

ORDINANCE NUMBER 11142006

AN ORDINANCE TO AMEND THE BRIGHTON MUNICIPAL CODE TO ALLOW THE SALE OF BEER IN THE TOWN OF BRIGHTON.

WHEREAS, the Municipal Code of the Town of Brighton prohibits the sale of beer within the town limits of Brighton; and

WHEREAS, the Board of Mayor and Aldermen of the Town of Brighton have had a request from a business owner to be permitted to sell beer in the Town of Brighton; and

WHEREAS, beer is sold in all of the surrounding cities and the County of Tipton;

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF BRIGHTON THAT:

SECTION 1. The Municipal Code of the Town of Brighton is hereby amended by deleting the current municipal code section that prohibits the sale of beer within the town limits of Brighton and substituting instead the following as Title Eight Chapter 2 of the Brighton Municipal Code:

CHAPTER 2

BEER

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-213. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-214. Revocation of beer permits.
- 8-215. Civil penalty in lieu of suspension.
- 8-216. Violations.

8-201. 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.

8-202. 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 town 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.

8-203. 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.

8-204. 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.

8-205. 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.

8-206. "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.

8-207. 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, § 57-5-104 (a), 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 Brighton. 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.

8-208. 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 each successive January 1 to the Town of Brighton, 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.

8-209. 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. 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.

Classes of permits. There shall be three (3) classes of permits issued by the beer board, as follows:

(1) Class A. A manufacturer's permit to a manufacturer of beer for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer. A manufacturer of beer shall be defined as one who employs a minimum of twenty-five (25) full-time employees in the manufacturing of beer.

(2) Class B. An "off-site" permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

(3) Class C. An "on-site" permit to any person or legal organization engaged in the operation of a restaurant wherein the sale of beer is for consumption on the premises. A restaurant shall be defined as a business establishment whose primary business is the sale of prepared food to be consumed on the premises and less than thirty percent (30%) of its income is from the sale of beer and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall not be limited. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the town at the date of the passage of this ordinance shall continue to be renewed.

8-211. 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 one hundred (100) feet of any school or church. The distances shall be measured in a straight line from the nearest point of the building from which the beer will be manufactured, stored or sold to the nearest point of the building

of the school or church. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school or church if a valid permit had been issued to any business on that same location as of November 1st, 2006 unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after November 1st, 2006.

8-212. 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 beer or other alcoholic beverage, 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.

8-213. 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 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 less than 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 or between the hours of 12:00 Midnight and 12:00 Noon at any time on Sunday.
- (4) Make or allow any sale of beer to a person less than twenty-one (21) years of age.
- (5) Allow any person less than 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 drunken 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) Fail to provide and maintain separate sanitary toilet facilities for men and women.

8-214. 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.

8-215. 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.

Payment of the civil penalty in lieu of 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 town may impose.

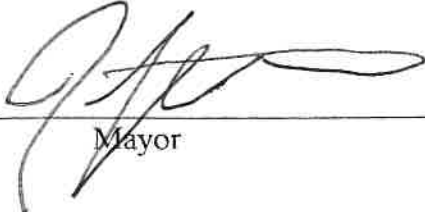
8-216. Violations. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

SECTION 2. Repealer Provisions. That all ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict, hereby repealed.

SECTION 3. This ordinance shall take effect upon its final reading, the public health, safety and welfare requiring it.

First Reading this 14 day of November, 2006.

Second Reading this 28 day of November, 2006.



Mayor



Recorder