



CITY OF JOHNSON CITY

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FROM: Samantha Bamman, (434-6032)
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DATE: September 17, 2020

SUBJECT: Legal Notice

**PLEASE ADVERTISE
AS SOON AS POSSIBLE**

ORDINANCE NO. 4731-20

AN ORDINANCE TO AMEND TITLE 8, CHAPTER 1, SECTION 101 BY AMENDING (1), ADDING (5) AND (6), AND RENUMBERING AND AMENDING (13) AND (14) AMENDING DEFINITIONS TO THE CODE OF THE CITY OF JOHNSON CITY, TO AMEND TITLE 8, CHAPTER 2, BY ADDING SECTION 215 (1)-(3) AUTHORIZING THE ISSUANCE OF A TEMPORARY OCCASION BEER LICENSE, AND RENUMBERING SECTION 216-223 AND ADDING SECTION 225-227 AUTHORIZING DELIVERY SERVICE LICENSE TO THE CODE OF THE CITY OF JOHNSON CITY, TO AMEND TITLE 8, CHAPTER 3, BY AMENDING SECTION 301(2), 309 AND 310 AUTHORIZING DISTILLERIES WITHIN THE CORPORATE CITY LIMITS, AMENDING SECTION 321 REMOVING THE REQUIREMENT OF CERTIFICATE OF COMPLIANCE ANNUAL RENEWAL WITH LOCAL GOVERNMENT TO THE CODE OF THE CITY OF JOHNSON CITY, OR ANY OTHER ORDINANCES OR PARTS OF ORDINANCES HERETOFORE PASSED.

WHEREAS, for the purpose of promoting the public health, safety, comfort, convenience and general welfare of the people of Johnson City, Tennessee, the Board of Commissioners is authorized to regulate the business of selling, storing, transporting, distributing, purchase or possession of alcoholic beverages within the corporate limits of the City of Johnson City except in accordance with the provisions of the Tennessee Code Annotated, Title 57, Chapter 3, and rules and regulations promulgated thereunder; and

WHEREAS, it has been determined by the Board of Commissioners that it is in the

public interest of the City to allow applicants to apply and have issued a Special Event Series Temporary Occasion Beer License for a ten (10) part special event series within a calendar year; and

WHEREAS, it has been determined by the Board of Commissioners that it is in the public interest of the City to allow state regulated distilleries within the corporate city limits; and

WHEREAS, it has been determined by the Board of Commissioners that it is in the public interest of the City to allow businesses with an off-premises beer license issued by the City of Johnson City for the sale of beer that do not have a license issued by the Tennessee Alcoholic Beverage Commission for the sale of alcoholic beverages to qualify for a delivery service license to deliver beer within the corporate city limits; and

WHEREAS, on March 7, 2019, the Tennessee General Assembly Adopted Amendment #1 to Tennessee Code Annotated § 57-3-213(d), effective August 1, 2019, which removes the requirement of licensees from presenting certificates of compliance to local government for annual renewal; and

WHEREAS, on March 18, 2019, the Tennessee General Assembly Adopted House Bill 683 which removes the requirement of licensees from residing within the county and the certificate of compliance remains valid unless there is a change of ownership or location; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

SECTION I. That Title 8, Chapter 1, Section 101(1) of the City of Johnson City Code is hereby amended to read as follows:

(1) “Alcoholic beverage” or “beverage” means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, wine, and high alcohol content beer and capable of being consumed by a human being, other than patent medicine or beer, as defined in § 57-5-101. Notwithstanding any provision to the contrary in this title, except for beer as defined in § 57-5-101(b), “alcoholic beverage” or “beverage” also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol, regardless of alcohol content. Liquid products intended for beverage purposes containing alcohol that do not meet the definition of beer under § 57-5-101(b) shall also be alcoholic beverages.

SECTION II. That Title 8, Chapter 1, Section 101(5)-(6) of the City of Johnson City Code is hereby added to read as follows:

(5) “Distiller” means any person who owns, occupies, carries on, works, conducts or operates any distillery either personally or by an agent.

(6) “Distillery” means and includes any place or premises wherein any liquors are manufactured for sale.

