application.

(c) Location/address of store location.

(d) Date the application is proposed to be reviewed by the planning commission.

(7) Review and consideration of initial applications for certificate of compliance. Applications to the town for a certificate of compliance needed to license a retail liquor store shall be submitted to the town recorder. The town recorder shall review the documentation provided to see that all information

requested has been submitted and appears to be complete. Although the recorder will initially review materials submitted for compliance, and will to the extent possible identify insufficient information, it is responsibility of the applicant to provide all of the information required regardless of the recorder's review. When the recorder does identify insufficient information, the applicant shall have until the materials are sent to the planning commission to complete the application packet. An application shall not be deemed "filed" until it contains all of the information requested. After the initial review, a date shall be determined to send the full application to the planning commission for consideration. The applicant must provide proper notification in an acceptable publication at least seven (7) days in advance of the meeting in which the planning commission will consider the application. In reviewing the application, the planning commission shall consider at least the following:

(a) Whether the application meets all state and federal requirements.

(b) When there is more than one (1) application for a certificate of compliance in the same overlay zone area, the planning commission shall consider at least the following without regard to the order the applications were filed:

(i) The retail store locations submitted and the considerations of safety, lighting, ingress and egress, size of store, impact on traffic patterns, and ease of enforcement relative to each location.

(ii) The most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of Jonesborough and the lawful operation of an off-premises retail liquor store.

(iii) The ability of the applicant to obtain the necessary license from the state, and to construct, renovate or otherwise develop the premises necessary for the retail store and open it to the public in a timely manner.

(iv) The compatibility of the building and landscaping with the surrounding properties, including building materials, roof pitch, etc., as well as compatibility with any town vision for commercial area in Jonesborough.

(c) Initially, the town will advertise, at a convenient time, the projected schedule for adoption of the ordinance governing location, number, and other considerations regulating retail liquor stores and the issuance of a certificate of compliance. The notice will also establish a date the ordinance will become effective which will be the first date to received applications. The projected meeting date of the planning commission in which liquor store applications will be reviewed shall also be included in the notice, as well as the date the board of mayor and aldermen will act on the applications so that the application, review, and

approval/denial process falls within the sixty (60) day requirement for action outlined in Tennessee Code Annotated, § 57-3-208.

(d) If a retail liquor store becomes available in an existing zone area or a new store zone is established, any voluntary request to transfer an existing and operating store location shall be evaluated and considered based on the criteria in subsection (7)(b) the same as any other application submitted.

(e) Applications, and all matters submitted with or as a part of such applications become at the time they are submitted the sole and exclusive property of the town and constitute public records open to public inspection.

(f) Because of the sixty (60) day requirement for board action applications outlined in Tennessee Code Annotated, § 57-3-208, any application submitted that is not approved for a certificate of compliance shall be denied by the board of mayor and aldermen. Said applications, however, shall be held by the town until the retail liquor store(s) approved are open and operating. At that time, the application may be disposed of by the town. If the approved store is not licensed by the ABC or fails to open in a timely manner and loses its license, the applications on file for a certificate of compliance may be reactivated and considered submitted upon written request by the applicant.

(8) Restrictions on location of and access to retail liquor stores. No location for a retail store shall be approved on any premises within the town, except on premises that are:

(a) Zoned B-3.

(b) Within a Retail Liquor Store (RLS) Overlay Zone made up of two (2) or more separate areas within the B-3 or other zones with one (1) and only one (1) retail store authorized per RLS Overlay Zone area.

(c) At least two hundred feet (200') from the nearest portion of any church, public or private school ground, day care, public playground or park, public recreational facility, or residential dwelling unit except if the dwelling unit is located within a building that contains mixed uses. For the purposes of measurement, the distance shall be determined from the center of the public entrance to the retail liquor store in a straight line the shortest most direct distance to the major entrance to the facilities and institutions listed. The restrictions set forth herein as to locations apply to conditions existing as of the time the application for a certificate is filed, and the future presence of any uses listed above in this subsection (8)(c) necessitating the two hundred foot (200') distance requirement shall not be grounds for revocation of a license or denial of a certificate if a valid license had been issued to any retail liquor store at the same location and the business has been in continuing operation since that date.

(d) Developed with a building in which the retail liquor store is only on the ground floor.

(e) Under normal circumstances a retail liquor store shall have one (1) entrance for use by the public. Circumstances may exist, like the premises being served by multiple public streets, or an on-premises liquor store being attached to a large complex, in which the applicant may petition for a second public entrance. However, the planning commission will have to recommend the second entrance, and in no case shall the retail liquor store have more than two (2) public entrances.

(9) Number of stores - adequate availability. For the purpose of determining whether alcoholic beverages are generally available in the town, or whether the town is being adequately served, it will be presumed, absent proof to the contrary, that alcoholic beverages are generally available and that the area is being adequately served when the ratio between the number of operating liquor stores in the town and the population of the town is less than or equal to one (1) store for each three thousand (3,000) town residents or fraction thereof.

(a) No new location for a retail liquor store, except a transfer from one (1) location to another in special circumstances fixed by rules or regulation of the State Alcoholic Beverage Commission, as authorized by statute, shall be approved unless it is determined that alcoholic beverages are not generally available in the town or that the town is not being adequately served by currently operating liquor stores.

(b) The determination by the Jonesborough Board of Mayor and Aldermen concerning the general availability of alcoholic beverages or the adequacy of service in the town shall be binding. However, upon proof of materially changed conditions, the town board may alter, amend or change its determination; provided that such a determination shall not affect those retail liquor licenses issued and in current and continuous use by the same licensee holder. Proof to rebut the presumption of adequacy shall be submitted to and considered by the planning commission and recommended to the board of mayor and aldermen.

(10) (a) Restrictions on issuance of certificate of compliance. No original or renewal certificate of compliance shall be issued for any location until:

(i) An application has been filed with the town recorder.

(ii) All requirements to obtain a certificate have been met, and the application complies with all restrictions as to location and number of retail licenses issued within Jonesborough.

(iii) A written certification by the applicant is submitted stating that the premises of the retail liquor store are in full and complete compliance with the distance requirements established in § 2-108(8) of this chapter.

(iv) The application shall be signed and verified by each person to have an interest in the retail liquor store either as an owner, partner, stockholder or otherwise.

(v) The application has been reviewed and considered by the Jonesborough Planning Commission and recommended to the board of mayor and aldermen.

(vi) The application has been considered at a regular or called meeting of the Jonesborough Board of Mayor and Aldermen and approved by majority vote.

(b) Requirements for a renewal certificate of compliance. It is the responsibility of the owners of an existing retail liquor store in Jonesborough to submit an application for renewal of a certificate of compliance and the information required in a timely manner, at least forty-five (45) days before any action by the town is anticipated. Any required background checks due to a change in ownership or partnership must be undertaken prior to the application being submitted to the town recorder. The requirements for a renewal certificate of compliance are as follows:

(i) A renewal application must be filled out and filed with the town recorder.

(ii) A written certification signed and verified by each person having an interest in the retail liquor as an owner, partner, stockholder or otherwise, must be submitted as a component of the renewal application that states the following:

(A) The retail liquor store is located on the same parcel it was when the last certificate of compliance was approved and issued to the owners.

