

ORDINANCE NO. 7.

AN ORDINANCE to regulate the sale of Beer and/or ale, or other beverage of like alcoholic content within the corporate limits of the Town of Mount Carmel, to create and constitute a beer board of said municipality: To authorize said board to issue permits for this purpose and to hear complaints and suspend or revoke such permits upon proper cause shown and to provide ways and means for the issuance and suspension or revocation of permits and licenses; To fix penalties for the violation of any provision of this Ordinance.

SECTION I: BE IT ORDAINED BY THE TOWN OF MOUNT CARMEL, That the transportation, storage, sale, distribution possession and/or manufacture of beer and/or sale of an alcholic content of not more than 5% by weight within this corporate limit of the Town of Mount Carmel shall be subject to the regulations hereinafter set out and provided.

SECTION II: BE IT ORDAINED, that there be and is hereby created (Board of Mayor and Aldermen and City Council) a board to be known and designated as the Beer Board of the Town of Mount Carmel, which is hereinafter referred to as the board, consisting of three members, all of whom shall possess the qualifications herein set out and serve and hold office for a term of one year and until their successors are appointed and qualified.

No person shall be eligible for membership on said board unless he shall have been a resident and taxpayer of the Town of Mount Carmel for at least one year next preceeding the date of his appointment, shall be at least twenty-one years of age and a resident and citized of the United States.

When any vacancy occurs in said board by reason of death, resignation, removal or other cause, such vacancy or vacancies shall be filled by the Board of Mayor and Aldermen at the next succeeding regular

meeting after such vacancy occurs and in the same manner as the original members of said board are shown and elected.

SECTION III: BE IT FURTHER ORDAINED, that all meetings of said board a majority shall constitute a quorum and the board shall act only by vote of a majority of all its members.

SECTION IV: BE IT FURTHER ORDAINED, That after ten days after election of members of said board a meeting shall be ehld by its members for the purpose of affecting orgainzation and they shall select one of their members to act as chairman whose duty shall be to preside at all meetings of the board and to keep in detail separate records of its action.

Meetings of said board shall be held at such times as designated by it, and at all times when necessary and proper to effectually carry out the provisions of this ofdinance, on which occasions meetings shall be held by call of the chairman.

SECTION V: BE IT FURTHER ORDAINED, that within thirty days from and after the passage of this ordinance, all persons, firms, corporations or associations who shall thereafter desire to sell, store and/or manufacture such beer or beverage as prescribed herein, shall apply in writing to said board, under oath, on a form prescribed by it for a permit to thereafter sell, store, and/or manufacture such beer or beverages within the corporation of the Town of Mount Carmel in which written application shall be established the following:

FIRST, that the applicant is a citizen of the United States, or if a firm or association, that its members are citizens of the United States, and if a corporation, that it is authorized to do business within the State of Tennessee:

SECOND: that no person or persons will be employed by the applicant who are not citizens of the United States;

THIRD, that neither the applicant nor any person or persons employed by him in such distribution or sale has been convicted of any violation of the laws, provided by the statutes of Tennessee prohibiting the possession, sale, manufacture or transportation of intoxicating liquor, or any other crime involving moral turpitude within the past ten years;

FOURTH: That no sale shall be made to minors or permit minors to consume such beverages on the premises, or permit minors to loiter on the premises, or employ minors directly in the sale or distribution of such beverages;

FIFTH: That no sale shall be made to persons intoxicated, or who are feeble minded, insane or otherwise mentally incapacitated;

SIXTH: That no sale, distribution or consumption of such beverages will be made at places where pool or billiards are played; provided, however, nothing in this ordinance shall prevent the sale, distribution or consumption of such beverages in the front of such room or place if a solid partition or wall separates the place from the pool or billiard parlor;

SEVENTH: That no sale or distribution of such beverages will be made at places operating a dance hall in conjunction therewith, or where dancing is allowed or permitted;

EIGHTH: That no sale or distribution of such beverages will be made 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 public health, safety and morals;

NINTH: That in the place of business where such beverages will be sold or distrubuted, the consumption of any beverages other than beer and/or ale shall not be allowed;

TENTH: That in the place of business where such beverages will b e sold or distributed proper sanitary facilities shall be provided;

ELEVENTH: That the applicant is of good character and has a suitable location to conduct said place of business;

TWELFTH: That proper visibility in the front windows shall be maintained from a geight from the pavement of at least five (5) feet.

THIRTEENTH: That gambling in any form whall not be permitted upon the premises;

FOURTEENTH: That in the place of business where such beverages will be sold or distrubuted, no loud, unusual or obnoxious noises shall be allowed, and that the applicant shall conduct such place of business otherwise in an orderly, peacable and lawful manner.

The applicant shall state distinctly whether the person so applying will conduct the business in person, or whether he is a cting as agent for any other person, firm, corporation or association and shall also state: specifically the name of the owner or owners of such business, and whether a sholesale or retail sale of distru-
bution will be made.

