

ORDINANCE NO.: 2019-15

AN ORDINANCE TO AMEND THE SIGNAL MOUNTAIN MUNICIPAL CODE, TITLE 8, ENTITLED "ALCOHOLIC BEVERAGES" BY DELETING CHAPTERS 1 AND 2 IN THEIR ENTIRETY AND REPLACING THEM WITH NEW CHAPTERS 1 AND 2 AND ADDING CHAPTER 3.

SECTION 1. BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE, that Title 8 of the Signal Mountain Municipal Code, entitled "Alcoholic Beverages" is amended by deleting Chapters 1 and 2 in their entirety and substituting new Chapters 1 and 2 in lieu thereof and adding Chapter 3 as follows:

TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. SPECIAL BEER PERMITS.

CHAPTER 1

INTOXICATING LIQUORS¹

SECTION

- 8-101. Scope of chapter.
- 8-102. Definitions adopted.
- 8-103. Compliance with state law and this chapter required.
- 8-104. Certificate of moral character.
- 8-105. Municipal inspection fee.
- 8-106. Location of any liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content.
- 8-107. Maximum number of wholesale and retail licenses.
- 8-108. Brown bagging and corkage, generally.
- 8-109. Definitions.

¹ For provisions prohibiting possession of alcoholic beverages on town property see section 11-201 in this code.

For general provisions in the state law, see Tennessee Code Annotated, title 57, particularly chapter 3.

- 8-110. Beer board and town police to enforce article.
- 8-111. Hours of sale restricted.
- 8-112. Sales to incapacitated or incompetent persons prohibited.
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- 8-133. To be posted.
- 8-134. Not transferable.
- 8-135. Grounds for revocation or suspension.
- 8-136. Authority of the town to levy and collect privilege taxes from all individuals engaged in the business of selling alcoholic beverages for consumption on the premises.

8-101. Scope of chapter. The provisions of this chapter shall apply to all alcoholic beverages as defined by Tennessee Code Annotated, section 57-3-101. (1985 Code, § 2-101)

8-102. Definitions adopted. All of the definitions and provisions of Tennessee Code Annotated, section 57-3-101 are adopted for the interpretation of this chapter and are made applicable to the sale and regulation of alcoholic beverages within the town. (1985 Code, § 2-102)

8-103. Compliance with state law and this chapter required. It shall be unlawful to manufacture, store, transport, sell, possess, distribute or receive alcoholic beverages in this town except in compliance with the provisions of the state law and this chapter. (1985 Code, § 2-103)

8-104. Certificate of moral character. A certificate of moral character, as required by Tennessee Code Annotated, section 57-3-208 as a prerequisite to the issuance of a state alcoholic beverage license, shall not be signed by the mayor or any member of the Town Council before the following conditions are met.

(1) An application for a certificate of moral character shall be filed in writing with the Town Council on a form provided by the town, giving the following information:

- (a) The name, age and address of the applicant.
- (b) The number of years' residence in the town.
- (c) The applicant's occupation or business and the length of time engaged in that occupation or business.
- (d) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of any municipal ordinance within the past ten (10) years.
- (e) If the applicant is employed, the name and address of his employer.
- (f) If the applicant is in business, the kind of business and location thereof.
- (g) The location of the proposed store for the sale of alcoholic beverages.

(h) The name and address of the owner of the proposed store.

(i) If the applicant is a partnership, the name, age and address of each partner and his occupation, business and employer.

(2) The application required by paragraph (1) shall be verified by the oath of each applicant and, in the event the applicant is a partnership, shall be verified by the oath of each partner.

(3) The applicant for a certificate under this section shall agree to comply with the state and federal laws and the provisions of this code and other ordinances of the town and the rules and regulations of the Alcoholic Beverage Commission of the state with reference to the sale of alcoholic beverages.

(4) An applicant for a certificate pursuant to paragraph (1) may be required to appear in person before the Town Council for such examination as may be desired by the Town Council. He shall furnish such information as maybe required pursuant to Tennessee Code Annotated, section 57-3-208.

(5) The action of the Town Council on an application for a certificate of moral character shall be noted thereon.

(6) The applicant for a certificate of moral character shall have been bona fide resident of the county and the town for not less than two (2) years at the time his application is filed. (1985 Code, § 2-104)

8-105. Municipal inspection fee. Each retail dealer subject to this chapter shall pay the maximum inspection fee authorized by Tennessee Code Annotated, sections 57-3-501 through 57-3-504. (1985 Code, § 2-105)

8-106. Location of any liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content.²

(1) No liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content shall be located anywhere on premises in the town except on the ground floor thereof. Each such store shall have only one (1) main entrance; however, a wholesale liquor store located on the corner of two (2) streets may have a door opening on each street.