(B) The existing retail liquor store continues to meet the site requirements approved by the Jonesborough Police Department, Jonesborough Regional Planning Commission, and the Jonesborough Board of Mayor and Aldermen.

(C) The owner(s) must certify that they do meet and will continue to meet the current requirements and regulations for retail liquor stores issued by the Town of Jonesborough, and Tennessee Code Annotated, §§ 57-3-204 to 57-3-204, along with any amendments.

(D) Each owner or member of the owner group has been a resident of the State of Tennessee for at least two (2) years preceding the date of the renewal application submitted.

(11) Term of certificate of compliance. Once issued by the board of mayor and aldermen, a certificate of compliance required by Tennessee Code Annotated, § 57-3-208, shall be valid for two (2) years. A new certificate therefor

is required every other year, to be submitted to the ABC with application for the annual license renewal.

(12) Full and accurate disclosure required. (a) It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail store license under this chapter, unless his/her interest in the business and the nature, extent and character thereof shall appear on the application for a certificate of compliance; or if the interest is acquired after the issuance of a license, unless it is fully disclosed to and approved by the board of mayor and aldermen (town administrator). Where such interest is owned by such a person on or before the application for any certificate, the burden shall be upon such person to see that this section is not violated, whether he/she signs or prepares the application, or whether the same is prepared by another; or if the interest is acquired after the issuance of the certificate, the burden of disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(b) Misrepresentation of a material fact, or concealment of a material fact, required to be shown in the application for a license or certificate shall be a violation of this chapter. The board of mayor and aldermen may refuse to issue a certificate if, upon investigation, the town finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the retail liquor store, or if the interest of any applicant in the operation of the business is not truly stated in the application, or in case of any fraud or false swearing by any applicant concerning any matter related to the operation of the business. All data, written statements, affidavits, evidence, or other documents submitted in support of an application are part of the application.

(c) If the provisions of this section and chapter are alleged to have been violated, the board of mayor and aldermen may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant(s) or licensee to refute such allegations and/or show cause why the certificate should not be revoked.

(13) Regulation of retail sales. Retailers licensed under Tennessee Code Annotated, § 57-3-204, shall comply with the regulation of retail sales established in Tennessee Code Annotated, § 57-3-406, included, but not limited, to the following:

(a) Hours and days of operation - No retailer shall sell or give away or otherwise dispense any alcoholic beverages except between the hours of 8:00 A.M. and 11 :00 P.M. on Monday through Saturday. No retailer shall sell or give away alcoholic beverages between 11 :00 P.M. on Saturday and 8:00 A.M. on Monday each week.

(b) Sale during holidays - No retailer shall sell or give away alcoholic beverages on Thanksgiving Day, Christmas Day, New Year's Day, Independence Day (Fourth of July), and Labor Day.

(c) No pinball machine, music machine, or other amusement device shall be permitted in any liquor store.

(d) No alcoholic beverages shall be sold for consumption on the premises of the retailer.

(e) Retail liquor stores shall only sell alcoholic beverages.

(f) The sale and delivery of alcoholic beverages at a retail liquor store shall be confined to the building premises of the licensee, and no curb service or drive-thru service is permitted.

(14) License display. Persons granted a license to carry on any 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.

(15) Advertising/signage. Advertising by a licensee, and signs, displays, posters and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the Tennessee Alcoholic Beverage Commission and/or the sign provisions and restrictions of the underlying zoning district as may be specified in the Jonesborough Sign and Zoning Ordinances.

(16) (a) Transfer of license and certificate. The holder of a license for a retail liquor store may not sell, assign or transfer such license to any other person, and such license shall be good and valid only for the twelve (12) months after the same was issued. Except as expressly authorized, there shall be no transfer of any license from one (1) location to another. An application for a retail liquor store license from the Alcoholic Beverage Commission resulting from a change in ownership or store location shall require a re-submittal of an application for a certificate of compliance.

(b) Requesting to transfer location of existing retail liquor store operating in good standing. An existing retail liquor store previously approved to operate in Jonesborough by the board of mayor and aldermen and the Tennessee Alcohol Beverage Commission that submits a request to transfer its retail liquor store operation to a new location may do so without the town opening up the process to additional applicants; provided the existing owner(s) meets the following conditions:

(i) The existing store is in good standing at the time the request to transfer location is submitted.

(ii) The location where the store is to be moved is in a proper zone and is in the same designated area of the Retail Liquor Store Overlay.

(iii) A site plan is developed that addresses the required components of a site plan for a retail liquor store, and that plan is approved by the Jonesborough Regional Planning Commission and found acceptable by the Jonesborough Police Department.

(iv) A renewal application for a certificate of compliance is submitted to the Jonesborough Board of Mayor and Aldermen on a schedule in which the town board deliberates possible action after approval of the new store location layout and site plan by the planning commission and is found acceptable to the Jonesborough Police Department.

(v) At the time the new location and associated site plan is submitted to the town board for approval, any change in ownership must be addressed as well by submitting information and certifications required.

(17) Inspection fee levied. For the purpose of providing a means of regulating the sale of alcoholic beverages within the town, and to provide means of enforcing the provisions of this chapter, there is hereby levied and imposed an inspection fee of five percent (5%) of the wholesale price of all alcoholic beverages sold by wholesalers to any licensed retail liquor store within the corporate limits of Jonesborough. Collection of this inspection fee by wholesalers shall be undertaken under regulations established in Tennessee Code Annotated, §§ 57-3-501 to 57-3-503, including, but not limited to:

(a) The inspection fee is imposed upon licensed retailers but is collected by wholesalers.

(b) The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages, and said fee may be added by the wholesaler to the invoice for the alcoholic beverages sold to the licensed retailers.

(c) Each wholesaler making sales to retailers located within the Jonesborough town limits shall make monthly payments to the town.

(d) Monthly payments shall be paid by the twentieth day of the month following which sales were made, and shall be accompanied with monthly reports that include the information required in Tennessee Code Annotated, § 57-3-503.

(e) Wholesalers collecting and remitting inspection fees to the town shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of the inspection fees collected, and such reimbursement may be deducted and shown on the monthly report to the Town of Jonesborough.

(f) Failure to collect and/or report and/or to pay the inspection fee collected by the day required shall result in a penalty of ten percent (10%) of the fee due, which shall also be paid to the town.

(g) The Town of Jonesborough has authority to audit the records of wholesalers reporting sales to retail liquor stores in Jonesborough to determine the accuracy of reports.

(h) Nothing within this § 2-108(17) herein shall relieve the licensee of the obligation for the payment of the inspection fee, and it

shall be the licensee's duty to see that the payment of the inspection fee is made to the town recorder.

(i) The inspection fee levied in this chapter shall be in addition to any general gross receipts, sales and other general taxers applicable to the sale of alcoholic beverages, and shall not be in substitution for such taxes.

(18) Surrender of license if business discontinued. Whenever any licensee discontinues business for any reason, he/she shall immediately notify the alcohol beverage commission and the town recorder in writing and surrender the licensee and certificate of compliance.

