

**REGULARLY SCHEDULED BOARD MEETING
BOARD OF MAYOR AND ALDERMEN
CITY OF MEDINA, TENNESSEE**

Agenda

Monday, July 10, 2023

6:00 PM,

immediately following Planning Commission Meeting

- **CALL TO ORDER**

- **OPENING CEREMONIES**
 - A. Invocation to be given by Sam Gilley
 - B. Pledge of Allegiance to be led by Vanessa Presson
 - C. Welcome by Mayor Coleman

- **APPROVAL OF MINUTES FROM REGULAR SCHEDULED MEETING June 5, 2023**

- **APPROVAL OF MINUTES FROM SPECIAL CALLED MEETING June 12, 2023**

- **APPROVAL OF AGENDA for July 10, 2023**

- **REPORTS**
 - A. Parks and Recreation / Public Works- Mike Hutcherson
 - B. Interim Fire Chief- Matt Brown
 - C. Police Chief- Jason Oliver
 - D. Building Inspector- Matt Brown
 - E. Recorder/Treasurer- Kim Gilley

- **CITIZENS INPUT**

Citizens are encouraged to speak to the Mayor and Board of Aldermen at this time. Please limit your comments to five minutes per speaker to enable everyone present to have the same opportunity.

If you wish to make a comment or presentation on any item on the agenda, you must do it now during "citizens input."

Please note that after a motion has been made and seconded on issues by the Mayor and Board of Aldermen and discussion is called for, the discussions for the aldermen to discuss their views and questions.

- **FIRST READING OF AN ORDINANCE OF THE CITY OF MEDINA LIQUOR BY THE DRINK**

- **BOARD MEMBERS AND MAYOR REPORTS AND CONCERNS**
- **ADJOURNMENT**

**CITY OF MEDINA
CALLED BEER BOARD MEETING
AGENDA**

MONDAY, July 10, 2023

Immediately following the Board of Aldermen Meeting at 6 pm

**Application for Off-Premise Beer Permit
for MRSS Medina LLC DBA Medina Deli Mart at 619 Highway 45E
(previous owner Jerry's Deli Mart- Lynn Worrell)**

ORDINANCE NUMBER _____

AN ORDINANCE OF THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MEDINA, TENNESSEE ESTABLISHING REGULATIONS FOR INTOXICATING LIQUORS – ON PREMISE CONSUMPTION

WHEREAS, Section 5(1) of the Medina Private Act Charter authorizes the Board of Mayor and Aldermen to define, regulate, and prohibit any act, practice, conduct, or use of property that would be detrimental or likely to be detrimental, to the health, morals, safety, security, peace, or general welfare of the inhabitants of the City; and

WHEREAS, the consumption of intoxicating liquor for on premise consumption was approved by the voters of the City of Medina at the November 2022 referendum election; and

WHEREAS, currently the ordinance of the City of Medina do not permit or regulate on premise consumption of intoxicating liquors sales other than beer; and

WHEREAS, the Board of Mayor and Aldermen of the City of Medina desires to be in compliance with state statutes regarding on premise consumption of intoxicating liquor sales,

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND ALDERMEN OF THE CITY OF MEDINA, TENNESSEE, THAT:

SECTION 1. Title 8, Chapter 3 of the City of Medina Municipal Code is amended by adding the following:

CHAPTER 3

INTOXICATING LIQUORS – ON PREMISES CONSUMPTION

8-301. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57 and this Chapter. “Retail sale” or “sale at retail” means the sale to a consumer or to any person for any purpose other than for resale.

8-302. Consumption of alcoholic beverages on premises. Sales of wine, or intoxicating liquor for consumption on-premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of intoxicating liquors or wine for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of the City of Medina. It is the intent of the City of Medina Board of Mayor and Alderman that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the City of Medina, the same as if said code sections were copied herein verbatim.