(2) The location of any liquor store shall be located within a highway commercial zone and/or planned commerce center, as defined by the Signal Mountain Zoning Ordinance.

(3) No liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content shall be located within five hundred feet (500') for consumption on premises, or two hundred feet (200') for consumption off the premises, as measured from any doorway entrance of the establishment regularly used for public ingress and egress to the nearest doorway entrance of any school, church, or other place of public gathering, specifically including day care centers, as defined in the Signal Mountain Zoning Ordinance. This location prohibition shall not apply to any proposed permit location within continuing care retirement communities with a special permit under the terms of Article XII of the Signal Mountain Zoning Ordinance in an area zoned High Density Residential (HDR) district.

(4) No liquor store and/or establishment selling alcoholic beverages with more than eight percent (8%) alcohol content shall be permitted to operate within the Town of Signal

² See the Signal Mountain Zoning Ordinance for permitted and prohibited uses within various zoning classifications within the town.

Mountain until a certificate is obtained from the Town Council, as required by Tennessee Code Annotated, § 57-3-208 and the town receives an inspection fee authorized by Tennessee Code Annotated, § 57-3-501, to the maximum amount allowed by the State of Tennessee for the time of operation. (1985 Code, § 2-106, as replaced by Ord. #2009-2, Jan. 2009, Ord. #2009-6, May 2009, and Ord. #2011-2, April 2011)

8-107. Maximum number of wholesale and retail licenses. The number of retail licenses issued and outstanding at any one time shall be four (4), and the number of wholesale licenses so issued shall be no more than one (1). In considering applicants for wholesale licenses, preference shall be given to bonafide residents of the county. (1985 Code, § 2-108, as renumbered by Ord. #2001-5, Oct. 2001)

8-108. Brown bagging and corkage, generally. The provisions of this article shall apply to all persons who operate an establishment selling setups for mixed drinks or provide corkage setups for wine, and who permit brown bagging in their establishment. It shall not apply to those persons or businesses licensed or permitted under the provisions of article II of this chapter or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the alcoholic beverage commission of the state under the provisions of Tennessee Code Annotated, § 57-4-201. (as added by Ord. #2001-5, Oct. 2001)

8-109. Definitions. As used in this article, the following definitions shall apply:

(1) "Brown bad" or "brown bagging" shall mean the practice of patrons, customers or guests bringing alcoholic beverages upon their premises or any person selling setups for mixed drinks or providing corkage services for wine.

(2) "Corkage" shall mean the practice of providing patrons, customers, or guests with opening devices and glasses in connection with the consumption of wine.

(3) "Person selling setups for mixed drinks" shall mean and include any person deriving receipts from the sale of setups for mixed drinks consumed on the premises.

(4) "Setups for mixed drinks" shall mean and include sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment. (as added by Ord. #2001-5, Oct. 2001)

8-110. Beer board and town police to enforce article.

(1) The Town Council which constitutes the Beer Board for the Town of Signal Mountain shall issue permits, and revoke or suspend licenses, except where such action would be inconsistent with any specific provision of this article.

(a) The police officers of the Town of Signal Mountain shall enforce all laws, ordinances and rules regulating establishments selling setups for mixed drinks, wine consumption, or permitting brown bagging. (as added by Ord. #2001-5, Oct. 2001)

8-111. Hours of sale restricted. No permittee under this article shall sell any setup for purposes of mixing with alcoholic beverages, provide corkage services, sell any alcoholic beverages with more than eight percent (8%) alcohol content or permit any alcoholic beverages with more than eight percent (8%) alcohol content to be consumed or given away on the premises between the hours of twelve o'clock pm (12:00 A.M.) and ten-thirty am (10:30 A.M.) seven (7) days per week, as authorized by Tennessee Code Annotated, § 57-4-203(d)(5), except by special permit. The permittee shall not permit or suffer the presence of any alcoholic

beverages on the premises during such hours. Hours of operation for retailers to sell alcoholic beverages with more than eight percent (8%) alcohol content for off-site consumption shall be in accordance with current state law. (as added by Ord. #2001-5, Oct. 2001, and replaced with Ord. #2013-09, June 2013)

8-112. Sales to incapacitated or incompetent persons prohibited. No permittee under this article shall permit or allow any intoxicated person to be on the premises or to dispense, serve, sell setups or provide corkage to such persons. (as added by Ord. #2001-5, Oct. 2001)

8-113. Employment of minors. No person under the age of eighteen (18) years shall be permitted to dispense, serve, sell setups, or provide corkage in any establishment which has been issued a permit under this article. (as added by Ord. #2001-5, Oct. 2001)

8-114. Public nuisance. Permit holder shall not allow the premises to become a public nuisance or a nuisance to law enforcement agencies in the Town of Signal Mountain or materially contribute to creating or maintaining a public nuisance or to otherwise interfere with the public health, safety and/or morals.

