

BEER PERMIT APPLICATION CHECKLIST

BUSINESS NAME: _____

ALL APPLICANTS:

- _____ Application – completed, signed and notarized.
- _____ Signature Sheet signed that you have received copy of beer laws.
- _____ \$250.00 application fee payable to 'City of Hendersonville'.
- _____ Floor Plan (no larger than letter size sheet of paper detailing number of seats in a restaurant, or where beer will be stored/sold in a market).
- _____ TN Dept of Revenue Certificate of Registration.
- _____ *Business License

ADDITIONAL REQUIREMENTS FOR RESTAURANTS:

- _____ Liquor Liability Insurance Certificate (Minimum \$500,000 coverage required) for all restaurants **selling beer** with the "City of Hendersonville" listed as the certificate holder. The business name and address must be shown and **the Certificate must have a policy period concurrent with the anniversary date of the permit i.e. it must expire December 31st, the same date your beer permit will expire.**
- _____ Will you be selling liquor? If yes, are you a restaurant? Yes/No If yes, what percentage of food sales does the state require for your business _____% amount.
- _____ Will you be selling wine? If yes, are you a restaurant? Yes/No If yes, what percentage of food sales does the state require for your business _____% amount
- _____ Privilege Tax paid if selling wine/liquor (State of Tennessee ABC Liquor License required)

YOUR E-MAIL ADDRESS: _____

The Beer Board meets the first Thursday of each month at 6:00 p.m. in Conference Room #1 (Newman Room) at City Hall. Your application and other required items listed above must be submitted 10 days prior to the Beer Board meeting. *A business license must be obtained before the beer permit will be released.

All blanks on the application must be completed. If a question does not apply to your business, write 'n/a' (not applicable).

After your required paperwork has been properly submitted, you can be placed on the agenda for consideration. You must appear at the Beer Board meeting. Make note of the meeting date and time as you will not receive any further notification.

BEER PERMIT APPLICATION
City of Hendersonville

_____ On Premise
_____ Off Premise

Please print all information legibly.
All blanks must be fully completed.

I hereby make application for a permit to sell, store, manufacture or distribute beer or other beverages authorized to be sold, stored, manufactured or distributed under the provisions of Tennessee Code Annotated, Section 57-5-101 et seq., and base my application upon the answers to the following questions:

1. Full name of owner: (first) _____ (last) _____
2. Business name: _____
3. Business address: _____
4. List all persons, firms, corporations, joint-stock companies, syndicates, or associations having at least 5% ownership interest in the business: (attach separate sheet, if needed) _____
5. Your present home address: _____
6. Previous address(es) within last 10 years: _____
7. Date of Birth _____ Home Telephone _____
Cell _____ Business Telephone _____
8. List the name and address of the person to receive annual privilege tax notices, and any other communication from the City of Hendersonville: _____

9. List name and address of property owner, if other than business owner: _____

10. Will the permit be used to operate two or more restaurants or other business under the same permit as permitted by Section 57-5-103(a)(4) within the same building?
Yes ___ No ___ If yes, specify number _____. List the names of the restaurants or other business and describe their location (use additional sheet or attach plat and/or floor plan where appropriate). _____

11. List name, date of birth and home address of any manager(s) other than applicant: _____

12. Has any person having at least a 5% ownership interest, any of the managers listed in Question 11, or any other employee of the business been convicted of any violation of the beer or alcoholic beverage laws or any crime (other than minor traffic violations) within the last ten years? ____ If yes, give particulars of each charge, court and date convicted:

13. Has this owner or the owners organization had a beer permit revoked, suspended or denied in the State of Tennessee? ____ If yes, specify where, when and why: ____

14. List the name, relationship to applicant (if applicable), and address of the former beer permittee of this location: _____

15. List the name and address of the nearest church (or other place of worship) to your business: _____

16. List the name and address of the nearest school to your business: _____

I am knowledgeable of the laws prohibiting the sale of beer to minors. I hereby certify that no person having at least 5% ownership interest, nor any person to be employed in the distribution of sale of beer in my establishment has been convicted of any violation of the beer or alcoholic beverage laws or any crime involving moral turpitude within the past 10 years. I am also aware that I shall not be issued a permit or my permit shall be revoked if my business location causes traffic congestion or interferes with schools, churches or other places of public gathering, or otherwise interferes with public health, safety and morals.

Signature of Applicant/Owner (or authorized Corporate Officer)

Sworn to and subscribed before me this ____ day of _____, 20__.

Notary Public

My Commission expires: _____

Notice: A non-refundable \$250.00 fee must accompany this application. You are required to provide documentation of sales tax registration to the City of Hendersonville. Any applicant making false statement in this application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten years.

A privilege tax of \$100.00 is imposed on the business of selling, distributing, manufacturing or storing beer in this state effective 1-1-94 and each successive January 1st thereafter. For restaurants, the privilege tax is based on seating capacity. Any holder of a beer permit for a restaurant issued after January 1 shall pay a pro rata portion of the annual tax when the permit is issued, and provide proof of liquor liability insurance coverage.

ATTACHMENT TO APPLICATION FOR BEER PERMIT

Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate or association.

