

**TITLE 8**

**ALCOHOLIC BEVERAGES**

**CHAPTER**

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**CHAPTER 1**

**MISCELLANEOUS<sup>1</sup>**

**SECTION**

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**8-101. Definitions.** Whenever used in Title 8, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, wine, and high alcohol content beer and capable of being consumed by a human being, other than patent medicine or beer, as defined in § 57-5-101. Notwithstanding any provision to the contrary in this title, except for beer as defined in § 57-5-101(b), "alcoholic beverage" or "beverage" also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol, regardless of alcohol content. Liquid products intended for beverage purposes containing alcohol that do not meet the definition of beer under § 57-5-101(b) shall also be alcoholic beverages.

(2) "Applicant." The person applying for a license.

(3) "Application." The form or forms an applicant is required to file in order to obtain a license.

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(4) "Beer." For purposes of this Title, "beer" means beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

(5) "Beer Board." For the purpose of this Title, "beer board" means a board composed of the members of the Board of Commissioners of the City of Johnson City who shall have the duty to regulate and supervise the issuance of beer license to manufacture, store, distribute and sell beer as provided in Title 8. Board of Commissioners shall be synonymous with the "beer board" unless otherwise stated or implied.

(6) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either personally or by an agent.

(7) "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale.

(8) "Certificate of compliance." The certificate mentioned in Tennessee Code Annotated, § 57-3-208, as the same may be amended, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(9) "Clubs; lodges." Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee and which are organized and exist for purposes other than the sale of beverages under such license.

(10) "Federal statutes." The statutes of the United States now in effect or as they may hereafter be changed.

(11) "Inspection fee." The monthly fee a licensee is required to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(12) "License." A license issued under the provisions of this Title for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(13) "License fee." The annual fee a licensee is required by this Title to pay at or prior to the time of the issuance of a license.

(14) "Licensee." The holder of a license.

(15) "Liquor store." The building or the part of a building where a licensee conducts any of the business authorized by the license held by such licensee.

(16) "Manufacture" means and includes brewing high alcohol content beer, distilling, rectifying and operating a winery.

(17) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier.

(18) "Minor." Any person who has not attained eighteen (18) years of age; except that where used in Title 8 with respect to purchasing, consuming or possessing alcoholic beverages, wine or beer, "minor" means any person who has not attained twenty-one (21) years of age. This shall not be construed as prohibiting any person

eighteen (18) years of age or older from selling, transporting, possessing or dispensing alcoholic beverages, wine or beer in the course of employment pursuant to valid server permit.

(19) "Restaurant" shall mean any 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, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least twenty-five (25) 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.

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

(21) "State alcoholic beverage commission." The Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including the provisions of Tennessee Code Annotated, §§ 57-1-101 through 57-1-209.

(22) "State liquor retailer's license." A license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, §§ 57-3-101 through 57-3-412) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(23) "State rules and regulations." All applicable rules and regulations of the state applicable to alcoholic beverages, as now in effect or as they may hereafter be changed, including without limitation the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(24) "State statutes." The statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(25) "Wholesale sale" or "sale at wholesale." A sale to any person for purposes of resale.

(26) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §57-3-101 through 57-3-412.

(27) "Wine." This definition shall be the same as provided in Tennessee Code Annotated, §57-3-101, as the same may be amended.

#### **8-102. Public display--public drinking.**

(1) Except as permitted by the board of zoning appeals by special exception in the B-2 Central Business District, it shall be unlawful for any person publicly to drink any alcoholic beverage, wine, high alcohol content beer, or beer on any public street or public sidewalk or on any school ground or public walking trail or in any park, playground, stadium, or school. Except as permitted by the board of zoning appeals by special exception in the B-2 Central Business District, it shall be unlawful for any person to display, exhibit or show openly an unsealed, immediate container of any

alcoholic beverage, wine, high alcohol content beer, or beer on any public street or public sidewalk or on any school ground or public walking trail, or in any park, playground, stadium, or school. The beer license for any establishment receiving a special exception from the board of zoning appeals shall automatically be amended to conform to the terms of the special exception, but only for the time the special exception is in effect. No person shall publicly drink, display, sell, exhibit or show openly an unsealed, immediate container of any alcoholic beverage, wine, high alcohol content beer, or beer within Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road, or the streets and public spaces bounding the same, except for beer during downtown special events/street festivals and/or pursuant to temporary occasion beer licenses (see § 8-214) approved by the beer board or during other events held in accordance with the provisions of this title.

(2) For private events that are invitation-only and not open to the public at Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road, scheduled through the City of Johnson City or another entity that the board of commissioners designates for such purposes, if no consideration is charged or money exchanged for the sale of alcoholic beverages, wine, high alcohol content beer, or beer or to attend the event, the serving (but not sale), possession, and consumption of alcoholic beverages, wine, high alcohol content beer, and beer are permitted during such hours allowed for such beverages for on-premises consumption.

(3) For public and private events at Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road, scheduled through the City of Johnson City or another entity that the board of commissioners designates for such purposes, if a consideration is charged or money exchanged either to attend the event or for the sale of alcoholic beverages, wine, high alcohol content beer, or beer, the sale, serving, possession, and consumption of alcoholic beverages, wine, high alcohol content beer, and beer are permitted during such hours allowed for such beverages for on-premises consumption, provided that a temporary occasion beer license is obtained from the Beer Board of the City of Johnson City (for beer) and a license is obtained from the Tennessee Alcoholic Beverage Commission (for alcoholic beverages, wine, and high alcohol content beer). Notwithstanding the foregoing, no alcoholic beverages, wine, or high alcohol content beer shall be allowed to be sold, consumed, or possessed in these areas at downtown special events/street festivals, such as the Blue Plum or UMOJA festivals, which have specific regulations as shown below. Caterers holding a valid license pursuant to

Tennessee Code Annotated, § 57-4-101 *et seq.* to sell wine, beer, and other alcoholic beverages may cater events authorized by this paragraph without a temporary occasion beer license from the city.

(4) Notwithstanding the provisions of subsection (3) above, retail sales and the consumption of beer shall be allowed at the baseball stadium owned by the City on Legion Street, the civic center owned by the City on Pactolas Road, and the municipal golf course on Buffalo Road in the City of Johnson City, except for events involving pre-K through 12th grade institutions.

(5) No person shall be allowed to bring any alcoholic beverages, wine, high alcohol content beer, or beer into the baseball stadium on Legion Street, the civic center on Pactolas Road, or the municipal golf course on Buffalo Road for the purposes of "brown bagging" or otherwise.

(6) No person shall be allowed to carry beer out of the baseball stadium on Legion Street, the civic center on Pactolas Road, or the municipal golf course on Buffalo Road. All beer allowed at the baseball stadium shall be consumed within the gates of those premises. All beer allowed at the civic center shall be consumed within the building of those premises. All beer allowed at the municipal golf course shall be consumed within the course and grounds of those premises.

(7) Any violation of this section shall be punishable by a fine of not more than fifty dollars (\$50.00) for each separate violation in addition to any other penalties authorized within this title.

**8-103. Open containers on premises whether or not allowing brown bagging.** It shall be unlawful for any person to open, or to have open, or to consume any alcoholic beverages, wine, high alcohol content beer, or beer anywhere inside or outside on the premises of a business, where said beverages cannot lawfully be purchased or are not permitted by law or ordinance, whether those alcoholic beverages, wine, high alcohol content beer, or beer are contained in a bottle, can, flask, or any other container of any and every kind and description.

**8-104. Sale of wine containing unlawful amount of alcohol.** It shall be unlawful for any person to sell, or offer to sell, or aid or abet in selling or offering to sell, within the city, any wine containing a greater percentage of alcohol by volume than that authorized by the laws of the state.

**8-105. Prohibited acts on premises selling beer, wine, and other alcoholic beverages.**

(1) It shall be unlawful for any person to appear in any place or establishment or upon the premises thereof where wine, beer, or other alcoholic beverages are offered for sale, consumed, possessed, or otherwise present and to:

(a) Publicly perform acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts prohibited by law.

(b) Publicly engage in the actual or simulated touching, caressing, or fondling of the anus or genitals.

(c) Publicly engage in the actual or simulated displaying of the pubic hair, anus, buttocks, vulva, genitals, or any portion thereof, or breasts below the top of the areola of any person.

(d) Publicly wear or use any device or covering, exposed to public view, which simulates the human breasts, genitals, anus, buttock, pubic hair or any portion thereof.

(2) It shall be unlawful for any person to permit or allow another to commit any of the acts specified in subsection (1) hereof on or about the premises which are owned, managed, possessed, occupied, or operated by said person or in which said person is employed.

(3) The following acts or conduct on premises licensed by the city are deemed contrary to public policy, and therefore no license issued by the city shall be held at any premises where such conduct or acts are permitted:

(a) To employ, use or allow any person in the sale or service of wine, beer or other alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the male or female breasts below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttock, 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 subsection (a) hereinabove;

(c) To encourage or permit any person on the licensed premises to touch, caress or fondle the anus or genitals of any other person;

(d) To encourage or permit any act prohibited by Tennessee Code Annotated, § 57-4-204, or other applicable law or ordinance.

(4) It shall be unlawful for any person to engage in or encourage any of the acts or conduct set forth in subsection (3) hereinabove in any place or establishment or upon the premises thereof where wine, beer, or other alcoholic beverages are offered for sale, consumed, possessed, or are otherwise present.

(5) Live entertainment shall be permitted on any licensed premises, subject to all other applicable laws and ordinances, except that:

(a) No licensee or employee of licensee shall permit any person to perform acts of or acts which simulate the following:

(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 anus or genitals;

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

(b) Subject to the provisions of subsection (a) hereinabove, any entertainer who is employed in whole or in part or otherwise suffered or allowed by the licensee to dance or otherwise perform at such licensee's

premises, shall perform only on a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron.

