

ORDINANCE 14-27

AN ORDINANCE OF THE CITY OF WHITE HOUSE, TENNESSEE, AMENDING THE MUNICIPAL CODE TITLE 8 ALCOHOLIC BEVERAGES.

WHEREAS, the Board of Mayor and Aldermen desire to update the Municipal Code regarding alcoholic beverages;

WHEREAS, the citizens of White House voted in referendum on November 4, 2014, to permit retail package stores to sell alcoholic beverages in White House;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Mayor and Aldermen that the White House Municipal Code Title 8, be revised as follows:

ARTICLE VIII: ALCOHOLIC BEVERAGES

CHAPTER 1: INTOXICATING LIQUORS – ON PREMISE CONSUMPTION

ARTICLE VIII: ALCOHOLIC BEVERAGES

CHAPTER 3: PACKAGE LIQUOR STORES

Section 8-301. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this municipality except as provided by Tennessee Code Annotated, title 57, by rules and regulations promulgated thereunder, and as provided in this chapter.

Section 8-302. Definitions. Whenever used herein unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverage" 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, beer, or wine, where the latter two (2) contain an alcoholic content of five per cent (5%) by weight, or less.

(2) "License" means the license issued herein and "licensee" means any person to whom such license has been issued.

(3) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

(4) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

(5) "Manufacturer" means and includes distiller, vintner and rectifier. "Manufacture" means and includes distilling, rectifying and operating a winery.

(6) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(7) "Wholesaler" means any person who sells at wholesale beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101--57-3-110.

(8) Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural.

(9) The term "federal license" as used herein shall not mean tax receipt or permit.

Section 8-303. License required.

(1) Before any person or other legal entity (the "Applicant") shall receive a license for the establishment of a retail liquor store, the Applicant shall make application for a license for a specific location and be granted such license for such specific location by the Board of Mayor and Aldermen as required by Tennessee Code Annotated §57-3-208. When the applicant which intends to obtain a liquor license is a legal entity owned, directly or indirectly, by a combination of persons and/or entities, the group of persons owning an interest, directly or indirectly, in the Applicant is referred to herein as the "Applicant Group". The application for the license shall be filed with the City Recorder along with a \$250.00 application fee giving the following information:

(a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the retail liquor store as an owner, partner, stockholder 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 City;

(b) The name of the retail liquor store proposed;

(c) The address of the retail liquor store proposed and its zoning designation;

(d) Number of years Applicant and persons in Applicant Group have been residents of the state of Tennessee;

(e) The name of the licensee and the address of other retail liquor stores in which an ownership interest is held by the applicant or any member of the applicant Group identifying the Applicant or group member holding each interest;

(f) Occupation or business and name and location of such business, of Applicant and persons in Applicant Group and length of time engaged in such occupation or business;

(g) Whether or not the Applicant or any persons in the Applicant Group has been convicted within the ten (10) year period immediately preceding the date of the application of any violation of any State or federal law or of any violation of any municipal ordinance (with the exception of minor traffic violations such as speeding or traffic signal violations, but not excepting alcohol related violations), and, if so, provide the details of such violation (i.e., charging entity, citation to and copy of law convicted of violating, copy of charge, etc.);

(h) If employed, the name and address of the employer;

(i) The name and address of the owner of the real property of the proposed location, together with a letter from such owner affirming either (i) that the parties have reached a written agreement on the terms of a lease, or (ii) that the parties have reached a written agreement on the terms of a sale of the premises to the Applicant;

(j) The name of any person who will have any interest, direct or indirect, in the business of the Applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail liquor license;

(k) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the business, and a certification that that individual has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application, and if the Applicant is a corporation the identity of the officer or employee who will be in actual charge of the day-to-day operations of the business and that such officer or employee has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(l) A statement that the persons receiving the requested license to the best of their knowledge if awarded the license could comply with all the requirements for obtaining the required licenses under State law and the provisions of this chapter for the operation of retail liquor stores in the City.

(2) Further documentation

(a) A written certification by the Applicant that the premises of the proposed retail liquor store are in full and complete compliance with the distance requirements of this Chapter; and, that the Applicant has taken steps to verify compliance with the distance requirements. To the extent that the Applicant has documentation of such verification, or the process of verification, then Applicant shall submit such documentation with the application.

(b) In the case where the Applicant is a partnership, the application shall be accompanied by a copy of the partnership agreement and an indication of who are general partners and who are limited partners, if any, and for each partner the profit sharing percentage in the partnership;

(c) In the case where the Applicant is a corporation or limited liability company, the application shall be accompanied by a copy of the corporate charter or the operating agreement and a list of shareholders/members with their ownership percentage, a list of officers/managers and a list of names and addresses of directors.

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

(4) Misrepresentation-concealment of fact-duty to amend. If any Applicant, member of an Applicant Group, or licensee either intentionally or innocently misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such Applicant, member of an applicant Group or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by the Board. In addition, if an application submitted does not contain the information required by this Chapter, it will not be deemed filed until all information has been submitted in writing. It shall be the duty of the Applicant to determine and submit the information required.

(5) In issuing the required license for the licensing of liquor stores in the City permitted by this Chapter, the Board will consider all applications filed before a closing date to be fixed by it and select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and the most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of the City for the lawful operation of liquor stores without regard to the order of time in which the applications are filed. Such persons and only such persons so selected shall receive licenses issued by the City.