SECTION III. That Title 8, Chapter 1, Section 101(6)-(25) of the City of Johnson City Code is hereby renumbered to read as follows:

(7) "Certificate of compliance." The certificate mentioned in Tennessee Code Annotated, § 57-3-208, as the same may be amended, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(8) "Clubs; lodges." Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee and which are organized and exist for purposes other than the sale of beverages under such license.

(9) "Federal statutes." The statutes of the United States now in effect or as they may hereafter be changed.

(10) "Inspection fee." The monthly fee a licensee is required to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(11) "License." A license issued under the provisions of this Title for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(12) "License fee." The annual fee a licensee is required by this Title to pay at or prior to the time of the issuance of a license.

(13) "Licensee." The holder of a license.

(14) "Liquor store." The building or the part of a building where a licensee conducts any of the business authorized by the license held by such licensee.

(15) "Manufacture" means and includes brewing high alcohol content beer, distilling, rectifying and operating a winery.

(16) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier.

(17) "Minor." Any person who has not attained eighteen (18) years of age; except that where used in Title 8 with respect to purchasing, consuming or possessing alcoholic beverages, wine or beer, "minor" means any person who has not attained twenty-one (21) years of age. This shall not be construed as prohibiting any person eighteen (18) years of age or older from selling, transporting, possessing or dispensing alcoholic beverages, wine or beer in the course of employment pursuant to valid server permit.

(18) "Restaurant" shall mean any place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least twenty-five (25) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted.

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

(20) "State alcoholic beverage commission." The Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including the provisions of Tennessee Code Annotated, §§ 57-1-101 through 57-1-209.

(21)

(22) "State liquor retailer's license." A license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, §§ 57-3-101 through 57-3-412) for the purpose of authorizing the holder thereof to engage in the business of selling

alcoholic beverages at retail.

(23) "State rules and regulations." All applicable rules and regulations of the state applicable to alcoholic beverages, as now in effect or as they may hereafter be changed, including without limitation the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(24) "State statutes." The statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(25) "Wholesale sale" or "sale at wholesale." A sale to any person for purposes of resale.

(26) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §57-3-101 through 57-3-412.

(27) "Wine." This definition shall be the same as provided in Tennessee Code Annotated, §57-3-101, as the same may be amended.

SECTION IV. That Title 8, Chapter 1, Section 101(13)-(14) of the City of Johnson City Code is hereby renumbered and amended to read as follows:

(15) "Manufacture" means and includes brewing high alcohol content beer, distilling, rectifying and operating a winery.

(16) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier.

SECTION V. That Title 8, Chapter 2, Section 211 of the City of Johnson City Code is hereby amended to read as follows:

8-211. Application fee; privilege tax; permits. Each applicant for a beer license issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the application.

SECTION VI. That Title 8, Chapter 2, Section 214(3) of the City of Johnson City Code is hereby amended to read as follows;

(3) Each applicant for a temporary occasion beer license issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the application.

SECTION VII. That Title 8, Chapter 2, Section 215(1)-(3) of the City of Johnson City Code are hereby added to read as follows:

8-215. Special Event Series Temporary Occasion Beer License

(1) The board of commissioners may grant special event series temporary occasion beer licenses to bona fide charitable, non-profit organizations, recognized as exempt from federal taxes under 26 U.S.C. section 501(c)(3) or (4), and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission) for special event series involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any special event series for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Special event series temporary occasion beer licenses are allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, and King Commons subject to the restrictions of this Title. No special event series temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the special event series occurs, unless such is allowed in conjunction with a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, and shall be issued for no more than ten (10) events within the special event series, subject to the limitations on the hours of sale imposed by law. Each event within the special event series shall be consistent in nature of the event, layout of the event, location of the event, and time of operation of the event. Any event included in the special event series that requires revision(s) or modifications(s) to the nature of the event, layout of the event, location of the event or time of operation of the event will at that time be excluded from the special event series and a temporary occasion beer license will be required for that event.

(2) Each applicant for a special series temporary occasion beer license issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the application.

(3) Applicants shall comply with those requirements set forth in Section 8-214 (4), (5), (6) and (7) in this Title.

