

BOARD OF MAYOR AND ALDERMEN

PUBLIC HEARING

FEBRUARY 22, 2016

The Jonesborough Board of Mayor and Aldermen met for a Public Hearing on February 22, 2016, at 8:00 a.m., at Town Hall, 123 Boone Street, Jonesborough, TN.

Mayor Wolfe called the Public Hearing to order. The first item on the Public Hearing agenda was amending Title 2, Chapter 1, of the Alcoholic Beverage Ordinance, to allow Food Stores with Permits from the Tennessee Alcoholic Beverage Commission to sell wine. Mayor Wolfe asked if there were any citizens present who would like to comment on this proposed Ordinance. There were none.

Mayor Wolfe said the second item on the Public Hearing agenda was an amendment to Title 11, Chapter 5 of the Jonesborough Municipal Code clarifying the definition of a Retail Liquor Store to be located in Jonesborough's Retail Liquor Store Overlay Zone. Mayor Wolfe asked if there were any citizens present who would like to comment on this Ordinance. There were none.

Mayor Wolfe said the third item on the Public Hearing agenda was an amendment to the Historic Zoning Ordinance, Sections 11-503, 11-520, and 11-523 of Title 11, Chapter 5, of the Jonesborough Municipal Code. Mayor Wolfe asked if there were any citizens present who would like to comment on this Ordinance. There were none.

Mayor Wolfe closed the Public Hearing.

ABBEY MILLER, RECORDER

KELLY WOLFE, MAYOR

BOARD OF MAYOR AND ALDERMEN

CALLED MEETING

FEBRUARY 22, 2016

The Board of Mayor and Aldermen (BMA) met in Called Session on Monday, February 22, 2016, at 8:00 a.m., at Town Hall, 123 Boone Street, Jonesborough, TN.

Mayor Kelly Wolfe called the meeting to order. Alderman Countermine led the group in an opening Prayer. Lisa Whaley led the pledge to the Flag.

Upon call of the roll those present were: Mayor Kelly Wolfe, Alderman Terry Countermine, Alderman Adam Dickson, Alderman David Sell, and Alderman Chuck Vest. Also present were: Town Administrator Bob Browning, Town Recorder Abbey Miller, Operations Manager Craig Ford, and Town Attorney Jim Wheeler.

The first item on the agenda was the Ordinance amending Title 2, Chapter 1, to allow food stores to sell wine. Mayor Wolfe read the Ordinance caption and asked Attorney Wheeler if everything was in order on the Ordinance. Attorney Wheeler replied that all was in order. Motion was made by Alderman Vest, seconded by Alderman Countermine and duly passed to approve on second and final reading an Ordinance amending Title 2, Chapter 1, of the Alcoholic Beverage Ordinance of the Jonesborough

Municipal Code amending Section 2-108, adding new subsection 2-108(1)(a), and new Section 2-109 Food Stores Selling Wine as follows:

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 2, CHAPTER 1, THE
ALCOHOLIC BEVERAGE ORDINANCE, TO ALLOW FOOD
STORES WITH PERMITS TO SELL WINE FROM THE
TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

WHEREAS, the Tennessee State Legislature passed §57-3-806 which allows for the sale of wine in Food Stores beginning July, 2016, and

WHEREAS, Jonesborough has at least two Food Stores that meet the eligible definition established in the legislation that may apply to the ABC for a wine permit, and

WHEREAS, local communities must provide a Certificate of Compliance stating that background checks have been run on store managers and any corporate executives responsible for local stores to determine they have not been convicted of a felony in the last (10) years, and in addition certify that the store location(s) meet local zoning requirements, and

WHEREAS, Jonesborough needs to bring its Alcoholic Beverage Ordinance into compliance with new criteria established by the State Legislature for the sale of wine in food stores, then

NOW, THEREFORE BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Jonesborough, Tennessee that Title 2, Chapter 1 of the Jonesborough Municipal Code is hereby amended as follows:

