ORDINANCE NO. 13-388

AN ORDINANCE OF THE TOWN OF MOUNT CARMEL, TENNESSEE, REPEALING THE PROHIBITION OF INTOXICATING LIQUOR SALES ON PREMISE AND ADOPTING A PRIVILEGE TAX ON RETAIL SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISE.

WHEREAS, on November 6, 2012, an election was held in Hawkins County, Tennessee, and the Town of Mount Carmel Liquor Referendum appeared on said ballot. By a certification of the Hawkins County Election Commission, dated November 20, 2012, the legal sale of alcoholic beverages for consumption on the premises in the Town of Mount Carmel was approved by the voters, with 1,176 voting for and 962 voting against, a copy of which is attached as Exhibit A.

NOW, THEREFORE, IN CONSIDERATION OF SAID PASSAGE OF THE AFOREMENTIONED REFERENDUM, it is therefore necessary to amend the Ordinances of the Town of Mount Carmel, Tennessee, by deleting Title 8 Chapter 1, and substituting the following sections.

TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Definition of "alcoholic beverages".
8-102. Consumption of alcoholic beverages on premises.
8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
8-104. Annual privilege tax to be paid to the City Recorder.

8-101. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise: "Alcoholic beverages" 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 or beer, where the latter contained an alcoholic content of five percent (5%) by weight, or less.

8-102. Consumption of alcoholic beverages on premises. *Tenn. Code Anno.* Title 57, Chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption, which are regulated by the said code when such sales are conducted within the corporate limits of the Town of Mount Carmel, Tennessee. It is the intent of the Board of Mayor and Aldermen that said *Tenn. Code Anno.* Title 57, Chapter 4, inclusive, shall be effective in the Town of Mount Carmel, Tennessee, the same as if said code sections were copied herein verbatim.

8-103. <u>Privilege tax on retail sale of alcoholic beverages for consumption on the premises.</u> Pursuant to the authority contained in *Tenn. Code Anno.* §57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tenn. Code Anno.* Title 57, Chapter 4, Section 301, for the Town of Mount Carmel General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Mount Carmel alcoholic beverages for consumption on the premises where sold.

8-104. <u>Annual privilege tax to be paid to the City Recorder,</u> Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Mount Carmel shall remit annually to the City Recorder the appropriate tax described in §8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

SECTION II. LEGAL STATUS PROVISIONS

A. <u>Conflict with Other Ordinances.</u> In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the Town of Mount Carmel, the most restrictive shall in all cases apply.

B. <u>Validity.</u> If any section, clause, provision, or portion of this Ordinance shall be held to be in doubt or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

C. <u>Effective Date.</u> This Ordinance shall take effect from and after the date of its passage and publication, as the law directs the public welfare of the Town of Mount Carmel, Tennessee, requiring it.

A D O P T E D this the 26th day of March, 2013.

LARRY FROST, Mayor

ATTEST:

MARIAN SANDIDGE, Recorder

Motion: Alderman Wolfe
Second: Alderman Christian

FIRST READING	AYES	NAYS	OTHER
ALDERMAN EUGENE CHRISTIAN	X		
ALDERMAN WANDA DAVIDSON	X		
ALDERMAN LEANN DEBORD	X		
ALDERMAN FRANCES FROST	X		
VICE-MAYOR L. PAUL HALE	X		
ALDERMAN CARL WOLFE	X		
MAYOR LARRY FROST	X		
TOTALS	7	0	0

PASSED FIRST READING: February 26, 2013

Motion: Alderman Christian
Second: Alderman Wolfe

SECOND READING	AYES	NAYS	OTHER
ALDERMAN EUGENE CHRISTIAN	X		
ALDERMAN WANDA DAVIDSON	X		
ALDERMAN LEANN DEBORD	X		
ALDERMAN FRANCES FROST	X		
VICE-MAYOR L. PAUL HALE	X		
ALDERMAN CARL WOLFE	X		
MAYOR LARRY FROST	X		
TOTALS	7	0	0

PASSED SECOND READING: March 26, 2013

PUBLICATION AFTER PASSAGE:

DATE: March 28, 2013
NEWSPAPER: *Kingsport Times-News*

YAHOO! MAIL Classic

Adopted Ordinances for the Town of Mount Carmel Wednesday, March 27, 2013 8:09 AM

