ORDINANCE NO. 273

AN ORDINANCE PROVIDING FOR THE SALE OF BEER FOR OFF PREMISES CONSUMPTION, ESTABLISHMENT OF A PRIVILEGE TAX FOR THE SALE OF BEER, PROVIDING RULES AND REGULATIONS FOR THE SALE OF BEER, AND ESTABLISHING A BEER BOARD FOR THE CITY OF LAKEWOOD

BE IT ORDAINED BY THE CITY OF LAKEWOOD, DAVIDSON COUNTY, TENNESSEE, AS FOLLOWS:

SECTION 1. Title 2, Chapter 2, Section 2-201 of the Lakewood Municipal Code is hereby repealed.

SECTION 2. A new Title 2, Chapter 2, Sections 2-201 thru 216 are adopted as follows:

2-201. Beer Board Established. There is hereby established a beer board to be composed of the Board of Commissioners. The Mayor shall be the Chairman of the Beer Board.

2-202. Meetings Of The Beer Board. All meetings of the Beer Board shall be open to the public. The Board shall hold meetings in the City hall at such time as it shall prescribe. When there is business to come before the Beer Board, a special meeting may be called by the Chairman provided he gives a reasonable notice thereof to each member. The Board may adjourn a meeting at any time to another time and place. The time and date of the meeting may coincide with the meetings of the Board of Commissioners.

2-203. Record Of Beer Board Proceedings To Be Kept. The Recorder shall make a record of the proceeding is of all meetings of the Beer Board. The record shall be a public record and shall contain at least the following:

the date of each meeting;

the names of the Board members present and absent;

the names of the members introducing and seconding Motion and REsolutions, etc., before the Board;

a copy of each such Motion or Resolution presented;

the vote of each member thereon; and

the provisions of each Beer Permit issued by the Board.

2-204. Requirements For Beer Board Quorum And Action. The attendance of at least a majority of the members of the Beer Board shall be required to constitute a quorum for the purpose of transacting business. Matters before the Board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote.

2-205. Powers And Duties Of The Beer Board. The Beer Board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the City of Lakewood in accordance with the provisions of this Chapter.

2-206. "Beer" Defined. The term "beer" as used in this Chapter shall mean and include all manufacturer pre-packaged beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight.

2-207. Permit Required For Engaging In Beer Business. 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 a Permit from the Beer Board. The application shall be made on such form as the Board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, Section 57-5-101(b), and shall be accompanied by a non-refundable application fee of Two Hundred Fifty ($250.00) Dollars. Said fee shall be in the form of a Cashier's Check payable to the City of Lakewood. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this Chapter.

2-208. Privilege Tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of One Hundred ($100.00) Dollars. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax upon the initial issuance of the permit and on each January 1 thereafter, to the City of Lakewood. Tennessee. 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 payment date.

2-209. Beer Permits Shall Be Restrictive. All Beer Permits shall be restrictive as to the type of beer business authorized under them. Separate Permits shall be required for selling at retail, storing, distributing, and manufacturing. It shall be unlawful for any Beer Permit holder to sell beer for consumption on the premises. A single Permit may be issued for off premise consumption only. It shall be unlawful for any Beer Permit holder to engage in any type or phase of the beer business not expressly authorized by his Permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his Permit by the Beer Board.

2-210. Limitation On Number Of Permits. The total number of licenses in the City of Lakewood for the sale of beer shall be limited to three.

2-211. Interference With Public Health, Safety, And Morals Prohibited. No Permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with public parks, schools, or churches, or would otherwise interfere with the public health, safety, and morals. In no event will a Permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred (200) feet of any school or church and one hundred (100') feet from any public park. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which

the beer will be manufactured, stored or sold to the nearest point on the property line of the park, school or church.

2-212. Insurance Of Permits To Persons Convicted Of Certain Crimes Prohibited. No Beer Permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have 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.

2-213. 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 minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer;

3. make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 a.m during any night of the week;

4. make or allow any sale of beer to a person under twenty-one (21) years of age;

5. allow any person under twenty-one (21) years of age to loiter in or about his place of 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 drunk persons to loiter about his premises;

8. serve, sell or allow the consumption on his premises of any alcoholic beverage; and

9. allow pool or billiard playing or video games, or gaming or pinball machines in the same building where beer is sold and/or consumed.

2-214. Revocation 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 until a public hearing is held by the Board after reasonable notice to all the known parties in interest. Reasonable notice shall not include publication in a local newspaper. Revocation proceedings may be initiated by the City Manager, Police Chief or by any member of the Beer Board. Any reinstatement of the

Permit after a revocation or suspension shall require the payment of another non-refundable application fee of Two Hundred Fifty ($250.00) Dollars in accordance with Section 2-207.

2-215. **Civil Penalty In Lieu Of Suspension.** The Beer Board may, at its' sole discretion, at the time it imposes a revocation or suspension, offer a Permit holder the alternative of paying a civil penalty not to exceed $1,500.00 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed $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.

Payment of the civil penalty in lieu of suspension by a Permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the City may impose. The payment of a civil penalty in lieu of suspension shall not relieve the individual offender charged from such other penalties as may be assessed under this Ordinance or state law.

2-216. **Violations.** Except as provided in Section 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this Code. Each day a violation shall be allowed to continue shall constitute a separate offense.

Section 3. If any provision of this Ordinance shall be deemed unconstitutional, or otherwise unenforceable, this unconstitutionality or unenforceability shall not affect the enforceability of any other provisions of this Ordinance.

Section 4. This Ordinance shall take effect at the earliest date allowed by law, the public welfare requiring it.

APPROVED FIRST READING: 04/02/98

SECOND READING: 5/7/98

APPROVED:

Charles Gann
MAYOR

ATTEST:

Victor Ellis
CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY