

BLOUNT COUNTY BEER ORDINANCE OF 2014

SECTION ONE: BE IT RESOLVED by the Legislative Body of Blount County, Tennessee, in regular session assembled that in the sale, transportation, storage, possession, receipt, manufacture and distribution of beer of alcoholic content of not more than 5% by weight or other beverages of like alcoholic content, this body acquiesces in and adopts Tennessee Code Annotated, Section 57-5-101 et. seq. entitled **Beer and Alcoholic Beverages Containing Less Than Five Percent Alcohol**; Tennessee Code Annotated, Section 57-6-101 et. seq. entitled **Wholesale Beer Tax Act**. The aforesaid acts and the aforesaid amendments apply to the County of Blount and are subject to regulations and administration by the Legislative Body of Blount County, Tennessee. (Tennessee Code Annotated Section 57-201 et. seq., now Section 57-5-101 et. seq.; Tennessee Code Annotated Section 57-301 et. seq., now Section 57-6-101 et. seq.)

SECTION TWO: BE IT FURTHER RESOLVED that the fund accruing to Blount County under the aforesaid public Acts be applied to the road funds, school funds, or general purpose funds of the County as determined by the Blount County Legislative Body in adoption of the County's budget for each fiscal year.

SECTION THREE: BE IT FURTHER RESOLVED that pursuant to said statute and especially to Tennessee Code Annotated, Section 57-5-101 et. seq., and any other application sections, this Body hereby creates the Blount County Beer Board to be appointed by this Body, and to do and handle all matters delegated to such committee by the aforesaid statutes, and this resolution, and to issue the necessary permits and regulate such beverages in the territory of Blount County, Tennessee, outside the limits of any city or town now incorporated; and that said committee so appointed shall have the power and authority conferred upon by them by this resolution and the aforesaid statute but no further or otherwise, to regulate the storage, sale, transportation, possession, receipt, manufacture and distribution of such beverages, and to do any and all things necessary or proper under the aforesaid authority and power. The number of members and length of term shall be set by this Body.

SECTION FOUR: BE IT FURTHER RESOLVED that the following regulations be adopted by the Legislative Body and enforced by the Legislative Body and the aforesaid Beer Board for the more effective control of the issuance, suspension and revocation of beer permits

provided for in the aforesaid statutes and the within resolution. The following rules and regulations shall govern the issuance of permits by the aforesaid Beer Board, applications for permits, the hearing on said applications, and revocations and renewals of permits as follows:

1. No permit or renewal thereof shall be issued except on application made in writing to the Secretary of the Beer Board, which application shall be sworn to and verified by the applicant. All applications shall be made upon a regular form or blank provided for that purpose, a copy of which may be obtained from the County Clerk. The application shall be filed in triplicate, one to be filed for the Secretary of the Board herein named, one to be filed for the Chairman of the Board and one to be filed for the attorney of the Board.

2. The County attorney shall advise and assist the Board and represent the interests of the Board and Blount County in matters coming before the Board.

3. The Secretary of the Beer Committee shall be the County Clerk.

4. The Committee shall meet from time to time when there are applications or other business requiring the Board's attention and the Chairman shall cause a meeting to be called pursuant to applicable law. When a meeting is called, notice of the same shall be published in a newspaper of general circulation in Blount County at least five (5) days prior to and not more than thirty (30) days prior to the meeting. If an application for license or permit is to be considered at the meeting, the published notice shall provide the name of the applicant and the address of the location for such license or permit, whether the application is for on premises consumption, off premises consumption or both.