A permit is only for a single location and is valid for all decks, patios, and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located. All areas where beer is to be served are to be designated on your application and any changes are to be approved by the Beer Board.

Where an owner operates two or more restaurants or other business within the same building, the owner may in his or her discretion, operate some or all of such businesses under the same permit.

A permit is valid only for the business of the owner named in the permit.

A permit holder must return the permit to the City of Hendersonville within thirty (30) days of termination of the business, change of ownership, relocation of the business or change of the business name. A change in ownership occurs for a corporate owner when at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.

SIGNATURE SHEET

I have received a copy of the Hendersonville Beer Laws. If the application is properly submitted at least 10 days prior to meeting date, I understand and agree that I, or my representative, will have to appear in person at the next Beer Board meeting (first Thursday of each month) at 6:00 p.m. in Conference Room #1 (Newman Room) at Hendersonville City Hall, 101 Maple Drive North, Hendersonville, TN 37075, unless otherwise notified.

Signature

Date

PLEASE KEEP THE ATTACHED
COPY OF THE HENDERSONVILLE
BEER LAWS FOR YOUR RECORDS

Address:

226 Capitol Blvd. Suite 300
Nashville, TN 37243-0755
615-741-1602

4420 Whittle Springs Road
Knoxville, TN 37917
865-594-6342

170 North Main, 11th Floor
Memphis, TN 38103
901-543-7284

540 McCallie Ave, Suite 341
Chattanooga, TN 37402
423-634-6434



RESPONSIBLE VENDOR PROGRAM

The Tennessee Responsible Vendor Act of 2006 allows off-premise beer permit holders to voluntarily participate in training of their employees on the responsible sale of alcoholic beverages. By meeting the requirements and becoming "certified vendors," participants receive certain beneficial treatment when faced with a first offense related to the sale of alcoholic beverages to a minor. The following information addresses the highlights of the Responsible Vendor Program. For complete information, please refer to T.C.A. § 57-5-601 *et seq.* and the Tennessee Alcoholic Beverage Commission ("TABC") Rules regarding responsible vendors.

- ***Why should a beer permittee participate in this program?***

To reduce the possible beer board penalties if a clerk sells alcohol to a minor and it is the first offense of this kind at a vendor location. The maximum fine that a beer board can impose on a certified vendor for a first offense sale to a minor is \$1,000, and the license may not be suspended or revoked. For those choosing not to participate in the program, a beer board may assess a fine of up to \$2,500 or possibly suspend or revoke the permit, even on a first offense sale to a minor. Most importantly, participation in the program will help to reduce any potential sale of alcohol to a minor by providing employees with valuable training.

- ***How do we participate in the program?***

Beer permittees need to apply annually to the TABC with an application, a clerk list, and a yearly fee, which varies depending on the number of clerks. If less than 16 clerks are employed at the location, the fee is \$25 per year. The yearly fees increase to \$75, for 16-49 clerks, \$150 for 50-100 clerks, and \$250 for over 100 clerks. Each location is treated as a separate vendor for certification purposes.

- ***How do the clerks receive the necessary training?***

Beer permittees may establish their own in-house training that meets the TABC requirements or the clerks may attend a training offered by an outside source that has been certified by the TABC. You may contact the TABC to obtain a list of certified responsible vendor training programs.

- ***Do employees need the training before they may begin their employment with the certified responsible vendor?***

Employees may begin working. They will be given a grace period of up to 61 days after their hire date in order to get the responsible vendor training. Training requirements are specific to each vendor location.

- ***Where can a beer permittee obtain a responsible vendor application?***

Applications and clerk list forms are available at TABC locations throughout the state. To receive an application by mail, please contact:

*Responsible Vendor Department
226 Capitol Boulevard, Suite 300
Nashville, TN 37243
(615) 741-1602 ext. 100*

CHAPTER 2**BEER****SECTION**

- 8-201. Beer board created; membership.
- 8-202. Powers and duties of beer board.
- 8-203. Meetings of beer board.
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- 8-206. Definitions.
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- 8-208. Restrictions on sales by wholesalers.
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- 8-210. Selling or exchanging beer between retailers prohibited.
- 8-211. Sale or storage of beer by retailers authorized only at specific location designated on permit.
- 8-212. Retailer may deliver beer only on premises for which permit issued.
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- 8-219. Fees and privilege tax.
- 8-220. Referral of applications to police department.
- 8-221. Conditions of permits.
- 8-222. Minimum distance from church or school; conditions under which issuance of a permit prohibited.
- 8-223. Establishment eligibility.
- 8-224. Address of location where sales authorized to be specified on permit.
- 8-225. Nontransferability.
- 8-226. Suspension, revocation, and civil penalty.
- 8-227. Prohibited acts.
- 8-228. Standards of conduct on premises of licensees.

¹State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

- 8-229. Wholesale beer tax.
- 8-230. County beer permit holders.
- 8-231. Liquor liability insurance requirements.
- 8-232. Public dances and dance halls.

