

**MINUTES OF THE
OAK RIDGE BEER BOARD
Regular Meeting**

Training Room – Municipal Building
October 8, 2012
12:00 noon

PRESENT: Colin Colverson, Carol Heck, Theresa Scott, Debra Solmonson, and Randy Tedford

ABSENT: Barton Bailey

ALSO
PRESENT: Tammy Dunn, Senior Staff Attorney
Alan Massengill, Deputy Police Chief

AUDIENCE
MEMBERS: Michael Foster, Allies for Substance Abuse Prevention

ROLL CALL

Chairman Tedford called the meeting to order at 12:00 noon.

ACTING SECRETARY

In the absence of Secretary Bailey, Chairman Tedford moved, seconded by Ms. Heck, to appoint Ms. Solmonson as Acting Secretary for the meeting and the motion carried unanimously.

APPROVAL OF MINUTES

Chairman Tedford moved, seconded by Ms. Heck, to approve the minutes of the September 10, 2012 meeting and the motion carried unanimously.

APPLICATIONS FOR NEW BEER PERMITS AND THEIR ASSOCIATED MANAGER APPROVALS

Application No. 1460
Leonor Martin, Owner-Manager
Tienda Nony #3
135 E. Tyrone Road
Class "C" Permit

Ms. Martin was not present at the meeting (second meeting in a row). Chairman Tedford moved, seconded by Ms. Scott, to deny the beer permit application and the manager application and the motion carried unanimously.

Application No. 1462
Robin Biloski on behalf
Emory Valley Center
Benefit Concert – October 19, 2012
123 Randolph Road
Class “E” Permit

Jennifer Anderson, President of Emory Valley Center, was present to discuss the special event application on behalf of Robin Biloski.

The Board asked various questions about the event and the sale of beer. Ms. Anderson indicated wristbands would be used and beer consumption would only occur inside the premises (former Grove Theater). Ms. Heck moved, seconded by Ms. Solmonson, to approve the application and the motion carried unanimously.

Application No. 1463
Aubrey Burlison, Owner/Manager
Jody Slimp, Manager
Aubrey’s Inc.
481 S. Illinois Avenue
Class “C” Permit

Mr. Burlison and Mr. Slimp were both present to discuss the beer permit application and the two manager applications.

The Board reminded the owner and managers to call the police if needed and that there is no obligation to sell beer to anyone. The Board and Mr. Burlison discussed security cameras and parking lot issues. As a note, there will be two patios at Aubrey’s which are accessible to patrons from the inside of the restaurant. Employees are TIPS trained.

Mr. Colverson moved, seconded by Ms. Scott, to approve the beer permit application and both manager applications – subject to the background check – and the motion carried unanimously.

Application No. 1464
Abdul Rahman Shakoor Jamal, Owner
Akbar Abdul Rahman, Manager
Ian’s Market #32
12 Arkansas Avenue
Class “B” Permit

Akbar Abdul Rahman was present for the applications. His father, Abdul Rahman Shakoor Jamal, was out of town. The Board proceeded with the applications with Mr. Rahman acting in his managerial capacity on the owner’s behalf.

The Board discussed various items with Mr. Rahman. Mr. Rahman said the policy is to ID everyone and that employees will be TIPS trained. Ms. Solmonson moved, seconded by Mr. Colverson, to approve the beer permit application and the manager application – subject to the background check – and the motion carried unanimously.

Application No. 1465

**Wiwat Nang Crossno, Owner/Manager
Dondie Jai Hensley, Owner/Manager
Smokes To Go
117 Robertsville Road
Class "B" Permit**

Mr. Crossno and Mr. Hensley were present to discuss the permit application and the two manager applications.