5. The procedure upon hearing an application for the issuance of a permit shall proceed as follows:

(a) The applicant shall have 15 minutes in which to present his application and be heard as to why the permit should issue. The applicant may be examined by the attorney for the beer committee and by any or all of the members of the committee. The applicant shall also be subject to cross-examination by the attorney or designated representative of any individual or individuals opposing the issuance of the permit. Subsequent to the examination of the applicant, any persons or person opposing the issuance of the permit shall have an aggregate time of fifteen (15) minutes in which to express their opposition. Said person or persons opposing issuance of the permit shall likewise be subject to cross-examination by any members of the beer committee, by the attorney of the Beer Board or by the applicant, his attorney or representative. Upon the conclusion of the applicant's presentation and the opposition presentation, if any, the applicant and the opposition shall each have five (5) minutes in which to argue their respective positions or present rebuttal testimony.

6. All meetings of the Blount County Beer Board shall be publically held and after completion of the presentation of witnesses or speakers, the Board shall discuss the application and proceed with their vote.

7. A majority of the members of the Beer Board shall constitute a quorum for the purpose of transacting business. Matters before the Board shall be decided by a majority vote of the members of the Beer Board.

8. Any material misrepresentation or false statement contained in the application upon which a permit is based, shall subject said permit to immediate revocation upon a hearing, hereinafter provided for, based upon a complaint verified by the affidavits of two reputable citizens charging directly the falsity of any material statement in the application; and at such hearing the burden of proof shall be upon the holder of the permit to establish the truth of the statements in said application charged to be false, provided, however, that no formal complaint verified by affidavit shall be necessary or required whenever the falsity of such statement or representation 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. Any persons proved to have made such misrepresentation or false statement in his application shall not be eligible to receive any permit for a period of ten (10) years from the date such statement or representation is determined by the committee to have been falsely made.

9. No permit now in force or hereafter issued shall be good except at the location described in the application upon which it is based; nor shall any such permit be transferable.

10. No person engaging in the business regulated hereunder shall make or permit to be made any sales, gifts, or distribution of such beverages to persons under twenty-one (21) years of age. No employer shall use or permit to be employed or used any minor (person under eighteen (18) years of age) for or in the sale or distribution of such beverages.

11. No such beverages shall be sold or distributed except at places where such sale or distribution will not cause congestion of traffic or interference with schools, churches or other places of public gathering, or otherwise interfere with the public health, safety and morals; and at a reasonable distance in the discretion of the committee, but in no case shall such beverages be sold or distributed at businesses closer than 1,000 feet to such schools, churches or other places

of public gathering. All distances in this resolution shall be measured from corner of building to corner of building, straight line distance between the two closest points. The burden shall be upon the applicant to establish the distance measured and in the event the distance measured is inaccurate or not correct, such incorrect measurement or distance shall be grounds for the revocation of the permits issued hereunder for a period of up to ten (10) years. The applicant shall submit with the application either: (a) a survey of a licensed surveyor; or (b) a letter from the Blount County Sheriff's Office certifying that the distance requirements in this Section and Section 20 have been satisfied and that the proposed beer establishment is not within the prohibited distances. A potential applicant may make request to the Blount County Sheriff's Office for a letter certifying the distance requirements of this Ordinance and the Sheriff has agreed to provide such distance measurements using ESRI ArcMap 10.0 GPS system for a fee of \$50.00. Upon request and payment of said fee, the Sheriff has agreed to provide a letter certifying the distance requirements which letter may be submitted with the application in lieu of a survey.

12. Neither the applicant nor any person or persons employed or used by him in such distribution or sale shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverage, or any crime involving moral turpitude, within the past ten (10) years.

13. No sale or distribution of the beverages mentioned in said statute or this resolution shall be made or given away, distributed or dispensed between the hours of 3:00 A.M. to 6:00 A.M. Monday – Saturday and between 3:00 A.M. and 10:00 A.M. on Sunday.

14. No persons under the influence of an intoxicant, prostitutes or immoral women, or other lawless characters, shall be permitted to congregate at or habitually frequent any place where the beverages regulated hereunder are sold or distributed.

