

ORDINANCE NO. 81-3

AN ORDINANCE TO AMEND THE  
SPRING HILL MUNICIPAL CODE  
BY AMENDING CHAPTER 1 OF  
TITLE 2 IN ITS ENTIRETY

Be it enacted by the Board of Mayor and Aldermen of Spring Hill, Tennessee that:

Section 1. Chapter 1 of Title 2 of the Spring Hill Municipal Code is amended in its entirety to read as follows:

CHAPTER 1

INTOXICATING LIQUORS

Section 2-101. Business, etc., unlawful except under certain regulations. Pursuant to title 57 of the Tennessee Code Annotated, chapter 215 of the Public Acts of 1967 amending the same, and a referendum held pursuant thereto in the Town of Spring Hill, Tennessee, this chapter is enacted.

It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the Town of Spring Hill, Tennessee, except in accordance with the provisions of title 57, chapter 1, of the Tennessee Code Annotated and the rules and regulations promulgated thereunder and as provided in this chapter.

Section 2-102. Terms defined. 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, wine and capable of being consumed by a human being, other than patented medicine, beer or wine, where the latter two (2) contain an alcoholic content of five per cent (5%) by weight, or less.

(2) "License" means the license issued pursuant to this chapter, and "licensee" means any person to whom such license has been issued.

(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 license is required under the provisions of this chapter.

(5) "Manufacturer" means and includes a distiller, vintner and rectifier. "Manufacture" means and includes distilling, rectifying and operating a winery.

(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 license is required under the provisions of secs. 57-106--57-151, Tennessee Code Annotated.

(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, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one per cent (21%) by volume. No other product shall be called "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.

(9) The word "gallon" or "gallons," wherever used in this chapter, shall be construed to mean a wine gallon or wine gallons of one hundred and twenty-eight (128) ounces. The word "quart," whenever used in this chapter, will be construed to mean one-fourth ( $\frac{1}{4}$ ) of a wine gallon. The word "pint" wherever used shall be construed to mean one-eighth ( $\frac{1}{8}$ ) of a wine gallon.

(10) Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural.

(11) The term "federal license" as used in this chapter shall not mean tax receipt or permit.

Section 2-103. Manufacturing prohibited. The manufacture of alcoholic beverages is prohibited within the corporate limits.

Section 2-104. Wholesaling prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits.

Section 2-105. Issuance of licenses for retail sales. For the retail sale of alcoholic beverages a license may be issued as herein provided. Any person or persons desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises shall make application to the city recorder for a retailers license. The application shall be in writing on forms prescribed and furnished by the city recorder. Subject to the issuance of a retail license by the commissioner of finance and taxation State of Tennessee, a majority of the Board of Mayor and Aldermen may issue such retailer's license. Such retailer's license shall not be issued unless and until the applicant therefor shall pay the city recorder a license fee of two hundred and fifty dollars (\$250.00) and no license shall be issued except to individuals who are and have been, for at least two (2) years, citizens and residents of Maury or Williamson County, Tennessee, who reside within three miles of the corporate limits of the Town of Spring Hill and are not citizens, residents, or inhabitants, of any other town or municipality, either incorporated or unincorporated.

Section 2-106. Proximity to churches, etc.; relocation of premises. No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the Board of Mayor and Aldermen, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be in too close proximity of a church, school, or public institution, or otherwise inimical to the public interest. A retailer's license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the city recorder, unless the new location is approved in writing by the Board of Mayor and Aldermen.

Section 2-107. No more than two (2) licenses to be issued. No more than two (2) retail licenses for the sale of alcoholic beverages shall be issued under this chapter.

Section 2-108. Bonds of licensees. Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee. Bonds of retailers shall be one thousand dollars (\$1,000). Said bonds shall be conditioned that the principals thereof shall pay any fine which may be assessed against such principals.

Section 2-109. Restrictions on license holders and employees.

(1) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter. In addition to all other penalties, a violation of this section shall authorize and require the revocation of the license, the fee for which was paid by another, and also the revocation of the license, if any, of the person so paying for the license of another.

(2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(3) No 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 license; 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 the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(4) No license shall under any condition be issued to any person who, within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(5) No manufacturer, brewer or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixture of any such person.

(6) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license unless it shall be fully disclosed to the Board of Mayor and Aldermen and approved by it. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this

section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon both the seller and the purchaser.

(7) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.

(8) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of twenty-one (21) years, and it shall be unlawful for any retailer to employ any person under twenty-one (21) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(9) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be so convicted he shall immediately be discharged; 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.

(10) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.

(11) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a license shall be a violation of this chapter.

(12) No retailer shall hold, have any interest in, or be the owner of a beer permit of any type issued under the ordinances of the Town of Spring Hill.

(13) No license shall be issued to a corporation nor shall a license be issued in the name of more than two (2) individuals.

Section 2-110. Display of license. Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license.

