ORDINANCE NO. 56

AN ORDINANCE BY THE CITY OF LAKEWOOD, TENNESSEE, TO REGULATE THE SALE, PURCHASE, AND CONSUMPTION OF ALCOHOLIC BEVERAGES HAVING ALCOHOLIC CONTENT OF MORE THAN FIVE (5%) PER CENT BY WEIGHT.

BE IT ORDAINED BY THE CITY OF LAKEWOOD, TENNESSEE:

SECTION 1: That it shall be unlawful to engage in the business of selling, storing, transporting or distributing alcoholic beverages within the corporate limits of this municipality except as provided in this Ordinance.

SECTION 2: Terms defined. Whenever used herein 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 later two (2) contain an alcoholic content of five percent (5%) by weight, or less.

(2) "License" means the license issued herein 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 herein.

(5) "Manufacturer" mea ns 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 Sec. 57-106-57-151, Code of Tennessee.

(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 climate, 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 appropiate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine.

(9) The word "gallons" or "gallon" wherever used herein, shall be construed to mean a wine gallon or wine gallons, of one hundred and twenty-eight (128) ounces. The word "quart" whenever used herein 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 (1/8) of a wine gallon.

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

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

SECTION 3: The manufacture of alcoholic beverages is prohibited within the corporate limits.

SECTION 4: No person, firm or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits.

SECTION 5: For the retail sale of alcoholic beverages a license may be issued as herein provided. Any person, firm or corpora tion desiring to sell alcoholic beverages to patrons or custo mers, in sealed packages only, and not for consumption on the premises, shall make application to the City Manager for a Retailer's License, which application shall be in writing on forms perscribed and furnished by the City Manager, subject to the issuance of a retail license by the Commissioners of Revenue, State of Tennessee, a majority of the City Commission may issue such Retailer's License. Such Retailer's License shall not be issued unless and until the applicant therefore shall pay to the City Recorder a license fee of Two Hundred 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 of Davidson County.

SECTION 6: No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the City Commission, 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 Ordinance 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 Commission; unless the new location is approved in writing by the City Commission.

SECTION 7: 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 Five Hundred Dollars ($500.00). Said bond shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal.

SECTION 8: Restrictions on License Holders-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 sections herein,.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 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 judgement of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occuring 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 fixtures 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 licenses, 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 City Manager and approved by him. 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 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 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 judgement of infamy has been removed by a court of competent jurisdiction.

(10) The issuance of a license to any retailer shall not be deemed to vest any property rights in the licenses; the issuance of the license being a privilege, and the violation of this ordinance of any phrase or section thereof by the licensee may, upon the conviction of the licensee for any violation hereof, be cause for the suspension of his license by the City Manager, and by a majority of the City Commission be cause for revocation of his license.

(11) Should it be established that any applicant for a lice se, whether issued a license or not, has misrepresented any material fact, or has concealed any material fact or circumstance required to be shown in the application for a license such applicant shall be deemed to have violated this ordinance.

SECTION 9: Display of license, rules and regulations. Persons granted a license to carry on the business of undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicious place in their premises, such license.

SECTION 10: Transfer of permits 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 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 requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a license under this section.

SECTION 11: Licenses issued under this Ordinance shall expire at the end of each calendar year and, subject to the provisions of this Ordinance. may be renewed each calendar year by payment of the above mentioned license fee.

SECTION 12: 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 the one (1) year from the date said revocation becomes final and effective.

SECTION 13: Federal license, effect of. The possession of' any federal license to sell alcoholic beverages without the corresponding requiste 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 Ordinance.

SECTION 14: There is hereby imposed an inspection fee of three (3%) per cent of all gross sales of alcoholic beverages by licensees under this Ordinance; payment of said fee shall be made to the City Recorder by the tenth (10th) day of each calendar month for the preceding calendar month. All such fees to be paid into the General funds of the City.

