

## ORDINANCE # 360

### AN ORDINANCE TO MAKE AMEND CHAPTER 2, SECTION 8 OF THE CARTHAGE MUNICIPAL CODE, ENTITLED "BEER"

WHEREAS, current Chapter 2, Section 8 of the Town of Carthage Municipal Code, entitled "Beer" regulates the sale of beer in the City limits of the Town of Carthage;

WHEREAS, it is necessary to alter or amend certain provisions of this Chapter;

NOW THEREFORE, BE IT ENACTED BY THE GOVERNING BODY OF THE CITY OF CARTHAGE, THAT:

THE CARTHAGE MUNICIPAL CODE BE AMENDED BY DELETING IN ITS ENTIRETY CHAPTER 2, SECTION 8-207 THROUGH SECTION 8-215 AND REPLACING IT WITH THE FOLLOWING:

#### Chapter 9 - BEER

Sections 8-201 through Section 8-206 of the current Carthage Municipal Code shall remain unaltered and in full force and effect.

**8-207. Permit required for engaging in beer business.** It is 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 is to be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, Section 57-5-104(a), 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 check payable to the City of Carthage. Each applicant must be a person of good moral character and he/she must certify that he/she 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 (\$100.00). 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 City of Carthage. 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 of 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. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type of phase of the beer business not expressly authorized by his/her permit. It shall likewise be unlawful for him/her not to comply with any and all express restrictions or conditions in his/her permit.

**8-210. Limitation on number of permits.** Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limited to the City at the date of the passage of this ordinance shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment or building purchased.

**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 gatherings, 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 three hundred (300) feet of any school, residence, church or other place of public gathering, defined as a public place which frequently has more than fifty (50) persons in attendance at a single time, event or gathering. The distance shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit has been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six-month period. The Beer Board has the absolute discretion as to grant the distance variance based on the facts and circumstances of each individual variance request.

**8-212. 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 minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.
2. Make or allow the sale of beer between the hours of 12:00 Midnight Saturday and 12:00 Noon

on Sunday.

3. Allow any person under twenty-one (21) years of age to loiter in or about his/her place of business.
4. Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane or otherwise mentally incapacitated person.
5. Allow drunk persons to loiter about his/her premises.
6. Serve, sell or allow the consumption on his/her premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
7. Fail to provide and maintain separate sanitary toilet facilities for men and women.

**8-213. Revocation or suspension of beer permits.** The Beer Board shall have the power to revoke or suspend 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/her application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension may be initiated by the Police Chief or any member of the Beer Board.

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 under 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-month (12) period. The revocation shall be for three (3) years.

**8-214. 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 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 of the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the City may impose.

**8-215. Loss of clerk's certification for sale to minors.** 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 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.

**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 continues shall constitute a separate offense.


**THIS ORDINANCE SHALL BE EFFECTIVE FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.**

Passed First Reading: NOVEMBER 1, 2007

Passed Second Reading: NOVEMBER 19, 2007

Passed Third Reading: DECEMBER 6, 2007

Adopted: DECEMBER 6, 2007

  
Mayor

ATTEST:

Abelina Spruce  
City Recorder