The application shall at all times be kept on file by said board and shall be open to inspection of the general public, and any person firm, corporation or association making false statement in his application shall forfiet his permit and shall not be eligible to receive any permit for a period of ten years thereafter.

Upon filing of such written application with the chairman of said board, it shall be carefully examined by the members of said

board and its action thereon shall be kept in writing as a part of the regular proceedings of said board, Upon favorable action by said board on applications and submitted to it, a permit shall be issued to the applicant, bearing the name of the chairman of said board and the date of its issuance. The permit thus obtained shall entitle the applicant to obtain from the municipality a license to sell, store, manufacture and/or distribute such beverages, but no license shall be issued by it until and unless a permit, regularly issued by the board shall be exhibited and filed with the treasurer of the Town of Mount Carmel, whose duty it shall be to thereupon issue a license to such applicant.

The permit thus obtained shall remain in full force and effect until its revocation by the board in the manner hereinafter prescribed.

SECTION 6: BE IT FURTHER ORDAINED, That no permit to engage in the business regulated by this ordinance shall be granted to any person, persons, firm, corporation or association unless such applicant can comply with all of the provisions of Section 5 of this ordinance.

SECTION 7: BE IT FURTHER ORDAINED, that from and after thirty days subsequent to the passage of this ordinance it shall thereafter be unlawful and is hereby declared to be a misdemeanor for any person, firm, corporation or association to store, sell, manufacture or distribute such beverages within the corporate limits of the Town of Mount Carmel without first having obtained a permit regularly and lawfully issued by the board in the manner prescribed herein and upon conviction shall be fined not less than \$20.00 nor more than \$50.00.

SECTION 8: BE IT FURTHER ORDAINED, That said minicipality shall be entitled to demand and receive from such applicant a fee of \$2.00, in addition to all other fees herein, provided, for the issuance of a permit, provided herein, which shall be paid by such applicant to the reaasurer of the Town of Mount Carmel before a permit is issued to him, and such permit when issued shall not be transferable to any other person, persons, firm, corporation or association.

SECTION 8-A: BE IT FURTHER ORDAINED, THAT when any person shall move the location of the plæ of business where such beverages are sold, then in all cases he shall be required to obtain from the board a new permit in the manner herein provided by application to said board therefor.

SECTION 9: BE IT FURTHER ORDAINED, That every person, persons, firm, corporation and/or association before being issued a license to sell at retail within the corporate limits of the Town of Mount Carmel any of such beverages permitted to be sold hereunder, shall make and deliver to the treasurer of the Town of Mount Carmel who shall be entitled to demand and receive a fee of \$1.00 therefor, a joint and several bond in the penalty of \$500.00 payable to the State of Tennessee, said bond to be sugned by some solvent curety company, a uthorized to carry on a general surety business within the State of Tennessee, or by solvent personal sureties, and contitioned that the princiapl thereof will pay any fine which may be assessed against such principal by any court of competent jurisdiction for any violation of the provisions of this ordinance. At the end of the first twelve months, and every twelve months thereafter, said bond shall be renewed, andthe treasurer shall be entitled to demand and receive a fee of \$1.00 for taking and renewing the said bond.

SECTION 10: BE IT FURTHER ORDAINED, That it shall hereafter be unlawful, and it si hereby declared to be a misdemeanor for any person, firm, corporation or association, engaged in the business regulated hereafter, to make or permit to be made any sales or distribution of such beverages to minors; to employ minors directly in the sale or distrubution of such beverages or permit minors to loiter on the premises; to sell or distribut such beverages to persons intoxicated or under the influence of intoxicating beverages; to sell or distrubute such beverages to persons who are feeble-minded, insane, or otherwise mentally incapacitated; to employ any person in the storage, sale, manufacture or distribution of such beverages except citizens of the United State; to fail to provide proper sanitary facilities and visibility in front windows; to sell or distribute such beverages at any place where pool or billiards are played unless the sale or distribution or comsumption of such beverages is made in the front of such room or place where a solid partition or wall separates the place from the pool or billiard parlor, to sell or distribute such beverages at any place where gambling or a dance hall is operated or where dancing is allowed or permitted; to employ any person who has been convicted of any violation of the States statutes prohibiting the possession, sale, manufacture or transportation of intoxicating liquor, or any other crime involving moral turpitude, within the past tne years, and upon conviction of any of the above violations, as declared, shall be fined not less than \$20.00 nor more than \$50.00.

PROVIDED, however, that nothing in this section shall prevent the sale and distribution of such beverages in hotel rooms of regularly conducted hotels, and in regularly in corporated clubs and lodges.

SECTION 11: BE IT FURTHER ORDAINED, That it shall hereafter be unlawful and it is hereby declared to be a misdemeanor, for any person, persons, firm, corporation or association to sell or distribute any of such beverages within the corporate limits of the Town of Mount Carmel between the hours of 10:00 PM and 10:00 AM and upon conviction shall be fined not less than \$20.00, nor more than \$50.00.