From: "Marian Sandidge" <mariansandidge@yahoo.com>
To: "Sheryl Edwards" <sedwards@timesnews.net>

March 27, 2013

Kingsport Times-News
Classified Advertising Department
P.O. Box 479
Kingsport, TN 37662

RE: Adopted Ordinance for the Town of Mount Carmel

Dear Sheryl:
Please run the following advertisement in the Legal Section one time:

> The Town of Mount Carmel, Tennessee, on March 26, 2013, passed the following ordinances:
> **Ordinance 13-387.** An Ordinance to Amend Title 4, "Municipal Personnel," Chapter 3, "Occupational Safety and Health Plan," to Update Rules and Regulations, and to Provide for a Safety Director and the Implementation of Such Program Plan."; and
> **Ordinance 13-388.** An Ordinance of the Town of Mount Carmel, Tennessee, Repealing the Prohibition of Intoxicating Liquor Sales on Premise and Adopting a Privilege Tax on Retail Sale of Alcoholic Beverages for Consumption on the Premise; and
> **Ordinance 13-389.** An Ordinance Repealing the Hours of Sale for Beer.

Should you have any questions or if any additional information is needed, please do not hesitate to call on me.

Sincerely,
TOWN OF MOUNT CARMEL
Marian Sandidge, City Recorder

Order Confirmation

Ad Order Number	Customer	Payor Customer
0001069313	TOWN OF MOUNT CARMEL	TOWN OF MOUNT CARMEL
Sales Rep.	**Customer Account**	**Payor Account**
sedwards	59632	59632
Order Taker	**Customer Address**	**Payor Address**
sedwards	P O BOX 1421, , MT CARMEL TN 37645 USA	P O BOX 1421, , MT CARMEL TN 37645 USA
Ordered By		
	Customer Phone	**Payor Phone**
Order Source	423-357-7311	423-357-7311
PO Number	**Customer Fax**	**Customer EMail**
		mcch@chartertn.net

Tear Sheets	Proofs	Affidavits	Payment Method
0	0	1	

Invoice Text:

Blind Box **Materials**

Net Amount	Tax Amount	Total Amount	Payment Amt	Amount Due
$50.50	$0.00	$50.50	$0.00	$50.50

Ad Number	Ad Type	Ad Size	Pick Up Number
0001069313-01	LL Legal Liner	1.0 X 35 Li	

Order Notes/Information

PUBLIC NOTICE

The Town of Mount Carmel, Tennessee, on March 26, 2013, passed the following ordinances:

Ordinance 13-387. An Ordinance to Amend Title 4, "Municipal Personnel," Chapter 3, "Occupational Safety and Health Plan," to Update Rules and Regulations, and to Provide for a Safety Director and the Implementation of Such Program Plan."; and

Ordinance 13-388. An Ordinance of the Town of Mount Carmel, Tennessee, Repealing the Prohibition of Intoxicating Liquor Sales on Premise and Adopting a Privilege Tax on Retail Sale of Alcoholic Beverages for Consumption on the Premise; and

Ordinance 13-389. An Ordinance Repealing the Hours of Sale for Beer.

PUB1T; 03/28/13

THE UNIVERSITY of TENNESSEE UT

MUNICIPAL TECHNICAL ADVISORY SERVICE

120 Conference Center Building
Knoxville, TN 37996-4105
Phone: (865) 974-0411
Fax: (865) 974-0423
www.mtas.tennessee.edu

To:	MARIAN SANDIDGE	From:	SID HEMSLEY
Fax:	(423) 357-7710	Phone:	974-0411
Date:	2/26/13	Pages:	
Re:			

Message:

MS. SANDIDGE, HERE IS ABOUT THE BEST LIQUOR BY THE DRINK ORDINANCE WE HAVE. IT REFLECTS THE VERY LIMITED POWERS CITIES IN TENNESSEE HAVE OVER LIQUOR BY THE DRINK.

WITH RESPECT TO SECTION 8-105 OF THE ORDINANCE, JUST USE SECTION 8-102 OF YOUR CITY CODE

CALL ME IF YOU NEED ME.