1. The section title of 2-108 is changed to read Retail Liquor Stores.
2. A new subsection 2-108(1)(a) is added that reads as follows:
 - (1)(a) Retail Liquor Stores are defined as stores licensed under TCA §57-3-208 to sell wine, intoxicating liquors and beer of over five (5%) alcohol content; retail liquor stores are not Food Stores permitted by the ABC to sell wine under TCA §57-3-806.
3. A new section 2-109 that reads as follows:

2-109 Food Stores Selling Wine

 - (1) Sale Authorized. It shall be lawful for a licensee to sell wine at retail in a food store within the corporate limits of Jonesborough provided background checks on the food store manager and responsible corporate officer and zoning are properly certified by the Jonesborough Board of Mayor and Aldermen and the license to sell wine has been properly issued by the Tennessee Alcoholic Beverage Commission under criteria established in TCA §57-3-806.
 - (2) License and Certificate Required. It shall be unlawful for any food store to sell wine at retail without first obtaining a Certificate of Compliance certifying clear background checks and the proper zoning, as well as an approved license to sell wine has been obtained from the Tennessee Alcoholic Beverage Commission.
 - (3) Number of Food Stores with License to Sell Wine Retail. There is no limit to the number of food stores that can be permitted to sell wine if they meet local and state criteria.

(4) Application for Certificate of Compliance. Applications for a Certificate of Compliance must be filled out completely, and the completed application must be acted upon by the Jonesborough Board of Mayor and Aldermen within sixty (60) days or the application is deemed granted.

(a) A background check must be undertaken on the store manager, and, if a corporation, the CEO or corporate officer responsible for the food store in Jonesborough.

(b) The required background checks must determine if the manager or corporate officer in charge has been convicted of a felony in the last ten (10) years.

(c) The background checks must be initiated by the applicant and the cost of the background check will be the sole responsibility of the applicant. Background checks must be undertaken by a reputable firm, approved by the State and Federal government that can undertake a national search using fingerprint technology to determine if a felony has been committed in the last ten (10) years. Background search results must be submitted to the Town of Jonesborough along with the necessary address and contact information of the firm utilized for the search so a verification of results can be obtained. An application for a Certificate of Compliance is not considered complete until the background check results have been submitted to the Town.

(d) The property must be properly identified to allow Town staff and the Town Board to make a determination of proper zoning.

(e) A Certificate of Compliance application fee will be \$250.00 or the maximum allowed by State law.

This ordinance shall become effective immediately after its passage on second and final reading.

Motion was made by Alderman Vest and seconded by Alderman Sell that the preceding ordinance be adopted on first reading. Those voting for the adoption thereof were: Alderman Vest, Alderman Sell, Alderman Dickson

Those voting against: _____

PASSED ON FIRST READING February 8, 2016

KELLY WOFE, MAYOR

ATTEST:

ABBEY MILLER, RECORDER

APPROVED AS TO FORM

JAMES R. WHEELER, TOWN ATTORNEY

Motion was made by Alderman Vest and seconded by Alderman Countermine that the preceding ordinance be adopted on first reading. Those voting for the adoption thereof were: Alderman Vest, Alderman Countermine, Alderman Dickson,
Alderman Sell

Those voting against: _____

PASSED ON SECOND READING February 22, 2016

KELLY WOLFE, MAYOR

ATTEST:

ABBEY MILLER, RECORDER

APPROVED AS TO FORM

JAMES R. WHEELER, TOWN ATTORNEY

The second item on the agenda was the Ordinance amending Title 11, Chapter 5, clarifying the Retail Liquor Store (RLS) Overlay District. Mayor Wolfe read the Ordinance caption and asked Attorney Wheeler if everything was in order on the Ordinance. Attorney Wheeler replied that all was in order. Motion was made by Aldermen Sell, seconded by Alderman Vest and duly passed to approve on second and final reading an Ordinance amending Title 11, Chapter 5, Section 11-517(c), the Retail Liquor Store Overlay District, and adding language that references the definition of a Retail Liquor Store in the Alcoholic Beverage Ordinance, Title 2, Chapter 1, as follows:

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 11, CHAPTER 5 CLARIFYING THE DEFINITION OF A RETAIL LIQUOR STORE ONLY TO BE LOCATED IN JONESBOROUGH'S RETAIL LIQUOR STORE OVERLAY ZONE

WHEREAS, Jonesborough has a Retail Liquor Store Overlay Zone in which retail liquor stores can be located, and

WHEREAS, the Tennessee Legislature has passed enabling legislation that allows, under certain conditions, the sale of wine in food stores, and

WHEREAS, it has been deemed necessary to ensure that food stores meeting local criteria and being permitted by the Tennessee Alcoholic Beverage Commission are not regulated as retail liquor stores, then

NOW, THEREFORE BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Jonesborough, Tennessee that the first sentence of 11-517(c) RLS (Retail Liquor Store) Overlay Zone be amended in its entirety as follows:

11-517(c) RLS (Retail Liquor Store) Overlay District. It is the intent of this district to allow retail liquor stores, as defined in Title 2, Chapter 1, Section 2-108(1)(a) of the Jonesborough Municipal Code, to be located in areas that provide the best opportunity for the stores to be successful with the least negative impact on the Jonesborough community.

This ordinance shall become effective immediately after its passage on second and final reading.

Motion was made by Alderman Vest and seconded by Alderman Sell that the preceding ordinance be adopted on first reading. Those voting for the adoption thereof were: Alderman Vest,
 Alderman Sell, Alderman Dickson

Those voting against: _____

PASSED ON FIRST READING February 8, 2016

KELLY WOFE, MAYOR

ATTEST:

ABBEY MILLER, RECORDER

APPROVED AS TO FORM

JAMES R. WHEELER, TOWN ATTORNEY

Motion was made by Alderman Sell and seconded by Alderman Vest that the preceding ordinance be adopted on first reading. Those voting for the adoption thereof were: Alderman Sell, Alderman Vest, Alderman Countermine, Alderman Dickson

Those voting against: _____

PASSED ON SECOND READING February 22, 2016

KELLY WOLFE, MAYOR

ATTEST:

ABBEY MILLER, RECORDER

APPROVED AS TO FORM

JAMES R. WHEELER, TOWN ATTORNEY

The third item on the agenda was the Ordinance amending Title 11, Chapter 5, allowing sale of wine in food stores. Mayor Wolfe read the Ordinance caption and asked Attorney Wheeler if everything was in order on the Ordinance. Attorney Wheeler replied that all was in order. Alderman Countermine asked for the definition of a food store. Mr. Browning said it is a business that derives at least 20 percent of its sales from the retail sale of food and food ingredients, has floor space of at least 1,200 square feet, that food sales be those taxed at the lower 5 percent state rate rather than the higher tax for prepared foods, and that has been licensed by the TN Alcoholic Beverage Commission to sell wine retail. Mayor Wolfe said this is the definition by which you can sell wine in a food store. He added that the Shell Station does not meet the criteria of a food store. Mr. Browning said the State uses sales tax criteria to determine this. Alderman Vest asked if this effects the Farmers Market. Mr. Browning said it depends on zoning. Mr. Browning said Food City reflected 65% in food sales on the application submitted. Motion was made by Alderman Vest, seconded by Alderman Sell and duly passed to approve on second and final reading an Ordinance amending Title 11, Chapter 5, sections 11-503, 11-520, and 11-523, adding the definition of food stores selling wine in grocery stores and adding food stores selling wine to zone B-3 and B-6 as follows:

ORDINANCE NO. _____

**AN ORDINANCE AMENDING SECTIONS 11-503, 11-520
AND 11-523 OF TITLE 11 CHAPTER 5, ZONING ORDINANCE
OF THE JONESBOROUGH MUNICIPAL CODE**

