

ORDINANCE NO. 2020-002

**AN ORDINANCE OF THE TOWN OF THOMPSON'S STATION, TENNESSEE TO
AMEND TITLE 8, ALCOHOLIC BEVERAGES ORDINANCE**

WHEREAS, Town Staff and the Beer Board is recommending changes to certain provisions of the Town's Ordinance, under Title 8, Alcoholic Beverages to improve and clarify as to the process and procedures for the notice, payment and collection of the privilege tax.

WHEREAS, the Beer Board has reviewed these proposed changes and has recommended that the Board of Mayor and Aldermen adopt the amendments to the Ordinance under Title 8 as proposed herein; and

WHEREAS, the Board of Mayor and Aldermen has reviewed the Ordinance under Title 8, Alcoholic Beverages, and has determined, based upon the recommendations of Town Staff, the Beer Board, and the record as a whole, that the proposed amendments are consistent and appropriate to improve the process and procedures for the collection of the privilege tax, and does overall make improvements to the Ordinance, and is in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee, as follows:

Section 1. That the Town of Thompson's Station's Ordinance, under Title 8, Alcoholic Beverages is hereby amended by adopting the changes as set out in Exhibit A attached hereto and incorporated herein by reference. After final passage, Town Staff is directed to incorporate these changes into an updated ordinance document and said document shall constitute the Alcoholic Beverages ordinances of the Town.

Section 2. If any section or part of the Ordinance, including any amendments thereto, is determined to be invalid for any reason, such section or part shall be deemed to be a separate and independent provision. All other sections or parts shall remain in full force and effect. If any section or part of the Ordinance is invalid in one or more of its applications, that section or part shall remain in effect for all other valid applications.

Section 3. This ordinance shall take effect immediately upon the publication of its caption in a newspaper of general circulation after final reading by the Board of Mayor and Aldermen, the public welfare requiring it.

Duly approved and adopted by the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee, on the ____ day of _____, 2020.

Corey Napier, Mayor

ATTEST:

Regina Fowler, Town Recorder

Passed First Reading: _____

Passed Second Reading: _____

Submitted to Public Hearing on the ____ day of _____, 2020, at 7:00 p.m., after being advertised in the *Williamson AM* Newspaper on the ____ day of _____, 2020.

Recommended for approval by the Beer Board on the _____ day of _____, 2020.

APPROVED AS TO FORM AND LEGALITY:

Town Attorney

EXHIBIT A
TITLE 8
ALCOHOLIC BEVERAGES¹

CHAPTER

1. BEER.

CHAPTER 1

BEER²

SECTION

- 8-101. Beer board established.
- 8-102. Meeting of the beer board.
- 8-103. Record of beer board proceedings to be kept.
- 8-104. Requirements for beer board quorum and action.
- 8-105. Powers and duties of the beer board.
- 8-106. "Beer" defined.
- 8-107. Permit required for engaging in beer business; privilege tax.
- 8-108. Beer permits shall be restrictive.
- 8-109. Types of permits
- 8-110. Interference with public health, safety, and morals prohibited.
- 8-111. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-112. Prohibited conduct or activities by beer permit holders.
- 8-113. Suspension and revocation of beer permits.
- 8-114. Civil penalty in lieu of revocation or suspension.
- 8-115. Revocation of clerk's certification for sale to minor.

8-101. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be chairman of the beer board. (Ord. #96-001, April 1996)

8-102. Meeting of the beer board. All meeting 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

¹State law reference

Tennessee Code Annotated, title 57.

²State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W. 2d 104 (1982).
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. (Ord. #96-001, April 1996)

8-103. Record of beer board proceedings to be kept. The town recorder shall make a record of the proceedings of all meeting 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 recording 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. (Ord. #96-001, April 1996)

8-104. 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. Any member present but not voting shall be deemed to have cast a “nay” vote. (Ord. #96-001, April 1996)

8-105. 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 town in accordance with the provisions of this chapter. (Ord. #96-001, April 1996)

8-106. “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. (Ord. #96-001, April 1996).

8-107 Permit required for engaging in beer business; privilege tax; Notice and Collection (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making applications to and obtaining a permit from the beer board. The application shall be made on such form as the board shall pre scribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and 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 Thompson’s Station, Tennessee. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter.