(19) Revocation procedures. Whenever the board of mayor and aldermen find that a licensee has been, or is, in violation of the Tennessee Code Annotated, title 57, chapter 1, the Rules and Regulations of the Alcoholic Beverage Commission, or the provisions of this chapter, the board shall certify such violation(s) to the State Alcoholic Beverage Commission, in such form as the commission requires. The Alcoholic Beverage Commission shall have the responsibility for determining whether the offender's license shall be revoked. The board of mayor and aldermen, upon determination of violations of state or local regulations governing the retail sale of alcoholic beverages may revoke the town issued certificate of compliance, and shall communicate said revocation to the Alcoholic Beverage Commission for possible further action.

(20) Penalties. Any violation of the terms of this chapter and section may be punishable by a fine under the general penalty clause of the Jonesborough Municipal Code in addition to any other penalty herein provided, and in addition to the loss of license. Each separate occurrence shall constitute a separate violation. (as added by Ord. #2011-03, Jan. 2011, and amended by Ord. #2016-01, Feb. 2016 *Ch12_04-09-18*, Ord. #2018-10, Aug. 2018 *Ch13_03-08-21*, Ord. #2019-06, April 2019 *Ch13_03-08-21*, and Ord. #2020-02, March 2020 *Ch13_03-08-21*)

2-109. Food stores selling wine. (1) Sale authorized. It shall be lawful for a licensee to sell wine at retail in a food store within the corporate limits of Jonesborough; provided background checks on the food store manager and responsible corporate officer and zoning are properly certified by the Jonesborough Board of Mayor and Aldermen and the license to sell wine has been properly issued by the Tennessee Alcoholic Beverage Commission under criteria established in Tennessee Code Annotated, § 57-3-806.

(2) License and certificate required. It shall be unlawful for any food store to sell wine at retail without first obtaining a certificate of compliance certifying clear background checks and the proper zoning, as well as an approved license to sell wine has been obtained from the Tennessee Alcoholic Beverage Commission.

(3) Number of food stores with license to sell wine retail. There is no limit to the number of food stores that can be permitted to sell wine if they meet local and state criteria.

(4) Application for certificate of compliance. Applications for a certificate of compliance must be filled out completely, and the completed application must be acted upon by the Jonesborough Board of Mayor and Aldermen within sixty (60) days or the application is deemed granted.

(a) A background check must be undertaken on the store manager, and, if a corporation, the CEO or corporate officer responsible for the food store in Jonesborough.

(b) The required background checks must determine if the manager or corporate officer in charge has been convicted of a felony in the last ten (10) years.

(c) The background checks must be initiated by the applicant and the cost of the background check will be the sole responsibility of the applicant. Background checks must be undertaken by a reputable firm, approved by the state and federal government, that can undertake a national search using fingerprint technology to determine if a felony has been committed in the last ten (10) years. Background search results must be submitted to the Town of Jonesborough along with the necessary address and contact information of the firm utilized for the search so a verification of results can be obtained. An application for a certificate of compliance is not considered complete until the background check results have been submitted to the town.

(d) The property must be properly identified to allow town staff and the town board to make a determination of proper zoning.

(e) A certificate of compliance application fee will be two hundred fifty dollars (\$250.00) or the maximum allowed by state law. [as added by Ord. #2016-01, Feb. 2016 Ch12_04-09-18]

CHAPTER2

BEER¹

SECTION

- 2-201. Beer board.
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- 2-226. Special event beer permit.
- 2-227. Servers must have license.
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2-201. Beer board. There is hereby created a board, to be known as the Jonesborough Beer Board, which shall be composed of the members of the Board

¹State Law Reference:

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S. W. 2d 104 (1982).

of Mayor and Aldermen of the Town of Jonesborough, whose duty it shall be to regulate, supervise, and control the issuance, suspension, and revocation of permits to sell, store, distribute, dispense, serve, and/or manufacture beer and other beverages of like alcoholic content in the Town of Jonesborough.

The term "beer" as used in this Chapter and elsewhere in the municipal code shall have the same meaning as this term is defined by Tennessee Code Annotated, § 57-5-101(b) as may be amended from time to time.

The mayor shall be the chairman and the town recorder shall be the secretary of said board. A majority of the board shall constitute a quorum for any purpose. Matters before the board will be decided by a majority present if a quorum is constituted.

The secretary of the board shall keep a record of all the proceedings of the board, which shall be a public record and shall contain at least the following:

- (1) The date of each meeting.
- (2) The names of the board members present and absent.
- (3) The names of the members introducing and seconding motions and resolutions, etc., before the board.
- (4) A copy of each such motion or resolution presented.
- (5) The vote of each member thereon.
- (6) The provisions of each beer permit issued by the board.

The recorder shall further keep on file in his or her office all original applications and a duplicate of each permit issued. The board shall be empowered to employ a court reporter or person of equivalent ability whenever necessary in any hearing before it. The power, right, and authority are hereby conferred upon said board to arrange for and prescribe the details and form of the necessary applications, permits, and other matters incident to carrying out the provisions of this chapter.

The board shall meet upon call of the chairman of the board to transact such business as may properly come before it. The board may adjourn a meeting at any time to another time and place. All meetings of the board shall be open to the public.

The board shall perform such other duties and have such other power and authority provided by statute and this chapter. [as replaced by Ord. #2002-18, Dec. 2002]

2-202. Authorization of beer businesses. Pursuant to Tennessee Code Annotated, §§ 57-5-202, et seq., it shall be lawful in the Town of Jonesborough to transport, store, sell, distribute, possess, receive, or manufacture beer of alcoholic content, and/or any other beverage of like alcoholic content, as defined in Section 2-201 of this chapter and the privilege taxes provided in this code; provided, however, it shall be unlawful for any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit to sell, store, dispense, serve, distribute, and/or manufacture any of the said beverages regulated by this chapter within the Town of Jonesborough without having first obtained a duly issued permit and license to do so in the manner prescribed in this chapter.

All 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. 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 or her permit. It shall likewise be unlawful for the permit holder not to comply with any and all express restrictions or conditions which may be written into his or her permit by the beer board. [as replaced by Ord. #2002-18, Dec. 2002]

2-203. Locations of beer businesses. No beer permit shall be granted for any location where there may be, in the opinion of the beer board, an adverse effect in consideration of the type and character of the neighborhood, the population density of the neighborhood, the proximity of residences, schools, parks, and playgrounds, the proximity of churches or other religious establishments, any problem with law enforcement in the area, and such other factors which affect the public health, safety, or welfare. [as replaced by Ord. #2002-18, Dec. 2002]

2-204. Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content as defined in Section 2-201 of this chapter within the corporate limits of Jonesborough, Tennessee between the hours of 12:00 A.M., and 6:00 A.M. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, and between the hours of 12:00 A.M. and 12:00 P.M. on Sunday, nor between the hours of 12:00 A.M. Sunday and the following Monday at 6:00 A.M. No such beverages shall be consumed or opened for consumption on or about any premises where beer or other beverages with an alcoholic content not exceeding eight percent (8%) of weight is sold within the corporate limits of Jonesborough, Tennessee in either bottle, glass or other container after 12:15 A.M. [as replaced by Ord. #2002-18, Dec. 2002]