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER 1

INTOXICATING LIQUORS

8-101. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "Alcoholic beverages" 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 or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (Ord. #97-07, Feb. 1997)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Maryville, Tennessee. It is the intent of the city council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Maryville, Tennessee, the same as if said code sections were copied herein verbatim. (Ord. #97-07, Feb. 1997)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in

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[1]State law reference
Tennessee Code Annotated, title 57.

the same amounts levied by T.C.A., title 57, chapter 4, section 301, for the City of Maryville General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Maryville alcoholic beverages for consumption on the premises where sold. (Ord. #97-07, Feb. 1997)

8-104. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Maryville shall remit annually to the city clerk the appropriate tax described in § 8-103. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #97-07, Feb. 1997)

8-105. Public consumption of intoxicating liquors or alcoholic beverages prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, alley, boulevard, bridge, nor upon the grounds of any cemetery or public school nor upon any park or public grounds nor upon any vacant lot within two hundred (200) feet of any public street, highway, avenue, or other public place. (as added by Ord. #2008-16, March 2008)

JUST USE YOUR SECTION 8-102 FROM YOUR CHAPTER 1, TITLE 8

The Hawkins County Election Commission

110 EAST MAIN ST. · COURTHOUSE ANNEX, ROOM 301 · ROGERSVILLE, TN 37857 · TELEPHONE(423)272-8061 · FAX (423) 921-9459
E-MAIL vote@hawkinstnelections.com

November 20, 2012

~~Tennessee Alcoholic Beverage Commission~~
226 Capitol Boulevard Building, Suite 300
Nashville, TN 37243-0755

Re: Town of Mount Carmel Liquor Referendum - passed

Dear Commissioners:

As Administrator of the Hawkins County Election Office, I am informing you of the passage of a referendum placed before the citizens of the Town of Mount Carmel, Tennessee, on the November 6, 2012 General and Municipal ballot for the legal sale of alcoholic beverages for consumption on the premises in the Town of Mount Carmel.

Attached are the certified results of the stated election, along with the certification of the election by the Hawkins County Election Commission. Please do not hesitate to contact me if you have questions or need more information.

Sincerely,

Donna Sharp

Donna Sharp
Administrator of Elections

attachments (2)

xc: Mount Carmel City Recorder

CERTIFICATION OF ELECTION RESULTS
(MUNICIPAL LIQUOR REFERENDUM)

WE, THE UNDERSIGNED MEMBERS OF THE HAWKINS COUNTY ELECTION COMMISSION, DO HEREBY CERTIFY THAT WE HELD A **LIQUOR REFERENDUM ELECTION** ON **TUESDAY, NOVEMBER 6, 2012**, IN ALL OF THE VOTING PRECINCTS IN THE TOWN OF MOUNT CARMEL, ACCORDING TO LAW, FOR THE PURPOSE OF RATIFYING THE REFERENDUM QUESTION FOR/AGAINST LEGAL SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES IN THE TOWN OF MOUNT CARMEL, AND THAT WE HAVE CANVASSED THE RETURNS OF SAID ELECTION AS REQUIRED BY LAW, AND WE DO HEREBY CERTIFY THAT THE FOLLOWING 2 PAGES OF TABULATION ARE A TRUE, CORRECT, AND COMPLETE ACCOUNTING OF THE RESULTS BY PRECINCT OF SAID ELECTION AS ESTABLISHED BY THE CANVASSING OF THE RETURNS, THIS 19th DAY OF **NOVEMBER, 2012**.

Luke Lee
Chairman, County Election Commission

Teresa Green
Secretary, County Election Commission

Judy Woods Trent
Member, County Election Commission

Ralph Trent
Member, County Election Commission

Carl K Bailey
Member, County Election Commission

ORIGINAL

11/16/2012

State of Tennessee - HAWKINS County

November 6, 2012 - Municipal Liquor Referendum - Mount Carmel

Legal Sale of Alcoholic Beverages for Consumption

1. For	1176
2. Against	962
Total Votes Cast	2138

Municipal Liquor Referendum - Mount Carmel

November 6, 2012

Legal Sale of Alcoholic Beverages for Consumption

1. For
2. Against

Precinct	1	2
3 Carter's Valley	15	26
1 Mount Carmel	1161	936
Totals	1176	962

Summary of license and fees

Private Club License

City may charge $300 license fee
State collects 15% liquor sales tax
All sales are subject to regular state and local sales tax

Restaurant

City may charge a privilege tax as provided by TCA 57-4-301 from $120 to $200
(Note: may not exceed the 2003 tax level).

