

ORDINANCE NO. 2022-014

AN ORDINANCE OF THE TOWN OF THOMPSON'S STATION, TENNESSEE TO AMEND TITLE 8 OF THE THOMPSON'S STATION'S MUNICIPAL CODE BY ADDING CHAPTER 2 & 3 ADDRESSING INTOXICATING LIQUORS AND ON PREMISES CONSUMPTION OF INTOXICATING LIQUORS

WHEREAS, the need to update Title 8 of the Municipal Code for the benefit of the citizens of Thompson's Station has become apparent to Town Staff, and

WHEREAS, the Board of Mayor and Aldermen have for their consideration the adoption of an amendment to Title 8 by adding Chapters 2 & 3, as proposed herein, and

WHEREAS, the Board of Mayor and Alderman have further determined that it is in the best interest of the Town to add Chapters 2 & 3 to Title 16; and

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 Municipal Code, Title 16, is amended by adding and adopting new Chapters 2 & 3, as provided hereinafter.

Section 2. That Chapters 2 & 3 are added as follows:

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CHAPTER 2 INTOXICATING LIQUORS

SECTION

8-201. Definitions.

8-202. Application of chapter.

8-203. Powers and duties of Town Administrator generally.

8-204. Classes of certificates issued; restrictions generally.

8-205. Retailer's certificates.

8-206. Wholesaler's certificate, salesman's and employee's permits, fees, etc.

8-207. Books to be kept by wholesalers; inspection fee.

8-208. Regulations as to purchase and sale, location of premises, etc.

8-209. Certificate of compliance fee to be paid by applicant; penalty.

8-210. Employment of minors.

8-211. Sales to minors.

8-212. Effect of conviction of felony involving moral turpitude.

8-213. Effect of conviction of violating laws relating to alcoholic beverages.

8-214. Sales to persons intoxicated, etc.

8-215. Inspection fee on retailers.

8-216. Violations.

8-201. Definitions. Whenever used in this chapter, unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine and capable of being consumed by a human being, other than

patented medicine, beer, or wine, where the latter two contain an alcoholic content of five percent (5%) by weight, or less.

(2) "Certificate of Compliance" means the certificate of compliance issued pursuant to this chapter and required by Tenn. Code Ann. §§ 57-3-208 and/or 57-3-806, as the same may be amended, supplemented, or replaced. Once signed by the Town, the certificate must be submitted by the applicant to the Tennessee Alcoholic Beverage Commission.

(3) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

(4) "Retailer" means any person who sells at retail any beverage for the sale of which a certificate of compliance is required under the provisions of this chapter.

(5) "Town Administrator" means the Town Administrator of the Town.

(6) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(7) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a certificate of compliance is required under the provisions of this chapter.

(8) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic saccharine and seasonal conditions, and including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be deemed "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine.

8-202. Application of chapter. It shall be lawful to store, transport, sell, distribute, possess and receive alcoholic beverages in the Town, in accordance with the provisions of Tenn. Code Ann. Title 57 Chapter 3, subject to the certificate, payment of taxes, limitations, regulations, and conditions herein provided. Nothing in this chapter is intended to relate to the transportation, storage, sale, distribution, possession or receipt of, or tax upon, any beverage of alcoholic content of five per cent (5%) by weight, or less, and no provision relating thereto shall be considered or construed as modified by this chapter.

8-203. Powers and duties of Town Administrator generally. The Town Administrator shall have Authority to employ additional necessary clerical help, whose compensation shall be paid out of the funds or receipts collected under this chapter. The Town Administrator, or his or her designee, shall enforce and administer the provisions of this chapter and the rules and regulations made by him. He shall have and exercise the following functions, duties, and powers:

To cause to be issued all certificates in respect to, or for the importation, bottling, keeping, giving away, furnishing, possession, transportation, sale, and delivery of alcoholic beverages, and to revoke any certificate of compliance whatsoever, the issuance of which is authorized by this chapter; provided, that the revocation of any certificate of compliance shall be made by the Board of Mayor and Aldermen only on account of the violation of or refusal to comply with any of the provisions of this chapter, informing such holder of the time and place of the hearing to be held in respect thereto, and all further procedure with reference to the revocation of any certificate of compliance as shall be fixed and prescribed in the rules and regulations adopted and promulgated by the Board of Mayor and Aldermen, which may be repealed or amended from time to time; provided, that in all cases it shall be the mandatory duty of the Town Administrator to revoke any wholesaler's or retailer's certificate of compliance after final judgment or conviction of any offense defined, or upon a finding by him of a violation of this chapter for the second time, whether judgment or conviction ensue or not; provided, further, that no person shall be deemed to have a property right in any certificate of compliance issued hereunder, nor shall the certificate of compliance itself, or the enjoyment thereof, be considered a property right. No retail certificate of compliance shall be issued except to an individual operating as such, or to individuals operating a general or limited partnership, other entity recognized by the state of Tennessee.

8-204. Classes of certificates issued; restrictions generally. The Town Administrator may cause to be issued, under the provisions of this chapter, the following classes of certificates of compliance:

(1) Classes. Certificates of Compliance in relation to alcoholic, spirituous beverages exclusively shall consist of the following classes only:

(a) Liquor wholesaler's Certificate of Compliance.