8-201. Beer board created; membership. There is hereby established a beer board to be composed of seven (7) members who shall be appointed pursuant to Ord. #1982-38, as amended. The staggered terms in effect for the beer board in existence at the time of passage of this ordinance shall remain in effect, and all appointments shall be for three-year terms. Any vacancy in membership shall be filled for the remainder of the unexpired term. The officers shall be selected annually by the board from among its membership. All members of this board shall serve without compensation. (Ord. #1994-34, Aug. 1994)

8-202. Powers and duties of beer board. The beer board shall have the power to and is hereby directed to regulate the selling, storing for sale, distributing for sale and manufacturing of beer within the city in accordance with the provisions of this chapter. The beer board is hereby expressly empowered to grant the permits authorized herein, and to grant temporary permits for a period not to exceed thirty (30) days, pursuant to such regulations as may be promulgated by said board. (Ord. #1994-34, Aug. 1994)

8-203. Meetings of beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings at such place and time as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #1994-34, Aug. 1994)

8-204. Record of proceedings of beer board. The director of finance or mayor's designated representative shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting, the names of the board members present and absent, the names of the members introducing and seconding motions and resolutions before the board, a copy of each such motion or resolution presented, the vote of each member thereon and the provisions of each beer permit issued by the board. (Ord. #1994-34, Aug. 1994)

8-205. Requirements for beer board quorum. The attendance of at least the majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #1994-34, Aug. 1994)

8-206. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Alcoholic beverage commission:" The commission established by the State of Tennessee to license establishments for the retail sales of alcoholic beverages having an alcoholic content exceeding five (5) per cent by weight.

(2) "Authorized wholesaler:" A wholesaler holding a valid wholesale permit issued by an authorized beer board.

(3) "Beer:" Beer, ale or any other beverage having an alcoholic content of not more than five (5) per cent by weight.

(4) "Beer board:" The board established pursuant to the authority granted to the City of Hendersonville by Tennessee Code Annotated, § 57-5-106(a) to issue permits to sell beer within the corporate limits of the city.

(5) "Business:" For the purposes of this chapter, a business shall be a person, firm, corporation, joint stock company, syndicate, or association. For the purpose of special occasion permits it shall also include organizations.

(6) "Church:" A building or property where a congregation regularly meets at least one day per week for religious worship.

(7) "City:" The City of Hendersonville, Tennessee.

(8) "Permit:" Any permit issued pursuant to this chapter.

(9) "Permittee:" Any business to whom any permit has been issued pursuant to this chapter.

(10) "Premises:" A building, portion of a building, or property that is utilized for a particular business enterprise.

(11) "Retailer:" Any business licensed by the beer board who sells beer for consumption and not for resale.

(12) "Retailer off-premises permit:" A permit issued by the beer board to a retailer engaged in the sale of beer which is not to be consumed by the purchaser upon the premises of such permittee.

(13) "Retailer on-premises permit:" A permit issued by the beer board to a retailer engaged in the sale of beer which is to be consumed by the purchaser only upon the premises of such permittee.

(14) "Special occasion permit:" An on-premises permit which the beer board may issue to a bona fide charitable, nonprofit, or political organization.

(15) "School:" An institution, including any licensed kindergarten, where regular classes are conducted under the supervision of a state-certified teacher or instructor including schools or colleges where specialized subjects are taught to students of all ages. Said term shall include vocational, medical, law, art, cosmetology, and other institutions where similar special subjects are taught.

(16) "Sell:" Such term includes taking or receiving an order for, keeping or exposing for sale, delivering for value, keeping for intent to sell and trafficking in beer.

(17) "Wholesale beer permit:" A permit issued by an authorized beer board to distributors, manufacturers, brewers or any branch of a brewer or manufacturer selling beer solely to retailers.

(18) "Wholesaler:" Any business that sells beer to retailers. Such term shall include a distributor, manufacturer, brewer or brewery branch making sales of beer directly to retailers. (Ord. #1994-34, Aug. 1994)

8-207. Scope. It shall be lawful to transport, store, sell distribute, possess, receive and manufacture beer, as defined in § 8-206, within the city subject to all regulations, limitations and restrictions provided in this chapter. (Ord. #1994-34, Aug. 1994)

8-208. Restrictions on sales by wholesalers. It shall be unlawful for any authorized wholesaler to sell beer to anyone other than a business, firm, corporation, syndicate or association having been licensed by an authorized beer board as a retailer. (Ord. #1994-34, Aug. 1994)

8-209. Limitation on purchases from a business not holding a permit. No person or business, except an authorized wholesaler, may sell or store beer for resale within the city unless such beer has been purchased from an authorized wholesaler. (Ord. #1994-34, Aug. 1994)

8-210. Selling or exchanging beer between retailers prohibited. It shall be unlawful for any retailer holding a permit issued by the beer board to purchase, accept as a gift or loan, or to receive, swap or exchange, beer, for the purpose of resale, from any person or business that is not the holder of a valid wholesale permit. (Ord. #1994-34, Aug. 1994)

8-211. Sale or storage of beer by retailers authorized only at specific location designated on permit. Retailers holding permits to sell beer are authorized to sell and store beer at only the location authorized by the beer board and specifically designated on their respective permits as the place for which the permit is issued. The sale or storage of beer by a retailer at any place other than the location authorized by the board specifically named on the face of his permit is prohibited. Any changes to the authorized locations are to be reviewed and approved by the board. (Ord. #1994-34, Aug. 1994)

8-212. Retailer may deliver beer only on premises for which permit issued. Retailers holding permits from the beer board are only authorized to sell beer on the premises for which a permit is issued. The selling or delivery of beer by a retail permit holder at any place other than the premises for which their permit is issued is prohibited. No retail permit holder shall enter into any agreement or conspire with any person or business to cause beer to be delivered off of the premises for which their permit is issued or at any location other than the one authorized by their permit for the sale of beer.