State collects 15% liquor sales tax
All sales are subject to regular state and local sales tax

Package Store

Wholesalers pay an 8% inspection fee to the local government
Retailers pay a $500 registration fee to the state

Hours of Sale

Weekdays sales may not be made between the hours of 3:00 a.m. and 8:00 a.m.
Sunday sales may not be made between the hours of 3:00 a.m. and 10:00 a.m.
(OAG 02-023 and Rule 0100-1-.03)

ABC may extend the hours of sale unless the city passes a resolution of exemption

TCA 57-6-103 Wholesale Beer Tax is 17%. It is submitted to the city by the wholesaler on a monthly basis. 5% of the amount is forwarded to the State Dept. of Revenue and 3% is retained by the wholesaler for collection expenses.

TCA 57-6-201 Wholesale Tax (additional) Wholesaler pays state Department of Revenue .15 cents per case sold to defer department expenses.

TCA 57-3-201 Wholesaler's license-shall make application to the Commission. Pay one time fee of $300 when application is submitted for review. Shall not be issued until a separate license fee of $3,000 is paid.

TCA 57-3-204 Retailer's License. Package store application is made to the Commission. Shall pay $300 one-time non-refundable fee plus $850 annual license fee.

TCA 67-4-410 Mixed Drink Tax. Does not include drinks served with meals in a restaurant and no bar is maintained shall pay to the state 15% of gross receipts collected by the state.
TCA 57-3-206 Wholesale or retailers licenses, fees; Collection

TCA 57-4-301 15% tax on for consumption on premises. State distributes proceeds of tax as follows:

- 50% to education
- 50% to local political jurisdiction
    - 50% to education
    - 50% to city Note: This means that the city gets 25% of the tax.

TCA 57-3-501 City may impose inspection fee upon licensed retailers of alcoholic beverages as defined in TCA 57-3-501. Tax shall not exceed 8% when located in counties with populations of 60,000 or less. 5% if the population exceeds 60,000 population.

a. Liquor by the drink sales are not retail sales.
b. Wholesalers are not retailers.

Wine is an alcoholic beverage. TCA 57-3-101

Tenn. Code Ann. § 57-4-301

TENNESSEE CODE ANNOTATED

*** Current through the 2012 Regular Session ***

Title 57 Intoxicating Liquors
Chapter 4 Consumption of Alcoholic Beverages on Premises Part 3
Taxes and Fees

Tenn. Code Ann. § 57-4-301 (2012)

57-4-301. Privilege taxes -- Tax on retail sales -- Carrier license fees -- Mixing bar tax.

(a) It is hereby declared the legislative intent that every person is exercising a taxable privilege who engages in the business of selling at retail in this state alcoholic beverages for consumption on the premises.

(b) (1) Each applicant for an on-premises consumption license shall pay to the commission a one-time, non-refundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. Further, once a license is approved, for the exercise of such privilege, the following taxes are levied to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the duties, powers, and functions of the commission, and are to be paid annually, as follows: Click here to view image.

Further, for the exercise of such privilege, the following taxes are hereby levied to be earmarked for and allocated to the commission for the purpose of administration and enforcement of the duties, powers, and functions of the commission, and are to be paid in accordance with the following schedule:

(R) Restaurant, according to seating capacity, on licensed premises: Click here to view image.

4 - 74 seats	$650
75 - 125 seats	$750
126 - 175 seats	$925
176 - 225 seats	$975
226 - 275 seats	$1100
276 seats & up	$1200

Wine-only restaurant, according to seating capacity on licensed premises:

	JULY 2003	JULY 2004	JULY 2005	JULY 2006
40 – 125 seats	$120	$170	$220	$270
126 – 175 seats	$150	$200	$250	$300
176 – 225 seats	$160	$210	$260	$310
226 – 275 seats	$180	$230	$280	$330
276 seats & up	$200	$250	$300	$350

(S) Caterers:

JULY 2003	JULY 2004	JULY 2005	JULY 2006
$500	$550	$575	$625

(T) Hotels, according to room capacity, on licensed premises:

	JULY 2003	JULY 2004	JULY 2005	JULY 2006
0 – 99 rooms	$1000	$1000	$1000	$1000
100 – 399 rooms	$1000	$1000	$1200	$1250
400 rooms & up	$1000	$1200	$1400	$1500

(U) Retirement center $150

(V) Civic arts center $150

(W) Limited service restaurant, based on the gross sales of prepared food:

