

## **ORDINANCE 2015-13**

### **AN ORDINANCE OF THE CITY OF BRENTWOOD, TENNESSEE PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF BRENTWOOD BE AMENDED BY REVISING SECTIONS 6-86 THROUGH 6-91 OF CHAPTER 6, ARTICLE III, IN REGARD TO ALCOHOLIC BEVERAGES OTHER THAN BEER**

**WHEREAS**, Article III of Chapter 6 of the Brentwood Municipal Code establishes requirements and restrictions pertaining to alcoholic beverages other than beer; and

**WHEREAS**, the revisions adopted herein include updated language in accordance with corresponding revisions to state law, including provisions for the sale of wine at retail food stores; and

**WHEREAS**, the Board of Commissioners has determined that the revisions adopted pursuant to this ordinance are necessary and appropriate.

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

**SECTION 1.** That section 6-86 of Chapter 6, Article III of the Code of Ordinances of the City of Brentwood is hereby amended to read as follows:

#### **Sec. 6-86. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic beverage or beverage* means and includes all alcohol, spirits, liquor, wine, high alcohol content beer and other liquids included in the definition of "alcoholic beverage" contained in T.C.A. § 57-3-101(a), as the same may be amended, supplemented or replaced.

*Certificate or certificate of compliance* means the certificate required pursuant to T.C.A. §§ 57-3-208 or 57-3-806, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this article for issuance of such a certificate.

*License* means a license issued by the alcoholic beverage commission of the state pursuant to T.C.A. §§57-3-204 or 57-3-803, as the same may be amended, supplemented or replaced, provided that the issuance of licenses shall be subject to the restrictions set forth in this article.

*Licensee* means any person to whom a license has been issued.

*Retail sale* means a sale to a consumer or to any person for any purpose other than for resale.

*Retail food store* means an establishment which is eligible for the issuance of a retail food store wine license by the alcoholic beverage commission of the state, pursuant to T.C.A. Title 57, Chapter 3, Part 8.

*Retail liquor store* means any business which is required to have a license for the retail sale of alcoholic spirituous beverages, including beer and malt beverages, under the provisions of T.C.A. Title 57, Chapter 3, Part 2.

*Wholesale* means a sale to any person for purposes of resale, except that sales by a person licensed under T.C.A. § 57-3-204 to a charitable, nonprofit or political organization possessing a valid special occasion license for resale by such organizations pursuant to their special occasion license shall not be construed as such a sale.

*Wholesaler* means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of T.C.A. Title 57, Chapter 3.

*Wine* means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, as further defined by T.C.A. §§ 57-3-101 and 57-3-802, as the same may be amended, supplemented or replaced.

**SECTION 2.** That section 6-87 of Chapter 6, Article III of the Code of Ordinances of the City of Brentwood is hereby repealed and declared null and void and of no effect.

**SECTION 3.** That section 6-88 of Chapter 6, Article III of the Code of Ordinances of the City of Brentwood is hereby amended to read as follows:

**Sec. 6-88. Certificate of compliance required prior to issuance of license.**

As a condition precedent to the issuance of a license by the state alcoholic beverage commission, an applicant for a license shall first obtain a certificate of compliance from the city, as provided below:

- (1) *Retail liquor stores.* 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, pursuant to T.C.A. § 57-3-803. The application for a certificate shall be in writing on a form furnished by the city recorder. The application shall identify the name and address of the owner of the property for which the certificate is sought, and shall be accompanied by evidence that the owner has agreed to allow the proposed retail store to be operated on the property upon issuance of a license. Applications will be considered in the chronological order in which they are received, and no

consideration will be given to the fact that other applications have subsequently been received. The certificate shall be granted or denied by the board of commissioners within 60 days after the application for the certificate is submitted to the city recorder and, if granted, shall be signed by the mayor or a majority of the board of commissioners. 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 alcoholic beverage commission within six months of the date of the certificate, or if the retail liquor store for which a certificate was granted is not in operation within 12 months following the issuance of the certificate; provided, however, that the board of commissioners may, upon written request of the applicant, extend the expiration date of a certificate for up to three additional months in the event of circumstances beyond the applicant's control. If a certificate becomes void, no new certificate may be issued to the same applicant unless a new application is submitted and all applicable requirements of this article are met at the time the new application is received. The mayor shall be authorized to issue a certificate of compliance required in connection with the renewal of an existing license pursuant to T.C.A. § 57-3-213 without deliberation by the full board of commissioners. If the mayor fails or refuses to issue a certificate required in connection with a license renewal, members of the board of commissioners may sign the certificate and the certificate shall be issued when a majority of the members have signed it.

- (2) *Retail food stores.* Any person intending to apply for a state license for the sale of wine at a retail food store shall first apply for a certificate of compliance from the city, pursuant to T.C.A. § 57-3-208. The application for a certificate shall be in writing on a form furnished by the city recorder. Upon verification that the applicant meets the requirements of T.C.A. § 57-3-208(b), the mayor may issue the certificate without action by the board of commissioners. Alternatively, members of the board of commissioners may sign the certificate and the certificate shall be issued when a majority of the members have signed it. The certificate shall be granted or denied within 60 days after the application for the certificate is submitted to the city recorder. A certificate of compliance for the sale of wine at a retail food store shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the alcoholic beverage commission within six months of the date of the certificate, or if the retail food store for which a certificate was granted is not in operation within 12 months following the issuance of the certificate; provided, however, that the mayor or a majority of the board of commissioners may, upon written request of the applicant, extend the expiration date of a certificate for up to three additional months in the event of circumstances beyond the applicant's control. If a certificate becomes void, no new certificate may be issued to the same applicant unless a new application is submitted and all applicable requirements of this article are met at the time the new application is received.