SECTION 15: Regulations for purchase and sale of intoxicating liquors:

(1) It shall be unlawful for any person in this City to buy any alcoholic beverages herein defined from any person, who, to the knowledge of the buyer, does not hold the appropiate license under this Ordinance 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 i n 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 not 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) The sales room at the front of such retail store shall be open to view, that is to say, shall have glass windows and glass door at the front on which may be printed or painted the retailers license number and the name of the store, such name to be in lettering not less than f nor more than 8 inches in height; a partition separating the sales room and the storage room not more than 24 feet from the front wall of the store. The interior of the sales room shall be adequately lighted so asto clearly illumine the interior, and during all night hours lighting shall be maintained within the sales room.

(6) Loitering in the premises is prohibited, and excepting for the seat or seats required for the licensee and his employee there shall be no seats, lounges, sofas or benches within the premises.

(7) 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.

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

(9) 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.

(10) No form of entertainment, including television, pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold, but a radio tuned moderately may be operated. Also no method of cooling alcoholic beverages to be used.

(11) No licensee shall be advertising, signs, displays, posters, or designs intended to advertise any alcoholic beverages within the corporate limits of the City of Lakewood, except that a sign, subject to the approval of the City Manager, may be erected upon the face of the premises occupied by the licensee.

SECTION 16: No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from 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 licens ed premises.

SECTION 17: Regulation of retail sales:

(1) No retailer shall directly or indirectly, operate more than one (1) retail store licensed hereunder, and the word "indirectly" shall include and mean any kind of interest in another retail store licensed hereunder, 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 to any person who is accompanied by a person who is drunk, nor to any insane person, nor to any person who is an habitual drunkard nor to persons of known intemperate habits. Persons of known intemperate habits shall be defined to be persons with a record of convictions for public drunkenness in any city or County Court.

(3) No retailer shall sell, lend or give away any alcoholic beverages to a person under 21 years of age, and it shall be the responsibility of the retailer to ascertain the age of the persons proposing to make purchases when their being of age is in doubt.

(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 or between 11 P. M. and 8 A. M. Monday through Saturday.

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

(6) No retailer shall sell, lend or give away any alcoholic beverages except within the licensed premises, the delivery of alcoholic beverages at any point to any consumer except within the licensed premises being strictly forbidden.

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

(8) No retailer shall give, or offer to give any premiums, tokens, stamps or other kind of inducement as a means of stimulating the sale of alcoholic beverages or attracting custo mers to the licensed premises.

(9) The open display of a bottle or other container of alcoholic beverage on any public street, including sidewalks and entrances to any building, church or school, including grounds, is prohibited; and the possession by any person of any container with the seal broken, upon any public street or within any government building, school or church, shall be prima facie evidence that such bottle or container has been openly and publicly displayed.

(10) No person shall sell, lend or give away any alcoholic beverage to any person who is under 21 years of age, and any person who shall by any means knowingly permit or allow the alcoholic beverages encompassed by this ordinance to go to or get into the hands or possession of a person under 21 years of age shall be guilty of a misdemeanor.

(11) It shall be a misdemeanor for any person to send a person under 21 years of age into a retail store licensed und er the provisions of this ordinance, and it shall likewise be a misdemeanor for any licensee under this ordinance to permit or allow any one under 21 years of age to come into this store provided however, that should anyone under 21 years of age enter the premises of a licensee, that such licensee shall have adequate time and opportunity to ascertain the age of such person before he shall incur liability hereunder.

SECTION 18: 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 Manager 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 19: The City Manager, or any properly designated representative of the City, 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 20: Any violation of the terms of this Ordinance shall be punishable by a fine of not more than Fifty Dollars ($50.00); in such cases, suspension of said license by City Manager for thirty (30) days shall be mandatory, and in the discretion of the Commission may be cause for revocation of said license.

SECTION 21: That if any section, clause paragraph, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not effect any other section, clause, paragraph, provision or portion of this Ordinance.

BE IT FURTHER ORDAINED, that this Ordinance take effect from and after passage of same, the public welfare demanding it.

APPROVED AS TO LEGALITY AND FORM:

Mrs C. J. Wooden
Recorder

City Attorney

E. L. Ferrell
Mayor

Commissioner

Commissioner

PASSED FIRST READING December 7, 1967

PASSED SECOND READING December 21, 1967

PASSED THIRD READING January 4, 1968