

**ORDINANCE 18-O-42** amending the Murfreesboro City Code, Chapter 4, Alcoholic Beverages, including liquor, wine, and beer.

**WHEREAS**, City staff have recommended several changes to improve the administration of the regulations imposed by Chapter 4, Alcoholic Beverages, of the Murfreesboro City Code; and,

**WHEREAS**, City Council finds that these recommendations are consistent with State law and the reasonable regulation of lawful economic activity; and,

**WHEREAS**, these changes are necessary to implement sections of the general statutes adopted by the Tennessee General Assembly and signed by the Governor earlier this year.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:**

SECTION 1. Chapter 4, Article I, Section 4-11 of the Murfreesboro City Code, is hereby deleted in its entirety and substituted in lieu thereof with the following:

**SECTION 4-11 LOCATION RESTRICTIONS ON RETAIL LIQUOR STORES.**

- (A) No Retail Liquor Certificate of Compliance shall be issued to an applicant where the business for which the applicant is seeking a certificate is located on property in any zone established by the City's Zoning Ordinance other than Commercial Fringe (CF) District, Highway Commercial (CH) District, Central Business District (CBD); Heavy Industrial (HI) District; Light Industrial (LI) District; Mixed Use (MU) District; Planned Commercial District (PCD); Planned Industrial District (PID); or Planned Unit District (PUD) with "liquor store" as a permitted use.
- (B) No Retail Liquor Certificate of Compliance shall be issued to an applicant where the applicant's business is located within 1,500 feet of an existing retail liquor store, such distance to be measured by following the shortest route of pedestrian travel along the public right-of-way from the main entrance of the existing store to the main entrance of the applicant's building. For purposes of this subsection (B), the public right-of-way shall be deemed to include any private sidewalk, drive, or parking lot generally open for use by the public at large.
- (C) No Retail Liquor Certificate of Compliance shall be issued for any premises that fails to meet the minimum distance of separation requirements set forth in Table 4-11. Compliance with this subsection (C) shall be determined by measuring the length of a straight line drawn from the closest point of the property line of the school or place of worship and the center of the main entrance of the proposed retail liquor store.

**TABLE 4-11**

Zone	Minimum Distance of Separation Between Retail Liquor Store and:	
	School	Place of Worship
CF	500 ft.	300 ft.
CH	500 ft.	300 ft.
CBD	500 ft.	300 ft.
HI	500 ft.	300 ft.
LI	500 ft.	300 ft.
MU	500 ft.	300 ft.
PCD/PID/PUD	500 ft.	300 ft.

- (D) Notwithstanding the distance restrictions set forth in Section 4-11(B) and (C), City Council shall approve a request to renew a Retail Liquor Certificate of Compliance, provided the retail liquor store in question satisfied the distance requirements

applicable at the time a certificate was first requested for the store and the renewal request satisfies the requirements of Section 4-9.

SECTION 2. Chapter 4, Article III, Section 4-41(13) of the Murfreesboro City Code, is hereby deleted in its entirety and substituted in lieu thereof with the following:

"(13) *"Permitted premises."* The property owned, leased, controlled, or otherwise used by a permit holder and so connected with the business activity in which the permit holder is engaged so as to form a component or integral part of it, including, but not limited to a building in which such business is located and the parking areas surrounding it."

SECTION 3. Chapter 4, Article III, Section 4-51 of the Murfreesboro City Code is hereby amended by adding a new subsection (A)(8):

"(8) *On-Premises Retail Permit for State-Owned Property.* An on-premises retail permit for state-owned property authorizes a permit holder to engage in the retail sale of beer where the beer is to be consumed by the purchaser upon the permitted premises. An on-premises retail permit for state-owned property may be issued to a state agency or a state agency's private contractor."

SECTION 4. Chapter 4, Article III, Section 4-54 of the Murfreesboro City Code is hereby amended by adding a new subsection (D):

"(D) This section shall not apply with respect to any applicant for an on-premises retail permit for state-owned property."

SECTION 5. Chapter 4, Article III, Section 4-59 of the Murfreesboro City Code is hereby amended at subsection (D)(1) by adding the following sentence to the end of the existing subsection: "The prohibition against loitering by persons under the age of 21 shall apply only to limited-service restaurants and clubs, as both are defined in T.C.A. § 57-4-102."

SECTION 6. Chapter 4, Article V, Sections 4-87 and 4-88 of the Murfreesboro City Code are deleted in their entirety and substituted in lieu thereof the following:

**SECTION 4-87     NUDITY ON PREMISES WHERE BEER IS OFFERED FOR SALE.**

(A) No permit holder shall:

- (1) Allow any person to be involved in the sale or service of beer upon the permitted premises while such person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals; or
- (2) Allow any person to mingle with patrons upon the permitted premises while such person is unclothed or in such attire, costume or clothing as described in subsection (1).

(B) Any violation of this section shall constitute a civil offense and shall upon conviction, be punishable by a penalty under Code § 1-8 of the City Code, in addition to or in lieu of any other penalty or remedy established in this article.

(C) Violation of this section by a person holding a beer permit issued by the City, or by any employee or agent of such permit holder, shall constitute grounds for suspension or revocation of such permit pursuant to the procedures set forth in Article III of this chapter.