(6) No licensee or employee of any licensee shall permit any person to use artificial devices or any animate objects to depict any of the prohibitive activities described above, nor shall any licensee or employee of any licensee permit any person to remain in or upon the licensed premises whose exposing to public view any portion of his or her genitals or anus.

(7) The following conduct or acts on licensed premises are deemed contrary to public policy, and therefore no license for the sale, dispensing or possession of wine, beer, or other alcoholic beverages issued or in any way caused to be issued by the city shall be held at any premises where such conduct or acts are permitted:

The showing of films, still pictures, electronic reproductions, or other visual reproductions depicting the following:

(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 anus, or genitals;

(c) Scenes wherein the 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.

(8) The Police Bureau of the City of Johnson City is hereby empowered to conduct investigations into alleged violations of the provisions of this section, of Tennessee Code Annotated, § 57-4-204, and of any and all other applicable laws or ordinances, and that said bureau shall report such violations to the appropriate authorities for such action as may be proper.

(9) Nothing contained in this section shall be construed to prohibit engaging by persons of either sex in swimming or related activities while clad in attire customarily worn for such purposes within the community.

(10) Nothing contained in this section shall be construed to prohibit the broadcast or display of any television program subject to regulation by the Federal Communications Commission of the United States.

(11) Nothing contained in this section shall be construed to prohibit the showing or featuring of motion pictures by a movie theater where the primary business is showing motion pictures to the public for public entertainment at a commonly charged fee and where the motion pictures shown or featured in the movie theater are not rated above R (Restricted), with said ratings being issued by the Motion Picture Association of America (MPAA) via the Classification and Rating Administration (CARA).

(12) The violation of any provision of this section is hereby declared to be a public nuisance.

## **CHAPTER 2**

### **BEER OF NOT MORE THAN FIVE PERCENT ALCOHOLIC CONTENT**

#### **SECTION**

- 8-201. Penalty.
- 8-202. Transport, sale to comply with rules.
- 8-203. Hours of sale.
- 8-204. Minors; intoxicated persons; loitering.
- 8-205. Wholesale beer tax.
- 8-206. Advertising signs or displays.
- 8-207. License required.
- 8-208. License--classes.
- 8-209 License--application--generally.
- 8-210. License--application procedure.
- 8-211. Application for fee; privilege tax; permits
- 8-212. License--display.
- 8-213. License--transfer.
- 8-214. Temporary occasion beer licenses.
- 8-215. Special Event Series Temporary Occasion Beer License.
- 8-216. License suspension, revocation generally, calculations of time and number of violations, etc.
- 8-217. License--suspension for noise violations, calculations of time and number of violations, etc.
- 8-218. Alcohol awareness training.
- 8-219. Seller/server permits.
- 8-220. Prohibited conduct.
- 8-221. Training of licensees, employees, etc.
- 8-222. Drive-through window sales.
- 8-223. Grandfathered status.
- 8-224. Downtown special events/street festivals.
- 8-225. Delivery service license.
- 8-226. Delivery service license application.
- 8-227. Delivery service license renewal and report



**8-201. Penalty.** Any person violating the provisions of this chapter shall upon conviction be fined not more than fifty dollars (\$50.00) for each offense; each separate occurrence and each day of an offense shall be construed as constituting a separate offense.

**8-202. Transport, sale to comply with rules.** It shall be unlawful for any person to transport, store, sell, distribute, possess, receive or manufacture beverages mentioned in § 8-101 within the corporate limits of the city, except as provided by all of the regulations, limitations and restrictions provided by the laws of the state and chapter 2 and chapter 3 of Title 8 of the Johnson City Municipal Code, and subject to the rules and regulations enacted by authorized public officials or boards. Applicable state law reference shall be made to Tennessee Code Annotated, § 57-1-209.

**8-203. Hours of sale.**

(1) Off-premises sales: The sale of beer is authorized for off-premises licensees between the hours of 6:00 A.M. and 3:00 A.M., Monday through Saturday. The sale of beer shall be prohibited for all off-premises licensees on Sunday between the hours of 3:00 A.M. and 8:00 A.M., but shall be authorized for all off premises licensees on Sunday at hours outside of that time period.

(2) On-premises sales: The sale of alcoholic beverages, wine, high alcohol content beer, and beer is authorized for on-premises license between the hours of 8:00 A.M. and 3:00 A.M., Monday through Saturday. The sale of alcoholic beverages, wine, high alcohol content beer, and beer shall be prohibited for all on-premises licensees on Sunday between the hours of 3:00 A.M. and 10:00 A.M., but shall be authorized for all on-premises licensees on Sunday at hours outside of that time period.

(3) It shall be unlawful to consume any alcoholic beverages, wine, high alcohol content beer, and beer upon any premises licensed by the City of Johnson City for the sale of such beverages for on-premises consumption or to open such beverages or to display or possess such beverages in an open bottle, glass, or other open container fifteen (15) minutes beyond the time that beer sales for on-premises establishments end.

(4) Any person operating or otherwise having charge and control of any on-premises licensed location shall cause any and all containers as described in the previous paragraph, whether the same are open or not, to be removed from any tables, bars, or other areas occupied by patrons not later than fifteen (15) minutes beyond the time that beer sales for on-premises establishments end.)

**8-204. Minors; intoxicated persons; loitering.**

(1) It shall be unlawful for anyone under the age of twenty-one (21) years to purchase or attempt to purchase beer, wine, high alcohol content beer, or alcoholic beverages and it shall be unlawful for anyone under the age of twenty-one (21) years to possess any such beverage upon the premises of a licensee.

(2) It shall be unlawful for any person to sell beer, wine, high alcohol content beer, or alcoholic beverages to any person who is less than twenty-one (21) years of age, or for any person under the age of twenty-one (21) years to buy beer, wine, high alcohol content beer, or alcoholic beverages, and which offense shall be punishable by fine or otherwise as provided by law.

(3) It shall be unlawful for a person under the age of twenty-one (21) years to submit a false identification for the purpose of misrepresenting the age or identity of the person attempting to make a purchase of beer, wine, high alcohol content beer, or alcoholic beverages, and which offense shall be punishable by fine or otherwise as provided by law.

(4) It shall be unlawful for any licensee or his agent or employee to allow or permit any intoxicated person to loiter upon or about the licensed premises.

(5) It shall be unlawful for any person to sell beer, wine, high alcohol content beer, or alcoholic beverages to any person who reasonably appears to be intoxicated.

(6) It shall be unlawful for any person to sell beer, wine, high alcohol content beer, or alcoholic beverages to any person without first verifying as to that person's date of birth.

(7) Anyone who acts in violation of any one (1) or more of the provisions of this section shall be guilty of a misdemeanor and, if of suitable age, shall be taken before juvenile court for appropriate disposition. A minor shall bear the same definition as so defined in Tennessee Code Annotated, §1-3-105. State law reference for the sale of beer to minors is contained in Tennessee Code Annotated, § 57-5-301, *et seq.*

**8-205. Wholesale beer tax.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-6-103, as the same may be amended, there is hereby imposed a tax on the sale of beer at wholesale within the city. State law reference for the local enforcement of wholesale beer tax is contained in Tennessee Code Annotated, § 57-6-113.

**8-206. Advertising signs or displays.** Notwithstanding any provision of any other ordinance of the City of Johnson City to the contrary, and particularly those pertaining to signs, no retail licensee may erect, maintain or suffer any on-premises signs, advertising or displays for the purpose of advertising beer except as provided in this section, as follows:

(1) One advertising or display sign which makes reference to the fact that the establishment sells beer may be erected on the outside of the building or on the premises. Said sign display may only show the single word "beer" with the size of the letters not to exceed a total of eight inches (8") in height and a total of thirty-six inches (36") in length and which shall not use brand names, pictures, numbers, prices, diagrams, or other forms of communication relating to beer. Furthermore, no

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accompanying words, phrases or other forms of communication which relate to, describe or in any sense modify or explain the word "beer" shall be permitted.

(2) (a) One (1) sign, containing the single word "beer" with the size of the letters not to exceed a total of eight (8") inches in height and a total of twenty-four (24") inches in length, is permitted within a window or on the building, subject to the same prohibitions as described hereinabove in subsection (1) of this section.

(b) Retail licensees may erect or maintain any quantity, size or style of signs or other advertising displays on the inside of the premises, subject to the provisions of the Sign Code of the City of Johnson City as the same may be applicable, so long as such signs or displays are not window signs or are not readily visible from the outside of the premises.

**8-207. License--required.** No person shall engage in the storing, selling, distributing or manufacturing of beer or any other beverage referred to in § 8-202 within the corporate limits of the city until he receives a license to do so.

**8-208. License--classes.**

(1) Licenses for the sale of beer shall be according to the following classes:

Class 1: On-premises, where alcoholic beverages, beer, high alcohol content beer, or wine is sold for consumption at a restaurant, hotel, motel, club, lodge, bar, theater, or for a governmental entity, where the governing body of the governmental entity has authorized the sale of beer.

Class 2: Off-premises, where beer is sold for consumption off the premises.

Class 3: Off-premises, originally licensed by Washington County, Carter County, or Sullivan County, where beer is sold for consumption off the premises and on which said premises there exists at the time of annexation a lawful, valid, and unrestricted license for the sale of off-premises consumption of beer. The license authorized by this class shall be permitted to exist following annexation only if the licensee shall be properly qualified for the sale of beverages under this code, as provided in § 8-209 hereinafter, has filed a duly certified copy of the license issued to said licensee by Washington County, Carter County, or Sullivan County with the city recorder; and, all such licenses, upon annexation and qualification under this part, shall not be transferred from the premises occupied at the time of annexation and qualification under this chapter, any other provision of this code, or other rule, regulation, ordinance or law to the contrary notwithstanding.

Class 4: Wholesale license, which is for a business engaged in the delivery of beer (or high alcohol content beer, where applicable) by a wholesaler to a retailer and which does not allow sales to any persons not holding a retail beverage sales license.