2-205. Playing of pool or billiards prohibited where beer is sold or otherwise dispensed. None of the beverages regulated by this chapter shall be sold, given away, served, or otherwise dispensed or consumed within a room or place used to carry on the business of playing of pool or billiards, nor in any room or place with a direct entrance to any such rooms or places used for the playing of pool or billiards. [as replaced by Ord. #2002-18, Dec. 2002]

2-206. Public consumption of beer prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, alley, boulevard, bridge nor upon grounds of any cemetery or school, whether public or private grounds, nor upon the grounds of any church, nor upon any vacant lots without written permission from the owner, except in a permitted outdoor use area associated with a permitted special event or town sponsored activity, or a permitted outdoor use area associated with a restaurant or establishments with a current alcoholic beverage commission permit and town beer permit. (as replaced by Ord. #2002-18, Dec. 2002, amended by Ord. #2009-05, May 2009, and replaced by Ord. #2010-08, June 2010, and Ord. #2012-07, May 2012)

2-207. Beer permits. (1) No permit shall be issued except upon application in writing of the owner or owners of the business made to the Jonesborough Beer Board, which application shall be sworn to by the applicants and verified by the affidavits of two (2) reputable citizens of the State of Tennessee who are acquainted with the applicants. Each applicant must be a person of good moral character and certify that he or she has read and is familiar with the provisions of this chapter. All applications shall be made upon a regular form provided for that purpose, and shall be filed with the secretary of the board. In no event shall a permit be issued without the written approval of the application therefor by a majority of the board.

Prior to consideration of an application, the Town of Jonesborough shall collect an applicant fee of two hundred fifty dollars (\$250.00) in the form of a cashier's check payable to the Town of Jonesborough in accordance with Tennessee Code Annotated, § 57-5-103.

(2) Each beer licensee must receive a permit for each employee of his place of business and must file an application with the board or its authorized representative showing that all of the laws with reference to a person serving alcoholic beverages have been complied with.

(3) All applications for any permits required hereunder shall be verified by oath or affidavit and shall establish the following:

(a) That neither the applicant nor any person or persons employed by him or her in such distribution or sale has been convicted of any violation of the statutes of the State of Tennessee prohibiting the possession, sale, manufacture, or transportation of intoxicating liquors or any other crime involving moral turpitude in the past ten (10) years.

(b) That no sale shall be made to persons under twenty-one (21) years of age, nor shall minors be employed directly in the sale or distribution of such beverages.

(c) That no minor shall be allowed to loiter about the applicant's premises.

(d) That no sale shall be made to persons intoxicated or who are feeble-minded, insane or otherwise mentally incapacitated.

(e) That the applicant is of good character and has a sufficient legal interest in a suitable location as to entitle the applicant to conduct the sale of beer at such place of business.

(f) That, in the place of business where such beverages will be sold or distributed, no loud, unusual or obnoxious noises shall be allowed,

and the applicant shall conduct such place of business otherwise in an orderly, peaceful, and lawful manner.

(g) That no sale or distribution of such beverages shall be made at a place where such sale or distribution will cause congestion of traffic or interference of schools, churches, or other places of public gathering, or will otherwise interfere with public health, safety and morals.

(h) That, in the place of business where such beverages will be sold or distributed, the consumption of any beverages with an alcoholic content as defined in Section 2-201 of this chapter shall not be allowed, except in places that hold valid licenses for the sale of alcoholic beverages by the drink, as issued by the Alcoholic Beverage Commission of the State of Tennessee.

(i) That, in the place of business where such beverages are sold for consumption on premises, proper sanitary facilities for both sexes shall be provided.

(j) That gambling in any form shall not be permitted on the premises.

(k) That the person so applying will conduct the business in person, or if he or she is acting as agent for any other person, firm, corporation or association, the name or names of the owners of such business, together with their addresses and the nature of the firm, corporation or association for whom the applicant is acting.

(4) Permits shall be issued for an indefinite period of time except that the Jonesborough Beer Board may issue a permit for a shorter or probationary period if, in its discretion, it deems such action proper and reasonable under the circumstances.

(5) (a) There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual 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 on January 1, 2003, and on each successive January 1, to the Town of Jonesborough, Tennessee. A penalty of ten dollars (\$10.00) will be assessed on the second working day following January 1 and on each successive working day until the privilege tax is paid. 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, all as provided in Tennessee Code Annotated, § 57-5-104.

(b) Inspection fee. Pursuant to Tennessee Code Annotated, § 57-3-501, an inspection fee of five percent (5%) is hereby levied on the sale of beer products sold to licensed retailers within the corporate limits of the Town of Jonesborough. Wholesale beer distributors selling beer products to retailers in Jonesborough shall collect the inspection fee from the retailer, and the fee can be collected at the time of the sale or when

the retailer makes payment for the delivery of the alcoholic beverages. Wholesalers shall make monthly reports to the town, and the reports shall contain a list of the beer products sold to any retailer, the wholesale price of the beverage sold, the amount of tax due, and any other information required by the town recorder. The inspection fee tax shall be paid and the report submitted by the twentieth of the month following the month the sales were made. Failure to submit a timely report will result in a ten percent (10%) penalty as authorized by Tennessee Code Annotated, § 57-3-503.

(6) No permit now enforced or hereinafter issued shall be good or valid except at the location described on the face of the permit, or in the event no premises is designated on the permit the location described in the application upon which it is based except as provided in §§ 2-223, 2-224, and 2-225, entitled "Classes on-premises permits." No permit now enforced or hereinafter issued shall be transferable.

(7) The applicant or a representative may be required to appear in person before the board and subject himself or herself to examination upon any and all questions appertaining to his or her qualifications under this chapter and amendments thereto.

(8) No permit may be granted hereunder to any establishment when any person, firm or corporation having at least a five percent (5%) ownership in the establishment has been convicted within ten (10) years prior to the application for a permit hereunder of a violation of the laws governing the sale or manufacture of alcoholic beverages or of any felony, or has had a beer permit revoked or suspended within the past ten (10) years.

(9) Every permit and license issued pursuant to this chapter shall be displayed in a conspicuous place framed under glass and placed so it can be easily read in the place of business named and described in the permit.

(10) No permit or license shall be issued pursuant to this chapter unless the applicant establishes to the satisfaction of the beer board that he or she has obtained all permits and paid all required fees and privilege taxes, and has met all other requirements of the laws of the State of Tennessee and the United States. No permit or license shall be granted unless or until the party desiring the same shall have filed with the county court clerk the bond provided for in Tennessee Code Annotated, §§ 57-5-106 and 57-5-107.

(11) The holder of a permit issued pursuant to this chapter desiring to voluntarily surrender the permit shall tender said permit to the Jonesborough Beer Board. The board shall take such action upon the offer to surrender as it may determine necessary and advisable under the circumstances, and it shall have absolute authority to refuse to accept the surrender of any permit.

(12) A majority of the full board shall consider all applications filed under this chapter and grant or refuse the license according to its best judgment under all of the facts and circumstances, and the action of the majority of the full board in granting or refusing a license shall be final, except as same is subject to review by law.

In the consideration of the applications, the beer board shall take into consideration the type and character of the neighborhood; the population density in the area; present and future traffic conditions in the location and in the neighborhood; the proximity of schools, parks and playgrounds; the proximity of churches or other religious establishments; any problems of law enforcement in the area; and other such factors as are brought to the attention of the board which will affect the public health and welfare.