8-115. Telephone and reports of disorders. All permittees are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in any such disorder have left the premises. (as added by Ord. #2001-5, Oct. 2001)

8-116. --8-127. Reserved. (as added by Ord. #2001-5, Oct. 2001)

8-128. Permit; required. No person shall engage in the business of operating establishments selling setups for mixed drinks, providing corkage services, or permit brown bagging on any premises without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging. (as added by Ord. #2001-5, Oct. 2001)

8-129. Application; fee. (1) All applications for a permit to sell setups for mixed drinks or to permit brown bagging shall be filed with the Town Council. The police department shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this article, and report all findings to the Town Council. The Town Council shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.(2)The application shall be accompanied by a fee one hundred dollars(\$100.00) for use in offsetting the expense of investigating the applicant and an annual renewal fee of fifty dollars (\$50.00) every year thereafter to be paid on or before January 1 of each year. (as added by Ord. #2001-5, Oct. 2001)

8-130. Location to be designated. The location of the premises at which the business of the permittee will be conducted shall be designated in the permit and in the application therefor. (as added by Ord. #2001-5, Oct. 2001)

8-131. Grounds for refusal.

(1) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this article has been revoked within three (3) years or is under suspension.

(2) No such establishment shall be located within five hundred (500) feet, as measured from any doorway entrance of the applicant regularly used for public ingress and egress to the nearest doorway entrance to the school, church, or other place of public gathering to the nearest corner of the licensed establishment.

(3) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in paragraph (2) of this section.

(4) The Town Council may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.

(5) To the extent that it shall be called to the attention of the Town Council that it may have issued any permit to a location not qualified under the provision of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section. (as added by Ord. #2001-5, Oct. 2001)

8-132. When Town Council may issue. The Town Council shall issue no permit until the application therefor has been approved following a public hearing at a regularly scheduled council meeting with reasonable public notice. (as added by Ord. #2001-5, Oct. 2001)

8-133. To be posted. Any permit issued under this article shall be posted in a conspicuous place on the premises of the permittee. (as added by Ord. #2001-5, Oct. 2001)

8-134. Not transferable. No permit issued by the Town Council under the provisions of this article shall be transferable from one person to another. (as added by Ord. #2001-5, Oct. 2001)

8-135. Grounds for revocation or suspension. (1) The Town Council shall revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this article or any other ordinance, state law or regulation or federal law or regulation governing the operation of such establishments or when the permittee:

(a) Operates a disorderly place; or

(b) Allows gambling on the premises except as otherwise allowed by state law; or

- (c) Allows fighting or boisterous or disorderly conduct on the premises; or
 - (d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or
 - (e) Allows minors to congregate about the premises after normal hours of business; or
 - (f) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or
 - (g) Has made a false statement of a material fact in any application or notice to the board; or
 - (h) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages; or
 - (i) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups; or
 - (j) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or
 - (k) Allows violation of any provision of this article to occur on the licensed premises; or
 - (l) Allows violations of the rules and regulations of the health department; resulting in revocation or suspension of any permit issued by the health department; or
 - (m) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises; or
 - (n) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or
 - (o) Allows any server under eighteen (18) years of age to serve any set-ups without being in full compliance with Tennessee Code Annotated, § 57-3-704.
- (2) The Town Council may also, in its discretion, revoke a permit for due cause not specified herein. (as added by Ord. #2001-5, Oct. 2001)

8-136. Authority of the town to levy and collect privilege taxes from all individuals engaged in the business of selling alcoholic beverages for consumption on the premises. Pursuant to Tennessee Code Annotated, § 57-4-301, the General Assembly of the State of Tennessee has declared a legislative intent that every person that is exercising a taxable privilege, who engages in the business of selling at retail in the state, alcoholic beverages for consumption on the premises. Pursuant to Tennessee Code Annotated, § 57-4-301(b)(2), each municipality within which such privilege is exercised is further authorized to levy and collect the privilege tax separately. As such, the Town of Signal Mountain authorizes the Town Manager to levy and collect privilege taxes on behalf of the town as authorized by Tennessee Code Annotated, § 57-4-301(b)(2) for the privilege of selling alcoholic beverages for consumption on the premises within the town limits. (as added by Ord. #2003-1, Jan. 2003)

