

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

ALCOHOLIC BEVERAGES

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¹Municipal code reference
Alcoholic beverage tax: title 5.

State law reference
Tennessee Code Annotated, title 57.

8-101. 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 municipality except as provided by Tennessee Code Annotated, title 57, by rules and regulations promulgated thereunder, and as provided in this chapter. (Ord. #1972-39, Jan. 1973)

8-102. Definitions. Whenever used herein unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverage" 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, beer, or wine, where the latter two (2) contain an alcoholic content of five per cent (5%) by weight, or less.

(2) "License" means the license issued herein and "licensee" means any person to whom such license has been issued.

(3) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

(4) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

(5) "Manufacturer" means and includes distiller, vintner and rectifier. "Manufacture" means and includes distilling, rectifying and operating a winery.

(6) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(7) "Wholesaler" means any person who sells at wholesale beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101--57-3-110.

(8) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one per cent (21%) by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly the word "gallon" or "gallons" wherever used herein, shall be construed to mean a wine gallon or wine gallons, of one hundred and twenty-eight (128) ounces. The word "quart" whenever used herein will be construed to mean one-fourth (1/4) of a wine gallon. The word "pint" wherever used shall be construed to mean one-eighth (1/8) of a wine gallon.

(10) Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural.

(11) The term "federal license" as used herein shall not mean tax receipt or permit. (Ord. #1972-39, Jan. 1973)

8-103. Manufacturing prohibited within corporate limits. The manufacture of alcoholic beverages is prohibited within the corporate limits. (Ord. #1972-39, Jan. 1973)

8-104. Selling prohibited within corporate limits. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits except to a duly licensed local city retailer, as provided herein. (Ord. #1972-39, Jan. 1973)

8-105. License required. (1) Before any person or other legal entity (the “Applicant”) shall receive a license for the establishment of a retail liquor store, the Applicant shall make application for a license for a specific location and be granted such license for such specific location by the Board of Mayor and aldermen as required by Tennessee Code Annotated §57-3-208. When the applicant which intends to obtain a liquor license is a legal entity owned, directly or indirectly, by a combination of persons and/or entities, the group of persons owning an interest, directly or indirectly, in the Applicant is referred to herein as the “Applicant Group”. The application for the license shall be filed with the Municipal Clerk giving the following information:

- (a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the retail liquor store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an Applicant or member of an Applicant Group, each person with an interest therein must be disclosed and must provide the information herein required by the City;
- (b) The name of the retail liquor store proposed;
- (c) The address of the retail liquor store proposed and its zoning designation;
- (d) Number of years Applicant and persons in Applicant Group have been residents in Hendersonville City Limits, Zip Code, or Urban Growth Boundary (minimum of two years required);
- (e) The name of the licensee and the address of other retail liquor stores in which an ownership interest is held by the applicant or any member of the applicant Group, identifying the Applicant or group member holding each interest;
- (f) Occupation or business and name and location of such business, of Applicant and persons in Applicant Group and length of time engaged in such occupation or business;
- (g) Whether or not the Applicant or any persons in the Applicant Group has been convicted within the ten (10) year period immediately preceding the date of the application of any violation of any State or federal law or of any violation of any municipal ordinance (with the exception of minor traffic violations such as speeding or traffic signal violations, but not excepting alcohol related violations), and, if so, provide the details of such violation (i.e., charging entity, citation to and copy of law convicted of violating, copy of charge, etc.);
- (h) If employed, the name and address of the employer;

(i) The name and address of the owner of the real property of the proposed location and the amount to be paid for rent or purchase, together with a letter from such owner affirming either (i) that the parties have reached a written agreement on the terms of a lease and setting forth the amount of the rent provided for in the agreement, or (ii) that the parties have reached a written agreement on the terms of a sale of the premises to the Applicant;

(j) The amount of money invested or to be invested, and the source of funds to be used, and, if borrowed, the name of the person from whom borrowed, the name of the bank with which the Applicant does business, and the name of any person who is aiding the venture financially, either by a loan or guaranty;

(k) The name of any person who will have any interest, direct or indirect, in the business of the Applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail liquor license;

(l) The identity of the Applicant(s) who will be in actual charge of the day-to-day operation of the business, and a certification that that individual has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application, and if the Applicant is a corporation the identity of the officer or employee who will be in actual charge of the day-to-day operations of the business and that such officer or employee has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(m) A statement that the persons receiving the requested license to the best of their knowledge if awarded the license could comply with all the requirements for obtaining the required licenses under State law and the provisions of this chapter for the operation of retail liquor stores in the City; and

(n) The agreement of each Applicant or each member of an Applicant Group, as appropriate, to comply with all applicable laws and ordinances and with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission and the City of Hendersonville with reference to the sale of alcoholic beverages, and the further agreement of each Applicant or each member of an Applicant Group as to the validity and the reasonableness of these regulations, inspection fees, and taxes provided in this Title with reference to the sale of alcoholic beverages.

