

**ORDINANCE NO. 2013-01**

**AN ORDINANCE TO REPEAL TITLE 8, CHAPTER 1  
OF THE FRIENDSVILLE MUNICIPAL CODE BOOK  
REGARDING BEER TO REPLACE IT  
WITH UPDATED REGULATIONS**

**WHEREAS**, the state gives municipalities broad authorities to regulate alcoholic beverage sales when the alcoholic content is less than five percent; and

**WHEREAS**, *Tennessee Code Annotated* section 57-5-106 establishes municipalities' rights to permit and regulate beer sales; and

**WHEREAS**, the city of Friendsville had previously permitted beer sales through Title 8, Chapter 1 of the Municipal Code Book; and

**WHEREAS**, with the passage of the Responsible Vendor Act of 2006 the city's ordinance has become outdated and inconsistent with state regulations; and

**WHEREAS**, the board of commissioners desires to update its regulations and match state requirements; now therefore

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF  
FRIENDSVILLE, TENNESSEE THAT:**

**SECTION 1.** Title 8, Chapter 2 of the Friendsville Municipal Code Book is hereby repealed in its entirety and replaced with the following:

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

2. Meetings of the beer board. All meetings of the beer board shall be open to the public. When there is business to come before the beer board, a special meeting shall 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. At any meeting where an application is to be considered, the beer board shall conduct a public hearing to allow the applicant to speak and to allow any person who favors or disfavors the application to speak.

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.

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.

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, and distributing for sale of beer within this municipality in accordance with the provisions of this chapter.

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, except wine as defined in *Tennessee Code Annotated*, § 57-3-101(a)(20); provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

7. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, or distribute for sale 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. The application shall contain the following information:

- (1) The name, current address, and previous addresses of the applicant;
- (2) Any person or entity owning at least 5% interest in business;
- (3) Date of birth of applicant;
- (4) Home and business telephone number;
- (5) The name under which the business shall operate;
- (6) The location of the business;
- (7) Name and address of property owner;
- (8) Name, date of birth, and address of manager(s) of the business;
- (9) If any person with ownership or employee has been convicted of any violation of beer or alcoholic beverage law or any crime involving moral turpitude within the past ten years;
- (10) If owner(s) beer permit has ever been previously revoked, suspended, or denied in State of Tennessee;
- (11) Name and address of former beer permittee at business location;
- (12) Name and address of nearest church or place of worship, school, residential dwelling, and place of public gathering; each applicant shall be required to submit a survey with the application, performed by a registered land surveyor, which illustrates the distance between the nearest point on the building on which beer shall be manufactured,



stored or sold, to the nearest point of any school building, church building or building of public gathering, and the nearest point between the building where beer is to be manufactured, stored or sold to the nearest point of any residence.

- (13) Identity and address of a person to receive annual privilege tax notices or any other correspondence.

Pursuant to *Tennessee Code Annotated*, § 57-5-104(a), the application 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 city of Friendsville. 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.

8. Privilege tax. There is hereby imposed on the business of selling, distributing, or storing beer a privilege tax of one thousand dollars (\$1000.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, or storage of beer shall remit the tax each successive January 1 to the city of Friendsville, 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.

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, and distributing. Beer permits for retail sale of beer are restricted so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.

10. Limitation on number of permits. The number of licenses for the sale of beer is limited to one per establishment. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this ordinance shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

11. Outdoor advertisement at retail beer establishments. Pursuant to *Tennessee Code Annotated*, § 57-5-304(a), 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.



12. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within fifteen hundred (1500) feet of any school, church or other place of public gathering, or within two hundred (200) feet of any residence. The distances shall be measured in a straight line from the nearest point on the building from which the beer will be manufactured, stored or sold to the nearest point on the school building, church building, building of other place of public gathering, or building of residence. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six-month period.

13. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- (1) Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.
- (2) Make or allow the sale of beer between the hours of 12:00 Midnight and 6:00 A.M. on weekdays and Saturdays and no beer sales are permitted on Sundays. It shall be unlawful to sell beer on any day upon which elections are being held in the city of Friendsville or in the Blount County Electoral District in which the city of Friendsville is located.
- (3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (4) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (5) Allow drunken persons to loiter about his premises.
- (6) 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.
- (7) Sell beer to anyone under twenty one (21) years of age.

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



Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a “responsible vendor” qualified under the requirements of *Tennessee Code Annotated* § 57-5-606 for a clerk’s illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk’s original certification, unless the vendor’s status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor’s certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. “Clerk” means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor’s status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years.

15. Civil penalty in lieu of revocation or suspension.

(1) Definition. “Responsible vendor” means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the “Tennessee Responsible Vendor Act of 2006,” *Tennessee Code Annotated*, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty of two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty of one thousand dollars (\$1,000.00) for any other offense.

The beer board shall impose on a responsible vendor a civil penalty of one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

16. Loss of clerk’s certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of

determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

17. Violations. Except as provided in section 15, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.


18. Change of ownership, location, etc. Should the permit holder transfer the ownership of business at the location for which such permit is granted, or should he or she cease to do business for a period of forty-five (45) days, then upon such occurrence such permit shall be immediately terminated and become void from and after such transfer, change of location, or cessation of business (1952 Code, § 6-3(10)).


**SECTION 2. Severability Clause.** If any section, phrase, sentence or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of remaining portions thereof.

**SECTION 3. Effective Date.** This ordinance takes effect from and after its final passage, the public welfare requiring it.

PASSED First Reading February 7, 2013.

PASSED Second Reading March 7, 2013.

  
MAYOR

  
RECORDER