15. As a condition for the issuance of a beer permit hereunder, all beer permit holders shall maintain respectable, clean and orderly places of business. Violation of any of the following provisions shall be grounds for revocation of permits issued hereunder:

A. Any establishment which serves food as well as beer shall be required to maintain a grade rating of at least 90 as prescribed by the food and beverage inspectors for the State of Tennessee, Department of Public Health.

B. All holders of permits hereunder shall keep their premises free and clean of garbage, debris, junk cars, or any other unsightly extraneous matter.

C. The exterior of all buildings in which beer permits are exercised shall be kept painted, clean and in good repair.

D. No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one (1) sign, advertisement or display which makes reference to the fact that the establishment sells beer but does not use brand names, pictures, numbers, prices or diagrams relating to beer. This section shall not apply to any sign, advertisement or display erected or maintained by or at the request of a temporary beer permittee or to any sports arena, stadium or entertainment complex. (Tennessee Code Annotated Section 57-5-304(a) & (b))

E. The premises upon which any permit issued hereunder is exercised shall provide separate toilet facilities for men and women and said toilet facilities shall be clean and sanitary. Septic tanks, if utilized, shall have adequate field line and shall be subject to periodic inspection by the Blount County Health Department. Any failure to pass said inspection by the Blount County Health Department and if toilet facilities are deemed to be inadequate by the health department for any reason shall be grounds for the revocation of the beer permit issued hereunder.

F. Unless authorized in writing by the appropriate county, municipal or metropolitan Beer Board or committee to do so, it is unlawful for any retailer to store beer at any place other than the address designated on the retailer's beer permit. (Tennessee Code Annotated Section 57-5-416)

G. The failure of any permit holder or any permit holder's place of business to comply with all State laws relating to health, morals or conduct or any resolution or rule hereunder shall be grounds for revocation of any permit previously issued by the Blount County Beer Board.

16. Beer shall not be sold, given away, served or otherwise dispensed to persons in automobiles or other motor vehicles except and unless the beer is sold in package form for off premises consumption.

17. By virtue of a resolution of this Court at a specially called meeting on December 15, 1975, and henceforth Blount County by this Resolution herewith forbids the sale of beer

within 300 feet of a residential dwelling, measured from building to building, provided the owner of the residence appears in person before the County Beer Board and objects to the issuance of such permit or license. This provision does not apply to locations where beer permits or licenses have been issued prior to the adoption of said Resolution, nor shall this provision apply to an application for a change in the licensee or permittee at such location. (Tennessee Code Annotated Section 55-5-105(i))

18. The Beer Board shall have the right and it shall be its duty to revoke or suspend any permit now in force or hereafter issued upon satisfactory evidence presented to it at a hearing for any satisfactory reason as provided by Tennessee Code Annotated, Section 57-5-101 et. seq. or for violation of any provision contained in this resolution.

19. All complaints for the revocation or suspension of permits heretofore or hereafter issued shall be made with either the Secretary/County Clerk. The complaint shall state in general terms the nature of the violation of the law or regulation upon which said complaint is based and the approximate date thereof. It is further provided that any member of the committee may in like manner, upon his own knowledge, make complaints to the committee and file a petition for the revocation or suspension of the permit. All complaints for the revocation or suspension of permits shall be in writing.

20. Upon the receipt of a complaint as hereinabove provided for, the Secretary, if he receives the complaint, shall immediately notify the Chairman of the committee and the Chairman of the committee upon receipt of notification of a complaint shall fix a time and place of hearing of said complaint. It shall be the duty of the attorney for the Board to notify the holder of the permit in writing of the time and place of the hearing and transmit to him also a notice of the nature of the complaint. Such notice shall be sent to said holder by registered mail, such letter to be registered in any post office in Blount County at least five (5) days prior to said hearing.

21. No permit shall be suspended or revoked without the concurrence of at least a majority of the members of the Beer Board. The majority of the members of the committee shall constitute a quorum for any purpose and the hearing hereinabove provided for shall be broad in character and evidence may be heard upon any facts or circumstances pertinent to or applicable to the charges made in the complaint. The reputation or character of the place and the operator thereof or the holder of the permit complained of shall be material and competent evidence for

the consideration of the committee at such revocation hearing. The burden of proof as to why a permit should not be revoked shall be upon the permit holder.