Class 5: Manufacturer/retailer, which is for a business engaged in the manufacture of beer and which sells the aforesaid beer for consumption on the premises or off the premises, providing that the aggregate of such sales shall not exceed the sum of twenty-five thousand (25,000) barrels of beer annually, in

accordance with all provisions of Tennessee Code Annotated, chapter 5, title 57, as the same may be amended, which chapter is hereby incorporated in its entirety by reference as fully as if set forth verbatim herein.

(3) The determination of the class of license to be granted shall be solely within the discretion and judgment of the beer board.

**8-209. License--application--generally.**

(1) Each applicant for a license under this chapter shall file with the city manager or his or her designee a sworn petition in writing, establishing the following facts, the truth of each and all of which facts at the time of approval of the application are hereby made conditions of any license issued hereunder:

(a) The applicant shall be the owner of the business regulated by this chapter and said applicant shall provide their name, the name under which the business will operate, the business address, the name, telephone number, and email address of the representative/agent of the business, the applicant's date of birth or the creation of the business, the applicant's social security number or the business tax identification number, the address of the property from which the business will be operated, the name and telephone number of the owner of said property, and the zoning designation of said property.

(b) The applicant shall provide a legal description of the premises on which the business will be located, photographs of the finished interior and exterior of the actual building wherein the business is located, copies of the deed to the subject premises, any leases and other agreements to which the same are subject, and a survey by a licensed surveyor depicting all boundaries of the subject premises and showing the location of any and all structures thereon.

(c) An Owner/Manager/Supervisor Application shall be completed for all general partners, owners, managers, and supervisors.

(d) The applicant shall confirm whether the applicant has or has not had a license for the sale of alcoholic beverages or controlled substances revoked or suspended by the City of Johnson City, Tennessee.

(e) The applicant shall confirm that the applicant is responsible for knowing, complying, and abiding by all local and state beer laws.

(f) The applicant shall confirm that, at the time of making the application, the applicant, nor any servers or other persons listed in the application, have been convicted of committing any state or federal felony, violating any DUI/DWI/implied consent laws, or violating any criminal law regarding theft, burglary, violence, child abuse, spousal abuse, prostitution, or pandering within the ten (10) year period next preceding the date of application.

(g) The applicant shall confirm that the applicant and all managers, supervisors, and servers consent to be investigated by municipal, county, state,

and federal law enforcement agencies or any other agency or representative thereof; or such other firms as may be employed concerning any information presented in the application and any other information which any of the aforementioned authorities deem pertinent.

(h) The applicant shall provide any additional information as may be required by the beer board or their designee or the city manager or his or her designee from time to time in their absolute discretion.

(2) Applications shall be submitted on forms promulgated by the city, which forms shall be satisfactory to the city manager and legal counsel for the city. Except as otherwise provided in this chapter, and except under those circumstances where the board in its absolute discretion deems that an extraordinary circumstance exists which makes it desirable to award a license to a particular applicant, licenses should be issued to qualified applicants on a first come, first served basis.

(3) Any provision of any ordinance or statute notwithstanding, an application shall be considered void and of no effect and shall be returned to the applicant without a refund of the application fee, unless at the time of filing the application, the following requirements are met:

(a) The premises for which the application is filed shall be wholly within the corporate limits of the City of Johnson City;

(b) The premises for which the application is filed shall be properly zoned;

(c) Payment in full of all application fees has been made to and received by the recorder of the City of Johnson City;

(d) The application shall be in all respects accurate and complete;

(e) The applicant shall have complied with all other requirements of this section.

(4) No license under this chapter shall be authorized for, granted to, or held at any time by any person, firm, corporation, partnership, limited liability company, or other legal entity, in violation of any law; for a premises in violation of the zoning code, building code, fire code, or public health requirements of the city; that provided false statements or omitted relevant facts on the application; or, who is delinquent in tax payments to any governmental agency.

(5) The city shall issue no license until the premises for which the application is filed has received a certificate of substantial completion from the city.

(6) In no event shall an on-premises license be issued for the sale of beer within one hundred feet (100') of any school, child daycare center, park, playground, church or other bona fide religious establishment. The said one hundred feet (100') shall be measured from the center of the front door of the licensed premises to the center of the nearest entrance/exit door of any school building, child day care center or church building in a straight line. For playgrounds and parks the one hundred foot (100') measurement shall be from the center of the front door of the licensed premises

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to the nearest point on the property line bounding the playground or park in a straight line

**8-210. License--application procedure.**

(1) Accurate and complete applications meeting all requirements of the Title 8 of the Johnson City Municipal Code that are filed under this chapter shall be considered by the Beer Board of the City of Johnson City in an open, public meeting. The beer board shall grant or refuse the license according to its best judgment and absolute discretion under all of the facts and circumstances then appearing to it. The action of said beer board in granting or refusing a license shall be final and subject to judicial review as provided by the laws of the State of Tennessee. The applicant shall appear in person before the beer board or may be represented by an attorney. Failure to do so will result in denial of application.

(2) In the event it becomes unduly burdensome and creates a financial hardship for an applicant to submit a complete application, meeting all requirements of Title 8 of the Johnson City Municipal Code, for timely consideration by the beer board, the beer board shall grant, in its discretion, a temporary business beer license, so long as the only incomplete application items are exclusively limited to the photographs and/or certificate of substantial completion as set forth in § 8-209(1)(b) and § 8-209(5). At the time of consideration of the temporary business beer license by the beer board, testimony shall be proffered during the open public meeting by the Director of Development Services, or his/her designee, providing sufficient proof of anticipated compliance from the Building Division of the City by the applicant. In no event shall a temporary business beer license be issued more than twice to a named owner/manager/supervisor of any business within a five (5) year period. A temporary business beer license shall be valid for a period of time not exceeding thirty (30) days. At the expiration of the temporary business beer license, the applicant shall immediately cease all sales, service, and storage of beer pursuant to this chapter if a complete application has not been considered and approved by the beer board, thus causing the issuance of a beer license (non-temporary and unabridged) pursuant to Title 8. Discretion to extend a temporary business beer license pursuant to this Section shall be only upon agreement of the City Attorney and Director of Development Services and said extension shall not exceed a period of ten (10) days.

**8-211. Application fee; privilege tax; permits.** Each applicant for a beer license issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the application and each holder of a license issued hereunder shall pay to the city an annual privilege tax of one hundred dollars (\$100.00), and shall also be subject to any and all other provisions of Tennessee Code Annotated, § 57-5-104, to which reference is here made

and which section is incorporated in its entirety by reference into this section as fully as set forth verbatim.

**8-212. License--display.** The license granted pursuant to this chapter shall be framed under glass and placed so that it is conspicuous and may be easily read at all times.

**8-213. License--transfer.**

(1) Licenses issued hereunder shall not be transferred. Any license issued hereunder shall expire upon the termination of the business, change in ownership, relocation of the business or change in the business' name as provided in Tennessee Code Annotated, § 57-5-103(a)(6).

**8-214. Temporary Occasion Beer Licenses.**

(1) The beer board may grant temporary occasion beer licenses to bona fide charitable, non-profit organizations, and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission and some portion of proceeds from the special event are for the benefit of a bona fide charitable, non-profit organization) for such temporary occasions involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any temporary occasion for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Temporary occasion beer licenses are also allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road, subject to the restrictions of this Title. No temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the temporary occasion occurs, unless such is allowed at a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, subject to the limitations on the hours of sale imposed by law.

(2) For the purposes of this section, "bona fide charitable, non-profit organization" means any corporation or organization recognized as exempt from federal taxes under 26 U.S.C. section 501(c).

(3) Each applicant for a temporary occasion beer license issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the application. Any charitable, non-profit organization or licensed business possessing such a temporary occasion beer license

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shall obtain beer for sale or distribution at any such temporary occasion only from licensed sources provided pursuant to law.

(4) For charities, applications for such temporary occasion beer licenses shall state the applicant's status as a charitable, non-profit organization and shall include documentation showing recognition of its status as a non-profit organization under federal law, the type of organization, its name, its mailing address, its officers, the location of the premises upon which beer shall be served, the purpose for the request, the person or persons in charge of and responsible for such occasion, the persons, groups or entities benefitting from such occasion, and such other information as the city manager or his/her designee may require. For businesses with beer licenses, the application shall include a copy of the beer license, the name of the applicant, the applicant's mailing address, the address/location of the premises upon which beer shall be served, the person(s) in charge of and responsible for the occasion, and such other information as the city manager or his/her designee may require.

(5) Temporary occasion beer licenses shall be issued by the city to and in the name of a particular natural person or persons and in the name of the bona fide charitable, non-profit organization or licensed business, and shall be issued for a particular premises or location. All such temporary occasion beer licenses shall be issued subject to all provisions pertaining to signage contained in this chapter or elsewhere in the Johnson City Municipal Code.

(6) All temporary occasion beer licensees shall use servers possessing server's permits issued by either the city or the State of Tennessee during the temporary occasion.

#### **8-215. Special Event Series Temporary Occasion Beer License.**

(1) The beer board may grant special event series temporary occasion beer licenses to bona fide charitable, non-profit organizations, recognized as exempt from federal taxes under 26 U.S.C. section 501(c), and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission and some portion of proceeds from the special event are for the benefit of a bona fide charitable, non-profit organization) for special event series involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any special event series for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Special event series temporary occasion beer licenses are allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, and King Commons, subject to the restrictions of this Title. No special event series temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the special event series occurs, unless such is allowed in conjunction with a special event/street festival. Such permits shall not



be issued for longer than one (1) consecutive forty-eight (48) hour period, and shall be issued for no more than ten (10) events within the special event series, subject to the limitations on the hours of sale imposed by law. Each event within the special event series shall be consistent in nature of the event, layout of the event, location of the event, and time of operation of the event. Any event included in the special event series that requires revision(s) or modifications(s) to the nature of the event, layout of the event, location of the event or time of operation of the event will at that time be excluded from the special event series and a temporary occasion beer license will be required for that event.