8-303. Application for certificate.¹ Before any certificate, as required by Tennessee Code Annotated, § 57-3-208, shall be signed by the Mayor, or by any City Aldermen,² a non-refundable application fee of two hundred fifty dollars (\$250.00) to City of Medina, along with an application in writing shall be filed with the City Recorder on a form to be provided by the city, giving the following information:

- (1) Name, age, and address of the applicant;
- (2) Time of residence in the city;
- (3) Occupation or business and length of time engaged in such occupation or business;
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction;
- (5) If employed, the name and address of employer;
- (6) If in business, the kind of business and location thereof;
- (7) The location of the proposed store for the sale of alcoholic beverages;
- (8) The name and address of the owner of the store;
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business, or employer. If the applicant is a corporation or company, the name, age, and address of the stockholders or member and their degrees of ownership of stock or membership interest in the corporation or company;
- (10) Certain financial information pertinent to the applicant, partnership, corporation and partners or stockholders; and
- (11) Certification that applicant has read and understands all the state statutes dealing with the licensing and operation of a retail liquor establishment and has read the city ordinance and can certify at the time of making application the applicant can comply with the regulations set forth in said ordinance.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

8-304. Application fees to be paid by applicant; penalty. The application fee shall be payable by the person making application and no other person shall pay for any such fees. In addition to all other penalties provided for violations of this chapter, a violation of this section shall authorize and require the denial and/or revocation of any certificate issued pursuant to such application and forfeiture of the fee which was paid by another, and also the revocation of the certificate, if any, of the person so paying the application fee of another.

8-305. Applicant to agree to comply with laws. Prior to making application with the City of Medina, the applicant shall investigate and be satisfied that the applicant is in compliance with state and federal law, rules and regulations governing this issuance by those agencies of liquor licenses. The applicant for a certificate of compliance shall agree in writing to comply with

¹ State law reference: T.C.A. § 57-3-208

² State law reference: T.C.A. § 57-3-208 requires the certificate to be signed by the mayor or a majority of the governing body.

the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages.

8-306. Applicant to appear before Board of Mayor and Aldermen; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the Board of Mayor and Aldermen for such reasonable examination as may be desired by the board.

8-307. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the Board of Mayor and Aldermen within thirty (30) days of the date each application was filed. The Board of Mayor and Aldermen may issue a certificate of compliance to any applicant, which shall be signed by the Mayor or by a majority of the Board of Mayor and Aldermen.

8-308. Bonds of licensees. A licensee shall execute, with a surety company duly authorized and qualified to do business in the State of Tennessee, a bond to the City of Medina in the amount of one thousand dollars (\$1,000.00) which shall be conditioned that the principal thereof shall pay any fine, tax, or fee which may be owing or assessed against the principal.

8-309. Renewal of Certificate. A certificate issued under this chapter remains valid unless there is a change of ownership or location. If either of these events occur, a new certificate must be obtained. No sale, lease, assignment, transfer, or gift of any interest of any nature, either financial or otherwise, in any store or license of any licensee shall be made without first obtaining the written approval of the board and the issuance of a certificate to a proposed new owner, stockholder, member, partner, director, or otherwise.

8-310. Applicants for certificate who have criminal record. No certificate of compliance for the retail sale of intoxicating liquor on premises, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation or company, any stockholder or member), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage, or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

8-311. Number of retail licenses to be held by retailer. No retail licensee shall, directly or indirectly, hold more than two (2) retail licenses. For the purposes of this restriction, any amount of interest must be taken into account. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest, or otherwise. This provision does not prevent a retailer from also holding a beer permit or a license for retail liquor store.

No retail licensee shall hold more than fifty percent (50%) of the licenses issued by the City of Medina. In addition, any retail licensee shall comply with any Tennessee Statute with respect to the issuance of retail licenses and regulations of the Tennessee Alcohol Beverage Commission.

8-312. Restrictions on license holders and their employees.

(1) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.

(2) No licensee shall be a person under the age of twenty-one (21) years of age, and shall not employ a person under the age of eighteen (18) to serve or sale alcoholic beverages to a customer.

(3) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license, shall be a violation of this chapter.

8-313. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale or distribution of alcoholic beverages in the corporate limits of the City of Medina as follows:

- a. In violation of any provision of state law.
- b. In violation of the Medina Zoning Ordinance.
- c. To any alien determined to be in the United States illegally.
- d. At any location within two hundred feet (200') of any operating elementary, middle, or high school or operating church, as measured by the shortest straight line which can be drawn between the structures.
 - (i) This provision does not apply to a location that is located in a B-2 (Central Business) District.
 - (ii) Operating elementary, middle or high school is defined as an institution, including kindergarten, where regular classes are conducted under the supervision of a teacher or instructor where specialized subjects are taught to persons under 18 years of age on a daily basis.
 - (iii) Operating church is defined as a church that meets on at least a weekly basis and whose property is exempt from taxation by the property assessor.
 - (iv) The subsequent location of an operating school or operating church nearer to the location than the prescribed distances shall not, in and of itself, cause the license to be revoked as long as the location remains at the same location.
- e. At any location within two hundred feet (200') of playground or park, as measured by the shortest straight line which can be drawn between the structure for a playground or entrance for a park.
 - (i) This provision does not apply to a location that is located in a B-2 (Central Business) District.
 - (ii) Playground and park means a place or property either owned or maintained by the City or by a governmental entity where persons regularly gather for recreational purposes or as spectators.
 - (iii) The subsequent location of an playground or park nearer to the location than the prescribed distances shall not, in and of itself, cause the license to be revoked as long as the location remains at the same location.
- f. For any temporary business or activity.
- g. The provision of this section may be waived if the applicant can show reasonable cause for the waiver to be granted.