22. The Clerk of the County shall be ex-officio Secretary of the committee, but unless he be designated as a member of the committee, he shall have no vote in its proceedings. He shall have full power and authority to issue subpoenas and compel the attendance of witnesses before the committee.

23. It shall be the duty of the Secretary to keep a record of all the proceedings of the committee, in the form of a Minute Book.

24. It shall be the duty of all persons to whom permits are issued to keep same posted at all times in a conspicuous place in the place of business for which the same are issued.

25. The committee shall cause the Secretary to notify the Sheriff of the County of the revocation or suspension of any permit.

SECTION FIVE: BE IT FURTHER RESOLVED that before any person, firm, corporation, joint stock company, syndicate or association shall be authorized to sell, store and/or manufacture such beer and/or beverages as prescribed herein in Blount County, Tennessee, outside the limits of any town or city now incorporated, he shall apply to the Beer Committee as hereinabove provided and shall show and establish all of those facts requested in response to the questions on the application form hereto attached as Exhibit No. 1.

SECTION SIX: BE IT FURTHER RESOLVED that the power, right and authority are hereby conferred upon the board to arrange for and prescribe the details of the necessary applications, permits, and other matters incident to carrying out the provisions of the aforesaid statute and this resolution.

SECTION SEVEN: BE IT FURTHER RESOLVED that the privilege taxes and licenses fixed for the State are hereby declared and assessed and fixed for the County and will be collected by the County Clerk as other privilege taxes are collected.

SECTION EIGHT: BE IT FURTHER RESOLVED that the aforesaid Board in issuing the permits or licenses shall comply strictly with all other provisions of said statute insofar as they are applicable to the County outside the corporate limits of any incorporated towns or cities.

SECTION NINE: BE IT FURTHER RESOLVED that upon the issuance of a permit to an applicant, said applicant or permit holder shall upon the next business day after the

issuance of the permit report to the Secretary of the committee and the County Clerk the fact that a permit has been issued and shall take said permit. No permit holder shall commence doing business until such time as the privilege taxes have been paid and that the doing of business without payment of the privilege tax shall result in an automatic forfeiture of the permit and said permit holder shall not be granted another permit for a period of ten (10) years.

SECTION TEN: BE IT FURTHER RESOLVED that the board shall meet when necessary to consider applications for permits or conduct other business and shall meet upon call of the Chairman of the board or any two members of the board to transact such other business as may properly come before it. The board members shall be compensated for their services on said board as provided by state legislation or rules of the Commission.

SECTION ELEVEN: BE IT FURTHER RESOLVED that it is hereby declared to be the intent of this resolution of every section, paragraph, sentence, clause, word or words thereof, to privilege the lawful sale and manufacture of the beverages described herein within this County; and the provisions of this resolution are severable, and if any word, clause, sentence, paragraph or part hereof shall be held invalid by the final judgment or decree of any court of competent jurisdiction, the same shall not affect any of the remaining sections, paragraphs, sentences, clauses, word or words hereof.

SECTION TWELVE: BE IT FURTHER RESOLVED that this resolution shall be known as the Blount County Beer Ordinance of 2014.

SECTION THIRTEEN: BE IT FURTHER RESOLVED that this resolution be prepared and printed or mimeographed form and upon request a copy be furnished each applicant for a permit at the time he obtains the application blank.

SECTION FOURTEEN: BE IT FURTHER RESOLVED that all of the provisions of Tennessee Code Annotated Section 57-5-101 et. seq. through 57-5-416 are incorporated in and made a part of this Resolution as if fully copied herein and in the event said Legislation should be modified, changed or altered or amended by any future action of the State Legislature then such amendments shall be automatically included herein without further action by the Blount County Legislative Body.