The Board stated that beer could not be sold through the drive-thru window. Mr. Crossno stated he was aware of that requirement and would require all beer purchases to occur inside the premises. Mr. Colverson was concerned with how easy it would be for employees to sell beer through the drive-thru anyway, however, Mr. Crossno said he would terminate an employee who did so as he knew such action was grounds for revocation of the beer permit. Ms. Heck inquired whether City Code §8-607 which sets forth distance requirements for bars was applicable and Ms. Scott was concerned about the number of beer permitted establishments already in Grove Center. Mr. Crossno stated each permitted establishment serves a different market. Ms. Dunn stated City Code §8-607 was not applicable since that section pertains to distances between bars/clubs and not from bars/clubs. Mr. Crossno stated the sale of beer will occur later and will start off with cigarettes and convenience items, but he wanted to obtain the beer permit first before he entered into a lease agreement. Mr. Crossno and Deputy Chief Massengill discussed safety and security concerns at this location.

Mr. Colverson moved, seconded by Chairman Tedford, to approve the beer permit application and the manager applications – subject to the background check – and the motion carried by a vote of 4 to 1, with Ms. Scott voting against.

NEW MANAGER APPROVAL APPLICATIONS

**Jonathan A. Harris
Big Ed's Pizza
101 Broadway Avenue**

Mr. Harris was present to discuss his application. In response to questions, Mr. Harris stated beer is sold by the pitcher and by the glass, but bottles are not sold. All purchasers are carded at the table per policy. The Board recommended, but does not require, formal training and Mr. Harris said he would obtain such training. Deputy Chief Massengill stated there have been no problems at this location.

Chairman Tedford moved, seconded by Ms. Scott, to approve the manager application – subject to the background check – and the motion carried unanimously.

NEW / OLD BUSINESS

Discussion of Proposed Ordinances Amendment (Brown Bagging)

Note: This item was discussed at the beginning of the meeting upon motion of Chairman Tedford, seconded by Ms. Solmonson, to move the item up on the agenda, which motion carried unanimously. However, to keep with the printed agenda, the minutes are listed here in the original order of the meeting.

The Board discussed the proposed ordinance amendment for brown bagging that will be discussed by City Council at the October 8, 2012 meeting for first reading.

For clarification, Chairman Tedford moved, seconded by Ms. Solmonson, to add the word "permanent" in the first sentence of proposed City Code §11-203(2) to clarify that the on premises consumption beer permit must be a permanent one and not a special event permit for the exception to apply. The motion carried unanimously.

Ms. Scott moved, seconded by Ms. Heck, to amend proposed City Code §11-202 to require establishments to post a sign near the entrance referencing the code section and the prohibition on brown bagging as a means of education for the public. The motion failed by a vote of 2 to 3, with Chairman Tedford, Mr. Colverson, and Ms. Solmonson voting against.

Ms. Dunn, at Secretary Bailey's request in his absence from the meeting, stated Secretary Bailey's support of the proposed ordinance and his suggestion that the Board provide an "endorsement" for the establishments that brown bag wine under the exception in proposed City Code §11-203(2) and require an annual fee for such activity. Mr. Colverson stated he would be in favor of a fee if this practice poses an additional cost to the City, and Ms. Heck stated Council could look at this later if costs were incurred.

Chairman Tedford moved, seconded by Ms. Heck, to recommend City Council approval of the proposed ordinance amendment on brown bagging as amended by the Board, and the motion carried unanimously. (A copy of the proposed ordinance amendment is attached.)

Continuation of New Business Items from Last Meeting

(No discussion)

Term Expirations

All current members with terms expiring on December 31, 2012 have either re-applied or picked up an application today.

Miscellaneous

Various other items were mentioned, but not discussed for action:

- Request that City Council's Rules be provided to the Board for review and possible adoption for the Board's rules (Tedford)
- Suggestion that meetings begin with a statement for everyone to turn off phones and keep side conversations down (Heck)
- Suggestion that copies of the beer ordinances be available at the meeting for the public (Scott)
- Suggestion that we use the screen/projector during the meetings (Colverson)
- Request for suggestions on how to update the application forms (Dunn)
- Update that insurance discounts may be available for establishments that go through formal training (Michael Foster, ASAP)

ADJOURNMENT

The meeting adjourned at 1:10 p.m. upon motion of Ms. Heck, seconded by Ms. Scott, and unanimous approval.