CHAPTER 2

BEER³

SECTION

- 8-201. Beer board established; powers and duties.
- 8-202. Beer permit required for engaging in beer business.
- 8-203. [Deleted.]
- 8-204. Hours of sale restricted.
- 8-205. Prohibited conduct or activities by beer permit holders.
- 8-206. Revocation or suspension of beer permits.
- 8-207. Privilege tax.
- 8-208. Number of retail beer licenses.
- 8-209. Sale of beer is permitted subject to law.
- 8-210. [Deleted.]
- 8-211. Beer Board and Town police to enforce article.
- 8-212. [Deleted.]
- 8-213. Solicitations of home delivery service prohibited.
- 8-214. Offenses involving minors; loitering; gambling.
- 8-215. Unauthorized use or consumption of beverages on premises.
- 8-216. Sales to incapacitated or incompetent persons prohibited.
- 8-217. Use of premises not authorized by permit.
- 8-218. Employment of former violators.
- 8-219. Employment of minors.
- 8-220. [Deleted.]
- 8-221. Telephone and reports of disorders.
- 8-222. Penalty.
- 8-223. --8-239. Reserved.
- 8-240. Permits; required generally--application.
- 8-241. Approval or rejection of application.
- 8-242. Location of premises to be designated.
- 8-243. When to be refused.
- 8-244. Applicant to pay all taxes required by state law.
- 8-245. When Town Council may issue.
- 8-246. To be posted.
- 8-247. Not transferable.
- 8-248. Possession of federal license without town permit.
- 8-249. Grounds for revocation or suspension.
- 8-250. [Deleted.]
- 8-251. --8-254. Reserved.

³ For a leading case in Tennessee on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in *Grubb et al. v. Mayor and Aldermen of Morristown et al.*, 185 Tenn. 114, 203 S.W.2d 593 (1947).

For applicable tax provisions, see title 5; for miscellaneous provisions prohibiting minors in beer places and prohibiting drinking beer on streets, etc., see title 11.

8-255. Regulation of outdoor advertising.

8-256. --8-269. Reserved.

8-201. Beer board established; powers and duties. The Town Council shall comprise the beer board for the Town of Signal Mountain. The beer board shall have the power and duty to regulate the selling, storing for sale, distributing for sale, giving away, "brown bagging" and manufacturing of beer within the town in accordance with the provisions of this chapter.

8-202. Beer permit required for engaging in beer business.

(1) It shall be unlawful for any person to sell, store for sale, distribute for sale or manufacture beer without first making application to and obtaining from the beer board a permit. The application shall be made on such form as the board shall provide and furnish and shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00).¹ All beer permits shall be restricted as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing and it shall be unlawful for any beer permit holder to engage in any phase of the beer business not authorized in his permit.

(2) Provided all requirements and applicable provisions of this Chapter are met, a single permit for retail sales may be issued to allow sales for both on premises and off premises consumption.

8-203. Deleted.

8-204. Hours of sale restricted.

(1) No permittee under this chapter shall sell or give away beer to be consumed on the premises within the corporate limits of the town between the hours of twelve o'clock am (12:00 A.M.) and ten-thirty am (10:30 A.M.) seven (7) days per week except by special permit.

(2) No permittee under this article shall sell beer for off-site consumption within the corporate limits of the town between the hours of three o'clock am (3:00 A.M.) and seven o'clock am (7:00 A.M.) seven (7) days per week.

8-205. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any person under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off-premises consumption only.)

(3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age. The burden of ascertaining the age of minor customers shall be upon the owner or operator of the business.

(5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business. The burden of ascertaining the age of minor customers shall be upon the owner or operator of the business.

- (6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (7) Allow intoxicated persons to loiter about his premises.
- (8) Serve, sell, or allow the consumption on his premises beer or any alcoholic beverage with an alcoholic content of more than eight percent (8%) by weight without the appropriate license/permit.
- (9) Allow gambling on his premises except as otherwise allowed by state law.
- (10) Allow the premises to become a public nuisance or a nuisance to law enforcement agencies in the Town of Signal Mountain or materially contribute to creating or maintaining a public nuisance or to otherwise interfere with the public health, safety and/or morals.

8-206. 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 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 proceedings may be initiated by the police chief or by any member of the Town Council. (1985 Code, § 2-206)

8-207. Privilege tax.

- (1) There is hereby imposed on the business of selling beer in the Town of Signal Mountain, a privilege tax of \$100.00.
- (2) Any person, firm, corporation, joint stock company, syndicate or association engaged in the business of selling beer in the town shall remit the tax on January 1, 1994, and each successive January 1. The tax shall be remitted to the official identified by the town in the notice required by subsection three herein for businesses located within the incorporated limits of the town.
- (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. If a permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the town shall notify the permit holder by certified mail 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 permit shall be void.
- (4) 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.
- (5) For the purposes of this section, a bona fide charitable or nonprofit organization which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code, shall not be considered a "business" and shall not be subject to a privilege tax.

8-208. Number of retail beer licenses. The Town Council may establish the number of retail beer licenses to be issued and outstanding at any time by the beer board.

8-209. Sale of beer is permitted subject to law.⁴ It shall be lawful to sell, store and possess beer of alcoholic content of not more than eight percent (8%) by weight and other beverages of like alcoholic content in the Town of Signal Mountain, subject to all regulations, limitations and restrictions provided by Chapter No. 5 of Title 57 of the Tennessee Code Annotated, as amended, and subject to the provisions of this article.

