

ORDINANCE NO. 2019-10

AN ORDINANCE AMENDING THE FAYETTEVILLE MUNICIPAL CODE TITLE 8, CHAPTER 2, SECTION 8-211 ENTITLED "SUSPENSION, REVOCATION, EXPIRATION OR RENEWAL OF PERMITS."

WHEREAS, the City of Fayetteville, Tennessee has an interest in regulating the activities of persons or entities who are granted permits to sell beer in the City of Fayetteville; and

WHEREAS, the City of Fayetteville, Tennessee regulates the circumstances under which beer permits may be suspended or revoked when a permit holder violates provisions of the state beer act or the provisions of Title 8, Chapter 2 of the Municipal Code; and

WHEREAS, amendment to the current regulation establishing the procedure for providing notice to permit holders and conducting hearings to determine whether permits should be suspended, revoked or whether fines should be levied in lieu of suspension or revocation is necessary to provide for more satisfactory consideration of violations of state or local regulations.

NOW, THEREFORE, BE IT ORDAINED by the City of Fayetteville Board of Mayor and Alderman that the Municipal Code shall be changed to:

SECTION 1. The Fayetteville Municipal Code Title 8, Chapter 2, Section 8-211, entitled "Suspension, revocation, expiration, or renewal of permits" is hereby deleted and replaced with the following:


8-211. Suspension, revocation, expiration, or renewal of permits.

- (1) All permits subject to suspension, revocation. All permits issued by the beverage board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.
- (2) Authority of the Board. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beverage board. The beverage board is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why the permit holder's permit should not be suspended or revoked.
- (3) Complaints. Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board.
- (4) Notice to appear; contents; service. When the beverage board shall have reason to believe that any permit holder shall have violated the provisions of the state beer act or any of the provisions of this chapter, the beverage board is authorized to notify the permit holder of said violation(s) and to cite said permit holder, by written notice, to appear and show cause why the permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permit holder at the address provided by the permit holder in the permit application or the address the permit holder has provided if a change of address has occurred since the permit was issue. Service of the notice shall be made at least five (5) days before the date of the hearing by personal service

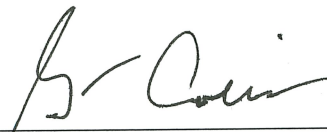
by a member of the City of Fayetteville Police Department or by certified mail, return receipt requested. Documentation of service shall be provided to the beverage board. In the event the permit holder cannot be served with notice of the hearing by personal service or by certified mail, service may be made by posting a notice at the location where the permit holder is authorized to sell beer pursuant to the permit.

- (5) Hearings. The chairman of the beverage board is authorized to compel the attendance of witnesses by subpoena issued by the clerk of the city court. At the hearing, the board shall publicly hear the evidence both in support of the charges and on behalf of the permit holder. After such hearing, if the charges are sustained by the evidence the beverage board may, in its discretion, suspend or revoke said permit.
- (6) Civil penalty in lieu of revocation or suspension. (a) The beverage board may, at the time it imposes a revocation or suspension, issue a civil penalty in lieu of revocation or suspension 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 issued as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty. If the civil penalty is not paid within that time, the revocation or suspension shall be deemed imposed.
- (b) When determining whether to impose a civil penalty in lieu of revocation of suspension upon a permit holder who has previously been penalized under this section, the beverage board shall not consider any violation by the permit holder that occurred more than five (5) years prior to the alleged violation under consideration by the beverage board.
- (7) Effect of board action. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final.

Adopted this 10th day of December, 2019.


MICHAEL WHISENANT, Mayor

Attest:



Scott Collins, City Clerk