(13) Any person, firm or corporation holding a permit under this chapter who proposes to transfer the business operated under the permit to any other person, firm or corporation with the intention or the expectation that the buyer will engage in the business of selling beer at the same location shall be required to notify the beer board of such intention to transfer the business.

The board shall be furnished with the name of the proposed buyer, who shall be required to make application for a permit to the board. Such application shall conform to the requirements for other applications for permits as set out in this chapter.

In the event a proposed buyer acquires the business operated under this permit, and such transfer is to become final upon condition that the buyer obtains a regular beer permit, the buyer may obtain a temporary permit from the town recorder upon the determination of the town recorder that the buyer is about to comply with this chapter. Such temporary permit shall be valid only until the first meeting of the beer board is held after the issuance of said temporary permit and in no event shall such temporary permit be valid more than ninety (90) days from the date of issuance. 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.

(14) Any permit, excluding temporary permits, issued for the sale of beer under this chapter shall remain in full force and effect for a period of one (1) year from the date of issuance, expiring at 12:00 A.M. In the event a holder of a permit shall cease to operate his business for which said permit was issued, the permit shall become invalid and void at 12:00 A.M. of the date on which the holder ceases to operate the business. Said licensee shall, within five (5) days thereafter, surrender said permit to the town recorder.

Renewal of a permit upon the expiration of same shall be done likewise in accordance with the provisions of this chapter. (as replaced by Ord. #93-08, Oct. 1993, and Ord. #2002-18, Dec. 2002, and amended by Ord. #2003-10, June 2003, Ord. #2009-05, May 2009, and Ord. #2020-03, March 2020
Ch13_03-08-21)

2-208. Permits for retail sale; types designated. Permits for the retail sale of beer shall be of two (2) types:

(1) On-premises permits. On-premises permits shall be issued for the consumption of beer on the premises in accordance with the provisions of this chapter.

(2) Off-premises permits. Off-premises permits shall be issued for the sale of beer only for consumption off the business premises in accordance with the provisions of this chapter. [as replaced by Ord. #2002-18, Dec. 2002]

2-209. Restrictions upon issuance of on-premises beer permits. Permits for the on-premises sale of beer shall be issued according to the following limitations:

(1) Any applicant for an on-premise beer permit must first obtain, and show satisfactory proof to the board that he or she has obtained a license to serve mixed beverages pursuant to title 2, chapter 1 of this code and the provisions of the Tennessee Code Annotated referenced therein except for a beer permit issued as an on-premises special event beer permit.

(2) Annual sales of all alcoholic beverages as defined in this chapter and in the chapter 1 of title 2 of the municipal code shall not exceed fifty percent (50%) of total taxable sales for any on-premises beer permit holder. In the application of this section, "total taxable sales" shall be defined as those food and non-alcoholic beverage sales subject to state and local sales tax. It shall be a violation of this section if the beer sales exceed the fifty percent (50%) limit in two (2) consecutive months or three (3) months in any calendar year.

(3) A special occasion on-premises beer permit may be issued in conjunction with a special event/special occasion outdoor use permit associated with a permitted special event or town sponsored activity of a short-term nature in which the outdoor use application details the conditions in which on-premise beer is sold and controlled and these conditions are approved as part of the permit application by the board of mayor and aldermen. (Ord. of May 8, 1989, as replaced by Ord. #2002-18, Dec. 2002, and amended by Ord. #2012-07, May 2012, and Ord. #2018-13, Dec. 2018 *Ch13_03-08-21*)

2-210. Restrictions on financial interests of beer permit holders. No brewer, wholesaler, or manufacturer of any of the beverages regulated by this chapter, nor any agent or agents of such brewer, wholesaler, or manufacturer shall be permitted to make any loan of money or furnish any fixtures of any kind or have any interest either directly or indirectly in the business of any retailer of such beverages, or in the premises occupied by any such retailer. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall, while so doing, convey or grant or contract to convey or grant any interest in the business located at the place named in said permit, or any interest in the premises or any property therein, to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall incur or contract any indebtedness or financial obligation to any brewer,

wholesaler, or manufacturer of the beverages regulated by this chapter, except for the purchase of said beverages. No permit or license shall be granted under this chapter to any applicant who, at the time of making application, is indebted or financially obligated to any such brewer, wholesaler, or manufacturer, except for the purchase of said beverages in the case of applicants seeking renewal of permits. [as replaced by Ord. #2002-18, Dec. 2002]

2-211. Restrictions upon issuance of off-premises beer permits. Permits for the off-premises sale of beer shall be issued according to the following classes and limitations, except that this provision shall not be applicable to the renewal of any permit existing and outstanding as of December 2, 2002 (the date this section was replaced):

(1) Off-premises where beer is sold at a grocery (food store). "Grocery" shall mean a business establishment whose primary business is the retail sale of food merchandise and household items. Beer shall not be sold for consumption on the premises of grocery stores. There shall be no limitation on the number of beer permits issued to grocery stores.

(2) Off-premises where beer is sold at a convenience store or market. "Convenience store or market" shall mean a business establishment whose business is the retail sale of gasoline and petroleum products and food merchandise, household supplies and sundries. Beer shall not be sold for consumption on premises of convenience stores or markets; however, sampling of draft craft beers can take place on premises at a convenience store or market under the following conditions.

(a) Permit for craft beer sampling. A permit is hereby established that will allow the sampling of "craft" beers at convenience stores or markets that have off-premises retail sale beer permits. An application fee of one hundred dollars (\$100.00) is hereby established for a craft sampling permit that is non-refundable, and an annual privilege tax of one hundred dollars (\$100.00) is required to renew the permit. The application form must be completed, and documentation provided to show how sampling procedures meet requirements established in this chapter. Applications will be reviewed and if acceptable, approved by the beer board.

(b) Definition. A craft brewer has an annual production six million (6,000,000) barrels of beer or less, twenty-five percent (25%) or less of its ownership or control is by an alcoholic beverage industry member that is not itself a craft brewer, and a brewer whose product is derived from traditional or innovative brewing ingredients and their fermentation, and not flavored malt beverages.

(c) Draft beer sampling for off-premises sales under certain conditions. Limited sampling of draft craft beer products may take place at convenience stores or markets that have an off-premises beer permit, under the following conditions:

(i) Samples are free.

(ii) Samples are no more than two (2) ounces served in no more than a five (5) ounce cup.

(iii) No more than three (3) two (2) ounce samples shall be provided per customer during a twenty-four (24) hour period.

(iv) Every customer requesting samples shall be "carded," providing photo identification with birth date to ensure customer is at least twenty-one (21) years of age.

(v) A sampling log shall be kept at the craft beer sales area in which the customer name is written from the source of identification along with the day and time sample is provided.

(vi) Sampling shall only be available Monday through Saturday from 10:00 A.M. until 10:00 P.M., and on Sundays from 12:00 P.M. to 10:00 P.M.

(vii) All samples shall be consumed on premises within fifteen feet (15') of the dispenser. No sample may be consumed out of the close eyesight of the server. There shall be a counter shielding the area between the customer and the server dispensing the sample and the draft craft beers.