(D) If the owner, operator, licensee, lessor, lessee, manager, employee, or any other person participating in the operation of a commercial establishment located within the City at which alcoholic beverages are offered for sale for consumption on the premises shall be convicted of any of the offenses designated in this Code § 4-87 as set forth herein, then the City Recorder shall notify the Tennessee Alcoholic Beverage Commission and request the liquor permit be revoked.

**SECTION 4-88 SEXUALLY-EXPLICIT ENTERTAINMENT AND CONDUCT PROHIBITED WHERE BEER IS OFFERED FOR SALE.**

- (A) For purposes of this section, the following terms shall have the meanings ascribed to them below:
- (1) "Patently offensive." That which goes substantially beyond customary limits of candor in describing or representing the matter described or represented.
  - (2) "Prurient interest." A shameful or morbid interest in sex.
  - (3) "Sexual conduct."
    - (a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated. A sexual act is simulated when it depicts explicit sexual activity which gives the appearance of ultimate sexual acts, anal, oral or genital. Ultimate sexual acts include sexual intercourse, anal or otherwise, fellatio, cunnilingus and sodomy; or
    - (b) Patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals.
- (B) Live entertainment is permitted upon a permitted premises subject to the prohibitions, restrictions, and requirements set forth in any applicable state or federal law, the City Code (including without limitation Chapters 4, 7, and 21), and the City's Zoning Ordinance.
- (C) No permit holder, either knowingly or through the negligent supervision of an employee or agent, shall allow any person on the permitted premises to:
- (1) Engage in any sexual conduct as defined above;
  - (2) Simulate through the use of an artificial device or object any sexual conduct;
  - (3) Expose a person's genitals, anus, or pubic area to public view;
  - (4) Wear or use any device or covering that is visible to others and simulates the genitals, anus, pubic hair or any portion thereof; or
  - (5) Touch, caress, or fondle the breast, genitals, anus, or exposed buttocks of any other person.
- These general prohibitions notwithstanding, the foregoing subsections (2), (3), (4), and (5) shall not apply to any artistic performance or exhibition that, when taken as a whole, expresses matters of serious literary, artistic, scientific or political value; is not in violation of state or federal law regarding pornography or obscenity; and occurs on a premises that is not predominantly used for sexually oriented adult entertainment. A premises used predominantly for sexually oriented entertainment includes, without limitation, any location regulated as a sexually oriented business under Section 32 of the Murfreesboro Zoning Ordinance.
- (D) No permit holder shall permit any person who exposes to public view any portion of the person's genitals or anus to remain on the permitted premises.
- (E) Any entertainer employed by a permit holder to dance at the permitted premises shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.
- (F) No permit holder shall allow any obscene film, photograph, electronic reproduction or other visual reproduction to be shown or displayed on the permitted premises. For purpose of this subsection (F), obscene means:
- (1) The average person applying contemporary community standards would find that the film, photograph, electronic reproduction, or other visual reproduction, taken as a whole, appeals to the prurient interest;
  - (2) The average person applying contemporary community standards would find that the film, photograph, electronic reproduction, or other visual reproduction depicts or describes, sexual conduct in a patently offensive way; and;
  - (3) The film, photograph, electronic reproduction, or other visual reproduction, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (G) Any violation of this section shall constitute a civil offense and shall upon conviction, be punishable by a penalty under Code § 1-8 of the City Code, in addition to or in lieu of any other penalty or remedy established in this article.
- (H) Violation of this section by a person holding a beer permit issued by the City, or by any employee or agent of such permit holder, shall constitute grounds for suspension or revocation of such permit pursuant to the procedures set forth in Article III of this chapter.
- (I) If the owner, operator, licensee, lessor, lessee, manager, employee, or any other person participating in the operation of a commercial establishment located within the

City at which alcoholic beverages are offered for sale for consumption on the premises shall be convicted of any of the offenses designated in this Code § 4-88 as set forth herein, then the City Recorder shall notify the Tennessee Alcoholic Beverage Commission and request the liquor permit be revoked.

SECTION 7. Should any article, section, subsection, sentence, clause, provision, or word of this ordinance be declared to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the ordinance as a whole, or any part thereof other than the part declared to be unconstitutional or invalid, as each such article, section, subsection, sentence, clause, provision, or word hereof is declared to be severable.

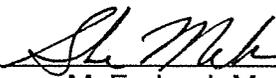
SECTION 8. The captions and headings of sections throughout this Ordinance are intended solely to facilitate reading and reference to the sections and provisions of this Ordinance. Such captions shall not affect the meaning or interpretation of this Ordinance.

SECTION 9. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1<sup>st</sup> reading July 12, 2018

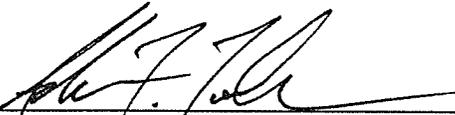
2<sup>nd</sup> reading July 19, 2018

  
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Shane McFarland, Mayor

ATTEST:

  
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Melissa B. Wright  
City Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Adam F. Tucker  
Interim City Attorney

SEAL