8-210. Deleted. By Ordinance 2019-?

8-211. Beer board and town police to enforce article.

(1) The Town Council which constitutes the Beer Board for the Town of Signal Mountain shall issue permits, and revoke or suspend licenses, except where such action would be inconsistent with any specific provision of this article.

(2) The police officers of the Town of Signal Mountain shall enforce all laws, ordinances and rules regulating the sale of beer or other beverages of like alcohol content and related provisions contained in this Title.

8-212. Deleted. By Ordinance 2019-?

8-213. Solicitations of home delivery service prohibited. It shall be unlawful for any unlicensed holder to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or home deliveries of beer. (as added by Ord. #2001-5, Oct. 2001)

8-214. Offenses involving minors; loitering; gambling.

(1) No sale of beer or other alcoholic beverages shall be made to any person under the age of twenty-one (21) years; nor, shall any person under the age of twenty-one (21) consume any alcoholic beverages; nor shall any person purchase or otherwise obtain any such beverage for any person under the age of twenty-one (21).

(2) No permittee shall allow any person to loiter about the place of business after the hours of operation. The burden of ascertaining the age of such customer shall be upon the owner or operator of such place of business; provided, that nothing herein shall be deemed to prohibit the employment of persons age eighteen (18) years of age or over.

(3) No permittee shall allow any gambling or gambling devices on the business premises, except as otherwise allowed by state law.

8-215. Unauthorized use or consumption of beverages on premises. No permittee under this article whose permit authorizes sale for consumption off the premises only shall sell for consumption on the premise, nor shall permittee allow any consumption to take place on the premises.

8-216. Sales to incapacitated or incompetent persons prohibited. Nonpermitted under this article shall make or allow any sale to any intoxicated person or to any known feeble-minded, insane or otherwise mentally incapacitated person; nor allow any such person to loiter on or about the premises. (as added by Ord. #2001-5, Oct. 2001)

⁴ Authority to regulate and license sale of beer and other light alcoholic beverages, Tennessee Code Annotated, § 57-5-108.

8-217. Use of premises not authorized by permit. No beer or other beverages of like alcoholic content shall be manufactured, stored or sold except at the premises designated in the permit therefor. (as added by Ord. #2001-5, Oct. 2001)

8-218. Employment of former violators. No person shall be employed in the sale or storage of beer or other beverages of like alcoholic content who has been convicted within the preceding ten (10) years of any violation of the laws of the state against the sale, manufacture, possession, consumption or transportation of intoxicating liquors, or of any crime involving moral turpitude, be so employed. (as added by Ord. #2001-5, Oct. 2001)

8-219. Employment of minors. No person under the age of eighteen (18) years shall be permitted to sell or dispense alcoholic beverages, wine, or beer in the course of their employment. (as added by Ord. #2001-5, Oct. 2001)

8-220. Deleted. By Ordinance 2019-?

8-221. Telephone and reports of disorders. All permittees under this article are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in any such disorder have left the premises. (as added by Ord. #2001-5, Oct. 2001)

8-222. Penalty. Any violation of this article shall be punishable by a civil penalty of a sum not more than five hundred (\$500.00) dollars. Violation of this article shall constitute grounds for the revocation of the license, or for a suspension in the discretion of the Town Council. (as added by Ord. #2001-5, Oct.2001)

8-223. --8-239. Reserved. (as added by Ord. #2001-5, Oct. 2001)

8-240. Permits; required generally--application.

(1) No person shall engage in selling, possessing or storing beer or other beverages of like alcoholic content in the city until the business tax authorized by law has been paid and a permit issued to such person.

(2) It shall be unlawful for any person not holding a permit for the sale of beer or other beverages of like alcoholic content to sell or offer for sale beer or other beverages of like alcoholic content at any time within the city.

(3) The applicant for a permit for the sale of beer or other beverage of like alcoholic content shall pay to the Town of Signal Mountain an application fee of two hundred fifty dollars (\$250.00), imposed for the cost of investigating the location and the character of the applicant, for each location for which a beer permit is sought. Such fee shall apply to all applications for each and every classification of beer permit including any initial or first-time application. This fee is nonrefundable and shall be in addition to any other fees or taxes specified herein.

(4) Applications must be delivered to the Town Manager, at the Town Hall, at least 15 days prior to the meeting at which the Beer Board will convene to consider action on the application.