(2) Each applicant for a special series temporary occasion beer license issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the application.

(3) Applicants shall comply with those requirements set forth in Section 8-214 (4), (5), (6) and (7) in this Title.

**8-216. License suspension, revocation generally, calculations of time and number of violations, etc.**

(1) A license issued under the provisions of this chapter may be suspended by the city manager:

(a) Whenever it is brought to the attention of the city manager that the licensee, principal, any employee, representative or other person operating or assisting in the operation of the licensed premises has committed or been convicted of a state or federal felony, or has violated any provision of the ordinance comprising this chapter or any condition of the license issued hereunder;

(b) If the city manager has reason to believe that the licensee is not, or has ceased to be, entitled to a license regulated under this chapter;

(c) If the city manager has reason to believe that the licensee is conducting or operating or has conducted or operated any place of business herein regulated in violation of or contrary to any provision of this chapter, or at any place, or for any purpose, or in any manner other than as stated in the application for such license, or has made any false or misleading statement in the application for such license or any report required hereunder, or has failed to furnish any information;

(d) If occurrences at the licensee's place of business reasonably appear to have adversely affected the public health, safety and welfare or morals; or

(e) If the licensee's place of business is not operating as a retail beer sales outlet and has been inoperative as such for thirty (30) consecutive days.

(2) For the first violation of any provision of this chapter, the city manager shall suspend a license for five (5) days by notice in writing giving not less than twenty-four (24) hours prior to effecting said suspension, and may reinstate the

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license if the cause of circumstances warranting the suspension has been corrected. If the license holder refuses to accept the city manager's suspension, then the license holder must appeal to the beer board by giving notice in writing to the city manager by certified mail. The city manager must receive this notice within ten (10) calendar days of the date of the city manager's decision to suspend.

(3) Upon appeal of the city manager's suspension by a first time offender (as calculated in § 8-215(10) below), or upon a second or subsequent violation of any provision of this chapter within a five (5) year period after the date of a prior violation, the city manager shall present this matter to the beer board and give written notice to the license holder. Such notice shall be sufficient if sent by first-class mail or delivered to the place for which the license is issued. Such notice shall inform the licensee of the next regular meeting of the beer board coming not less than three (3) days excluding Saturdays, Sundays and legal holidays, from the date of the alleged violation, informing the licensee that consideration may be given to the revocation as well as the suspension of the license.

(4) At the next regularly scheduled meeting of the beer board not less than three (3) days, excluding Saturdays, Sundays and legal holidays, from the date of the alleged violation, the beer board shall consider the alleged violation. The board may, however, postpone the hearing until another specified time according to its discretion. The licensee shall be entitled to be represented by counsel and shall be entitled to testify and offer evidence on his own behalf. The burden of proof on such appeal shall be upon the appellant to show cause why the license should not be suspended or revoked. Failure to appear or to be otherwise represented by counsel shall be considered as admission of charges brought forth.

(5) Concerning any violation of this chapter, regardless of the number of alleged violations, the beer board shall not be limited as to their decision, which may include but not be limited to suspending the license until a certain date or until certain actions or requirements are met, or revocation of the license. The minimum punishment for a second or subsequent violation within a five (5) year period from the date of a prior violation shall be a suspension of fifteen (15) days. (See § 8-215(10) for calculating the number of violations.)

(6) In the alternative, the city manager or his/her designee may initiate suspension or revocation proceedings directly before the beer board, by petitioning said board, either orally or in writing, for initiation of such proceedings and the setting of a hearing. If the beer board elects to schedule such a hearing, said hearing shall proceed as provided hereinabove. In any instance in which the aforementioned board is petitioned to set a hearing to consider the suspension or revocation of a license issued hereunder, as provided hereinabove, and considers the allegations upon which the request for such hearing is made likely to indicate a hazard to the health, safety, or morals of the citizens of the City of Johnson City, then and in such an event the beer board may in its absolute discretion suspend the license in question pending such hearing.

(7) No license issued hereunder shall be construed or deemed as vesting a property right in any licensee, but shall instead be deemed a privilege.

(8) Should there be any change in any name, address, or other information required to be submitted for any license sought or issued herewith, the applicant or license holder shall file a supplemented report with the city recorder within ten (10) days of such change. Failure to strictly adhere to this requirement may result in denial, suspension, or revocation of such license.

(9) For purposes of calculating suspensions, a "day" shall be defined as twenty-four (24) consecutive hours, and a suspension shall "begin" on the cited effective date thereof at twelve (12:00) noon and end at 11:59 A.M. on the last day of the suspension. Suspensions shall be served in consecutive operating days, excluding days on which the subject location is not open for business.

(10) For purposes of calculating the number of violations in § 8-215 or noise violations in § 8-216 following the effective date of these two sections, no suspension or revocation of any beer license imposed prior to the effective date of the ordinance comprising these sections shall be counted.

(11) For off-premises establishments, refer to state law regarding license suspensions, revocations, penalties, etc.

**8-217. License--suspension for noise violations, calculations of time and number of violations, etc.**

(1) The city manager, following a recommendation made by the chief of police, shall suspend a license issued pursuant to Title 8 of the Johnson City Code when the city manager is satisfied, based on the evidence presented, that two (2) or more violations of the maximum permitted sound levels set forth in § 11-503 of title 11 of the Johnson City Code (hereinafter referred to collectively as "noise violations") have occurred. Each day on which the maximum permitted sound level is exceeded shall constitute a separate violation.

(2) In the event the city manager is satisfied that the requisite showing set forth in subsection (1) of this section has been made with respect to noise violations, the city manager's suspension of a beer license or setting of a show cause hearing shall be made in conformance with, and subject to, the following guidelines:

(a) Noise violations.

(i) If the noise violation is the second such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, the city manager's suspension shall be for a duration of not more than two (2) days; or

(ii) If the noise violation is the third such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, the city

manager's suspension shall be for a duration of not more than four (4) days; or

(iii) If the noise violation is the fourth such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, the city manager's suspension shall be for a duration of not more than six (6) days; or

(iv) If the noise violation is the fifth such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, the city manager's suspension shall be for a duration of not more than ten (10) days.

(v) If the noise violation is the sixth or more such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, a show cause hearing shall be convened before the board to consider and determine whether the subject beer license should be revoked.

(b) Any suspension by the city manager imposed pursuant to this subsection shall apply only to the license issued for the location at which the noise violation(s) allegedly occurred and shall not apply to any other location(s) at which the relevant beer licensee holds a beer license. Nothing contained in this subsection shall be construed as limiting the discretion of the beer board with respect to any license or licenses held by any licensee.

(3) Notice of impending suspensions or show cause hearings for alleged violations of this section ("Notice") shall be provided to the beer licensee in writing, and said notice shall be sufficient if it is either:

(a) Sent by first class mail, or

(b) Delivered by hand, to the beer licensee or to the location for which the subject beer license is issued. If a suspension is being imposed, said notice shall set forth the dates and times such suspension shall begin and end, together with a succinct statement of the grounds or reasons therefor. If a show cause hearing is being convened, said notice shall set forth the date, time and location of the show cause hearing, together with a succinct statement of the grounds or reasons therefor.

(4) Upon notice of an impending suspension for the second through fifth violation of the aforementioned maximum sound levels provisions, pursuant to this section, the beer licensee or an authorized representative shall accept the suspension imposed by the city manager pursuant to subsection (2), in writing, or appeal the city manager's suspension in writing to the board. Written notification of said appeal shall be timely only if delivered to, or otherwise received by, the city manager before said suspension is ratified by the board pursuant to subsection (5) of this section.

(5) Suspensions imposed by the city manager pursuant to subsection (2) of this section shall become effective on the date and at the time set forth in the notice, following ratification by the board.

(6) At the next regularly scheduled meeting of the board, coming not less than three (3) days, excluding Saturdays, Sundays and federal holidays, from the receipt by the city manager of an appeal by a beer licensee of a suspension imposed by the city manager pursuant to subsection (2) of this section, the board shall hear and consider the beer licensee's appeal of such suspension at a show cause hearing. The board may, however, continue the show cause hearing and its consideration of any such appeal in its discretion.

(7) The city manager may initiate suspension or revocation proceedings for violations of this section directly before the board by petitioning the board, either orally or in writing, for the setting of a show cause hearing.

(8) In any instance in which the board is petitioned to set a show cause hearing to consider the suspension or revocation of a license issued pursuant to this Title of the Johnson City Code, and considers the allegations upon which the requests for such hearing is made likely to indicate a hazard to the health, safety, or morals of the citizens of the City of Johnson City, the beer board may in its absolute discretion suspend the license in question pending such hearing. Notice of such hearing shall be provided to the licensee in writing together with a succinct statement of the grounds or reasons for the proposed action, and shall be sent by first-class mail or delivered by hand to the place for which the license is issued at least three (3) days, excluding Saturdays, Sundays and legal holidays before the date of the hearing.

(9) The beer licensee shall be entitled to be represented by counsel at suspension or revocation hearings conducted by the board and shall be entitled to testify and offer evidence on his or her own behalf. The burden of proof shall be upon the appellant to show cause why the license should not be suspended or revoked. Failure by the beer licensee to appear or to be otherwise represented at a board hearing about which the beer licensee has received a notice shall be considered by the board as an admission of all charges. The beer board shall not be limited as to their decision, which may include suspension or revocation.

(10) For purposes of calculating suspensions, a "day" shall be defined as twenty-four (24) consecutive hours, and a suspension shall "begin" on the cited effective date thereof at twelve (12:00) noon and end at 11:59 A.M. on the last day of the suspension. Suspensions shall be served in consecutive operating days, excluding days on which the subject location is not open for business.

(11) For purposes of calculating the number violations in § 8-215 or noise violations in § 8-216 following the effective date of these two sections, no suspension or revocation of any beer license imposed prior to the effective date of the ordinance comprising these sections shall be counted.