**SECTION 4.** That section 6-89 of Chapter 6, Article III of the Code of Ordinances of the City of Brentwood is hereby amended to read as follows:

**Sec. 6-89. Location restrictions.**

(a) A certificate issued under this article for a retail liquor store or for the sale of wine at a retail food store shall be valid only for the premises proposed in the application, and any change of location of the business shall be cause for immediate nullification of the certificate. No certificate of compliance shall be issued for the operation of a retail liquor store or for the sale of wine at a retail food store where such store would be a prohibited use under the city's zoning ordinance. Furthermore, no certificate shall be issued for a retail liquor store where the proposed place of business is located within 300 feet of:

- (1) A private residence which is in a residential zoning district.
- (2) Any structure used as a church or other religious institution, school or college, public library, or governmental office, if such structure is located within a service institution zoning district. "School" and "college," as used herein, shall not include private colleges or schools wherein only specialized subjects, such as music, art, cosmetology, computer skills or vocational occupations are taught.

(b) The restrictions set forth herein as to locations apply to conditions existing as of the time the application for a certificate is filed, provided that proximity of a retail liquor store to a private residence, religious institution, school, college, public library or governmental office shall not be grounds for revocation of a license or denial of a certificate if a valid license had been issued to any business at that same location, and the business has been in continuing operation since issuance of that license.

(c) In determining the distances from any structure used as a private residence, religious institution, school, college, public library or governmental office, the distance shall be measured from the nearest point of such structure to the nearest public entrance of the proposed retail liquor store, following the usual and customary path of pedestrian travel along streets and/or sidewalks.

**SECTION 5.** That section 6-90 of Chapter 6, Article III of the Code of Ordinances of the City of Brentwood is hereby amended to read as follows:

**Sec. 6-90. Limitation on number of retail liquor stores.**

There shall be no more than one retail liquor license issued under this article for every 6,000 persons within the city, according to the last federal or official supplementary census; provided further that no more than three retail liquor stores may be located in the commercial district at the northern end of the city, nor may more than three liquor retail stores be located in the commercial district at the southern end of the city.

**SECTION 6.** That section 6-91 of Chapter 6, Article III of the Code of Ordinances of the City of Brentwood is hereby amended to read as follows:

**Sec. 6-91. Full and accurate disclosure required.**

(a) Each application for a certificate required pursuant to section 6-88 herein shall identify each person who is to be in actual charge of the business and, if a corporation, each executive officer and each individual in control of the business. For the purposes of this section, an individual who owns at least 50 percent of the stock of a business is considered to be in control of the business.

(b) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a certificate, shall be a violation of this article. The city may refuse to issue a certificate if, upon investigation, the city finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the business, or if the interest of any person in the operation of the business is not truly stated in the application, or in case of any fraud or false statements by the applicant pertaining to any matter relating to the operation of the business. All data, written statements, affidavits, evidence or other documents submitted in support of an application are a part of the application.

(c) If the provisions of this section are alleged to have been violated, the city may revoke any certificate which has been issued, after first providing an opportunity for the applicant or licensee to refute such allegations and/or to show cause why the certificate should not be revoked. Revocation of a certificate for a retail liquor store shall require a majority vote of the board of commissioners. The mayor may revoke a certificate for the sale of wine at a retail food store, provided that the applicant or licensee may appeal the revocation to the board of commissioners, which may reverse the mayor's action by majority vote.

**SECTION 7.** That section 6-92 of Chapter 6, Article III of the Code of Ordinances of the City of Brentwood is hereby amended to read as follows:

**Sec. 6-92. Inspection fee.**

There is hereby imposed an inspection fee of five percent of the wholesale price of alcoholic beverages supplied by wholesalers to licensees under this article. This fee shall be collected by the wholesaler making such sales, who shall remit the fees to the city at such times and in such manner as provided in T.C.A. § 57-3-503, accompanied by such forms and other information as the city treasurer may prescribe. The wholesalers shall be allowed a fee of five percent of all sums so collected as compensation for services in collecting and remitting the fee.

**SECTION 8.** In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the City, the provision that establishes the higher standard shall prevail.

**SECTION 9.** If any section, subsection, clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision or portion of this ordinance.

**SECTION 10.** That this ordinance shall take effect from and after its final passage and publication thereof, or fifteen days after its first passage, whichever occurs later, the general welfare of the City of Brentwood, Williamson County, Tennessee, requiring it.

PASSED:	1st reading	_____	PLANNING COMMISSION	_____
	2nd reading	_____	NOTICE OF PASSAGE	
			Notice published in:	_____
PUBLIC HEARING			Date of publication:	_____
Notice published in:		_____		
Date of publication:		_____		
Date of hearing:		_____	EFFECTIVE DATE	_____

\_\_\_\_\_  
MAYOR Regina R. Smithson

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RECORDER Deborah Hedgepath

*Approved as to form:*

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CITY ATTORNEY Roger A. Horner