(2) Further documentation

(a) The application shall be accompanied by six (6) copies of a site plan drawn to a scale of not less than one (1) inch equals twenty (20) feet giving the following information:

(i) The shape, size and location of the lot which the retail liquor store is to be operated under the license;

(ii) The shape, size, height and location of all building(s) whether they are to be erected, altered, moved or existing upon the lot; and

(iii) The off-street parking space and off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street.

(b) A written certification by the Applicant that the premises of the proposed retail liquor store are in full and complete compliance with the distance requirements of this Chapter; and, that the Applicant has taken steps to verify compliance with the distance requirements. To the extent that the Applicant has documentation of such verification, or the process of verification, then Applicant shall submit such documentation with the application.

(c) In the case where the Applicant is a partnership, the application shall be accompanied by a copy of the partnership agreement and an indication of who are general partners and who are limited partners, if any, and for each partner the profit sharing percentage in the partnership;

(d) In the case where the Applicant is a corporation or limited liability company, the application shall be accompanied by a copy of the corporate charter or the operating agreement and a list of shareholders/members with their ownership percentage, a list of officers/managers and a list of names and addresses of directors.

(3) Signature. The application shall be signed and verified by each person to have any interest in the retail liquor store either as an owner, partner, stockholder or otherwise.

(4) Misrepresentation-concealment of fact-duty to amend. If any Applicant, member of an Applicant Group, or licensee either intentionally or innocently misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such Applicant, member of an applicant Group or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by the Board. In addition, if an application submitted does not contain the information required by this Chapter, it will not be deemed filed until all information has been submitted in writing. It shall be the duty of the Applicant to determine and submit the information required.

(5) As of this date, three (3) liquor stores have been permitted and established within the City. In issuing the required license for the licensing of additional liquor stores in the City permitted by this Chapter, the Board will consider all applications filed before a closing date to be fixed by it and select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and the most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of the City for the lawful operation of liquor stores without regard to the order of time in which the applications are filed. Such persons and only such persons so selected shall receive the additional licenses issued by the City. (Ord. 2011-10, May 2011)

8-106. Limitations on issuance of license. (1) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the board of Mayor and Aldermen, expressed by a majority thereof, the carrying on of such

business at the premises covered by the application for a license would be closer than 1000 feet as measured from the main and principal front entrance of such business at such premises of licensee to the main and principal front entrance of a church, school, or library; a retailer's license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the mayor, unless the location is approved in writing by the Mayor. Said approval by the mayor must be authorized by approval of majority of Board of Mayor and Aldermen.

(2) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages which is not located within 1,000 feet of Gallatin Road, or within 1,000 feet of Indian Lake Boulevard, or within 3,000 feet of the intersection of Vietnam Veterans Boulevard at New Shackle Island Road, or within 3,000 feet of the intersection of Vietnam Veterans Boulevard at Indian Lake Boulevard. All distances shall be measured from the center line of the thoroughfare to the main and principal front entrance of the retail liquor store.

(3) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages in a building structure that provides less than 1,250 square feet of floor space.

(4) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages on property not properly zoned for such use according to the Hendersonville Zoning Ordinance. (Ord. 2011-10, May 2011)

8-107. Limitations on number of licenses. (1) No more than one license for each 12,000 population for the sale of alcoholic beverages shall be issued under this chapter. Further, that the population limitations and restrictions as provided for above shall not be decreased unless, first, a public notice of such proposed change is published at least one (1) time fifteen (15) days before the first reading on such proposed amendment.

(2) No license shall be issued to any person or persons unless such person's or persons' legal residence has been within the Hendersonville City Limits, Zip Code or Urban Growth Boundary for at least two years prior to submittal of an application for retail license. Likewise, no license shall be issued to any partnership or corporation unless the partnership's or corporation's principal place of business has been within the Hendersonville City Limits, Zip Code or Urban Growth Boundary for at least two years prior to submittal of an application for the retail license. Thereafter, any change in such residence(s) or place of business, whereby such would be outside this area, such change must be approved by a majority of the Board of Mayor and Aldermen. However, in any event, such person's, persons', partners' and stockholders' legal residence, and, in the case of a partnership or corporation, its principal place of business and office, must be within the State of Tennessee. (Ord. #1972-39, Jan. 1973, as amended by Ord. #1973-63, Dec. 1973, as amended by Ord. 1993-26, June 1993, Ord. 2011-10, May 2011)

8-108. Bonds of licensees. Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee; bonds of retailers shall be five hundred dollars (\$500.00). Said bond shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (Ord. #1972-39, Jan. 1973)

8-109. Retailer's license. (1) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissioners where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(2) No retailer shall be a person who has been convicted of a felony involving moral turpitude, within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(3) No license shall under any condition be issued to any person who, within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(4) No manufacturer, brewer or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person.

(5) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the mayor and approved by him. Where such interests is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he,

himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

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

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) 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 a felony involving moral turpitude, and in case an employee should be so convicted, he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(9) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension according to this chapter.