(viii) A server providing samples shall have an active Alcoholic Beverage Commission (ABC) server's license as specified in § 2-227 of this chapter.

(d) Sampling procedures will be reviewed and approved by the Jonesborough Police Department before the permitted convenience store or market may begin providing samples.

(e) Violations of this chapter may result in actions specified in §§ 2-215, 2-216 and 2-217 of this chapter.

(3) Off-premises where beer is sold at a drug store. "Drug store" shall mean a business establishment whose primary business is the retail sale of pharmaceuticals, food merchandise, household items, and sundries. Beer shall not be sold for consumption on the premises of drug stores. There shall be no limitation on the number of beer permits issued to drug stores.

(4) Off-premises where beer is sold on the premises of a permitted manufacturer. "Permitted manufacturer" shall mean a business establishment who has been granted a manufacturing permit under this chapter. Beer shall not be sold for consumption on the premises of permitted manufacturing facilities without a manufacturer's on-premises permit as provided for in this chapter. There shall be no limitation on the number of beer permits issued to manufacturing facilities. Retail sales of beer for off-premises consumption must be labeled in accordance with the requirements of the Federal Bureau of Alcohol, Tobacco and Firearms and must meet all other state and local regulations regarding off-premises sales. Retail sales of beer for off-premises consumption must be (1) from a facility that has been granted a manufacturing permit from the Town of Jonesborough, and (2) be a product manufactured on the premises where off-premise sales are conducted. The requirements of Tennessee Code Annotated, § 57-5-101, as currently in effect are hereby adopted as if set out herein. Applications for permits under this section must be presented to the planning commission for a

site plan approval prior to the beer board's consideration of the application. [Ord. of March 13, 1973, as replaced by Ord. #2002-18, Dec. 2002, and amended by Ord. #2006-05, July 2006, Ord. #2010-01, March 2010, and Ord. #2015-01, March 2015 Ch12_04-09-18]

2-212. Selling or otherwise dispensing beer to persons in motor vehicles prohibited. The beverages regulated by this chapter shall not be sold, given away, served, or otherwise dispensed to persons in automobiles or other motor vehicles except where beverages are sold in package form for consumption off the premises and such beverages shall not be consumed on the premises where sold. [Ord. of March 13, 1973, as replaced by Ord. #2002-18, Dec. 2002]

2-213. Restrictions pertaining to minors. Except as authorized by state laws, no sales, gifts, or distribution of such beverages shall be made or permitted to be made to persons under twenty-one (21) years of age (hereinafter referred to as "minors"); nor shall any minor be employed or used or permitted to be employed or used for or in the sale or distribution or other handling of such beverages where on-premises consumption of such beverages is permitted; nor shall any minor be permitted or allowed to drink beer or other beverages of like alcoholic content in any establishment or place of business or premises where a permit issued pursuant to this chapter is exercised. Every person to whom a permit is issued under this chapter shall require any and every employee as to whose majority there is any possible question or doubt to present and leave with him or her a copy of such employee's birth certificate. Minors shall not be permitted to load or loiter in any place where the beverages regulated by this chapter are sold. The burden of ascertaining the age of minor customers shall be upon the holder of the permit. [as replaced by Ord. #2002-18, Dec. 2002]

2-214. Restrictions pertaining to intoxicated persons. None of the beverages regulated by this chapter shall be sold or given away or otherwise dispensed or served to any person in a drunken condition; nor shall any person in such condition be permitted or allowed to consume any such beverages upon or in any premises or place of business where such beverages are sold, dispensed, served, or distributed. No person holding a permit under and dealing in or handling the beverages regulated by this chapter shall permit or allow upon his or her premises or in his or her place of business any person who is under the influence of any intoxicant whatsoever. It shall be the duty of any person holding a permit under and dealing in and handling the beverages regulated by this chapter to promptly notify police officers when any person under the influence of any intoxicant whatsoever enters the premises or place of business of the person holding such permit.

No owner, co-owner, operator, proprietor, employee or servant of a place of business holding and/or exercising a permit issued pursuant to this chapter shall drink or be under the influence of any of the beverages regulated by this

chapter or any other intoxicant while in or working at any such place of business or while upon any such premises. [1982 Code, § 2-203, as amended by Ord. of April 10, 1984, and replaced by Ord. #2002-18, Dec. 2002]

2-215. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited. It shall be unlawful for any person, firm, co-partnership, corporation, syndicate, joint stock company, association or other group operating as a unit, who or which holds and/or exercises a distributor's or wholesaler's permit under this chapter, to sell, give away, deliver, or distribute any of the beverages regulated by this chapter to any person, firm, co-partnership, corporation, syndicate, club, joint stock company, association, or other group operating as a unit, in the Town of Jonesborough, who or which does not hold a valid retailer's permit issued pursuant to this chapter, or to permit or allow any agent or employee to do so; provided, further, that it shall also be unlawful for any such distributor or wholesaler knowingly to sell, give away, deliver, or distribute such beverages to any such retailer who has violated or is violating any of the provisions of this chapter, or to permit or allow any agent or employee to do so. [as replaced by Ord. #2002-18, Dec. 2002]

2-216. Suspension or revocation of beer permits. The Jonesborough Beer Board is hereby empowered and directed, whenever from facts and evidence presented to it at a public hearing hereinafter provided for it is of the opinion that such action is justified in the public interest, to suspend or revoke any permit or license issued pursuant to this chapter to any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or group operating as a unit, who:

- (1) Makes any material representation or false statement in the application upon which the permit is based or fails to keep and maintain as true any promise or fact set forth in said application.
- (2) Violates any of the provisions of this chapter.
- (3) Is convicted of any violation of the laws of the United States or of the State of Tennessee or of the ordinances of any town prohibiting the manufacture, sale, possession, storage or transportation of intoxicating liquors of alcoholic content as defined in Section 2-201 of this chapter.
- (4) Knowingly permits or allows, or negligently fails to prevent, the violation of any of the aforesaid laws or ordinances against said intoxicating liquors upon any premises occupied or owned by or under the control of the licensee.

Upon any complaint being made to the said board by a board member, the public safety director, or one (1) or more reputable citizens that any of the acts above-mentioned in this section has been committed or any other provision of this chapter has been or is being violated by a person holding and/or exercising a permit issued pursuant to this chapter, or when said board has knowledge of

any such act or violation, the holder of said permit shall be notified in writing by the secretary of the board and afforded an opportunity for a hearing before the board. Said notice shall be mailed at least five (5) days before the hearing to the address shown upon the application for a permit, shall state the nature of the complaint or violation, and shall direct the holder of said permit to appear before the board at a time and place specified and show cause, if any he or she has, why the holder's permit should not be revoked. The hearing shall be broad in character, and evidence may be heard upon any facts or circumstances pertinent to or applicable to the violation charged. The reputation or character of the place and of the holder of the permit complained of shall be material and competent evidence for the consideration of the board at such hearing.