It shall be unlawful for any holder of a retail beer permit to knowingly permit the purchase of beer at their place of business by anyone for resale and delivery to another. Holders of retail beer permits issued by the board are prohibited from selling beer to any person and/or business when the retail permit holder knows or should have reason to know that such beer is purchased for resale and delivery off of the premises for which his permit is issued. (Ord. #1994-34, Aug. 1994)

8-213. Revocation of permit for unlawful closing. Any business that has been issued a beer permit from the beer board shall remain in business in order to maintain a valid license. If, for any reason, the licensed premises shall be closed for a period of at least six (6) months, the beer board shall automatically revoke the beer permit. Upon revocation, the location shall be eligible for the issuance of a new beer permit provided all requirements of this chapter and other city ordinances regarding the location of on-premises and off-premises beer permits shall be met. (Ord. #1994-34, Aug. 1994)

8-214. Accounting for fees collected. All fees and/or privilege taxes collected under the provisions of this chapter shall be deposited to the credit of the general fund. The mayor or his designated representative shall keep a record of all fees and/or privilege taxes paid and all permits issued pursuant to this chapter. (Ord. #1994-34, Aug. 1994)

8-215. Permit required. No person or business shall sell beer within the territorial jurisdiction of the city without benefit of a valid permit. (Ord. #1994-34, Aug. 1994)

8-216. Types of permits. The following types of permits may be issued by the beer board:

(1) A wholesaler's permit shall be issued to each distributor, manufacturer, brewer or brewery or manufacturer's branch selling beer only directly to retailers.

(2) A retailer's "off-premises" permit shall be issued to any business engaged in the sale of beer for consumption and not resale where the beer sold is not to be consumed by the purchaser upon or near the premises of such seller.

(3) A retailer's "on-premises" permit shall be issued to any business engaged in the sale of beer where the beer is to be consumed by the purchaser or his guests upon the premises of the seller. A retailer's "on-premises" permit may be issued only for use in connection with these establishments defined in § 8-223 below.

(4) A retailer's "on- and off-premises" permit shall be issued to any business engaged in the sale of beer for consumption and not resale where beer is to be sold for consumption either on or off the premises of the business.

(5) A retailer's "special occasions" permit shall be issued to an organization engaged in the sale of beer for consumption by the purchaser upon the premises of the seller pursuant to the requirements set forth in § 8-223. (Ord. #1994-34, Aug. 1994)

8-217. Sale of draft beer for off-premises consumption authorized for certain permittees. (1) Draft beer may be sold for off-premises consumption only by the holder of an off-premises beer permit.

(2) "Draft beer" as defined in this section shall mean beer which is sealed in a pressurized container or keg approved by the State of Tennessee. (Ord. #1994-34, Aug. 1994)

8-218. Applications; agreements by applicant; floor plans. (1) Any business desiring a beer permit shall file in person with the director of finance or the mayor's designated representative a written application under oath at least ten (10) days prior to the date of hearing. No such permit (except a temporary permit issued in accordance with § 8-202) shall be issued until the board has approved the written application for the permit which application shall contain questions necessary to the determining of whether or not the applicant has met all laws of this state and all ordinances of the city then in effect. The form of such application shall be prescribed by the beer board. The application shall contain but not be limited to the following:

(a) A list of all persons, firms, corporations, joint stock companies, syndicates, or associations having at least 5% ownership interest in the business.

(b) That no persons having at least 5% ownership interest in the business shall be persons who have been convicted of any violations of the laws against possession, sale, manufacture, storage, or transportation of beer or alcoholic beverage laws or any crime involving moral turpitude within the past 10 years.

(c) That no beer will be sold except at places where such sale will not cause congestion of traffic or interference with schools, churches or other places of public gathering, or otherwise interfere with public health, safety and morals.

(d) That no sale shall be made to persons under the age of twenty-one (21) years.

(e) That no persons employed in the distribution or sale of beer shall be persons who have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or alcoholic beverages, or any felony, or any crime involving moral turpitude within the past ten (10) years.

(f) The identity and address of the person to receive annual privilege tax notices and any other communication from the city.

(g) The application shall state the specific type of establishment he proposes to operate and the specific address of the proposed establishment.

(2) The beer board, in its discretion, may include in the application hereinbefore mentioned, such other questions and inquiries as it deems relevant and material to protect the public health, safety and morals of the inhabitants of the city.

(3) No permittee shall open his premises to the public for the sale of beer until the permittee shall first have filed with the beer board floor plans and diagrams completely

disclosing and designating a physical arrangement of the premises and areas where beer will be sold, manufactured, stored, or transported.

