

ORDINANCE 12-17

**AN ORDINANCE TO AMEND
THE SPRING HILL CITY MUNICIPAL CODE, TITLE 8, CHAPTER 2, SECTION 216
REGARDING DISTANCE REQUIREMENTS
FOR BEER PERMITS**

WHEREAS, it has become necessary for the safety, health and welfare of the citizens of Spring Hill that the distance requirements for beer permits be reviewed; and

WHEREAS, the current restrictions require that no beer permit be granted if such business is within one hundred feet (100') of a church; and

WHEREAS, Title 8, Chapter 2, Section 216 shall be amended as follows:

8-216. Restrictions on permits that would cause congestion or interfere with public health, safety and morals. No permit authorizing the sale of beer will be issued when such business is within two hundred feet (200'), measured from the nearest building corner of the premises to the nearest building corner of any schools. No permit shall be issued which would interfere with the public health, safety and morals, or would cause congestion of traffic.

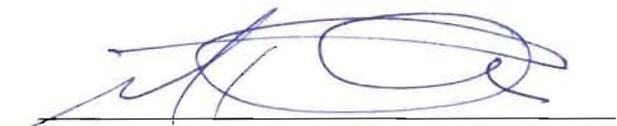
BE IT THEREFORE ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SPRING HILL, TENNESSEE:

That the city Code, Title 8, Chapter 2, Section 216 be amended as written above.

BE IT FURTHER ENACTED, that any ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

BE IT FURTHER ENACTED, that this ordinance shall take effect immediately from and after its adoption, the public welfare requiring it.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 20th day of August, 2012.



Mayor Michael Dinwiddie

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:

A handwritten signature in blue ink, appearing to read "Timothy P. Underwood", is written over a horizontal line.

Passed on 1st Reading July 16, 2012

Passed on 2nd Reading August 20, 2012

Beer Distance and Churches

From : Tim Underwood <Tunderwood@pulaskilaw.com> Tue, Jul 10, 2012 09:22 AM
Subject : Beer Distance and Churches 
To : aldermen@springhilltn.org  1 attachment
Cc : Victor Lay <vlay@springhilltn.org>, Michael
Dinwiddie <mdinwiddie@springhilltn.org>, April
Goad <agoad@springhilltn.org>

BOMA Members,

I have done some preliminary research on this issue and it is my opinion that the BOMA cannot reduce the distance requirement for churches or places for public gathering within particular zoning classifications. Either there is a governmental interest to protect across the City or there is not.

The general rule is that municipalities can enact legislation that has a "rational basis" to the governmental interest it is attempting to protect. Here I think the argument would be that the interest to protect exists the same in each zoning classification. If there is no interest or a lower interest to protect in a commercial zone then that same issue would exist in other zoning classifications. Again, I have not looked at this in a lot of detail but I am not aware of any other city doing this.

Therefore, I think that allows you all to consider two options, (1) eliminate the distance requirement all together as it relates to churches and places of public gathering or (2) reduce it from 100 feet. Unfortunately, I do not believe further reduction will address the "store front churches" and as I mentioned last night I do not believe there is any basis to treat these churches different from free standing or "steeple churches"

I don't think the removal of the distance requirement for churches and places of public gathering would affect the distance requirement for schools so that 200 foot distance could be maintained.

If the BOMA does want to move forward it would be my recommendation to leave the 1st and 3rd sentence of 8-216 thereby removing all distance requirements for churches and places of public gathering.

Let me know if you have any questions.

Thanks.