Whenever complaint is made charging that false statements or misrepresentations have been made in any application for a permit under this chapter, the burden of proof shall be upon the holder of the permit to establish the truth of the statement charged to be false; provided, that no formal complaint shall be necessary or required whenever the falsity of such statement or representation, or the commission of any of the acts above-mentioned in this section, or the violation of any other provision of this chapter, may be made to appear by the records of any court of competent jurisdiction; and in such case, such records or duly certified copies thereof shall be conclusive evidence of the falsity or misrepresentation or of the commission of said act or of said violation.

Provided, further, that no person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit, whose permit and license are revoked by said board shall be eligible to make application for or be granted another permit under this chapter for a period of ten (10) years from the date said revocation becomes final.

Provided, further, that when a permit and license are revoked by said board pursuant to this chapter no new permit or license shall be issued for the same premises until the expiration of one (1) year from the date said revocation becomes final.

The secretary shall notify the Washington County Beer Committee of the revocation of any permit under this chapter. [as added by Ord. #93-03, Oct. 1993, and replaced by Ord. #2002-18, Dec. 2002]

2-217. Civil penalty in lieu of suspension. 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 one thousand five hundred dollars (\$1,500.00) for each offense or 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. 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. [as added by Ord. #93-08, Oct. 1993, and replaced by Ord. #2002-18, Dec. 2002]

2-218. Inspection of beer businesses. The police officers of the Town of Jonesborough shall have the right to inspect at any and all times the entire premises and property where or upon or in which the beverages regulated by this chapter are sold, stored, transported, or otherwise dispensed or distributed or handled, whether at retail or wholesale, in the Town of Jonesborough for any law violations. [as added by Ord. #2002-18, Dec. 2002]

2-219. Prior permit holders. Any person, firm, corporation, or legal entity heretofore issued a permit for the sale of beer by the Town of Jonesborough, and conducting sales under such permit on the effective date of this chapter shall, in order to continue such sales, be required to apply for a permit for the sale of beer within the municipality under the provisions of this chapter at the regular renewal date of their present permit. [as added by Ord. #2002-18, Dec. 2002]

2-220. Information to be kept on file with or available to the town recorder. (1) Each holder of a beer permit shall continuously maintain in this town:

(a) A registered office which may be the same as the permitted place of business. Notice shall be provided to the town recorder of any change in the registered office.

(b) A registered agent, who shall be an individual who resides in Washington County and whose business office is identical with the registered office. Notice shall be provided to the town recorder of any change in the registered agent.

(c) All documentation on file with the town recorder required to be provided to, and on the forms provided by the town recorder to assure compliance with the provisions of this chapter.

(2) Each holder of a beer permit shall maintain and make available to the town recorder on request all records required to be maintained by the Tennessee Alcoholic Beverage Commission for Alcoholic Beverages under chapter 1 of this title and the same documentation with respect to alcoholic beverages under this chapter for a period of three (3) years. It is the duty of the permit holder to maintain any additional records necessary to establish compliance with this chapter for a minimum of three (3) years and to make such documentation available to the town recorder upon request. [as added by Ord. #2002-18, Dec. 2002]

2-221. Severability. That the various paragraphs, clauses and subdivisions of this chapter are intended and declared to be severable. In the event any of the provisions of this chapter are adjudged to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, the

remainder of the chapter shall remain in effect. [as added by Ord. #2002-18, Dec. 2002]

2-222. Classes on-premises permits. On-premises permits for the retail sale of beer shall be of three (3) types:

(1) On-premises permits. An on-premises permit, with no further designation, shall be issued for the consumption of beer on the premises as shown on the face of the permit and at no other location in accordance with the provisions in this chapter.

(2) Catering permit. Catering permits shall be issued for the consumption of beer on any premises within the Town of Jonesborough, meeting all requirements of this chapter and the remainder of the code of the Town of Jonesborough, Tennessee, for which a caterer as defined under this chapter, on an annual basis.

(3) Special events permit. Special events permits shall be issued for the consumption of beer on the premises specified on the permit in accordance with the provisions of this chapter, as a contract for a single event.

(4) Manufacturer's tasting room permit. A manufacturer's tasting room permit shall be issued for the consumption of beer on the premises specified in the manufacturing permit and at no other location, subject to and in accordance with all other provisions of this chapter.

(5) Special event beer permit. A beer permit is available to small restaurant operations meeting certain conditions that does not require an associated Alcoholic Beverage Commission Liquor-by-the-Drink license. (as added by Ord. #2003-10, June 2003, and amended by Ord. #2010-01, March 2010, and Ord. #2018-13, Dec. 2018 *Ch13_03-08-21*)

2-223. Catering permits. A catering permit may only be issued to a caterer as defined in Tennessee Code Annotated, § 57-4-102(27). Furthermore, the applicant must be licensed as a caterer under Tennessee Code Annotated, chapter 4, title 57, and must provide proof to the satisfaction of the board that he or she has obtained a license to serve mixed beverages as a caterer under the provisions of that chapter.

(1) The provisions of § 2-209(2) of this code, regarding annual sales of alcoholic beverages shall apply to caterers under this section.

(2) An applicant for a catering permit that holds a current and valid on-premises permit under § 2-223 will not be required to pay an additional application fee. Applicants approved for an on-premises catering beer license will be subject to the one hundred dollar (\$100.00) privilege tax paid annually under the requirements established in § 2-207(5).

(3) It shall be a violation of this section if beer sales by any caterer take place on any premises where sale of beer is prohibited or any premises as described in § 2-206 where public consumption of beer is prohibited.

(4) It shall be a violation of this section if any beer sales by any caterer take place outside the hours and days of sales authorized in § 2-204 of this code. (as added by Ord. #2003-10, June 2003)

2-224. Special events permit. A special events permit may be issued to entities qualifying for a special events permit under Tennessee Code Annotated, chapter 4, title 57. The entity must provide proof sufficient to the Recorder of the Town of Jonesborough that they have obtained a special event permit from the Tennessee Alcoholic Beverage Commission for a special event. The recorder may issue a permit for the on-premise sale of beer for the location and on the dates approved in the state permit for the sale of alcoholic beverages upon submission of an application to his/her office and a special event fee of fifty dollars (\$50.00) per twenty-four (24) hour period of the special event. For the purpose of this provision, the board adopts all requirements of the Tennessee Alcoholic Beverage Commission with respect to special event permits and the recorder shall obtain a written statement from the applicant that they are familiar with those requirements and agree to abide by them in the on-premises sale of beer under the special events permit. (as added by Ord. #2003-10, June 2003)

2-225. Manufacturer's tasting room permit. A manufacturer's tasting room permit may only be issued to a holder of a manufacturing permit under this chapter who produces more than twenty-five (25) barrels annually for wholesale sales, and continues to be in compliance with Jonesborough requirements for a beer manufacturer as well as all state and federal permitting requirements. For purposes of this chapter, "manufacturer" shall be defined as provided in Tennessee Code Annotated §57-5-101(f).

(1) If sales are only for products produced by the manufacturer on the same premises where the products are manufactured within the corporate limits of the Town of Jonesborough, and available in the "tasting room" within the manufacturing facility, such sales shall comply with the hours and days of sale established in §2-204. A manufacturer's tasting room permit for on-premises sales under this provision is exempt from the provision established in §2-209, but must comply with the server's requirements established in §2-227. This permit is a separate permit from a manufacturing permit and must be applied for as such. The issuance of this permit is subject to the applicant meeting all other local, state, and federal requirements.