(12) For off-premises establishments, refer to state law regarding license suspensions, revocations, penalties, etc.

**8-218. Alcohol awareness training.** All holders of licenses issued pursuant to Title 8 of the code of the City of Johnson City, Tennessee, their principals, and/or all employees directly working in a capacity or serving, selling, or otherwise dispensing alcoholic beverages regulated pursuant to this chapter, are required to either successfully complete a program of alcohol awareness training (at least every three (3) years) by an entity certified by the city manager to have an adequate training curriculum for alcohol awareness or obtain a valid Tennessee Alcoholic Beverage Commission server permit requiring completion of a certified alcohol awareness program.

**8-219. Seller/server permits.** For server permits for off-premises establishments, refer to state law.

(1) It is unlawful for a licensee, any principal, manager, or any other employee to personally sell, serve, or otherwise dispense alcoholic beverages regulated pursuant to this chapter without a valid server permit. It is made the duty of the licensee to ensure that each person selling, serving, or dispensing alcoholic beverages in his, her, or its place of business has a valid server permit. The violation of the licensee of his, her, or its duty to ensure proper permitting of each person selling, serving, or dispensing alcoholic beverages regulated pursuant to this chapter in his, her, or its place of business shall result in a suspension of that license or revocation thereof under the provisions of § 8-215. Said permit must be on the person of the seller, server, or dispenser or upon the premises of the licensee at all times subject to inspection by the city's duly authorized agent.

(2) Any individual may be eligible for a server permit issued by the City of Johnson City by completing an application for such permit on forms promulgated by the city recorder's office. An individual will be deemed an eligible, valid server if holding a valid on premise permit (server permit) issued by the Tennessee Alcoholic Beverage Commission. An applicant for a server permit issued by the City of Johnson City must demonstrate to the city that the applicant meets the following requirements:

(a) The applicant has not been convicted of committing any state or federal felony, any DUI/DWI/IMPLIED consent laws, or violating any criminal laws regarding theft, burglary, crime of violence, child abuse, spousal abuse, prostitution, or pandering within the five (5) year period next preceding the date of application.

(b) The applicant has not been convicted of or violated any statute, rule, or regulation against the prohibition, sale, consumption, manufacture, handling, or transportation of beer within the five (5) year period next preceding the date of application or the possession, sale, manufacture, and transportation of intoxicating liquor or any crime of moral turpitude within the ten (10) year period next preceding the date of the application.

(c) The applicant has not been convicted of or violated any statute, rule, or regulation regarding any controlled substances within the five (5) year period next preceding the date of application.

(d) The applicant has not had a seller/server permit or similar permit issued in a foreign jurisdiction revoked by any issuing authority within the five (5) year period next preceding the date of application.

(e) Within one (1) year prior to the submission of the application, the applicant shall successfully complete a program of alcohol awareness training for persons involved in the direct service of alcohol, wine, or beer by an entity certified by the city manager to have an adequate training curriculum for alcohol awareness; and

(f) The applicant shall be at least eighteen (18) years of age.

(3) Each seller/server permit issued by the City of Johnson City shall be valid for three (3) years. Applications for renewal shall be made in the same manner as application for original permits upon forms prescribed by the city recorder's office. Applicants for renewal must successfully complete a program of alcohol awareness training pursuant to § 8-217(1).

(4) Upon the conviction of a seller/server permit holder for beer sales violations, said permit shall be revoked.

(5) A seller/server permit, issued by the city, that is lost may be replaced by completing another application if the applicant has successfully completed a program of alcohol awareness training within one (1) year prior to the submission of the application pursuant to subsection (3) of this section.

(6) The city may conduct a criminal record review for any applicant for a seller/server permit to ensure the applicant's compliance with the requirements of this section.

(7) The city may assess an application and renewal fee for the permits to be issued under this section. The city may assess a certification fee to any organization or entity seeking certification pursuant to §8-217(2).

**8-220. Prohibited conduct or activities by beer permit holders, applicants, licensees, and employees.**

(1) The following acts or conduct on premises licensed by the city are deemed contrary to public policy, and therefore no beer permit issued by the city shall be held at any premises where the following conduct or acts are permitted, suffered, or allowed to occur:

(a) To encourage or permit any act prohibited by Tennessee Code Annotated, § 57-4-204, or other applicable law or ordinance.

(b) Subject to the provisions of subsection (a) hereinabove, any entertainer who is employed in whole or in part or otherwise suffered or allowed by the licensee to dance or otherwise perform at such licensee's

premises, shall perform only on a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron.

(2) No licensee or employee of any licensee shall permit any person to use artificial devices or any animate objects to depict any of the prohibited activities referenced in TCA § 57-4-204, nor shall any licensee or employee of any licensee permit any person to remain in or upon the licensed premises who is exposing to public view any portion of his or her genitals or anus.

(3) The police bureau of the City of Johnson City is hereby empowered to conduct investigations into alleged violations of the provisions of this section, of any pertinent section of Tennessee Code Annotated, and of any and all other applicable laws or ordinances, rules, regulations, and that said bureau shall report such violations to the appropriate authorities for such action as may be proper.

(4) Nothing contained in this section shall be construed to prohibit engaging by persons of swimming or related activities on licensed premises while clad in attire customarily worn for such purposes within the community.

(5) Nothing contained in this section shall be construed to prohibit the broadcast or display or any television program subject to regulation by the Federal Communications Commission of the United States on licensed premises.

(6) Nothing contained in this section shall be construed to prohibit the showing or featuring of motion pictures by a movie theater where the primary business is showing motion pictures to the public for public entertainment at a commonly charged fee and where the motion pictures shown or featured in the movie theater are not rated above R (Restricted), with said ratings being issued by the Motion Picture Association of America (MPAA) via the Classification and Rating Administration (CARA).

**8-221. Training of licensees, employees, etc.** Any person holding a license hereunder, or owning any business or any interest in any business licensed hereunder, or employed to operate or work in the same as a manager, cashier or other person completing the sale on behalf of the license holder, shall, within six (6) weeks of acquiring such license, ownership, ownership interest or employment satisfactorily complete a program of training, which program shall be in form and content satisfactory to the city manager or his/her designee, provided that any such person may be excused from the provisions of this section by waiver granted by the city manager or his/her designee if it is proven by evidence satisfactory to the aforesaid official, in his/her sole and absolute discretion:

(1) That such person is already sufficiently familiar with applicable laws and ordinances pertaining to the sale of alcoholic beverages pursuant to this chapter so as to merit such a waiver; or

(2) That such person holds a "server permit" issued by the Tennessee Alcoholic Beverage Commission as provided in Tennessee Code Annotated, § 57-5-



106 (a). An appropriate charge will be made for such training program in an amount to be set by the city manager.

**8-222. Drive-through window sales.** It shall be unlawful for any person to sell or deliver alcoholic beverages pursuant to this chapter through a drive-through window. The foregoing sentence notwithstanding, nothing contained herein shall be construed as prohibiting sales or delivery of such beverages through drive-in windows on premises which were properly licensed for off-premises sales at the same location on or before the date of passage of Ordinance #3623 Version B, October 1998 on third and final reading, for so long as said premises remained continuously licensed at that location. For the purposes of this subsection, the term "continuously licensed" shall mean licensed without any break, whether the same is due to expiration, suspension, or revocation, in excess or thirty (30) days.

**8-223. Grandfathered status.** Nothing contained in this chapter shall be construed as granting "grandfathered" status to signage or any other practice or procedure except as expressly herein provided.

**8-224. Downtown special events/street festivals.**

(1) This section applies to downtown special events/street festivals such as the Blue Plum and UMOJA festivals. The area of Downtown Johnson City to which this section applies shall be: East Market Street from Colonial Way to Buffalo Street (but not including Colonial Way which shall remain open at all times); East Main Street from Colonial Way to Buffalo Street (but not including Colonial Way which shall remain open at all times); South Roan Street from State of Franklin Road to its intersection with Buffalo Street; Buffalo Street from its intersection with South Roan to its intersection with State of Franklin Road; Wilson Avenue and the pedestrian walkway reserved on former Wilson Avenue to its intersection with South Commerce Street; South Commerce Street from its intersection with Wilson Avenue to Lamont Street as the same borders Founders Park to before the railroad crossing gates at State of Franklin Road; Founders Park; The Pavilion at Founders Park; The Amphitheater at Founders Park, King Commons; Tipton Street; McClure Street; Spring Street from State of Franklin Road to its intersection with East Main Street; South Commerce Street to West Market Street to Windsor Way to West Main Street to South Commerce Street, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road. Also included are all public sidewalks, public easements, public alleys, public squares, public parking lots, or other public ways or public spaces within the boundary of the areas listed above.

(2) An applicant for a downtown special event/street festival involving the public consumption of beer within the area or part of the area described in subsection (1) above shall apply for a permit using the City of Johnson City's special events

application. Events that involve the consumption or sale of beer at Founders Park, the Pavilion at Founders Park, The Amphitheater at Founders Park, King Commons, or the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road may also require an application and scheduling through the City of Johnson City or another entity that the board of commissioners designates for such purposes.

(3) The applicant shall submit with the application to the city a map that details the area or part of the area described in subsection (1) above for the closing of streets, public sidewalks, public alleys, etc. whereon the possession and consumption of beer is requested to occur. The area depicted on the map, after approval by the beer board in its sole, absolute discretion, shall become the "permitted area" within which the possession and consumption of beer will be allowed for the duration of the downtown special event/street festival. This map is in addition to any information required in any other application. The beer board shall have the authority to alter or to refuse to approve the map and application in its sole, absolute discretion. The board of commissioners shall have the absolute authority to approve a downtown special event/street festival but the beer board may disallow the possession, consumption, or sale of beer within any or all areas depicted on the map submitted with the application for the special event/street festival. The regulations in this section pertaining to the possession, consumption, or sale of beer during downtown special events/street festivals shall only apply in those areas where the beer board has approved the same; otherwise, the possession, consumption, or sale of beer shall not be permitted.