(10) Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter. (Ord. #1972-39, Jan. 1973, modified)

8-110. Display of license. Persons granted a license to carry on the business or undertaking contemplated therein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license. (Ord. #1972-39, Jan. 1973)

8-111. Transfer of permits restricted. The holder of a license may not sell, assign or transfer such license to any other person unless same is approved by a majority of the board of mayor and aldermen and the state commissioner and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military force of the United States in the time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the

licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. (Ord. #1972-39, Jan. 1973)

8-112. Expiration date of license. Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year. (Ord. #1972-39, Jan. 1973)

8-113. New license after revocation. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (Ord. #1991-28, July 1991)

8-114. Federal license, effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (Ord. #1972-39, Jan. 1973)

8-115. Inspection fee. There is hereby levied and imposed an inspection fee of five per cent (5%) on all gross purchases of alcoholic beverages made by licensee under this chapter, the payment of said fee shall be accompanied by copies of all billings made to the licensee by all wholesalers or distributors for said calendar month on a form, prescribed by the mayor. Failure to pay said fee and make said report accurately within the time prescribed at the sale discretion of the mayor may be cause for suspension for as much as thirty (30) days and at the sole discretion of the board of mayor and aldermen be cause for revocation of said license. (Ord. #1972-39, Jan. 1973, modified)

8-116. Regulations for purchase and sale of intoxicating liquors.

(1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on. (Ord. #1972-39, Jan. 1973)

8-117. Solicitation. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such license receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises. (Ord. #1972-39, Jan. 1973)

8-118. Regulation of retail sales. (1) No retailer shall directly or indirectly, operate more than one (1) place of business in this municipality for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall sell, lend or give away any alcoholic beverages to any person who is drunk nor shall any retailer selling alcoholic beverages sell, lend or give away to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend or give away any alcoholic beverages to a person under twenty-one (21) years of age.

(4) No retailer shall sell, lend or give away any alcoholic beverages between 11 o'clock P.M. on Saturday and 8 o'clock A.M. on Monday of each week, and between 11 o'clock P.M. and 8 o'clock A.M. Monday through Saturday.

(5) No retailer shall sell, lend or give away any alcoholic beverages upon Christmas Day, Thanksgiving Day, Labor Day, New Year's Day, or the Fourth of July.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(7) No retailer as herein defined shall own, store or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state. (Ord. #1972-39, Jan. 1973, as amended by Ord. #1982-2, Feb. 1982, modified)

8-119. Failure to pay inspection fee. Whenever any person licensed hereunder fails to account for or pay over to the finance director any inspection fee, or defaults in any of the conditions of his bond, the mayor and/or finance director shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such inspection fee. (Ord. #1972-39, Jan. 1973, modified, Ord. 2002-26, July, 2002)

8-120. Mayor to determine if provisions are being complied with. The mayor and/or designated agent thereof is authorized to examine the books, papers and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. The 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 a license or the refusal to issue a license. (Ord. #1972-39, Jan. 1973, modified)

8-121. Violation and penalty. Any violation of the terms of this chapter shall be punishable by a fine of not more than fifty dollars (\$50.00); in such cases, suspension of said license by mayor for thirty (30) days shall be mandatory, and in the discretion of the board of mayor and aldermen may be cause for revocation of said license. (Ord. #1972-39, Jan. 1973, modified)

8-122. Visible possession prohibited. Visible possession of alcoholic beverages in unsealed container upon any public street or within any governmental building shall be a violation of this chapter. (Ord. #1972-39, Jan. 1973)

CHAPTER 2

BEER

SECTION

- 8-201. Beer board created; membership.
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- 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 eight (8) 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 eight (8) 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. Except for a beer manufacturer that is allowed to sell beer at retail pursuant to Section 8-223, 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, Ord. # 2014-20, Nov. 2014)

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 directly to retailers. (Ord. # 2014-20, Nov. 2014)

(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.

(9) Manufacturer tap room: "Manufacturer tap room" means a tasting room of a beer manufacturer with a wholesaler's permit issued by the City of Hendersonville, Tennessee, and with the appropriate approval of the United States Department of the treasury, and is subject to the following:

- (a) A manufacturer's tap room may be issued a retailer's "on-and-off premises" permit as defined in HMC 8-216 for the sale of beer manufactured on the premises;
- (b) Retail sales for on-premise consumption shall not exceed ten percent (10%) of the volume of beer produced on the premises on an annual basis;
- (c) The tasting room shall be in the same building with the beer manufacturing operation;
- (d) No retail sales for on-premise consumption shall be made after 10:00 p.m.; and
- (e) All other provisions of this chapter applicable to a retail beer permit holder that do not directly contradict this section shall apply to retail operations of a manufacturer.

(Ord. #1994-34, Aug. 1994, Ord. 2004-30, September, 2004, Ord. 2007-42, March, 2008, Ord. # 2014-20, Nov. 2014)

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

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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, businessfirm, 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)