(4) Any person making false statement in such application shall forfeit his permit, and shall not be eligible to receive any permit for a period of ten (10) years. (Ord. #1994-34, Aug. 1994)

8-219. Fees and privilege tax. (1) All applications for the issuance of beer permits by the beer board shall be accompanied by an application fee as specified in Tennessee Code Annotated, § 57-5-103.

(2) There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer an annual privilege tax as specified in Tennessee Code Annotated, § 57-5-103. Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage, or manufacture of beer shall remit the tax on January 1 of each year. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next payment date. (Ord. #1994-34, Aug. 1994)

8-220. Referral of applications to police department. The beer board may submit necessary information to the police department for the purpose of ascertaining and/or confirming if any owner owning at least 5% interest or any employee involved in the sale, distribution, storing, or transportation of beer has been convicted of any offense that would prohibit the issuance of a permit. (Ord. #1994-34, Aug. 1994)

8-221. Conditions of permits. Every person or business to whom a beer permit is issued agrees to the following conditions:

(1) The premises are declared to be a public place for the purpose of inspection by officers of the police department or by any other duly authorized officials.

(2) The permit holder shall keep invoices and all other memoranda fully descriptive relating to the storing, sale, distribution by sale or gift or manufacture of beer, and he shall permit the finance director or his duly authorized agents, representatives or employees to inspect, at any time during business hours, all such articles, containers, packages, invoices, books, papers and memoranda as may be deemed necessary in the opinion of the finance director or his authorized agent, representative or employee in ascertaining whether or not all state and local taxes have been paid or in determining the amount of such taxes that may be due. On-premise permit holders shall keep a separate record clearly indicating the receipts from sale of alcoholic beverages and the percentage of such receipts in relation to the gross receipts of the business, and shall produce such records to the beer board or finance director's office upon request.

(3) The permit holder shall display all permits issued pursuant to this chapter in a conspicuous place, together with all other permits, licenses and stamps required by law. (Ord. #1994-34, Aug. 1994)

8-222. Minimum distance from church or school; conditions under which issuance of a permit prohibited. (1) Off-premises permit: No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches or other places of public gathering, or would otherwise interfere with the public health, safety and morals. In no event will an off-premises permit be issued authorizing the storage, sale or manufacture of beer at places within one hundred fifty (150) feet of any church or school, as measured in a straight line from the nearest corner of the school or church to the nearest corner of the structure where beer is to be stored, sold or manufactured; provided; however, this provision shall not apply to any location where a beer permit has been issued prior to the effective date of Ord. #1987-67, nor shall it apply to any application for a change in the permittee at such a location.

(2) On premise permit: No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. Any newly constructed facility desiring a permit for on-premises consumption of beer that has a common property line with an existing church or school shall provide screening along that property line as required in the Combined Zoning Ordinance of the City of Hendersonville. A strip of land a minimum of twenty (20) feet wide shall be provided for the screening. No part of the twenty (20) feet shall be used for drives, accessory off-street parking, accessory off-street loading, storage or processing of any kind. Further, such facility shall be built a minimum of one hundred and fifty (150) feet from said church or school, measured in a straight line from the nearest corner of said facility to the nearest corner of said church or school.

(3) No permit shall be issued to any person for a location which fails to comply with any state law or any zoning ordinances of the city, expressly including any zoning ordinance.

(4) Where a beer permit is revoked, no new permit shall be issued to permit the sale of beer to the same business at that location until after the expiration of one year from the date such revocation becomes final and effective.

(5) No permit shall be issued where the applicant, within the past ten (10) years has had a permit issued for the sale of beer by any board duly created within a county or municipality of this state or any license for the sale of liquor in any form which has been revoked by the alcoholic beverage commission of this state. (Ord. #1994-34, Aug. 1994)

8-223. Establishment eligibility. On-premises sale of beer shall be permitted only in the following establishments:

(1) Club: "Club" means a nonprofit association organized and existing under the laws of the State of Tennessee, which has been in existence and operating as a nonprofit association for at least two (2) years prior to the application for a license hereunder, having at least one hundred fifty members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which

inures to the benefit of any shareholder or member; and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests; provided that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the sale of spirituous liquors, wines, champagnes, beer or other malt beverages beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The beer board shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with the definition above.

(2) Hotel: "Hotel" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which fifty (50) or more rooms are used for the sleeping accommodations of such guests and having one (1) or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least seventy-five (75) at tables, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a restaurant on their premises and the holder of such franchise shall be included in the definition of hotel herein. To qualify as a "hotel" hereunder, receipts from the sales of alcoholic beverages, including liquor, wine, and beer or ale, shall not exceed 40% of the total gross receipts in any consecutive two-month period for the business establishment.

"Hotel" also means and includes all entities previously described wherein sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which thirty (30) or more suites are used for sleeping accommodations of such guests and having eating facilities in each room for four (4) or more persons with an adequate and sanitary central kitchen from which meals are regularly prepared and served to guests in such suites. For the purpose of this section a "suite" is defined as a guest facility within a hotel where living, sleeping and dining are regularly provided for such guests within the individual units provided for guests. Provided, however, that no such hotel or suite as defined in this subdivision shall be authorized to charge for, inhibit or otherwise interfere in any way with the rights of its guests or tenants to carry into rooms or suites rented by them their own bottles, packages or other containers of alcoholic beverages or to use or serve them to themselves, their own visitors or guests within the individual units rented or leased by them.

