

ORDINANCE NO 94-1

AN ORDINANCE OF THE TOWN OF UNICOI TENNESSEE ESTABLISHING A BEER BOARD, PROVIDING FOR BEER PERMITS, AND REGULATING THE SALE OF BEER.

SECTION

1. Beer board established.
2. Meetings of the beer board.
3. Record of beer board proceedings to be kept.
4. Requirements for beer board quorum and action.
5. Powers and duties of the beer board.
6. "Beer" defined.
7. Permit required for engaging in beer business.
8. Privilege tax.
9. Beer permits shall be restrictive.
10. Limitation on number of permits.
11. Interference with public health, safety, and morals prohibited.
12. Issuance of permits to persons convicted of certain crimes prohibited.
13. Prohibited conduct or activities by beer permit holders.
14. Revocation of beer permits.
15. Civil penalty in lieu of suspension.
16. Effective Date.

Section 1. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board.

Section 2. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

Section 3. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

Section 4. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted.

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

Section 5. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.

Section 6. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight.

Section 7. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Unicoi. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

Section 8. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). 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, 1995, and each successive January 1, to the Town of Unicoi, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

Section 9. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

Section 10. Limitation on number of permits. There shall be ~~three~~ beer permits allowed to be outstanding in the town. The
two

three three
and two
MH

write (2) three
insert two
&
in suit day
and month.
Cm H

two

present holders of the ~~three~~ valid county beer permits for establishments that came into the town upon its incorporation on the 4th day of August, 1994, shall upon application and payment of the application fee provided for in Section 8-207 of this chapter, each be entitled to one of those permits. If and when any of the ~~three~~ ^{two} permit holders goes out of business for any reason, or has his permit revoked, the permit shall be issued to another applicant qualified to receive one under this chapter. Any beer permit issued under this chapter shall apply only to the person to whom, and at the establishment for which, it was issued.

Section 11. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred (300) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line¹ from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the hospital, school, church or other place of public gathering.

Section 12. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years.

Section 13. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (2) Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.
- (3) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week; at any

¹State law reference
See *Watkins v. Naifeh*, 625 S. W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

time on Sunday; or on election days before and while the polls are lawfully open.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

(5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.

(6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(7) Allow drunk persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(9) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women.

Section 14. Revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

Section 15. 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 \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 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.

Section 16. Effective Date. This ordinance shall take effect after second reading and its publication, the public welfare requiring it.

Passed First Reading

10-17-94

Passed Second Reading

10-28-94


Mayor


City Recorder