(4) The possession and consumption of beer in the permitted area shall be allowed no earlier than 1:00 P.M. and no later than 11:00 P.M.

(5) All beer shall be purchased from persons, firms, corporations and other entities that are duly licensed to sell beer on premises that front the streets closed within the permitted area. No serving, dispensing, or pouring of beer shall take place outside of the confines of the interior walls and serving areas of the licensed premises that are currently licensed under applicable state statutes and municipal ordinances governing the sale of beer within the permitted area fronting the streets closed in the permitted area. All points of sale, kegs, and taps shall be confined within the interior walls of the licensed premises. No points of sale, kegs, or taps shall be allowed on sidewalks where an establishment has received a special exception from the board of zoning appeals for sidewalk dining.

(6) No serving, dispensing, or pouring of beer shall be allowed upon the public sidewalks, public easements, public alleys, public squares, or other public ways or public spaces within the permitted area, except as set forth in a current, valid sidewalk dining special exception authorized by the board of zoning appeals. No licensed restaurants shall serve beer to any person who is not within the board of

zoning appeals permitted sidewalk dining area or within the confines of the interior walls and serving area of the licensed premises.

(7) Notwithstanding any provision of this title to the contrary, an organization that sponsors a special event/street festival is allowed to serve, dispense, and pour (but not sell) beer using servers possessing server's permits issued by either the city or the State of Tennessee at one (1) location within the permitted area within the confines of a tent, typically designated as a 'VIP' tent, only between the hours of 5:00 P.M. and 9:00 P.M. on each day of the special event/street festival. All kegs and taps shall be confined within the tent.

(8) Notwithstanding any provision of this title to the contrary, the sale of beer on public property during a special event/street festival is allowed only at Founders Park (and also on the streets bordering Founders Park), The Pavilion at Founders Park (but not on the streets bordering The Pavilion at Founders Park), The Amphitheater at Founders Park, King Commons, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road. Beer sales at Founders Park (and on the portion of South Commerce Street bordering it), at The Pavilion at Founders Park (but not on the streets bordering it), and within the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, West Millard Street, Boone/Commerce Streets and State of Franklin Road shall be authorized only for qualified organizations pursuant to a separate temporary occasion beer license obtained prior to the special event/street festival from the beer board in accordance with § 8-214. Beer sales shall begin no earlier than 1:00 P.M. and shall end no later than 10:30 P.M. on each day that the temporary occasion beer license authorizes the sale of beer.

(9) All sales of food, non-alcoholic beverages, and merchandise from vendors with permits from the sponsoring organization for vending sites shall be permitted from 8:00 A.M. until 11:00 P.M. on each day of the special event/street festival in the permitted area. All such vendors shall obtain a special event vendor's license from the city, unless they possess a valid Tennessee business license.

(10) No person shall carry or bring any outside beer or other alcoholic beverages for personal consumption into or out of the permitted area.

(11) Only pedestrian traffic and vehicles pertaining to the special event/street festival shall be allowed in the permitted area, and all other traffic except police, EMS, fire or other such emergency equipment shall be prohibited.

(12) Coolers, glass bottles, glass thermos bottles, and breakable glasses or containers shall be prohibited within the permitted area. No container of beer shall be capable of containing more than sixteen (16) fluid ounces within the permitted area. All beer containers in the permitted area shall be clear plastic.

(13) Alcoholic beverages, wine, and high alcohol content beer as defined in this Title shall not be allowed for possession or consumption within the permitted

area and must be consumed within the licensed establishments fronting the streets closed in the permitted area, unless otherwise permitted by temporary license.

(14) Any music associated with a special event/street festival shall conclude at 11:00 P.M.

(15) The authorized license holder making the sale shall be responsible at the entrance to the business premises for checking all identification in order to ensure legal compliance with the laws pertaining to legal drinking age and no such license holders shall allow beer as permitted herein to leave the licensed premises for off-premises consumption after 10:30 P.M.

(16) Each violation of a provision of this section shall subject a violator to a fine as specified in the Code of the City of Johnson City, Tennessee, in § 1-104; furthermore, a violator with a beer license is subject to all fines, suspensions, and revocations as set forth in title 57 of the Tennessee Code Annotated, § 1-104 of the Code of the City of Johnson City, Tennessee, and Title 8 of the Code of the City Of Johnson City, Tennessee.

(17) No alcoholic beverages, wine, or high alcohol content beer shall be sold, consumed, or possessed during a special event/street festival within one hundred feet (100') of any school, child daycare center, park, playground, church or other bona fide religious establishment. The said one hundred feet (100') shall be measured from the nearest point of the beer permitted area to the center of the nearest entrance/exit door of any school building, child day care center or church building in a straight line. For playgrounds and parks the one hundred foot (100') measurement shall be from the nearest point of the beer permitted area to the nearest point on the property line bounding the playground or park in a straight line.

#### **8-225. Delivery service license.**

(1) A delivery service license may be issued to any business that holds an off-premise beer license issued by the City of Johnson City for the sale of beer and does not hold a license issued by the Tennessee Alcoholic Beverage Commission for the sale of alcoholic beverages. The delivery service licensee shall deliver the beer to a customer who resides or is located at the time of delivery within the corporate city limits.

(2) Any delivery service licensee is authorized to deliver sealed packages of beer sold by an off-premise beer license holder during the hours allowed under Title 8, Section 307, of the Johnson City Municipal Code.

(3) Any delivery made by a delivery service licensee shall be made only to the physical address indicated by the person placing the delivery order. The delivery must be documented by the verification of the delivery signed by the person placing the order.

(4) The customer placing a delivery order must be twenty-one (21) years or older and must provide for inspection a valid driver's license upon delivery.

(5) No delivery shall exceed two (2) gallons.

**8-226. Delivery service license application.**

(1) No person shall engage in the delivery of beer within the corporate limits of the city until he receives a license to do so. Each applicant for a delivery service license under this chapter shall file with the city manager or his or her designee a sworn petition in writing, establishing the following facts, the truth of each and all of which facts the time of approval of the application are hereby made conditions of any license issued hereunder:

(a) The applicant is the owner of the business regulated by this chapter and said applicant shall provide their name, the name under which the business operates, the business address, the name, telephone number and email address of the representative/agent of the business, the applicant's date of birth or the creation of the business, the applicant's social security number or the business tax identification number, and the address of the property from which the business will be operated.

(b) The applicant shall confirm that the applicant has or has not had a license for the sale of alcoholic beverages or controlled substances revoked or suspended by the state of Tennessee.

(c) The applicant shall confirm that the applicant does not have a license issued by the Tennessee Alcoholic Beverage Commission for the sale of alcoholic beverages.

(d) The application shall confirm that the applicant has an off-premise beer license issued by the City of Johnson City for the sale of beer.

(2) No applicant or driver shall have been convicted of a crime which directly relations to the business of alcoholic beverage sales, pursuant to the Fresh Start Act.

(3) Each applicant for a delivery service license issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the application. A copy of the business license and a copy of off-premises beer license must be submitted by applicant at the time of application.

**8-227. Delivery service license renewal and report.**

(1) A delivery service license renewal shall be issued upon the filing of a Delivery Service License Annual Delivery Report. Each applicant for a delivery service license renewal issued hereunder shall pay to the city a non-refundable application fee as approved annually by the board of commissioners and set forth on the renewal application

(2) Each applicant shall conduct, or have a third party conduct, a local and national criminal background check on any potential employee or independent contractor that seeks to be a delivery driver. Such background check shall include a

multistate criminal records locator or other similar commercial nationwide database with validation.

(4) Any delivery driver must be twenty-one (21) years or older and possess a valid driver's license. A delivery service license may use either employees or independent contractor, delivering beer for the licensee as part of the delivery service.

(5) An Annual Delivery Report shall be submitted by the applicant and shall include a list of all delivery drivers and a record of all deliveries made under the delivery service license, including the product ordered and delivered, amount of product delivered, the time of delivery and the location of delivery that occurred made under the delivery service license in the prior year

(6) In addition to the annual license fee, a delivery service licensee shall pay a fee based on the total number of delivery service employees or independent contractors used by the delivery service license in the prior year. The fee shall be as follows:

- (a) 0-15 delivery drivers - \$50
- (b) 16-30 delivery drivers - \$100
- (c) 31-45 delivery drivers - \$150
- (d) 46-60 delivery drivers - \$200
- (e) 61-100 delivery drivers - \$250
- (f) 101-150 delivery drivers - \$300
- (g) 151-200 delivery drivers - \$350
- (h) Fifty dollars (\$50.00) for each additional fifty (50) delivery drivers over two hundred (200) until a maximum of one thousand dollars (\$1,000.00)

(7) A delivery service licensee may be subject to fines or the suspension or revocation of the delivery service license based on the conduct of a delivery driver.

**8-228. Dispensing equipment.**

(1) A licensee shall not allow on the licensed premises any dispensing equipment, whether or not operated by coin, currency or electronic payment, that dispenses any type of beer directly to a customer unless the licensee has obtained self-service approval from the beer board. Said approval shall only be issued in an open meeting of the beer board to a qualified licensee currently holding a Class 1 beer license for the identified premises, and shall be noted on the beer license. Licensee shall monitor the sale, service, and consumption of beer from the dispensing equipment to ensure compliance with all state and local laws and ordinances.

(2) Dispensing equipment authorized under the self-service approval must be affixed to a permanent location at an on-premises licensed establishment and shall have a clearly marked perimeter and shall only be accessible to customers wearing a microchip embedded wristband as further described in Subsection 4(a). Access to the inside of the dispensing equipment shall be restricted by a locking device which shall be locked during the hours that the business is open to the public, and may only be opened by an employee or agent of the licensee when the business is closed to the public. While customers will be allowed to dispense beer to themselves, only

employees or agents of the licensee may turn on, turn off, or restart the equipment. Further, any software needed to operate the dispensing equipment shall be exclusively controlled by the licensee and shall be located in a permanent location inside the permitted premises.

