

ORDINANCE NO. O-2023-015

**AN ORDINANCE TO AMEND TITLE 8 OF THE SEVIERVILLE MUNICIPAL CODE BY ADDING A NEW
CHAPTER 3, "RETAIL PACKAGE STORES"**

WHEREAS, voters in the May 2023 Sevierville Municipal Election voted to allow retail package stores inside the corporate limits of the City; and,

WHEREAS, the Board of Mayor & Aldermen conducted several public workshops to receive public input and comment and to discuss the provisions of a new Ordinance.

NOW, THEREFORE, be it ordained by the Mayor & Aldermen of the City of Sevierville, Tennessee, that Title 8 of the Sevierville Municipal Code be amended by adding a new Chapter 3, "Retail Package Stores" as set forth in Exhibit A to this Ordinance, providing for the establishment of retail package liquor stores within the City.

This Ordinance shall take effect five (5) days from and after its final passage, the public welfare requiring it.

APPROVED: 
Robbie Fox, Mayor

ATTEST:


Lynn K. McClurg, City Recorder

Passed on 1st reading: 09/18/2023

Passed on 2nd reading: 10/02/2023

Passed on 3rd reading: 10/16/2023

CHAPTER 3
RETAIL PACKAGE STORES

SECTION

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8-301. Definitions. Whenever used in this title, the following terms shall have the following meanings unless the context necessarily requires otherwise:

- (1) "Alcoholic beverage." See definition in Section 8-101 of this Code.
- (2) "Applicant." A person applying for a certificate of compliance.
- (3) "Applicant group." More than one person joining together to apply for a certificate of compliance to operate a single retail package store pursuant to the same application.
- (4) "Application." The form or forms or other information an applicant or applicant group is required to file with the city in order to attempt to obtain a certificate of compliance.
- (5) "Arterial street." A major thoroughfare designed to carry traffic to and through the City, as designated on the City's Functional Road Classification Plan.
- (6) "Certificate of compliance." The certificate required in Tennessee Code Annotated, § 57-3-208, as the same may be amended, supplemented, or replaced.
- (7) "Church." A building or property where a congregation meets at least weekly for religious worship services.
- (8) "City." The City of Sevierville, Tennessee.
- (9) "Co-licensees." Persons who together hold a license for a single retail package store.
- (10) "Indirect interest." Any kind of interest in a retail business by way of stock ownership, loan, partner's interest or otherwise.
- (11) "Licensee." The holder or holders of a retail package store license issued by the Tennessee Alcoholic Beverage Commission. In the event of co-licensees, each person who receives a certificate of compliance shall be a licensee subject to the rules and regulations herein.
- (12) "Person." Person means any natural person as well as any corporation, limited liability company, partnership, firm or association or any other legal entity recognized by the laws of the State of Tennessee.

(13) "Retail package store." The building or part of a building where a licensee conducts any of the business authorized by the state retail package store license held by such licensee.

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

(15) "School." An institution operated by the Sevier County Board of Education where regular classes are conducted under the supervision of an instructor and taught to persons enrolled in grades pre-kindergarten through the 12th grade.

(16) "State law." All applicable laws, rules, and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may hereafter be amended, supplemented, or replaced.

8-302. Selling and distributing generally. It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages within the corporate limits of the city except as provided by state law and this Title.

8-303. Licenses required for sale of alcoholic beverages at retail. It shall be lawful for a licensee to sell alcoholic beverages at retail in a retail package store, provided that such sales are made in strict compliance with all federal and state laws, rules and regulations and all the provisions of this Chapter, and provided that such licensee has a valid and duly issued state retail package store license. Transfer of ownership or possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited, except as permitted by state law.

8-304. Licensee responsible for officers and agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents, and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent, or representative of a licensee shall constitute a violation of this chapter by such licensee.

8-305. Location of retail package store. It shall be unlawful for any licensee to operate or maintain a retail package store in the city unless the retail package store is located in a zone permitting such business. The zoning districts where retail package stores are permitted to be located in the city are as follows: Arterial Commercial (AC) and Tourist Commercial (TCL). No retail package store shall be located within 1,000 feet of any other retail package store, or within 1,000 feet of any church property upon which the primary congregational assembly facility is located, any school, or any public park, or within 1,000 feet from any distillery, as measured along a straight line from the nearest property line of any such establishment to the nearest property line of the property upon which the retail package store is located. A retail package store must be located on property with arterial street frontage and must be visible from that arterial street. No retail package store shall be located where the operation of a retail package store at the premises contemplated by an application would unreasonably interfere with public health, safety, or morals.

8-306. Limitations on building containing retail package store. All retail package stores shall be a permanent type of construction in a material and design approved by Board

of Mayor and Aldermen. No retail package store shall be located in a manufactured or other movable or prefabricated type of building. All retail package stores shall have adequate nighttime illumination of the outside of the premises and shall be equipped with a functioning burglar alarm system. The minimum square footage of the retail package store shall be 4,500 square feet and the maximum square footage shall be 10,000 square feet. At least 50% of the square footage shall be showroom. Full, free, and unobstructed vision shall be afforded to and from the street to the interior of the retail package store by way of windows in the front and, to the extent practical, in the sides of the building containing the retail package store. All retail package stores shall be subject to applicable state and city zoning, building, fire, and other codes, including site plan approval by the Planning Commission and issuance of necessary building and sign permits.

8-307. Restrictions generally. Licensees shall maintain a minimum wholesale inventory of \$500,000 in alcoholic beverages as evidenced by original invoices of all alcoholic beverages bought by the licensee.

8-308. Fees. Inspection fees shall be governed by the provisions of Chapter 1 of this Title.