Respectfully submitted,

Barton Bailey, Secretary

TITLE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING SECTION 8-805, TITLED "DRUGS OR LIQUOR ON PREMISES," AND SETTING FORTH A NEW SECTION 8-805, TITLED "DRUGS ON PREMISES"; AND BY DELETING TITLE 11, TITLED "MUNICIPAL OFFENSES," CHAPTER 2, TITLED "ALCOHOL, DRUGS, ETC." IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW CHAPTER 2, TITLED "ALCOHOL," ALL FOR THE PURPOSES OF SETTING FORTH REGULATIONS CONCERNING THE PRACTICE COMMONLY REFERRED TO AS "BROWN BAGGING."

WHEREAS, by City Code §8-805, the City of Oak Ridge prohibits the practice of brown bagging alcoholic beverages exceeding five percent (5%) alcoholic content by weight in establishments with a beer permit; and

WHEREAS, the City desires to expand the prohibition on brown bagging with one exception.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Title 8, titled, "Alcoholic Beverages," Chapter 8, titled "Beer and Other Light Beverages – Prohibitions," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting Section 8-805, titled "Drugs or Liquor on Premises," in its entirety and substituting therefor a new Section 8-805, titled "Drugs on Premises," which new section shall read as follows:

Sec. 8-805. Drugs on premises.

It is unlawful for any person to bring, to cause or to allow to be brought onto any permitted premises under chapters 6, 7, and 8 of this title any prohibited drugs within the meaning of Tennessee Code Annotated §§53-10-101, et seq., and 39-17-401, et seq.

Section 2. Title 11, titled, "Municipal Offenses," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting Chapter 2, titled "Alcohol, Drugs, Etc.," and substituting therefor a new Chapter 2, titled "Alcohol," which new chapter shall read as follows:

Chapter 2
Alcohol

Sec. 11-201. Drinking beer, wine, alcoholic beverage or other intoxicating liquor in public.

It shall be unlawful for any person to drink, consume or have an open container or bottle of beer, wine, alcoholic beverage, or other intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place or private club unless such place has a current and valid permit or license for on premises consumption of such beverage.

Sec. 11-202. Brown bagging.

It shall be unlawful for any person to bring for consumption any container or bottle of beer, wine, alcoholic beverage or other intoxicating liquor ("brown bagging") in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place or private club. It is similarly unlawful for any person or establishment to allow "brown bagging" to occur on their premises or to fail to take reasonable measures to inform their patrons and customers that

"brown bagging" is not allowed upon their premises. Any establishment who promptly reports to the police a "brown bagging" violation on its premises shall be presumed to be in compliance with the law. Likewise, any establishment which fails to promptly notify the police of a "brown bagging" violation on its premises shall be presumed to be in violation of the law.

Sec .11-203. Exceptions.

- (1) Generally. The provisions of Section 11-201 and Section 11-202 above are not applicable to any establishment which possesses a current and valid liquor by the drink license from the State of Tennessee.
- (2) On-Premises Beer Permitted Food Service Establishments – Wine. Food service establishments with a current and valid on-premises consumption beer permit issued under the provisions of the City Code may allow patrons and customers to "brown bag" wine—as defined by Tennessee Code Annotated §57-4-102(39)—regardless of whether such food service establishment possesses a liquor by the drink license from the State of Tennessee. For purposes of this subsection, "food service establishment" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its patrons and customers; and providing that more than fifty percent (50%) of the gross revenue of the establishment is generated from the serving of food/meals. City Council may, by resolution, establish a permit fee for this exception to the "brown bagging" prohibition.

Section 3. Enforcement of this ordinance shall begin January 1, 2013.

Section 4. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

Kenneth R. Krushenski, City Attorney

Thomas L. Beehan, Mayor

Diana R. Stanley, City Clerk

First Reading: _____
 Publication Date: _____
 Second Reading: _____
 Publication Date: _____
 Effective Date: _____