(5) The application shall distinctly state:

- (a) Name of the applicant;
 - (b) Name of applicant's business;
 - (c) Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this section;
 - (d) If beer will be sold at two (2) or more restaurants or other businesses within the same building pursuant to the same permit;
 - (e) Identity and addresses of persons, firms, corporations, joint stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;
 - (f) Identity and address of a representative to receive annual tax notices and any other communication from the county legislative body or its committee;
 - (g) That no person, firm, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant nor any person to be employed in the distribution or sale of beer has 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;
 - (h) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off premises consumption, or both of the foregoing; and
 - (i) Such other information as may be required by the Town Council of the Town of Signal Mountain. An applicant or permit holder shall be required to amend or supplement its application promptly if a change in circumstances affects the responses provided in its application. Any applicant making a false statement in the application shall forfeit the permit and shall not be eligible to receive any permit for a period of ten (10) years.
- (6) Notice of all applications for permits shall be given to the Police Chief, Fire Chief/Fire Marshal and Building Official, so that they may make such inspections as shall be advisable to check the premises for compliance with the provisions of this Chapter, fire codes, building codes, and zoning ordinances.

8-241. Approval or rejection of application. The Town Council shall consider each application filed for a permit under this division, and shall grant or refuse the permit according to its best judgment, under all the facts and circumstances, and endorse its action on the application. The action of the Town Council in granting or refusing a permit shall be final, except as it may be subject to review at law. (as added by Ord. #2001-5, Oct. 2001)

8-242. Location of premises to be designated. The location of the premises where any beer sales will be conducted shall be provided in the application and documented on the permit for beer sales within the town.

8-243. When to be refused.

(1) No permit required by this section shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals,

or where this chapter or any other law would be violated, including, but not limited to, the zoning laws.

(2) No permit for on premises consumption shall be issued unless the business has a seating capacity of at least twenty-five (25) customers and offers prepared food for sale during all hours of operation.

(3) The sale of beer or other beverages of like alcoholic content for consumption on the premises within five hundred feet (500'), or two hundred feet (200') for consumption off the premises, as measured from any doorway entrance to the building of the applicant regularly used for public ingress or egress to the nearest doorway entrance to the school, church, adult-oriented establishment, or other place of public gathering regularly used for public ingress or egress shall be prohibited. This location prohibition shall not apply to any proposed permit location within continuing care retirement communities with a special permit under the terms of Article XII of the Signal Mountain Zoning Ordinance in an area zoned High Density Residential (HDR) district.

(4) All applicants for a beer permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in subsection (2).

(5) The Town Council may, in its discretion, require any applicant for a beer permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.

(6) To the extent that it shall be called to the attention of the Town Council that it may hereafter have issued any beer permit to a location not qualified under the provision of this section or that a nonconforming permittee within the prohibited distance provision has ceased to sell beer for more than six (6) months, then it shall be the duty of the Town Council, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section.

(7) No permit required by this section shall be issued where a person, firm, corporation, joint stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant has 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, or has had a permit under this chapter revoked within three (3) years or is currently under suspension.

8-244. Applicant to pay all taxes required by state law. The applicant shall submit satisfactory evidence to the Town Council that it has registered and paid the Department of Revenue of the state all outstanding taxes on beer sales as provided by Tennessee Code Annotated, § 57-5-201, et seq. (as added by Ord. #2001-5, Oct. 2001)

8-245. When Town Council may issue. The Town Council shall issue no permit under this division until the application therefor has been approved following a public hearing at a regularly scheduled council meeting with reasonable notice. (as added by Ord. #2001-5, Oct. 2001)

8-246. To be posted. The permit issued under this division shall be posted in a conspicuous place on the premises of the permittee. (as added by Ord. #2001-5, Oct. 2001)

8-247. Not transferable. No permit issued by the Town Council under the provisions of this division shall be transferred from one person to another. (as added by Ord. #2001-5, Oct. 2001)

8-248. Possession of federal license without town permit. The possession by any person of any federal license to sell alcoholic beverages without the corresponding town permit required by this division shall be prima facia evidence in all cases that the holder of such federal license is selling beer or other beverages of like alcoholic content in violation of the provisions of this article. (as added by Ord. #2001-5, Oct. 2001)

8-249. Grounds for revocation or suspension.

(1) The Town Council shall revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it under this division, upon notice to the permittee and a hearing thereon, for any violation of any provision of state law regulating the sale, storage and transportation of alcoholic beverages or for any violation of any provision of this code or any other ordinance of the town or when the permittee:

- (a) Operates a disorderly place; or
 - (b) Allows gambling on the premises; or
 - (c) Allows fighting or boisterous or disorderly conduct on the premises; or
 - (d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or
 - (e) Allows minors to congregate about the premises after normal business hours;
- or
- (f) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or
 - (g) Has made a false statement of a material fact in any application or notice to the board; or
 - (h) Sells, furnishes, dispenses or allows to be used or consumed, any beer or other alcoholic beverages to any person under the age of twenty-one (21) years; except to the extent lawful under this code; or
 - (i) Denies access to any portion of the premises at which the sale of beer is permitted, whether or not that portion of the premises issued for the sale of beer, to any policeman or inspector; or
 - (j) Allows any server under eighteen (18) years of age to serve beer without being in full compliance with Tennessee Code Annotated, § 57-3-704; or
 - (k) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or
 - (l) Allows any violation of any provision of this article to occur on the licensed premises; or
 - (m) Allows violations of the rules and regulations of the health department resulting in revocation or suspension of any permit issued by the health department; or

(n) Consumes or permits an employee to consume any beer or any alcoholic beverage while on the premises, or to be intoxicated while on the premises; or

(o) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or

(p) The Town Council may also, in its discretion, revoke a permit for due cause not specified herein.