SECTION VIII. That Title 8, Chapter 2, Sections 215-223 of the City of Johnson City Code are hereby renumbered to read as follows:

8-216. License suspension, revocation generally, calculations of time and number of violations, etc.

8-217. License--suspension for noise violations, calculations of time and number of violations, etc.

8-218. Alcohol awareness training. 8-219. Seller/server permits.

8-220. Prohibited conduct.

8-221. Training of licensees, employees, etc. 8-222. Drive-through window sales.

8-223. Grandfathered status.

8-224. Downtown special events/street festivals.

SECTION IX. That Title 8, Chapter 2, Section 225-227 of the City of Johnson City Code is hereby added to read as follows:

8-225. Delivery service license.

(1) A delivery service license may be issued to any business that holds an off-premise beer license issued by the City of Johnson City for the sale of beer and does not hold a license issued by the Tennessee Alcoholic Beverage Commission for the sale of alcoholic beverages. The delivery service licensee shall deliver the beer to a customer who resides or is located at the time of delivery within the corporate city limits.

(2) Any delivery service licensee is authorized to deliver sealed packages of beer sold by an off-premise beer license holder during the hours allowed under Title 8, Section 307, of the Johnson City Municipal Code.

(3) Any delivery made by a delivery service licensee shall be made only to the physical address indicated by the person placing the delivery order. The delivery must be documented by the verification of the delivery signed by the person placing the order.

(4) The customer placing a delivery order must be twenty-one (21) years or older and must provide for inspection a valid driver's license upon delivery.

(5) No delivery shall exceed two (2) gallons.

8-226. Delivery service license application.

(1) No person shall engage in the delivery of beer within the corporate limits of the city until he receives a license to do so. Each applicant for a delivery service license under this chapter shall file with the city manager or his or her designee a sworn petition in writing, establishing the following facts, the truth of each and all of which facts the time of approval of the application are hereby made conditions of any license issued hereunder:

(a) The applicant is the owner of the business regulated by this chapter and said applicant shall provide their name, the name under which the business operates, the business address, the name, telephone number and email address of the representative/agent of the business, the applicant's date of birth or the creation of the business, the applicant's social security number or the business tax identification number, and the address of the property from which the business will be operated.

(b) The applicant shall confirm that the applicant has or has not had a license for the sale of alcoholic beverages or controlled substances revoked or suspended by the state of Tennessee.

(c) The applicant shall confirm that the applicant does not have a license issued by the Tennessee Alcoholic Beverage Commission for the sale of alcoholic beverages.

(d) The application shall confirm that the applicant has an off-premise beer license issued by the City of Johnson City for the sale of beer.

(2) No applicant or driver shall have been convicted of a crime which directly relations to the business of alcoholic beverage sales, pursuant to the Fresh Start Act.

(3) Each applicant for a delivery service license issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the application. A copy of the business license and a copy of off-premises beer license must be submitted by applicant at the time of application.

8-227. Delivery service license renewal and report.

(1) A delivery service license renewal shall be issued upon the filing of a Delivery Service License Annual Delivery Report. Each applicant for a delivery service application renewal shall be pay to the city a non-refundable application fee as approved

annually by the board of commissioners and set forth on the application.

(2) Each applicant shall conduct, or have a third party conduct, a local and national criminal background check on any potential employee or independent contractor that seeks to be a delivery driver. Such background check shall include a multistate criminal records locator or other similar commercial nationwide database with validation.

(4) Any delivery driver must be twenty-one (21) years or older and possess a valid driver's license. A delivery service license may use either employees or independent contractors for delivering beer for the licensee as part of the delivery service.

(5) An Annual Delivery Report shall be submitted by the applicant and shall include a list of all delivery drivers and a record of all deliveries made under the delivery service license, including the product ordered and delivered, amount of product delivered, the time of delivery and the location of delivery that occurred made under the delivery service license in the prior year.