(3) Restaurant: "Restaurant" 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, each place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least seventy-five (75) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted; further, to qualify as a "restaurant" hereunder, receipts from the sale of food shall be at least 60% of the total gross receipts in any consecutive two month period for the business establishment. The State liquor tax (currently 15%) shall be excluded from total gross receipts calculations. Notwithstanding the provisions of this section, any restaurant which maintains a valid license to sell alcoholic beverages for on-premise consumption issued by the Tennessee Alcoholic Beverage Commission shall qualify for the issuance of an on-premises beer permit.

(4) Special occasion permit: "Special occasion permit" means a permit which the board may issue to a bona fide charitable, nonprofit or political organization. Such a permit may be issued for no more than one time per month by the permittee, with each use being limited in duration to a maximum of seventy-two (72) consecutive hours, subject to the limitations on hours of sale by this chapter. Written notice of the time and place of each intended use shall be given the director of finance or the mayor's designated representative at least five (5) business days before the event.

(5) Bowling center: A bowling establishment with a minimum of twenty-four (24) lanes with automatic pinsetters, where lane maintenance is in accordance with the requirements of the American Bowling Congress and the Women's International Bowling Congress. This establishment must be certified annually with the American Bowling Congress and the Women's International Bowling Congress. To qualify as a "bowling center" hereunder, receipts from the sales of alcoholic beverages, including liquor, wine, and beer or ale, shall not exceed 40% of the total gross receipts in any consecutive two-month period for the business establishment.

(6) Dinner theater: A facility which has adequate and sanitary kitchen and dining room equipment and seating capacity for at least five hundred (500) people at tables, having employed there a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests. There must be adequate facilities for programs of cultural, civic, and educational interest including but not limited to stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars, or meetings. To qualify as a "dinner theater" hereunder, receipts from the sales of alcoholic beverages, including liquor, wine, and beer or ale, shall not exceed 40% of the total gross receipts in any consecutive two-month period for the business establishment.

(7) **Golf course:** A recreational facility developed for the primary sport of golf, not to be less than 18 holes, managed and regularly maintained by the operator of the facility and located on a minimum of one hundred and twenty-five (125) contiguous acres. To qualify as a "golf course" hereunder, receipts from the sales of alcoholic beverages, including liquor, wine, and beer or ale, shall not exceed 40% of the total gross receipts in any consecutive two-month period for the business establishment.

(8) **Caterer:** "Caterer" means a business engaged in offering food and beverage service for a fee at various locations, which:

- (a) Operates a permanent catering hall on an exclusive basis;
- (b) Has a complete and adequate commercial kitchen facility;
- (c) Is licensed as a caterer by the Tennessee Department of Health.

A beer permit may be issued to a caterer for "on" premises only. The caterer must give written notice to the City of Hendersonville on forms provided by the City of each event in which beer is sold or provided. Receipts from the sale of food shall be at least 60% of the total gross receipts in any consecutive two-month period for the business establishment. (Ord. #1994-34, Aug. 1994, Ord. 2004-30, September, 2004, Ord. 2007-42, March, 2008)

8-224. Address of location where sales authorized to be specified on permit. The specific address and description of the premises where beer is authorized to be sold shall be stated on the face of each permit issued by the beer board, and no permit shall be valid unless such address and description of the premises are stated on the face of such permit. (Ord. #1994-34, Aug. 1994, Ord. 2007-42, March 2008)

8-225. Nontransferability. Permits issued by the beer board shall not be transferred from one owner to another. Where the holder of a permit desires to move their place of business from one location to another, he shall apply for a new permit for the new location and shall surrender the permit for the location which has been abandoned. (Ord. #1994-34, Aug. 1994)

8-226. Suspension, revocation, and civil penalty. (1) The beer board shall have the power to revoke or suspend, and shall be charged with the duty of revoking or suspending any permits issued by it upon notice to the permittee and a hearing thereon, for any violation of any provision of state or federal law regulating the sale, storage and transportation of alcoholic beverages or for any violation of any provision of this chapter, expressly including the prohibited acts herein, or any statute of the State of Tennessee regulating beer or other alcoholic beverages.

(2) The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors; or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder

shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time the revocation or suspension shall be deemed withdrawn. (Ord. #1994-34, Aug. 1994, Ord. 2007-42, March 2008, Ord. # 2008-20, October 2008)

8-227. Prohibited acts. (1) Generally. It shall be unlawful for any person:

(a) To bring or to allow to be brought onto the premises of any permittee under the provisions of this chapter any prohibited drugs within the meaning of Tennessee Code Annotated, §§ 53-10-101 - 53-10-108, or any intoxicating beverage, the alcoholic content of which is in excess of five (5) per cent by weight, unless such permittee is the holder of a valid license issued under the authority of the alcoholic beverage commission.