(3) At least fifty percent (50%) of the licensee's gross revenue must be derived from food sales, as calculated during a twelve (12) month period.

(4) Upon receipt of self-serve approval, dispensing equipment shall only be permissible if all of the following conditions are met:

(a) After checking and verifying the customer's identification, the server shall securely place on the wrist a distinctive non-tamper wristband on individuals age of twenty-one (21) and above, and a microchip embedded wristband on individuals age of twenty-one (21) and above who intend to enter the clearly marked dispensing equipment perimeter as further described in Section (2).

(b) Before a customer orders a beer from a clerk, servant, agent, or employee of the licensee (hereinafter "server"), the server shall verify the customer's legal age as well as determine if the customer can otherwise be served an alcoholic beverage. Said server shall hold a valid server permit as described in § 8-219(2).

(c) Dispensing equipment will only dispense beer to customers wearing microchip embedded wristbands.

(d) Licensee shall have at least one (1) server at each point of access into the clearly marked dispensing equipment perimeter to ensure that no customers enters, except those customers wearing a distinctive non-tamper wristband and a microchip embedded wristband.

(e) While the dispensing equipment is in operation, it is the licensee's obligation to have servers re-check customers' identifications, confirm customers are wearing microchip embedded wristband correctly, confirm customers are only pouring beer for themselves, and prohibit customers who may be intoxicated from obtaining any beer.

(f) Dispensing equipment shall not dispense more than twenty-eight (28) ounces of beer to a customer in a single order and no more than twelve (12) ounces of beer may be dispensed per serving.

(g) Dispensing equipment shall be located in a single common area which is open only to all legal drinking age customers.

(h) Customers using dispensing equipment who wish to purchase more than one (1) order in a two (2) hour period shall be required to show their identification again to the server before the microchip embedded wristband is reactivated to all the equipment to dispense more beer, at which time the server shall assess the customer to determine if they are exhibiting any symptoms of being overserved prior to allowing them to place another order.

(i) Dispensing equipment may only operate on days and at times when the sale of alcoholic beverages is permitted by law.

(j) Licensee shall shut off the dispensing equipment immediately upon discovery any failure in the dispensing equipment or technology where the amount of beer served to customers is reset or is no longer limited and customers shall be prevented from receiving any beer until the dispensing equipment is repaired and properly functioning.

(k) Microchip embedded wristband must be removed from customers by the licensee's employee prior to the customer leaving the establishment for any reason.

(l) Server must disable the microchip embedded wristband of any customer exhibiting any signs of intoxication to prevent the customer from obtaining more beer.

(m) At the close of business each day, the licensee shall disable all microchip embedded wristbands which shall prevent them from being used to dispense beer at a future date without a customer first having gone through the above protocol. Further, any unconsumed orders of beer (or portion thereof) shall not be carried over to any subsequent day of operation.



### CHAPTER 3

#### ALCOHOLIC BEVERAGES OF MORE THAN FIVE PERCENT ALCOHOLIC CONTENT

##### SECTION

- 8-301. Selling, storing, transporting, manufacturing; generally.
- 8-302. Wholesale business generally.
- 8-303. Sale at retail.
- 8-304. Licensee responsible for officers and agents.
- 8-305. Violations of federal, state statutes, etc.
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- 8-321. Certificate of compliance--application--filing; contents.
- 8-322. Certificate of compliance--misrepresentation; concealment of fact.
- 8-323. Certificate of good moral character--consideration.
- 8-324. Certificate of compliance--restriction upon issuance.

##### **8-301. Selling, storing, transporting, manufacturing; generally.**

(1) It shall be unlawful for any person to engage in the business of selling, storing, transporting or distributing, or to purchase or possess, alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57, and by rules and regulations promulgated thereunder and as provided under this chapter.

(2) The manufacture of alcoholic beverages is prohibited within the corporate limits of the city unless duly licensed by the State of Tennessee pursuant

to Tennessee Code Annotated, §§ 57-2-103 and 57-3-202, and is located in a zoning district permitting such business.

**8-302. Wholesale business generally.** No person shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits of the city.

**8-303. Sale at retail.** It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store; provided, that all such sales are made in strict compliance with all federal statutes, all state statutes, all state rules and regulations and all provisions of this chapter.

**8-304. Licensee responsible for officers and agents.** Each licensee shall be responsible for all acts of such licensee's officers, employees, agents and representatives, so that any violation of this chapter by any officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee.

**8-305. Violations of federal, state statutes, etc.** Any licensee who, in the operation of such licensee's liquor store, shall violate any federal statute, any state statute or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages shall be guilty of a violation of the provisions of this chapter.

**8-306. Location of liquor store.** It shall be unlawful for any person to operate or maintain a liquor store in the city unless the liquor store is located in a zone district permitting such business and as recorded on the zoning map of the city dated December 5, 1963, and subsequent revisions thereof and on file in the recorder's office. Such liquor store shall not be located within one hundred feet (100') of any school, child daycare center, park, playground, church or other bona fide religious establishment. The said one hundred feet (100') shall be measured from the center of the front door of the licensed premises to the center of the nearest entrance/exit door of any school building, child day care center or church building in a straight line. For playgrounds and parks the one hundred foot (100') measurement shall be from the center of the front door of the licensed premises to the nearest point on the property line bounding the playground or park in a straight line. No liquor store shall be located at any place where excessive congestion is present or is likely to develop. Off-street parking space shall be provided as stated in Article V, section 2 of the zoning ordinance of the city. To assure that these requirements are satisfied, no original or renewal license and no original or renewal certificate of compliance for an applicant for a license shall be issued for any location until a majority of the members of the

beer board have approved the proposed location as being suitable for the location of a liquor store after a consideration of this matter at a meeting of the beer board.

**8-307. Time of operation.** No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day or on Thanksgiving Day. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. or after 11:00 P.M. In the event of any emergency, liquor stores shall be closed upon the order of the city manager or the chief of police, in further accordance with Tennessee Code Annotated, § 57-3-406.

**8-308. Records kept by licensee.** In addition to any records specified in the rules and regulations promulgated by the city recorder pursuant to § 8-311, each licensee shall keep on file at such licensee's liquor store the following records:

- (1) The original invoices of all alcoholic beverages bought by the licensee;
- (2) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;
- (3) A current daily record of the gross sales by such licensee, with cash register tapes for each day's sales; and
- (4) An accurate record of all alcoholic beverages lost, damaged, given away or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved and the name of the person or persons receiving the same.

All such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time.

**8-309. Inspections--generally.** The city manager and the city recorder, or the authorized representative of either of them, are authorized to examine the books, papers and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city manager, the city recorder, the chief of police and any police officer of the city are authorized to enter and inspect the premises of a liquor store or manufacture at any time the liquor store or manufacture is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store or manufacture, shall be a violation of this chapter and shall constitute sufficient reason for the revocation of the license of the offending licensee, or for the refusal to renew the license of the offending licensee.

**8-310. Inspections--fees.**

(1) Amounts--generally. There is hereby levied on each licensee, including retail food store licensees, pursuant to Tennessee Code Annotated, § 57-3-501, as the same may be amended, an inspection fee of five percent (5%) of the gross purchase

price of all alcoholic beverages and wine acquired by the licensee for sale from any wholesaler or any other source. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee or at the time the retailer makes payment for the delivery of the alcoholic beverages and/or wine, and in such case, payment for the delivery of the alcoholic beverages and/or wine, and in such case, payment of the inspection fee by such collecting wholesaler or other source shall be made to the city recorder on or before the twentieth day of each calendar month for all collections in the preceding calendar month. Nothing herein shall relieve the licensee of the obligation of the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the city recorder on or before the twentieth (20<sup>th</sup>) day of each calendar month for the preceding month. There is also imposed on a manufacturer of alcohol, spirits, liquor, wine, and high alcohol content beer with an on-premises retail license a fifteen percent (15%) inspection fee to inspect the retail store in which such products are sold by the manufacturer, pursuant to Tennessee Code Annotated, § 57-3-501, as the same may be amended. This inspection fee is imposed on the wholesale price of the high alcohol content beer supplied pursuant to § 57-3-204(e)(7)(B) by a wholesaler for those products manufactured and sold by the manufacturer at its retail store as authorized pursuant to § 57-3-204(e)(7).

(2) Amounts--private clubs. An annual liquor inspection fee of three hundred dollars (\$300.00) shall be paid to the city by the operators of private clubs.

(3) Reports. The city recorder shall prepare and make available to each wholesaler or other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by each licensee making purchases from such wholesaler or other source; the city recorder is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records of such sales and fees to be kept by each wholesaler or other vending source.

(4) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time prescribed in this chapter shall, at the sole discretion of the city manager, be cause for the suspension of the offending licensee's license for as much as thirty (30) days, and at the sole discretion of the beer board, be cause for the revocation of such license; and such action may be taken by giving written notice thereof to the licensee, no hearing with respect to such an offense being required.

(5) Use of funds. All funds derived from the inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants, and in seeing that all provisions of this chapter are observed; and the beer board finds and declares that the amount of these inspection fees is reasonable and that the funds

expected to be derived from these inspection fees will be reasonably required for such purposes, pursuant to Tennessee Code Annotated, §57-3-501, *et seq.*

**8-311. Selling or furnishing to minors, etc.** It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to a minor, or to a person visibly intoxicated or to any habitual drunkard. It shall be unlawful for any such person to enter or remain in a liquor store or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in such licensee's liquor store or any part of the licensee's premises adjacent to such licensee's liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee.