Section 8-304. Limitations on issuance of licenses. (1) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the board of Mayor and Aldermen, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be closer than 150 feet as measured from the main and principal front entrance of such business at such premises of licensee to the main and principal front entrance of a church, school, or library; a retailer's license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said, unless the location is approved by a majority of the Board of Mayor and Aldermen.

(2) Pursuant to the authority contained in the Tennessee Code Annotated § 57-3-406, no retail license shall be issued to any applicant for a new location that is within one thousand five hundred feet (1,500') of an existing operating establishment holding a license issued.

(3) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages in a building structure that provides less than 1,250 square feet of retail floor space.

(4) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages on property not properly zoned for such use according to the White House Zoning Ordinance.

Section 8-305. Limitations on number of licenses. No more than two licenses for the sale of alcoholic beverages shall be issued until such time the official census of the City's population is equal to or greater than 24,000. Thereafter, no more than one license for each 12,000 population for the sale of alcoholic beverages shall be issued under this chapter. Further, that the population limitations and restrictions as provided for above shall not be decreased unless, first, a public notice of such proposed change is published at least one (1) time fifteen (15) days before the first reading on such proposed amendment.

Section 8-306. Bond of licenses. Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee; bonds of retailers shall be two thousand five hundred dollars (\$2,500.00). Said bond shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal.

Section 8-307. Retailer's license. (1) No retailer shall be a person who has been convicted of a felony involving moral turpitude, within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the

partnership, corporation or association with which he is connected shall immediately discharge him.

(2) No license shall under any condition be issued to any person who, within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto. Any conviction of such offense could be reason for revocation of license.

(3) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed and approved by the majority of the Board of Mayor and Aldermen. Where such interests is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(4) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(5) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be so convicted, he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(6) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension according to this chapter.

(7) Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter.

Section 8-308. Display of license. Persons granted a license to carry on the business or undertaking contemplated therein 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.

Section 8-309. Transfer of licenses restricted. The holder of a license may not sell, assign or transfer such license to any other person unless same is approved by a majority of the board of mayor and aldermen and the state commissioner and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military force of the United States in the time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section.

Section 8-310. Expiration date of license. Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed with a \$250.00 renewal fee by February 1st of each calendar year.

Section 8-311. Federal license; effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter.

Section 8-312. Inspection fee. There is hereby levied and imposed an inspection fee of five per cent (5%) on all gross purchases of alcoholic beverages made by licensee under this chapter. The payment of said fee shall be accompanied by copies of all billings made to the licensee by all wholesalers or distributors for said calendar month on a form, prescribed by the finance director. Failure to pay said fee and make said report accurately within the time prescribed, at the sole discretion of the board of mayor and aldermen, be cause for revocation of said license.

Section 8-313. Regulations for purchase and sale of intoxicating liquors.

(1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a license wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No alcoholic beverages shall be sold for consumption inside the establishment of a retail liquor store.

(4) The sale and delivery of alcoholic beverages shall be confined to the inside of the retail establishment of the licensee, and curb services is not permitted.

Section 8-314. Solicitation. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such license receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises.

Section 8-315. Regulation of retail sales. (1) No retailer shall hold more than fifty percent (50%) of the licenses authorized for issuance in this municipality.

(2) No retailer shall sell, lend or give away any alcoholic beverages to any person who is known to be insane or mentally defective, or to any person who is visibly intoxicated, or to any person who is known to habitually drink alcoholic beverages to excess, or to any person who is known to be a habitual user of narcotics or other habit forming drugs.

(3) No retailer shall sell, lend or give away any alcoholic beverages to a person under twenty-one (21) years of age.

(4) Pursuant to the authority contained in the Tennessee Code Annotated § 57-3-406, no retailer shall sell or give away any alcoholic beverage between eleven o'clock p.m. (11:00 p.m.) on Saturday and eight o'clock a.m. (8:00 a.m.) on Monday of each week. No retail store shall sell, give away or otherwise dispense alcoholic beverages except between the hours of eight o'clock a.m. (8:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Monday through Saturday. The store may not be open to the general public except during regular business hours. Likewise, all retail liquor stores shall be closed for business on Thanksgiving Day and Christmas Day.

(5) Pursuant to the authority contained in the Tennessee Code Annotated § 57-3-406, no retailer shall sell or give away any alcoholic beverages on the following holidays: Christmas, Thanksgiving, Labor Day, New Year's Day and the Fourth of July.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(7) No retailer as herein defined shall own, store or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state.

Section 8-316. Failure to pay inspection fee. Whenever any person licensed hereunder fails to account for or pay over to the finance director any inspection fee, or defaults in any of the conditions of his bond, the finance director shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such inspection fee.

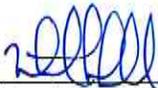
Section 8-317. Inspection of books, etc. The finance director is authorized to examine the books, papers and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. The refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises, shall constitute, sufficient reason for the revocation of a license or the refusal to issue a license.

Section 8-318. Violation and penalty. Any violation of the terms of this chapter shall be punishable by a fine of not more two thousand five hundred dollars (\$2,500.00); and in the discretion of the board of mayor and aldermen may be cause for revocation of said license.

This ordinance shall become effective upon its final reading and adoption by the Board of Mayor and Aldermen, and publication, the public welfare requiring it.

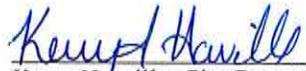
First Reading: November 20, 2014 PASSED

Second Reading: December 18, 2014 PASSED



Michael Arnold, Mayor

ATTEST:



Kerry Harville, City Recorder