(6) In addition to the annual license fee, a delivery service licensee shall pay a fee based on the total number of delivery service employees or independent contractors used by the delivery service license in the prior year. The fee shall be as follows:

- (a) 0-15 delivery drivers - \$50
- (b) 16-30 delivery drivers - \$100
- (c) 31-45 delivery drivers - \$150
- (d) 46-60 delivery drivers - \$200
- (e) 61-100 delivery drivers - \$250
- (f) 101-150 delivery drivers - \$300
- (g) 151-200 delivery drivers - \$350
- (h) Fifty dollars (\$50.00) for each additional fifty (50) delivery drivers over two hundred (200) until a maximum of one thousand dollars (\$1,000.0)

(7) A delivery service licensee may be subject to fines or the suspension or revocation of the delivery service license based on the conduct of a delivery driver.

SECTION X. That Title 8, Chapter 3, Section 301(2) of the City of Johnson City Code is hereby amended to read as follows:

(2) The manufacture of alcoholic beverages is prohibited within the corporate limits of the city unless duly licensed by the State of Tennessee pursuant to Tennessee Code Annotated §§ 57-2-103 and 57-3-202, and is located in a zoning district permitting such business.

SECTION XI. That Title 8, Chapter 3, Sections 309 and 310 of the City of Johnson City Code is hereby amended to include the inspection of manufacture and inspections fees imposed on a manufacturer of alcohol, spirits, liquor, wine, and high alcohol content beer.

SECTION XII. That Title 8, Chapter 3, Section 318(11) of the City of Johnson City Code is hereby amended to delete language prohibiting delivery of beer.

SECTION XIII. That Title 8, Chapter 3, Section 321 of the City of Johnson City Code is hereby amended and renumbered to read as follows:

8-321 Certificate of compliance – application – filing; contents

(1) Any person intending to apply for a state license for a retail liquor store shall first apply for a certificate of compliance from the City of Johnson City, pursuant to Tennessee Code Annotated, § 57-3-803. The application for a certificate shall be in writing on a form furnished by the City Recorder. A certificate of compliance for a retail liquor store shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the Tennessee Alcoholic Beverage Commission within six (6) months of the date of certificate, or if the retail liquor store for which a certificate was granted is not in operation within twelve (12) months following the issuance of the certificate and all applicable requirements of this article are met at the time the new application is received.

(2) Each applicant for a certificate of compliance shall file with the city manager a completed form of application, on a form to be provided by the city manager or designee, and which shall contain all of the following information:

- (a) The name and street address of each person to have any interest, direct or indirect, in the license as owner, partner or stockholder or otherwise;
- (b) The name of the liquor store to be operated under the license;
- (c) The address of the liquor store to be operated under the license and the applicable zoning designation; and
- (d) The agreement of each applicant to comply with the state, federal and city laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages, and the agreement of each applicant as to the validity of and the reasonableness of the regulations, inspection fees and taxes provided in this chapter with reference to the sale of alcoholic beverages.

(3) The application form shall be accompanied by a copy of each questionnaire form and other material to be filed by the applicant with the Tennessee Alcoholic Beverage Commission in connection with this same application, and shall also be accompanied by one (1) copy of a scale plan drawn to a scale of not less than one inch equals twenty feet (1" = 20'), giving the following information:

- (a) The shape, size and location of the lot upon which the liquor store is to be operated under the license;
- (b) The shape, size, height and location of all buildings, whether they are to be erected, altered, moved or existing, upon the lot;
- (c) The off-street parking space and the off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street; and
- (d) The identification of every parcel of land within one hundred feet (100') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon, and the use being made of every such parcel. The application form shall be signed and verified by each person to have any interest in the license either as owner, partner or stockholder or otherwise. If at any time the applicable state statutes should be changed so as to dispense with the requirement of a certificate of compliance, no original or renewal license shall be issued until an application in the same form has been filed with the city recorder.

SECTION XIV. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION XV. BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its passage on third and final reading and publication as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING
ON THE FIRST READING 8-06-20

PASSED IN OPEN, PUBLIC MEETING
ON THE SECOND READING 8-20-20

PASSED IN OPEN, PUBLIC MEETING
ON THE THIRD READING 9-03-20

APPROVED AND SIGNED IN OPEN
MEETING ON THE 3 DAY OF
September, 2020.

FOLLOWING PASSAGE ON THIRD
READING.

/s/ Jenny Brock
MAYOR

ATTEST:

/s/ Janet Jennings
CITY RECORDER

APPROVED AS TO FORM:

/s/ Sunny Sandos
STAFF ATTORNEY