8-114. Advertisement of alcoholic beverages and zoning regulations. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 3 and 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. Any signage on the store and any windows that are part of the store must comply the City of Medina's sign and window regulations, which are part of the City of Medina's Zoning Ordinance. All retail establishments shall be subject to applicable zoning, land use, building and life safety regulations, adopted by the city, unless specifically provided otherwise.

8-115. Prohibited conduct or activities by license holders. It shall be unlawful for any beer license holder to:

- a. Allow any loud, unusual, or obnoxious noises to emanate from the licensee's premises.
- b. Sell or allow any sale of intoxicating liquor beer to any person under twenty-one (21) years of age.
- c. Sell or allow any sale of beer to any intoxicated person.
- d. Serve, sell, or allow the consumption on the licensee's premises of any alcoholic beverage with an alcoholic content greater than allowed by state law.
- e. Allow gambling on the licensee's premises or have a slot machine or pinball machine.
- f. Allow pool or billiard playing, dancing, or the provision of services by a dee-jay in the same room where intoxicating liquor is sold and/or consumed.

8-116. 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 the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301) for the City of Medina to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Medina on alcoholic beverages for consumption on the premises where sold

8-117. Annual privilege tax to be paid to the city recorder. 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 Medina shall remit annually to the city recorder the appropriate tax described in § 8-116. 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.

8-118. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Medina, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding § 8-216 of the ordinances of the City Medina, qualify to receive a beer permit from the City of Medina upon compliance of all beer permit requirements.

8-119. Limitation on the number of retailers. There is no limitation on the number of licenses for the sale of alcoholic beverages under this chapter.

8-120. Effects of violation of liquor laws, rules or regulations.

(1) In case of any conviction occurring after a certificate has been issued hereunder, the certificate shall immediately be revoked, if such convict shall be an individual, and, if not, the partnership, corporation, association, or LLC, with which he is connected shall immediately discharge him, and failure to do so shall result in the immediate revocation of its certificate. Violation of any liquor laws, rules or regulations, shall also result in the immediate revocation of its certificate.

(2) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who within ten (10) years prior to the date of his employment shall have been convicted of any such violations as provided in subsection (1) above and in case an employee should be so convicted, he shall be immediately discharged. Failure of a retailer to immediately discharge such employee shall be cause for revocation of the certificate of such retailer. Violation of any liquor laws, rules, or regulations, shall also result in the immediate revocation of its certificate.

(3) The retailer and its employees are obligated to contact law enforcement in a reasonable timely manner if any criminal acts are committed upon its premises.

8-121. Revocation or refusal of retailer to permit examination of books, records, etc.

The city is authorized to examine the books, papers, and records of any retailer or applicant for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises shall constitute sufficient reason for the revocation of any certificate issued to such retailer or the refusal to issue a certificate of any applicant.

8-122. New certificate after revocation. Where a certificate is revoked, no new certificate shall be issued on the same premises of such retailer before the expiration of one (1) year from the date said revocation becomes final and effective.

8-123. Violations. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. However, nothing herein shall be construed to prevent the city from exercising any criminal or civil remedies that it may have with respect to violations of this ordinance. Any person who shall violate any provision of this chapter shall be punishable by a fine of fifty dollars (\$50.00) for each such violation and in the case of a retailer shall, in the discretion of the board, be the cause for revocation of the certificate issued to such retailer.

SECTION 2. If any section, phrase, sentence, or portion of this Ordinance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective immediately upon its passage on a second reading by the Board of Mayor and Aldermen.

PASSED AND APPROVED THIS ____ DAY OF _____, 2023, BY A ROLL CALL VOTE OF THE MAYOR AND BOARD OF MAYOR AND ALDERMEN.

Passed on first reading this _____ day of _____, 2023.

Passed on second reading this _____ day of _____, 2023.

Vance Coleman, Mayor

Attest: _____
Kim Gilley, City Recorder