(2) The Town Council in its capacity as beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) 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. 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. (as added by Ord. #2001-5, Oct. 2001)

8-250. Deleted. By Ordinance 2019-?

8-251--8-254. Reserved. (as added by Ord. #2001-5, Oct. 2001)

8-255. Regulation of outdoor advertising. Outdoor advertising signs that advertise beer are regulated as follows:

(1) No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located.

(2) Any proposed outdoor sign shall be reviewed and approved by the Design Review Commission for compliance with all existing town ordinances prior to installation. (as added by Ord. #2001-5, Oct. 2001)

8-256--8-269. Reserved. (as added by Ord. #2001-5, Oct. 2001)

CHAPTER 3

SPECIAL BEER PERMITS

SECTION

- 8-301. Types of Special Beer Permits
- 8-302. Temporary Beer Permit
- 8-303. Special Occasion Beer Permit – Single Event
- 8-304. Special Occasion Beer Permit – Multiple Event
- 8-305. Special Occasion Beer Permits for Events on Town Property
- 8-306. Events Not Subject to Permit

8-301. Types of Special Beer Permits. The Beer Board is authorized to issue special beer permits as outlined below and further detailed in this chapter.

- (1) Temporary Beer Permit
- (2) Special Occasion Beer Permit – Single Event
- (3) Special Occasion Beer Permit – Multiple Events

8-302. Temporary Beer Permit.

(1) Temporary beer permits not to exceed thirty (30) days' duration may be issued at the request of an applicant on the same conditions governing permanent permits, provided:

(a) Such temporary permits shall not be issued for the sale of beer on publicly-owned property without the approval of the appropriate governmental authority charged with the management of such property.

(b) If the sale of beer covered by the temporary permit is to take place on property not owned by the applicant, a written statement of approval from the owner must accompany the temporary permit application.

(2) The Beer Board is authorized to place any and all restrictions it deems necessary on temporary permits, including but not limited to restricted hours of sale, limitations on the number of sale locations/stations on the property or other time, place and manner restrictions as deemed proper in consideration of traffic interruption, public safety, health, welfare, convenience, peace and/or order.

(3) All provisions of Chapter 2 of this Title pertaining to hours of sale, prohibited conduct, location restrictions and application/applicant requirements are applicable to temporary beer permits and permittees.

8-303. Special Occasion Beer Permit – Single Event.

(1) Bona fide charitable or nonprofit organizations which have been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code, may obtain a special occasion beer permit for a single event, which will last no more than two (2) consecutive days, provided:

(a) Such permits shall not be issued for the sale/dispensing of beer on publicly-owned property without the approval of the appropriate governmental authority charged with the management of such property.

(b) If the sale/dispensing of beer covered by such a permit is to take place on private property not owned by the applicant, a written statement of approval from the owner must accompany the temporary permit application.

(2) The application for such a permit must also be accompanied by:

(a) *Town of Signal Mountain Special Event Permit Application*

(b) Documentation establishing/verifying the organization's status as a charitable or nonprofit organization under section 501(c) of the Internal Revenue Code.

(3) Applications must be delivered to the Town Manager, at the Town Hall, at least 15 days prior to the meeting at which the Beer Board will convene to consider action on the application.

(4) The Beer Board is authorized to place any and all restrictions it deems necessary on special occasion permits, including but not limited to restricted hours of sale, limitations on the number of sale locations/stations on the property or other time, place and manner restrictions as deemed proper in consideration traffic interruption, public safety, health, welfare, convenience, peace and/or order.

(5) Qualified applicants for such a permit will not be required to pay the privilege tax associated with business-oriented beer permits.

(6) The permit holder, both the organization and its authorized applicant, are responsible for insuring compliance with all laws and ordinances associated with the sale, dispensing and consumption of alcohol on the permitted premises during the event.

(7) All proceeds generated from the sale of beer pursuant to such a permit must be deposited into the permittee's (organization) monetary account(s). Documentation of such shall be subject to request and review by the Beer Board.

(8) Except as specifically excluded by this section, all provisions of Chapter 2 of this Title pertaining to hours of sale, prohibited conduct, location restrictions and application/applicant requirements are applicable to temporary beer permits and permittees.