WHEREAS, the State Legislature has passed enabling legislation allowing the sale of wine in food stores under certain conditions including a local referendum approving such sale, and

WHEREAS, Jonesborough passed a referendum in 2014 approving the sale of wine in food stores, and

WHEREAS, it has been deemed necessary to clarify sections of the Jonesborough Zoning Ordinance to appropriately locate food stores permitted to sell wine in Jonesborough, then

NOW, THEREFORE BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Jonesborough, Tennessee that Title 11, Chapter 5, Sections 11-503, 11-520 and 11-523 are hereby amended as follows:

11-503 Definitions. New subsections 11-503 (14A) and 11-503 (16A) are added as follows:

1. 11-503 (14A) Food Stores Selling Wine. A business that derives at least 20 percent of its sales from the retail sale of food and food ingredients, has floor space of at least 1,200 square feet, that food sales be those taxed at the lower 5 percent state rate rather than the higher tax for prepared foods, and that has been licensed by the TN Alcoholic Beverage Commission to sell wine retail.
2. 11-503(16A) Grocery Stores. A business with 50% of its sales being food products and food ingredients not selling wine or alcoholic beverages above 5% alcohol content.

11-520 B-3 (Arterial Business District). Section 11-520 is hereby amended of adding subsection (6) Food Stores selling wine.

11-523 B-6 (Urban Commercial Corridor District). Section 11-523 is hereby amended by adding subsection (2)(h) Food Stores selling wine.

This ordinance shall become effective immediately after its passage on second and final reading.

Motion was made by Alderman Sell and seconded by Alderman Vest that the preceding ordinance be adopted on first reading. Those voting for the adoption thereof were: Alderman Sell,
 Alderman Vest, Alderman Dickson

Those voting against: _____

PASSED ON FIRST READING February 8, 2016

KELLY WOFE, MAYOR

ATTEST:

ABBEY MILLER, RECORDER

APPROVED AS TO FORM

JAMES R. WHEELER, TOWN ATTORNEY

Motion was made by Alderman Vest and seconded by Alderman Sell that the preceding ordinance be adopted on first reading. Those voting for the adoption thereof were: Alderman Vest, Alderman Sell, Alderman Countermine, Alderman Dickson

Those voting against: _____

PASSED ON SECOND READING February 22, 2016

KELLY WOLFE, MAYOR

ATTEST:

ABBEY MILLER, RECORDER

APPROVED AS TO FORM

JAMES R. WHEELER, TOWN ATTORNEY

The fourth item on the agenda was the application from Food City #640 for a Certificate of Compliance for Retail Food Store Wine. Mayor Wolfe said the staff has done a great job and has been very pro-active in trying to help Food City and Ingles to meet the State of Tennessee deadlines. He said after the BMA approves the application, then the food stores have to go through an application process with the State before July 1st. He said Ingles and Food City were given the opportunity to have their completed applications back to be approved at this meeting; Ingles brought theirs in after the deadline and would be considered at the next BMA meeting. Attorney Wheeler suggested that the BMA modify the recommendation to include who would be responsible for reviewing and approving the background checks before Mayor Wolfe signs off on the Certificate of Compliance. Attorney Wheeler suggested Mayor Wolfe,

the Town Administrator or the Police Chief. Mr. Browning said he had asked Police Chief Hawkins to perform the review. Motion was made by Alderman Countermine, seconded by Alderman Vest and duly passed to approve Food City Store #640 application for a Certificate of Compliance For Retail Food Store Wine, authorizing the Mayor to execute the Certificate, subject to the verified results of a background check on the Store Manager and Corporate CEO that reflects that neither has been convicted of a felony in the last ten (10) years, subject to the Police Chief's verification of the results of the background checks.

The meeting was duly adjourned.

ABBEY MILLER, RECORDER

KELLY WOLFE, MAYOR