(b) Being under the age of twenty-one (21) years, to have in his possession beer for any purpose except that any person eighteen (18) years of age or older may transport, possess, sell or dispense alcoholic beverages, wine or beer in the course of his employment.

(2) By permit holder or agents or employees. It shall be unlawful for any beer permit holder or his agent or employee:

(a) To employ any person convicted for the possession, sale, manufacturing or transportation of intoxicating liquor, or any felony, or any crime involving moral turpitude within the past ten (10) years.

(b) To sell, give away, or allow to be sold or given away any beer to a person under twenty-one (21) years of age.

(c) To sell, give away, or allow beer to be consumed on any premises granted a permit under this chapter from 3:00 A.M. to 6:00 A.M. on weekdays and from 3:00 A.M. to 12:00 noon on Sundays.

(d) To allow any person under twenty-one (21) years of age to loiter or congregate about the premises. The burden of ascertaining the age of minor persons shall be on the permit holder and his agent or employee.

(e) To make a false statement in his application for any beer permit.

(f) To operate a disorderly place.

(g) To permit boisterous or disorderly conduct on the premises.

(h) To sell or transfer the equipment or assets of the business authorized by his permit to another person or business for the purpose of continuing the business on the same premises, unless he shall notify the board in writing immediately upon such sale or transfer, and unless he shall give the name and address of the purchaser within the said notice. A beer permit holder shall surrender their license to the board within thirty (30) days after the sale or transfer is consummated.

(i) To make or allow any sale to any intoxicated person or to any insane or otherwise mentally incapacitated person.

(j) To allow any intoxicated person to loiter on or about the premises.

(k) To allow any dancing on his premises without a dance permit.

(l) For any wholesaler or manufacturer, to sell or deliver beer, or use, operate, or cause to be operated any vehicle carrying beer within the city area after 7:00 P.M. or before 6:00 A.M., Monday through Friday, or at any time between 7:00 P.M. on Friday and 6:00 A.M. on Monday. This provision shall also apply to platform sales in addition to ordinary deliveries. This section shall not apply, however, to trucks returning to the warehouse or to or from a point for the purpose of vehicle repair.

(m) For a retailer to store beer in any place other than the address listed on the permit.

(n) To sell or allow to be sold on the premises of the permittee beer to any person using food stamps issued pursuant to state or federal law for the purchase of such beer.

(o) To fail to maintain screening as required by § 8-222(2). (Ord. #1994-34, Aug. 1994, modified)

8-228. Standards of conduct on premises of licensees. (1) In addition to the other duties imposed by the beer board or by the city, it shall be the duty of said board to enforce the provisions of this section and revoke or suspend the beer permit of any person, business, firm, corporation, syndicate or association, upon notice and hearing, for violation of the provisions of this section.

(2) The following acts or conduct have been declared contrary to public policy by the General Assembly of the State of Tennessee when such activities take place upon premises licensed by the alcoholic beverage commission; and the same are hereby declared to be against the public policy of the city, and therefore, no beer permit shall be held at any premises where such acts or conduct are permitted:

(a) To employ, use or allow any person in the sale or service of beer or like alcoholic beverages in or upon the premises of a permittee while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(b) To employ, use or allow the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subdivision (a).

(c) To encourage or permit any person on the premises of a permittee to touch, caress or fondle the breast, buttocks, anus or genitals of any other person.

(d) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(3) Acts or conduct on premises licensed by the alcoholic beverage commission that have been deemed contrary to public policy by the General Assembly of the State of

Tennessee are hereby declared against the public policy of the city, and therefore, no beer permit shall be held at any premises where such conduct or acts are permitted. Live entertainment is permitted on premises of a permittee except that:

(a) No permittee shall permit any person to perform acts of or acts which simulate:

(i) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(ii) The touching, caressing or fondling of the breast, buttocks, anus or genitals.

(iii) The displaying of the pubic hair, anus, vulva or genitals.

(b) Subject to the provisions of subdivision (a) hereof, any entertainer who is employed in whole or in part by the permittee to dance at such permittee's premises shall perform only upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron.

(c) No permittee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

(d) No permittee shall permit any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus.

(4) The following acts or conduct have been declared contrary to public policy by the General Assembly of the State of Tennessee when such activities take place upon premises licensed by the alcoholic beverage commission, and the same are hereby declared to be against the public policy of the city and therefore no beer permit shall be held at any premises where such conduct or acts are permitted: The showing of film, still pictures, electronic reproduction, or other visual reproduction depicting:

(a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(b) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

(c) Scenes wherein a person displays the vulva or the anus or the genitals.