(i) At least 30% of gross sales $2,000.00

(ii) At least 20% but not more than 30% of gross sales $3,000.00

(iii) At least 15% but not more than 20% of gross sales $4,000.00

(2) Each county or municipality within which such privilege is exercised is authorized to levy and collect he privilege tax separately. However, such privilege tax collected by the county or municipality will remain at the 2003 level and any monetary increase of the privilege tax in fiscal years beginning July 1, 2004, and thereafter, as provided in this subsection (b) will be solely used for the purpose of the administration and enforcement of the duties, powers, and functions of the Tennessee alcoholic beverage commission. Provided, however, that in any county where metropolitan government prevails, the urban service district shall constitute the municipality and the general service district shall constitute the county insofar as this chapter is concerned.

(c) In addition to the privilege taxes levied in subdivision (b)(1), there is further levied a tax equal to the rate of fifteen percent (15%) of the sales price of all alcoholic beverages sold for consumption on the premises, the tax to be computed on the gross sales of alcoholic beverages for consumption on the premises for the purpose of remitting the tax due the state, and to include each and every retail thereof.

(d) Commercial airlines, paddlewheel steamboat companies and passenger trains shall, in lieu of taxes levied under subsections (b) and (c), pay annually to the state, for state purposes, a license fee of twelve hundred fifty dollars ($1250). Commercial airlines, paddlewheel steamboat companies and passenger trains which have paid the annual license fee under this section may bring into and store in this state alcoholic beverages on which the Tennessee alcoholic beverage taxes levied under § 57-3-302, have not been paid, but must comply with subdivisions (d)(1) and (2):

(1) Commercial airlines, paddlewheel steamboat companies and passenger trains that bring into, or possess in this state alcoholic beverages on which taxes levied by this state have not been paid are liable for such taxes on the alcoholic beverages;

(2) The liability of commercial airlines, paddlewheel steamboat companies and passenger trains for taxes levied under § 57-3-302, is determined by multiplying the:

(A) Quantity of each type of alcoholic beverage purchased within the operating system of each commercial airline, paddlewheel steamboat company or passenger train by the ratio of its revenue passenger miles in Tennessee to the total revenue passenger miles within its system; and

(B) Respective results obtained under subdivision (d)(2)(A), by the applicable tax rate for each type under § 57-3-302, and the rules and regulations promulgated pursuant thereto;

(3) Monthly reports of the liability, determined under subdivision (d)(2), shall be submitted to the department of revenue on forms designated by the commissioner, on or before the last day of each month following the month during which any tax liability arises under this subsection (d). A commercial airline, paddlewheel steamboat company or passenger train that fails to file the report required, or to pay the tax payable under this section in a timely manner as defined by rules and regulations promulgated by the department, is liable for interest and penalties as provided by law; and

(4) The provisions of this subsection (d) do not apply to commercial airline travel clubs.

(e) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit, or political organization selling alcoholic beverages at retail pursuant to a special occasion license.

(f) A restaurant, hotel, or caterer licensed under this chapter may obtain a catering license upon the payment of an additional privilege tax in accordance with subdivision (b)(1)(S), for state purposes, to be paid annually.

(g) A special historic district authorized to serve wine under § 57-4-101 shall pay an annual privilege tax of one hundred dollars ($100) for the privilege of serving wine within such district.

HISTORY: Acts 1967, ch. 211, § 3; 1972, ch. 682, § 5; 1972, ch. 756, § 6; 1979, ch. 284, § 1; 1979, ch. 401, § 5; T.C.A., § 57-157; Acts 1980, ch. 898, § 3; 1981, ch. 404, § 5; 1981, ch. 475, § 5; 1983, ch. 52, § 6; 1983, ch. 300, § 5; 1983, ch. 469, § 8; 1984, ch. 975, § 8; 1986, ch. 899, § 9; 1987, ch. 444, §§ 10, 11; 1991, ch. 219, § 2; 1992, ch. 674, § 8; 1998, ch. 795, § 4; 2001, ch. 64, § 3; 2001, ch. 74, § 5; 2001, ch. 84, § 3; 2004, ch. 544, § 3; 2004, ch. 876, §§ 7-10; 2005, ch. 253, § 3; 2009, ch. 168, § 1; 2010, ch. 647, § 3; 2010, ch. 1133, § 4; 2012, ch. 790, §§ 3, 4.