(2) A manufacturer who produces products either onsite or within a manufacturing facility with a local and state licensed ten (10) barrel or greater manufacturing brew house that is located in Washington County, Tennessee and outside the corporate limits of the Town of Jonesborough may elect to sell products produced in that location in the "tasting room" within the manufacturing facility by indicating that intent on their initial application or by written notification to the Town Recorder at any time after they receive an initial manufacturer's tasting room permit. Such sales shall comply with the hours and days of sale established in §2-204. A manufacturer's tasting room permit for on-premises sales under this provision is exempt from the provisions established in §2-209(2), but if the provisions of that section will not be met the applicant or notifier must include in their application or

notification, as applicable, a notice of intent to provide the option for consumers to purchase prepared food at all times the tasting room is open through a combination of either or (a) manufacturer's or third party food truck for prepared food located within 100 feet of an entrance or exit to the facility which will be open, with dedicated staff and serving prepared food. The manufacturer will provide a direct electrical connection (receptacle) to the facility and not by generator. (b) a venue owned or operated by manufacturer located within 600 feet of an entrance or exit to the facility that provides a menu of prepared food and promptly delivers to consumers at the manufacturing facility, or (c) a variety of prepared or prepackaged food available within the manufacturing facility. For the purposes of this prepared food may include pre-packaged items such as sandwiches salads and wraps or other such items. However, chips, popcorn, pretzels, peanuts, and other similar snack items shall not be considered as the only options available for prepared food. Such sales must also comply with the server's requirements established in §2-227. This permit is a separate permit from a manufacturing permit and must be applied for as such. The issuance of this permit is subject to the applicant meeting all other local, state, and federal requirements. (as added by Ord. #2003-10, June 2003, and replaced by Ord. #2010-01, March 2010, and Ord. #2019-08, Aug. 2019 *Ch13_03-08-21 and replaced by Ord. #2023-09, July 2023*)

2-226. Special event beer permit. An on-premises beer permit may be issued to a restaurant that does not have the customer seating capacity necessary to obtain one (1) of the liquor-by-the-drink permits from the Tennessee Alcoholic Beverage Commission (ABC). This beer only permit may be issued if the restaurant, defined as a commercial business open to the public on a regular schedule that serves meals/food throughout its operating hours, meeting the following criteria:

(1) The establishment cannot obtain an ABC Liquor-by-the-Drink license because it does not meet the minimum number of customer seats or some other building expectation required by the ABC to obtain a liquor-by-the-drink license. The inability to obtain an ABC Liquor-by-the-Drink licensed must be based on a reasonable space limitation within the building layout, and not that the business owner does not want to use the space that is readily available. The restaurant owner must submit justification that the area needed to obtain the minimum seating for an ABC Liquor-by-the-Drink license is not available, and that justification is then found reasonable by the Jonesborough Beer Board.

(2) The percentage of meal sales in relationship to average sale of on-premises beer must meet the requirement established in § 2-209. The determination of food sales is based on meals that are served, and any components considered as part of a meal.

(3) The restaurant must have the necessary sanitary kitchen and dining room equipment to adequately serve meals to its customers, and it must have the sufficient number and kind of employees to prepare, cook and serve suitable meals.

(4) Any server of beer must have the same license or permit required to serve alcoholic beverages by the Tennessee Alcoholic Beverage Commission.

(5) Any consumption of beer on public right-of-way must meet the outdoor use permit requirement of the town.

(6) At any point the restaurant establishment can reasonably obtain an

ABC Liquor-by-the-Drink license of some sort, the beer board upon determining the area is available to obtain a liquor-by-the-drink license from the ABC may terminate or declare a date of termination of the on-premises beer permit until an ABC Liquor-by-the-Drink license for the restaurant is obtained.

(7) The applicant for an on-premises special event beer permit must meet the beer permit requirements as established in § 2-207.

(8) A restaurant issued a special event beer permit for on-premises consumption is limited to twelve (12) special events per calendar year in which beer can be served with the following conditions:

- (a) All limitations established in this section apply.
- (b) The dates of up to twelve (12) special events in which on-premises beer may be served are listed in an attachment and submitted with the application for a special event beer permit. The listing of up to twelve (12) special event shall be submitted with each subsequent annual permit renewal application.
- (c) Due to the possible changing and additions of events and activities, a restaurant with a special event beer permit may submit to the chief of police or his/her designee up to six (6) changes per calendar year in the special events designated for beer sales or add dates previously undesignated to the initial listing submitted with the permit application. Changes or additions to the special event listing must be submitted to the chief of police a minimum of thirty (30) days in advance of the special event to be held in the restaurant, and must receive the approval of the chief of police.
- (d) Special events in which on-premises beer sales are allowed must be within a forty-eight (48) hour period for each event. (as added by Ord. #2018-13, Dec. 2018 *Ch13_03-08-21*)

2-227. Servers must have license. The staff serving or dispensing beer for establishments and organizations, including those organizations receiving a special event beer permit, duly licensed by the Town of Jonesborough for on-premises sale and/or consumption of beer, shall be required to obtain and maintain the same license or permit required by the State of Tennessee Alcoholic Beverage Commission for serving alcoholic beverages as defined in title 2, chapter 1, § 2-101. (as added by Ord. #2010-01, March 2010)

2-228. Violations and fines. Each sale or distribution of beer in violation of the provisions of this chapter shall constitute a separate offense on the part of each and all persons, firms, corporations or other legal entity participating therein.

Any violation of the provisions of this chapter shall be a misdemeanor and shall be punishable under the general penalty clause of this code. [as added by Ord. #2002-18, Dec. 2002]

2-229. Previously Issued Permits. Any permit issued and in good standing at the time of the adoption of this amended and restated ordinance on July 10, 2023 shall remain in effect and cover beverages as newly defined in this Ordinance.

SECTION 2. That this Ordinance shall become effective immediately from and after its passage as provided by law.

Motion was made by Alderman Countermine and seconded by Alderman Causey that the preceding ordinance be adopted on first reading. Those voting for the adoption there of were:

Alderman Countermine, Alderman Causey, Alderman Dickson, Alderman Wolfe

Those voting against: None

Passed First Reading: June 30, 2023

Chuck Vest, Mayor

ATTEST:

Robert Anderson, Town Recorder

James R. Wheeler, Town Attorney

Motion was made by Alderman Countermine and seconded Alderman Causey that the preceding ordinance be adopted on second and final reading. Those voting for the adoption thereof were: Alderman Countermine, Alderman Causey

Absent: Alderman Wolfe

Those voting against: Alderman Dickson

PASSED ON SECOND READING July 10, 2023



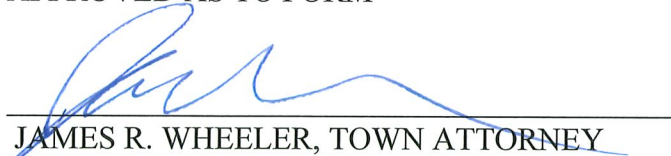
CHUCK VEST, MAYOR

ATTEST:



ROBERT ANDERSON, RECORDER

APPROVED AS TO FORM



JAMES R. WHEELER, TOWN ATTORNEY