Section 2-111. Transfer of license restricted. The holder of a license may not sell, assign or transfer such license to any other person, and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military forces of the United States in the time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section.

Section 2-112. Expiration and renewal of license. Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by payment of the above mentioned license fee.

Section 2-113. New license after revocation. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective.

Section 2-114. Federal license, effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter.

Section 2-115. Inspection fee. There is hereby imposed an inspection fee on all gross sales of alcoholic beverages by licensees under this chapter; the payment of said fee shall be accompanied by a report of gross sales of said beverages for said calendar month on a form prescribed by the Board of Mayor and Aldermen. Failure to pay said fee and make said report accurately within the time prescribed at the sole discretion of the Board of Mayor and Aldermen may be cause for suspension for as much as thirty (30) days, and at the sole discretion of the Board of Mayor and Aldermen, be cause for revocation of said license.

The inspection fee imposed upon the sale of alcoholic beverages within the Town of Spring Hill shall be eight per cent (8%) of the wholesale price of said alcoholic beverages and said inspection fee shall be collected pursuant to the terms and language contained in Chapter 538 of the Public Acts of 1968. The legislative intent of this paragraph is to adopt in its entirety the provisions of Chapter 538 of the Public Acts of 1968 as it relates to municipalities having a population of less than six hundred thousand (600,000).

Section 2-116. Regulations for purchase and sale of intoxicating liquors. (1) It shall be unlawful for any person in this Town to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on.

(4) No retail store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereafter provided. When a retail store is located on the corner of two (2) public streets such retail store may maintain a door opening on each of the public streets. Provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public, and provided, further, that every retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances.

(5) No holder of a license for the sale of alcoholic beverages for retail shall sell, deliver, or cause, permit or procure to be sold or delivered, any alcoholic beverages on credit.

(6) No alcoholic beverages shall be sold for consumption on the premises of the seller.

(7) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee, and curb service is not permitted.

(8) To the fullest extent, consistent with the nature of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.

(9) No form of entertainment, including pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.

(10) No advertising by a licensee, or signs, displays, posters, or designs, intended to advertise any alcoholic beverages is permitted within the corporate limits of the Town of Spring Hill, except a licensee may place upon the front of the premises, flat against the face of the building, a sign in letters not larger than eight (8) inches in height designating the premises as " \_\_\_\_\_ Liquor Store," or a neon or electric sign of the same description may be placed inside the front glass of a retail store. No more than one such sign shall be permitted, and no sign may extend out from the building. The lettering on the permitted sign outside the building shall be paint, enamel, gold or silver leaf or similar material used in sign painting. Electrically operated signs shall not be permitted outside the building. The use of the words "whiskey," "wine," "gin," "spirits," or any other word of a similar connotation in a sign is prohibited.

Section 2-117. Retail solicitations prohibited. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises.

Section 2-118. Regulation of retail sales. (1) No retailer shall directly or indirectly, operate more than one (1) place of business for the sale of alcoholic beverages, 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.

(2) No retailer shall sell, lend or give away any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell, lend or give such to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend or give away any alcoholic beverages to a person under 21 years of age.

(4) No retailer shall sell, lend or give away any alcoholic beverages between 11 o'clock p.m. on Saturday and 8 o'clock a.m. on Monday of each week, and between 11 o'clock p.m. and 8 o'clock a.m. Monday through Saturday.

(5) No retailer shall sell, lend or give away any alcoholic beverages on any day of a general, municipal or primary election, or upon Christmas or Thanksgiving days.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

Section 2-119. Enforcement of license and inspection fees, etc. Whenever any of the persons licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee.

Section 2-120. Inspection of books, papers, etc. The city recorder is authorized to examine the books, papers and records of any dealer for the purpose of determining whether the provisions of this ordinance are being complied with. Any refusal to permit the examination of any of such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license or the refusal to issue a license.

Section 2-121. Violations. Any violation of the terms of this chapter shall be punishable under the general penalty clause for this code and, in such cases, suspension of said license by the city recorder for thirty (30) days shall be mandatory, and in the discretion of the Board of Mayor and Aldermen may be cause for revocation of said license.

Section 2-122. Possession of open containers on streets, etc., restricted. Visible possession of alcoholic beverages in an unsealed container upon any public street or within any governmental building shall be a violation of this chapter.

Section 2-123. Chapter not applicable to beer, etc. No provision of this chapter shall be considered or construed as in any way modifying, changing or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five (5) per cent or less.

Section 2. This ordinance shall take effect from and after its final reading, the public welfare requiring it.

Any pre-existing conditions are hereby ~~wavered.~~

*R.B. Boone*  
Mayor

ATTEST: *Jane Quirk*  
City Recorder

Passed first reading 4-19-, 1982  
Passed second reading 5-17, 1982  
Passed third reading 6-21, 1982