(b) Liquor retailer's Certificate of Compliance.

(2) Transfer; duration. The holder of a certificate of compliance or license may not sell, assign, or transfer such certificate of compliance or license to any other person, and said certificate of compliance shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by the payment of the certificate of compliance fee herein provided; provided, however, that applicants who are serving in the military forces of the United States in time of war may appoint an agent to operate under the certificate of compliance of the applicant during the absence of the applicant.

(3) Issuance of certificate of compliance where former certificate of compliance has been revoked. Where a certificate of compliance is revoked, no new certificate of compliance shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one year from the date such revocation becomes final and effective.

8-205. Retailer's certificate of compliance. For the retail sale of alcoholic, spirituous beverages, a certificate of compliance may be issued as herein provided, and such certificate of compliance shall be required prior to the issuance of a license by the state alcoholic beverage commission. Any person desiring to sell alcoholic, spirituous beverages to patrons or customers, shall make application to the Town Administrator for a retailer's certificate of compliance, which application shall be in writing, and verified, on forms herein authorized to be prescribed and furnished; and the Town Administrator may, subject to the restrictions of this chapter, cause such retailer's certificate of compliance to be issued.

(1) Fee; citizenship requirements. Such retailer's certificate of compliance shall not be issued unless and until the applicant therefor shall pay to the Town a certificate of compliance fee of two hundred and fifty dollars (\$250.00).

(2) Limitation on number of certificates to be issued. No person, firm, or other entity shall be licensed under this chapter, through a certificate of compliance, to engage in the sale or distribution of alcoholic beverages in excess of two (2).

8-206. Wholesaler's certificate of compliance, salesman's and employee's permits, fees, etc. Any person or other entity desiring to sell at wholesale any alcoholic, spirituous beverages shall make application to the Town Administrator for a certificate of compliance, which application shall be in writing and verified, on the forms herein authorized to be prescribed and furnished. Thereupon the Town Administrator may cause to be granted such certificate of compliance subject to the restrictions of this chapter. . No wholesale alcoholic, spirituous beverage certificate of compliance shall be issued until the applicant has secured a basic permit to engage in the wholesale liquor business from the federal and/or state government. The sole purpose for the wholesaler certificate of compliance is to ensure the Town is aware of each and every wholesaler who conducts business within the municipal limits of the Town and to ensure said wholesaler collects, records, and remits the required inspection fee, as defined herein.

8-207. Books to be kept by wholesalers; inspection fee. All wholesalers of spirituous liquor shall keep a book in which they shall cause each purchaser of spirituous liquor to enter his name, address, and the amount, serial and stamp number of such liquor.

8-208. Regulations as to purchase and sale, location of premises, etc.

(1) Certificate of compliance required for sale or purchase. No retailer shall purchase any alcoholic beverages from anyone other than a wholesaler who has received a certificate of compliance under this

chapter. No wholesaler shall sell any alcoholic beverages to anyone other than a retailer who has received a certificate of compliance under this chapter.

(2) Retailer limited to one place of business. No retailer shall, directly or indirectly, operate more than one place of business, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(3) Requirements as to wholesalers. No alcoholic beverage for sale to the retailer or his representative, shall be sold except by a licensed wholesaler, who sells for resale on his premises and who carries on no other business, directly or indirectly, and whose wholesale business in alcoholic beverages is not operated as an adjunct to, or supplementary to, the business of any other person, either by way of lease of such wholesale premises or otherwise, for any business other than that permitted by the terms of his wholesale license.

(4) Location of premises; entrances and exits. No wholesaler or retailer shall be located except on the ground floor and shall have one main entrance opening on a public street; such place of business shall have no other entrance for use by the public except as hereafter provided.

8-209. Certificate of compliance fee to be paid by applicant; penalty. The certificate of compliance fee for every certificate of compliance, as applicable, issued under this chapter shall be payable by the person making application for such certificate of compliance and to whom it is issued, and no other person shall pay for any certificate of compliance issued under this chapter. In addition to all other penalties provided for violations of this chapter, a violation of this section shall authorize and require the revocation of the certificate of compliance the fee for which was paid by another, and also the revocation of the certificate of compliance, if any, of the person so paying for the certificate of compliance of another.

8-210. Employment of minors. No wholesaler or retailer, or any employee thereof, engaged in the physical storage, sale, or distribution of alcoholic beverages shall be a person under the age of eighteen years. It shall be unlawful for any wholesaler or retailer to employ any person under eighteen years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under such age on his place of business to engage in the storage, sale, or distribution of alcoholic beverages.

8-211. Sales to minors. No retailer shall sell any alcoholic beverages to a person known to be a minor.

8-212. Effect of conviction of felony involving moral turpitude. No wholesaler or retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the concern with which he is connected shall receive a certificate of compliance; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction and in case of any such conviction occurring after a certificate of compliance has been issued and received, the certificate of compliance shall immediately be revoked, if such convicted felon be an individual applicant, and, if not, the partnership, corporation, or association with which he is connected shall immediately discharge him.