8-304. Special Occasion Beer Permit – Multiple Event.

(1) Bona fide charitable or nonprofit organizations which have been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code, may obtain a special occasion beer permit for multiple events, provided:

(a) Such permit shall be valid for a specified period of time but, in no case, shall a permit be valid for more than one (1) calendar year.

(b) Such permit will allow a specified number of events and shall be limited to:

(i) No more than twelve (12) events per calendar year

(ii) No more than two (2) events in any calendar month

(iii) Each event shall last no more than two (2) consecutive days

(c) Such permits shall not be issued for the sale/dispensing of beer on publicly-owned property without the approval of the appropriate governmental authority charged with the management of such property.

(d) If the sale/dispensing of beer covered by such a permit is to take place on private property not owned by the applicant, a written statement of approval from the owner must accompany the temporary permit application.

(2) The application for such a permit must also be accompanied by:

(a) *Town of Signal Mountain Special Event Permit Application* – If exact date and event details are not known at the time of application, each event must be approved by the beer board at least thirty (30) days in advance of the proposed event date.

(b) Documentation establishing/verifying the organization's status as a charitable or nonprofit organization under section 501(c) of the Internal Revenue Code.

(3) Applications must be delivered to the Town Manager, at the Town Hall, at least 15 days prior to the meeting at which the Beer Board will convene to consider action on the application.

(4) The Beer Board is authorized to place any and all restrictions it deems necessary on special occasion permits, including but not limited to restricted hours of sale, limitations on the number of sale locations/stations on the property or other time, place and manner restrictions as deemed proper in consideration traffic interruption, public safety, health, welfare, convenience, peace and/or order.

(5) Qualified applicants for such a permit will not be required to pay the privilege tax associated with business-oriented beer permits.

(6) The permit holder, both the organization and its authorized applicant, are responsible for insuring compliance with all laws and ordinances associated with the sale, dispensing and consumption of alcohol on the permitted premises during the event.

(7) All proceeds generated from the sale of beer pursuant to such a permit must be deposited into the permittee's (organization) monetary account(s). Documentation of such shall be subject to request and review by the Beer Board.

(8) Except as specifically excluded by this section, all provisions of Chapter 2 of this Title pertaining to hours of sale, prohibited conduct, location restrictions and application/applicant requirements are applicable to temporary beer permits and permittees.

8-305. Special Occasion Beer Permits for Events on Town Property.

(1) The Beer Board may consider and issue Special Occasion Beer Permits for events at the following Town properties:

(a) The Mountain Arts Community Center

(b) The Amphitheatre (Rolling Way @ James Blvd.)

(c) The Signal Mountain Library

(d) Other Town owned facilities or property, provided:

(i) Proposed site diagram and plan of operation is submitted with application

(ii) Applications must be delivered to the Town Manager, at the Town Hall, at least 30 days prior to the meeting at which the Beer Board will convene to consider action on the application.

(2) The Beer Board is authorized to place any and all restrictions it deems necessary on special occasion permits, including but not limited to restricted hours of sale, limitations on the number of sale locations/stations on the property or other time, place and manner restrictions as deemed proper in consideration traffic interruption, public safety, health, welfare, convenience, peace and/or order.

(3) In addition to all other requirements associated with the Special Occasion Beer Permits, the applicant/permittee must:

(a) Submit to the Town a certificate of insurance which provides a minimum of \$1,000,000.00 in coverage, specifically covers alcohol liability and names the Town of Signal Mountain as an additional insured.

(b) Complete a *Town of Signal Mountain Facility Use Agreement*

(4) Where applicable, events must be held outside normal operating hours or, at a minimum, fully segregated from any other operations, functions or activities within the facility.

8-306. Events Not Subject to Permit.

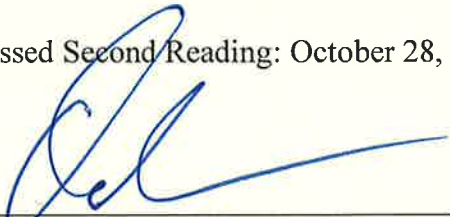
(1) Any event which is catered and the caterer has a valid TABC license to serve alcohol is not required to obtain a Special Occasion Beer Permit. The Beer Board does require notice of such events and the event coordinator must furnish to the Town a copy of the *Notice of Catered Event* form, which the caterer submits to the TABC no later than five (5) days prior to the event.

(2) Event coordinators holding events at Town properties outlined in Section 8-305 are required to fulfill and/or comply with all other provisions of that section.

SECTION 2. That this Ordinance shall become effective immediately from and after its passage as provided by law.

Passed First Reading: October 14, 2019

Passed Second Reading: October 28, 2019



Dan Landrum, Mayor



Recorder

10-28-19

Date

10-28-19

Date