(d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above. (Ord. #1994-34, Aug. 1994)

8-229. Wholesale beer tax. The finance director is hereby directed to take appropriate action to ensure payment to the city of the wholesale beer tax levied by the Wholesale Beer Tax Act, Tennessee Code Annotated, §§ 57-6-101 et seq. (Ord. #1994-34, Aug. 1994)

8-230. County beer permit holders. The beer board may issue a city beer permit to anyone who held a valid and current county beer permit on or shortly before the twenty-third

day of April, 1970, or to anyone who subsequently has acquired by purchase or lease, a business establishment, firm or corporation whose owner, operator, manager, or officers or board of directors in the case of a corporation were authorized to sell beer on or shortly before the twenty-third day of April, 1970, by virtue of the issuance of a county beer permit. (Ord. #1994-34, Aug. 1994)

8-231. Liquor liability insurance requirements. (1) As a condition to issuance and continuance of a permit for the selling of beer for on-premises consumption, the permit holder shall maintain on file with the city a valid certificate of insurance in favor of the city evidencing the existence of liquor liability insurance with limits of liability of at least \$500,000 each common cause and \$500,000 annual aggregate in favor of the entity operating the premises where the permit applies. This insurance shall be underwritten by an insurance company licensed or approved by the Tennessee Department of Commerce and Insurance. Such certificate of insurance shall be on file with the city prior to the issuance of a beer permit. In the event the insurance becomes invalid by reason of a cancellation, company insolvency, or by expiration without being renewed, the permit shall be revoked until the permit holder appears before the beer board with a valid certificate of insurance and the board approves reinstatement of the permit.

(2) A valid certificate of insurance shall include a minimum of the name of the insurance company underwriting the coverage, the name of the insured operator of the premise where the permit applies, the address of the premises where the insurance applies (this shall be the address where the permit applies), a brief description of the coverage and

limits of liability, the policy number of the insurance policy that applies, a policy period concurrent with the anniversary dates of the permit, the signature of a licensed Tennessee property and casualty insurance agent, and with the city named as the certificate holder.

(3) For the purposes of this requirement, a risk retention group is not an insurance company.

(4) The requirements of this section do not apply to special occasion permit holders. (Ord. #1994-34, Aug. 1994)

8-232. Public dances and dance halls. (1) Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) "Known:" Such term, used in connection with the words "prostitute", "male or female procurer" or "vagrant", shall mean known to the manager, owner or lessee of a public dance hall, or to the person conducting a public dance, or to the police or other authorities having to do with the regulation and supervision of public dance halls or public dances, to be one of the persons named, or who has such general reputation or character, or one who has pleaded guilty to or has been convicted of being a prostitute, male or female procurer or vagrant.

(b) "Public dance:" Any dance to which admission can be had by payment directly or indirectly of a fee or any dance to which the public generally may gain admission with or without the payment of a fee, and where beer or alcoholic beverages are sold.

(c) "Public dance hall:" Any room, place or space in which a public dance shall be held, and where beer or alcoholic beverages are sold.

(2) Permit from beer board; permit fee. It shall be unlawful to hold or conduct a public dance or to operate any public dance hall within the city until such dance hall or other place in which such public dance may be held shall first have been issued a permit by the beer board for the operation of such dance hall or for the holding of such dance. An application fee of one hundred dollars (\$100.00) per year shall be required to maintain said permit.

(3) Requirements for permit to operate public dance halls. No permit for the operation of a public dance shall be issued until it shall be found that the place for which the same is issued complies with and conforms to all laws, ordinances, health and fire regulations applicable thereto, is properly ventilated and supplied with separate and sufficient toilet conveniences for each sex and is a safe and proper place for the purpose for which it shall be used. The permit for such dance hall shall be in writing and shall be posted in a conspicuous place in the dance hall at all times when the same shall be operated.

(4) Revocation and reissuance of permit; duties of beer board. The permit to operate any public dance hall may be revoked for the violation of any provision of this chapter or other ordinances or laws relating to such places, and upon the revocation of the permit to operate such public dance hall, at least three months shall elapse before another permit shall be granted to the manager, owner or lessee of such dance hall to operate the same.

The procedure provided by the laws of the city relative to the beer board and by the rules and regulations adopted by the beer board for the revocation of permits to sell beer shall be applicable to the revocation of permits of public dance halls or public dances. The beer board shall be charged with the duty of supplying application forms for permits for permission to operate a public dance hall or a public dance and such forms shall contain such pertinent questions to be answered by the applicant, and to be sworn to, as is deemed to be necessary and proper by a majority of the members of the beer board. The beer board is hereby authorized to adopt such rules and regulations for the proper regulation and supervision of public dance halls and public dances as a majority of the board shall decide in conformity with the provisions of this chapter.

(5) Conduct at public dances; prohibitions. It shall be unlawful for any person to whom a dance hall permit has been issued for any person conducting a public dance hall or public dance to allow or permit in such dance hall or at such dance any indecent act to be committed or any disorder or conduct of a gross, violent or vulgar character, or to permit in any such dance hall or at any such dance any known prostitute, pimp or procurer. It shall be

unlawful for any known prostitute, male or female procurer or vagrant to be present at any public dance or at any public dance hall.

(6) Minors at dances. It shall be unlawful for any person to whom a dance hall permit has been issued or for any person conducting a public dance hall to permit in such dance hall any person under the age of eighteen (18) years when alcoholic beverages are sold on the premise unless such minor is accompanied by one or both of his parents, or a legal guardian or an adult who has been given parental permission.

(7) Hours of closing. All public dances shall be discontinued and all public dance halls closed from 2:00 A.M. to 6:00 A.M. on weekdays and from 2:00 A.M. to 1:00 P.M. on Sundays. (Ord. #1994-34, Aug. 1994)