8-213. Effect of conviction of violating laws relating to alcoholic beverages. None of the certificates of compliance provided by this chapter, or which may be issued hereunder, shall under any condition be issued to any person who, within ten years preceding application for such certificate of compliance or permit shall have been convicted of any offense under the laws of the State of Tennessee, of any other state, or the United States, prohibiting or regulating the sale, possession, transportation, storing, or otherwise handling alcoholic beverages or who has during said period been engaged in business, alone or with others, in violation of any of such laws or rules and regulations promulgated pursuant thereto, as they exist at the time of the adoption of provisions in this chapter or may exist hereafter.

8-214. Sales to persons intoxicated, etc. No retailer shall sell any alcoholic beverages to any person who is visibly intoxicated, nor to any person accompanied by a person who is visibly intoxicated.

8-215. Inspection fee on retailers.

(1) Pursuant to Tennessee Code Annotated, § 57-3-501, there is hereby levied upon every licensed retailer of alcoholic beverages located and doing business within the municipal limits of the Town of Thompson's Station, Tennessee, an inspection fee of five percent (5%) of the wholesale price, paid by such retailer to a wholesaler, of all alcoholic beverages supplied by a wholesaler of alcoholic beverages to such retailer: said fee to be collected by the wholesaler as hereinafter provided.

(2) The inspection fee shall be collected by the wholesaler from the retailer following notice given the wholesaler by the Town Administrator, or his or her designee, of the Town of Thompson's Station, Tennessee, of the existence of this section. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(3) Every wholesaler making sale of alcoholic beverages to retailers thereof located and doing business within the corporate limits of the Town of Thompson's Station, Tennessee, shall furnish the Town a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within the municipality, the wholesale price of the alcoholic beverages sold to each retailer and the amount of tax due. Such monthly reports shall be furnished the Town of Thompson's Station not later than the 20th day of the month following the month in which the sales were made. All inspection fees collected by a wholesaler from any retailer located within the Town of Thompson's Station shall be paid to the Town at the time the monthly report is made. Wholesalers collecting and remitting the above inspection fee to the Town shall be entitled to reimbursement for this collection service of a sum equal to five per cent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the Town.

(4) Failure of any such wholesaler to collect or timely report and/or pay the inspection fee collected to the Town, as aforesaid, shall result in a penalty of ten per cent (10%) of the inspection fees due the Town, which shall be payable to the Town.

(5) The Town of Thompson's Station, Tennessee, shall have the authority to audit the records of all wholesalers and retailers subject to the provisions of this chapter in order to determine the accuracy of the reports of the wholesalers.

(6) The inspection fee herein provided for shall be in lieu of all other gross receipt inspection fees imposed upon wholesalers or retailers of alcoholic beverages by the Town.

8-216. Violations.

(1) Any violation of the terms of this chapter shall constitute a civil misdemeanor and shall be punished by a fine of \$50.00 per violation per day in addition to any other remedy available to the Town at law.

(2) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a certificate of compliance, shall be a violation of this title. The Town may refuse to issue a certificate if, upon investigation, the Town 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 part of the application.

(3) If the provisions of this chapter are alleged to have been violated, the Town may revoke any certificate which has been issued, after first providing an opportunity for the applicant or licensee to refute such allegations and/or show cause why the certificate should not be revoked. Any such revocation shall require a majority vote of the Board of Mayor and Alderman.

CHAPTER 3

ON PREMISES CONSUMPTION OF INTOXICATING LIQUORS

SECTION

8-301. Definition of alcoholic beverages.

8-302. Consumption of alcoholic beverages on premises.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-304. Annual privilege tax to be paid to the Town Clerk.

8-301. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise: alcoholic beverages mean and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less.

8-302. Consumption of alcoholic beverages on premises.

Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption, which are regulated by the said code when such sales are conducted within the corporate limits of Fairview, Tennessee. It is the intent of the board of commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Town of Thompson's Station, Tennessee, the same as if said code sections were copied herein verbatim. It shall be legal to sell and consume alcoholic beverages on premises in the Town of Thompson's Station, Tennessee, in accordance with the provisions of this chapter not withstanding any provision of any previous ordinance(s) of the Town of Thompson's Station, Tennessee, to the contrary.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

Pursuant to the authority contained in Tennessee Code Annotated, 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the Town of Thompson's Station, Tennessee, General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Thompson's Station, Tennessee, alcoholic beverages for consumption on the premises where sold.

8-304. Annual privilege tax to be paid to the Town Clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Thompson's Station, Tennessee, shall remit annually to the Town Clerk the appropriate tax described in 8-303. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

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Section 3. After final passage, Town Staff is directed to incorporate these changes into an updated ordinance document and municipal code.

Section 4. 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 5. This ordinance shall take effect upon the final reading and approval 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 _____, 2022.

Corey Napier, Mayor

ATTEST:

Regina Fowler, Town Recorder

Passed First Reading: _____

Passed Second Reading: _____

APPROVED AS TO FORM AND LEGALITY:

Town Attorney