(2) Privilege tax. There is hereby imposed on the business of selling, distribution, storing or manufacturing beer, an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicated or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and **on or before** each successive January 1, to the Town of Thompson’s Station, 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. (Ord. #96-001, April 2006)

(3) Notice and collection of the privilege tax. Pursuant to Tenn. Code Ann. §57-5-104 (a)(3), the Town shall mail written notice to each permit holder of the payment date of the

annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to the address specified by the permit holder on its permit application, or at such other address as provided by the permit holder to the Town. If a permit holder does not pay the tax by January 31st or within thirty (30) days after written notice of the tax was mailed by the Town, whichever is later, then the Town shall notify the permit holder by certified mail, return receipt requested, that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the Town may suspend or revoke the permit or impose a civil penalty pursuant to Tenn. Code Ann. § 57-5-108.

8-108. Beer permits shall be restrictive. (1) All beer permits shall be restrictive as to the type of beer a business is authorized to sell under the permit. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. 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 authorized by the beer board.

(2) A beer permit issued hereunder shall be issued only in the name of the individual, manager or employee applicant. A permit, except as authorized stated in this chapter, shall continue to be valid so long as that individual, manager or employee is engaged in business at the location authorized in the permit. The individual, manager or employee is charged with compliance of this chapter at the permit location. A permit does not run with the land or business. (Ord. #96-001, April 2006)

8-109. Types of permits. Permits issued by the beer board shall consist of three (3) types:

(1) An “on-premises permit” shall be used for the consumption of beer only on the premises. To qualify for an on-premises permit, an establishment, in addition to meeting the other regulations and restrictions in this chapter, must:

- (a) Be a restaurant or eating place; and
- (b) Be able to seat a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) Have all seating in the interior of the building or under a permanent roof.

(2) An “off-premises permit” shall be issued for the consumption of beer only off of the premises. To qualify for an off-premises permit, an establishment, in addition to meeting the other regulations herein, must;

- (a) Be a grocery store or convenience type market; and
- (b) In either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline.

(3) A “special event permit” may be issued by the beer board for the sale of beer for consumption on the premises of a special event upon an application describing the location and type of event. The beer board may waive the permit fee and tax for special events sponsored by

a bona fide charitable or non-profit organization or a governmental entity. The duration of a special event beer permit shall not exceed seventy-two (72) hours and shall not be issued to the same person or entity more than once within any thirty (30) day period. (Ord. #96-0001, April 1996, as amended by Ord. #08-012, June 2008)

8-110. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business(es) would cause congestion of traffic or would interfere with public health, safety and morals. In no event will a permit be issued authorizing the storage, sale or manufacture of beer by the permit holder within three hundred feet (300') of any school or church as measured in a straight line from the nearest corner of the school or church to the nearest corner of the structure where the beer is to be stored, sold or manufactured. (Ord. #05-004, March 20018)

8-111. 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 intoxicating liquor 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. (Ord. #96-001, April 1996)

8-112. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Make or allow sale of beer between the hours of 12:00 midnight and 6:00am.;
- (2) Allow any loud, unusual or obnoxious noises to emanate from the premises;
- (3) Make or allow any sale of beer to a person under twenty-one (21) years of age;
- (4) Allow any person under twenty-one (21) years of age to loiter in or about his place of business;
- (5) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane or otherwise mentally incapacitated person;
- (6) Allow durn persons to loiter about the premises;
- (7) 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; and
- (8) "Off-premises" permit holders shall not allow the consumption of alcohol in or about their premises whatsoever;
- (9) Allow gambling on his premises;
- (10) "On-premises" permit holders shall not fail to provide and maintain sanitary toilet facilities;
- (11) Allow an employee of the permit holder who is under the age of eighteen (18) years of to sell beer. (Ord. #96-001, April 1996, as amended by Ord. #07-009, Sept. 2007)

8-113. Suspension and revocation of beer permits. (1) The beer board shall have the power to suspend or 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 violation any of the provisions of this chapter. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. [Suspension or revocation proceedings may be initiated by any member of the beer board upon said member's written request to the chairman of the beer board. Said request shall be in writing, and a notice to the beer permit holder of the initiation of such proceedings shall be sent by certified mail. The notice shall include the basis of such initiation, and the date, time and location of any such public hearing for consideration of such suspension or revocation.](#)

(2) 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 (12) month period. The revocation shall be for three (3) years. (Ord. #96-001, April 1996, as amended by Ord. #07-009, Sept. 2007)

8-114. 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 not to exceed 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 not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed 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 town may impose. (Ord. #07-009, Sept. 2007)

8-115. Revocation 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 the 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. (Ord. #07-009, Sept. 2007)