SECTION 12: BE IT FURTHER ORDAINED, That it shall hereafter be unlawful, and it is hereby declared to be a misdemeanor for any person, persons, firm, corporation, or association to sell or distribute any of such beverages at any location which is situated closer than five thousand (5,000) feet from premises upon which is located a church, or other place of public worship, or closer than five thousand (5,000) feet from premises upon which is located a school.

SECTION 13: BE IT FURTHER ORDAINED, That the board, created and constituted hereunder, be and is hereby vested with full power and authority to suspend or revoke any permit, the issuance of which is herein provided, and for this purpose is fully authorized and empowered to hear and determine complaints brought for that purpose. Any violation of this ordinance shall constitute sufficient grounds for the suspension or revocation of any such permit.

Complaints brought for the purpose of suspending or revoking such permits shall be made in writing and filed with the chairman of said board, who shall thereupon give or cause to be given written notice, accompanied by a copy of such written complaint, commanding the person, persons, firm, corporation or association to appear at a time and place designated in said notice before said board and show cause why such permit should not be suspended or revoked, such notice to be served either by registered letter or by any policeman of the Town of Mount

Carmel, at least ten days prior to the date of the hearing when such person, persons, firm, corporation or association is cited to appear. Upon the hearing said Board shall publicly hear and determine the nature and merits of the complaint, and for this purpose the chairman of said board is authorized to compel the attendance of witnesses by subpoena, and after such hearing said board may for proper cause

*Suggested
Amendment
not acted upon*

ORDINANCE NO. _____

AN ORDINANCE REGULATING THE HANDLING, SALE OR POSSESSION OF ALCHOLIC BEVERAGES INSIDE THE TOWN OF MOUNT CARMEL, TENNESSEE AND REPEALING ORDINANCE NO. 7.

BE IT ORDAINED AND ENACTED by the Board of Mayor and Aldermen of the Town of Mount Carmel, of the County of Hawkins, of the State of Tennessee.

SECTION I: There is hereby established a beer board to be composed of all the members of the Board of Mayor and Aldermen. The Mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation.

SECTION II: All meetings of the beer board shall be open to the public. The board shall hold regular meetings following each regular meeting of the governing body at the City Hall whenever there is business to come before the beer board. A special meeting of the beer board may be called by its chairman provided he gives a reasonable notice thereof to each board member, and the board may adjourn a meeting at any time to another time and place.

SECTION III: The recorder shall make a separate 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 motions or resolutions presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

SECTION IV: 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 V: 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 VI: 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 per cent (5%) by weight.

SECTION VII: 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. In his application the applicant shall certify that he has read and is familiar with the provisions of this chapter.

SECTION VIII: 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 the retail sale of beer may be further restricted by the beer board 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 expressed restrictions or conditions which may be written into his permit by the beer board.

SECTION IX: No permit to engage in the beer business shall be granted by the beer board to any person not a citizen of the United States nor to any syndicate or association unless all of

the members thereof are citizens of the United States.

SECTION X: 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 storage, sale or manufacture of beer at places within Two-Thousand (2,000) feet to any school, church, or other such place of public gathering, measured along street rights of way, said distance being measured from nearest boundary line to nearest boundary line.

SECTION XI: 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.

SECTION XII: Be it further ordained, that when any person shall move the location of the place of business where such beverages are sold, then in all cases he shall be required to obtain from the board a new permit in the manner herein provided by application to said board therefor.

SECTION XIII: All applications for a beer permit shall be accompanied by a certified or cashier's check in the amount of \$750.00 which check shall constitute an application fee for a beer permit, and shall be applied to pay the beer board's expenses while processing the application. The application fee shall not be returnable whether or not a beer permit is issued.

SECTION XIV: After the effective date of this Ordinance no beer permit shall be issued unless the applicant has operated a retail grocery or related business for a period of one (1) year prior to the date of the application and said business must have

been operated in a permanent wooden or brick structure.

SECTION XV: Each applicant for a beer permit must show unto the beer board his proposed plans showing where beer will be stored and displayed and said area must not exceed twenty-five (25%) of the floor space and storage area used in the business.

SECTION XVI: No beer shall be sold at retail inside the City Limits of Mount Carmel except between the hours of 8 A. M. and 11:59 P. M. Monday through Saturday, and it shall be grounds for revocation of their permit for any permit holder to sale or allow to be sold beer except as authorized in this section.

SECTION XVII: Each application for a beer permit under this Ordinance shall be filed with the City Recorder, and no final action shall be taken by the beer board until sixty (60) days after the filing of said application.

SECTION XVIII: The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part or parts.

SECTION XIX: All other ordinances or parts of ordinances inconsistent with the provisions of this Ordinance, be and the same are hereby repealed.

SECTION XX: This Ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law, the public welfare requiring it.

PASSED FIRST READING Oct. 14, 1976

PASSED SECOND READING Nov. 11, 1976

PASSED THIRD READING Dec. 9, 1976

Sidney Snodgrass
MAYOR

ATTEST:

Kathy Batson
CITY RECORDER

APPROVED AS TO CORRECTNESS AND FORM

Charles E. Rhinell
CITY ATTORNEY