**8-312. Consumption on premises of liquor store.** Except as permitted by Tennessee law, it shall be unlawful for any licensee to sell or furnish any alcoholic beverage, wine, beer, or high alcohol content beer for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. Except as permitted by Tennessee law, it shall be unlawful for any person to consume any alcoholic beverage, wine, beer, or high alcohol content beer in a liquor store or in the immediate vicinity of a liquor store. Except as permitted by Tennessee law, it shall be unlawful for any licensee to allow any person to consume any alcoholic beverage, wine, beer, or high alcohol content beer in such licensee's liquor store or on the premises used by the licensee in connection therewith.

**8-313. Maximum number of licenses.** No more than one (1) license shall be issued and outstanding for each five thousand five hundred (5,500) persons, or any fraction thereof, residing in the city according to the official census for the city as certified by the State of Tennessee Department of Economic and Community Development or any successor Tennessee department certifying the city's population.

**8-314. License—qualifications of applicant.** To be eligible to apply for or to receive a license, an applicant must satisfy all of the requirements of the state statutes and of the state rules and regulations for a holder of a state liquor retailer's license.

**8-315. State privilege tax.** Before any person shall engage in the sale of alcoholic beverages, a privilege tax shall be paid as required by state laws and regulations.

**8-316. License—issuance; term; renewal.** Each license shall expire on December thirty-first of each year. A license shall be subject to renewal each year by

compliance with all applicable state statutes, all applicable state rules and regulations and the provisions of this chapter. The city recorder shall not be authorized to issue any license until the applicant has qualified as a liquor retailer under the state statutes and has exhibited to the city recorder the state liquor retailer's license issued to the applicant by the Tennessee Alcoholic Beverage Commission. The license issued by the city recorder shall be of no effect after the expiration of the period for which issued or at any time while the license is suspended or revoked.

**8-317. License--display.** The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

**8-318. Restrictions upon licensees and employees.** (1) Applicant to pay fee. The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter.

(2) Public officers and employees. 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.

(3) Felons--retailers. 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 legal entity with which he is connected shall receive a license; provided, 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 license shall immediately be revoked, if such convicted felon is an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(4) Felons--employees. 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 convicted he shall immediately be discharged; provided, 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.

(5) Liquor offenses. No license shall under any condition be issued to any person who within ten (10) years preceding application for such license or permit

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shall have been convicted of any offense under the laws of the state 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 such period, been engaged in business alone or with others, in violation of any of such laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(6) Wholesalers. No manufacturer, brewer or wholesaler shall have any interest in the licensee's rental, occupancy or revenues.

(7) Disclosure of interest. 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 such 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 city manager and approved by him. Where such interest 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 such interest is acquired after the issuance of the license, the burden of such disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

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

(9) Minors. 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 such age in his place of business to engage in the storage, sale or distribution of alcoholic beverages.

(10) Advertising. No advertising by a licensee on signs, displays, posters or designs intended to advertise any alcoholic beverage, is permitted within the corporate limits of the city, except a sign approved by the city manager, in letters not larger than eight (8) inches in height, designating the premises as "\_\_\_\_\_ package store." Only one (1) such sign, and no other, shall be permitted and no sign shall extend or project from the building. The lettering on the approved sign shall be in gold or silver leaf, white enamel or plastic or similar material, and the same shall not be artificially illuminated, other than by exterior flood or spot lights.

(11) Off-premises business. All retail sales shall be confined to the premises of the licensee unless otherwise permitted by a state issued license or permit nor shall there be permitted drive-in windows. . This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises.

(12) Location; entrance. No liquor store shall be located in the city on any premises above the ground floor. Each such store shall have only one (1) main

entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as such lobby is open to the public. For state law reference, please see Tennessee Code Annotated, § 57-3-204.

**8-319. License--transfer.** A licensee shall not sell, assign or transfer his license or any interest therein to any other person. No license shall be transferred from one (1) location to another location without the prior written approval of the beer board.

**8-320. Nature of license; suspension or revocation.** The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by the beer board for any violation of this chapter by the licensee or by any person for whose acts the licensee is responsible, but the licensee shall be given reasonable notice and an opportunity to be heard before the beer board suspends or revokes a license for any violation other than one established by final judgment in any court having jurisdiction thereof. If the licensee is convicted of a violation of this chapter by a final judgment in any court and the operation of the judgment is not suspended by an appeal, on written notice to the licensee, the city manager may suspend the license for a period not to exceed thirty (30) days and the beer board may revoke the license on the basis of such conviction. Notwithstanding any provision contained in this section, a license shall be subject to revocation or suspension without a hearing whenever such action is expressly authorized by other provisions of this chapter stating the effect of specified violations.

**8-321. Certificate of compliance--application--filing; contents.**

(1) Any person intending to apply for a state license for a retail liquor store shall first apply for a certificate of compliance from the City of Johnson City, pursuant to Tennessee Code Annotated, § 57-3-803. The application for a certificate shall be in writing on a form furnished by the City Recorder. A certificate of compliance for a retail liquor store shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the Alcoholic Beverage Commission within six (6) months of the date of certificate, or if the retail liquor store for which a certificate was granted is not in operation within twelve (12) months following the issuance of the certificate and all applicable requirements of this article are met at the time the new application is received.

(2) Each applicant for a certificate of compliance shall file with the city manager a completed form of application, on a form to be provided by the city manager or designee, and which shall contain all of the following information:



- (a) The name and street address of each person to have any interest, direct or indirect, in the license as owner, partner or stockholder or otherwise;
- (b) The name of the liquor store to be operated under the license;
- (c) The address of the liquor store to be operated under the license and the applicable zoning designation; and
- (d) The agreement of each applicant to comply with the state, federal and city laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages, and the agreement of each applicant as to the validity of and the reasonableness of the regulations, inspection fees and taxes provided in this chapter with reference to the sale of alcoholic beverages.

(3) The application form shall be accompanied by a copy of each questionnaire form and other material to be filed by the applicant with the Tennessee Alcoholic Beverage Commission in connection with this same application, and shall also be accompanied by one (1) copy of a scale plan drawn to a scale of not less than one inch equals twenty feet (1" = 20'), giving the following information:

- (a) The shape, size and location of the lot upon which the liquor store is to be operated under the license;
- (b) The shape, size, height and location of all buildings, whether they are to be erected, altered, moved or existing, upon the lot;
- (c) The off-street parking space and the off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street; and
- (d) The identification of every parcel of land within one hundred feet (100') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon, and the use being made of every such parcel. The application form shall be signed and verified by each person to have any interest in the license either as owner, partner or stockholder or otherwise. If at any time the applicable state statutes should be changed so as to dispense with the requirement of a certificate of compliance, no original or renewal license shall be issued until an application in the same form has been filed with the city recorder.

**8-322. Certificate of compliance–misrepresentation; concealment of fact.** If any applicant misrepresents or conceals any material fact in any application form filed for the purpose of complying with the requirements contained in § 8-322, such applicant shall be deemed to have violated the provisions of this chapter.

**8-323. Certificate of good moral character–consideration.** In making the initial certification of good moral character for the first six (6) persons, firms or corporations, the beer board will consider all applications filed before a closing date to be fixed by it and select from such applications the persons by it deemed to have

the qualifications required by law and the most suitable circumstances for the lawful conduct of the business for which they seek licenses, without regard to the order or time in which applications are filed.

**8-324. Certificate of compliance--restriction upon issuance.**

(1) The mayor and the beer board are authorized to refuse to consider the issuance of a certificate of compliance whenever the number of such previously issued and outstanding certificates of compliance, when added to the number of outstanding licenses, equals or exceeds the number of licenses authorized by this chapter.

(2) No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provision of this chapter.

(3) No member of the beer board shall sign any certificate of compliance for any applicant until:

- (a) Such applicant's application has been filed with the city recorder;
- (b) The location stated in the certificate has been approved by the beer board as a suitable location for the operation of a liquor store; and
- (c) The application has been considered at a meeting of the beer board and approved by the vote of at least three (3) members thereof.

## CHAPTER 4

**PRIVILEGE TAX FOR CONSUMPTION ON PREMISES****SECTION**

8-401. Definition.

8-402. Consumption on premises; privilege taxes levied.

**8-401. Definition.** The term "alcoholic beverages," for the purpose of this chapter, shall mean whiskey, wine, rum, gin and all other alcoholic beverages, as defined by the provisions of Tennessee Code Annotated, § 57-3-101. (1985 Code, § 3-128)

**8-402. Consumption on premises; privilege taxes levied.**

(1) It is hereby declared that every person is exercising a taxable privilege who engages in the business of selling at retail in this city alcoholic beverages for consumption on the premises. For the exercise of such privilege, the following taxes are levied for city purposes to be paid annually, to wit:

(a)	Private club . . . . .	\$	300.00
(b)	Hotel and motel . . . . .		1,000.00
(c)	Restaurant, according to seating capacity, on licensed premises:		
	75 to 125 seats . . . . .	\$	600.00
	126 to 175 seats . . . . .		750.00
	176 to 225 seats . . . . .		800.00
	226 to 275 seats . . . . .		900.00
	276 seats and over . . . . .		1,000.00

(2) The privilege tax levied by this section shall be remitted annually to the city treasurer, no later than December thirty-first of each year.<sup>1</sup> (1985 Code, § 3-129)

(3) During the event of a state-wide pandemic which exceeds twelve (12) months in continual duration, as identified by the Governor for the State of Tennessee through Executive Orders, and where an Executive Order has been concurrently issued for the reduction of seating capacity of restaurants, the seating capacity of said restaurants shall be reduced proportionately to the state order for the purposes of considering the privilege taxes to be levied upon said restaurants pursuant to 8-402(1)(c). Said "Pandemic Period Privilege Taxes" shall be expressly named as such on any notices and/or correspondence from the city. Said taxes shall be remitted to the city treasurer

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<sup>1</sup> State law reference

Tennessee Code Annotated, § 57-4-301.

no later than December thirty-first during each calendar year for which any portion of a pandemic has occurred.