8-309. Records kept by licensee. In addition to any records specified by state law, each licensee shall keep on file, at such licensee's retail package store, the following records:

- (1) The original invoices of all alcoholic beverages bought by the licensee;
- (2) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;
- (3) A current daily record of the gross sales by such licensee with evidence of cash register receipts for each day's sales; and
- (4) An accurate record of all alcoholic beverages lost, damaged, or disposed of other than by sale and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved and the method of disposition.

All such records shall be preserved for a period of at least fifteen (15) months unless the City Recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one set of records per retail package store satisfies the requirements of this part.

8-310. Inspections generally. The City Administrator, the City Recorder, the Police Chief or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers, and records of any retail package store at any time the retail package store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall be reported to the Tennessee Alcoholic Beverage Commission with a request to revoke or suspend the state retail package store license.

8-311. Enforcement. In addition to any enforcement provisions in state law, any violation of the terms of this chapter shall be punishable under the general enforcement provisions of this Code.

8-312. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, the Board of Mayor and Aldermen may authorize the issuance of certificates of compliance by the city according to the provisions of this Chapter.

8-313. Application for certificate of compliance. (1) Filing--content. An applicant or applicant group for a retail package store shall file with the city recorder a completed written application on a form to be provided by the City Recorder, which shall contain all of the following information and whatever additional information the Board of Mayor and Aldermen or City Administrator may require:

(a) The name and street address of each person to have an interest, direct or indirect, in the retail package store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information on the application provided by the City;

(b) The name of the retail package store proposed;

(c) The address, and or parcel number, of the retail package store proposed and its zoning designation;

(d) A statement that the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation or other entity, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application. Each such applicant or officer or person in control shall obtain and submit with the application a local and national criminal history record obtained from a third party using a multistate criminal records locator or other similar commercial nationwide database with validation;

(e) A statement that the persons receiving the requested license, to the best of their knowledge, if awarded the certificate of compliance could comply with all the requirements for obtaining the required licenses under state law and the provisions of this chapter for the operation of a retail package store in the city;

(f) The agreement of each applicant or each member of an applicant group, as appropriate, to comply with all applicable laws and ordinances and with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages and the agreement of each applicant or each member of an applicant group as to the validity and the reasonableness of these regulations, inspection fees, and taxes provided in this Title with reference to the sale of alcoholic beverages.

(2) Further documentation. The application form shall be accompanied by a copy of each questionnaire form and other material to be filled out by the applicant or each member of the applicant group and submitted to the Tennessee Alcoholic Beverage Commission in connection with the same application, including but not limited to financial information and the application form shall be accompanied by an electronic copy of a plan giving the following information:

(a) The shape, size, and location of the lot which the retail package store is to be operated under the license;

(b) The shape, size, height, and location of all buildings;

(c) The off-street parking space and off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street.

(3) Signature. The application form shall be signed by each person to have any interest in the retail package store either as an owner, partner, stockholder or otherwise. All signatures shall be notarized.

(4) Misrepresentation--concealment of fact--duty to amend. If any applicant, member of an applicant group, or licensee misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this Chapter, such applicant, member of an applicant group, or licensee shall be deemed to have violated the provisions of this chapter and such misrepresentation or concealment shall be reported to the Tennessee Alcoholic Beverage Commission with a request to revoke or suspend the state retail package store license.

(5) Fees. Each application shall be accompanied by a nonrefundable \$1,500 fee. One application fee per applicant group is sufficient.

(6) Restrictions on applications. Applicant or applicant groups may only apply for one store on one property in one zone. No more than one application shall be allowed for any one property. Duplications shall be rejected.

8-314. Consideration. (1) Number of certificates. No more than 5 certificates shall be issued.

(2) Areas. No more than 1 certificate shall be issued in each of the following zones:

- Zone 1 – SR 66 from north city limits to French Broad River
- Zone 2 – SR 66 from French Broad River to US 411/SR 35 and Forks of the River Parkway to US 441/SR 71
- Zone 3 – SR 35 from west city limits to east city limits
- Zone 4 – Veterans Boulevard (SR 449) from SR 35 to city limits and Collier Drive
- Zone 5 – US 441/SR 71 from Forks of the River Parkway to south city limits

(3) Time to apply. Initial applications will be received from 8:00 AM December 11, 2023, until 5:00 PM December 29, 2023, regardless of postmark.

(4) Applications will be considered in the order they are received. Should more than one application be filed for a particular zone, the Board will determine the applicant to be awarded a certificate of compliance according to procedures adopted by resolution of the Board.

8-315. Restrictions upon issuance. (1) Additional certificates of compliance. The Board of Mayor and Aldermen shall refuse to issue a certificate of compliance whenever the number of previously issued and outstanding certificates of compliance equals the number of retail package stores authorized by this chapter. If the number of previously issued and

outstanding certificates of compliance in a zone is fewer than the number authorized for that Zone, the Board of Mayor & Aldermen may in its discretion, direct the City Recorder to conduct an application lottery as set forth in Section 8-314 with such time limits for submission of applications as the Board may determine.

(2) No violation of chapter. No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provisions of this chapter.

(3) Prerequisites of issuance. The Mayor, upon approval of the Board of Mayor and Aldermen, shall not sign any certificate of compliance for any applicant or applicant group until:

(a) Such application has been filed with the City Recorder;

(b) The location stated in the certificate has been approved by the Board of Mayor and Aldermen as a suitable location for the operation of a retail package store; and

(c) The application has been considered and approved at a public meeting of the Board of Mayor and Aldermen.

(4) Time period for action. Any applicant or applicant group who has obtained a certificate of compliance as provided herein must, unless an extension is granted by the Board of Mayor and Aldermen, within twelve months open a retail package store in the city or said certificate will be revoked by the passage of this amount of time and a certification thereof will be sent to the Tennessee Alcoholic Beverage Commission.