

First Reading: March 5, 2024
Second Reading: March 12, 2024

ORDINANCE NO. 14090

AN ORDINANCE AMENDING CHATTANOOGA CITY CODE,
PART II, CHAPTER 5, ALCOHOLIC BEVERAGES, RELATING
TO THE BEER BOARD.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA,
TENNESSEE:

SECTION 1. That Chattanooga City Code, Part II, Chapter 5, Alcoholic Beverages, be amended by deleting same in its entirety and substituting in lieu thereof the following:

ALCOHOLIC BEVERAGES¹

ARTICLE I. IN GENERAL

Secs. 5-1—5-15. Reserved.

ARTICLE II. BEER BOARD²

Sec. 5-16. Established.

There is hereby established a board of nine (9) members, to be known as the "Beer Board of Chattanooga." The wrecker board established in section 35-149 of this code shall be separated from the beer board, effective March 5, 2024.

Sec. 5-17. Definitions.

Applicant means any person or entity who submits or is seeking to submit an application for a beer permit pursuant to this section.

Beer means beer, ale, or other malt beverages, or any other beverages having alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tenn Code section 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 or other nonbeverage ingredients containing alcohol.

¹Cross reference(s)—Businesses, trades and occupations, Ch. 11; required notice to police by secondhand dealers of ~~Citizenship~~ purchases from intoxicated offering food and beverage service for a fee at courts for drinking drivers. § 16-54.

²State law reference(s)—Authority to provide for board before which beer license applications are made, catering hall is licensed as a restaurant by the state department of health.

Establishment means a building or business for which a permit is issued.

Owner shall mean the owner of a business to which a permit is issued, whether a person, firm, corporation, joint-stock company, syndicate, or association. If the owner is a corporation, a change in ownership shall occur when control of at least fifty (50%) percent of the stock of the corporation is transferred to a new owner.

Permittee means the holder of a beer permit issued pursuant to this section.

Retail sale means a sale to a consumer or to any person for any purpose other than for resale.

Wholesale shall mean a sale to any person for purposes of resale.

Sec. 5-18. Term; filling vacancies; chairman and secretary.

- (a) The members of the beer board shall be appointed by the mayor, subject to confirmation by the city council. Full time employees of the city shall not be eligible for appointment to the beer board.
- (b) The members of the beer board shall be appointed so that they shall hold office for staggered terms. The members appointed from districts 6, 8, and 9 shall be initially appointed for one (1) year terms. The members appointed from districts 3, 4, and 5 shall be initially appointed for two (2) year terms. The members appointed from districts 1, 2, and 7 shall be initially appointed for three (3) year terms.
- (c) After the initial appointments, terms of all members shall be for three (3) years. All members shall continue to serve until their successors are appointed.
- (d) In the event of a vacancy on the beer board, the mayor, subject to confirmation by the city council, shall fill the same for the remainder of the term and each new appointee shall be a resident of the district of the vacant seat.
- (e) The beer board shall organize and select its own chairperson, vice-chairperson, and secretary. Officers of the board shall be elected annually, but no officer may serve more than two (2) consecutive terms in the same office.

(Code 1986, § 5-17; Ord. No. 9592, § 2, 8-6-91; Ord. No. 11053, §§ 1, 2, 8-22-00; Ord. No. 11341, 10-22-02; Ord. No. 14000 , § 1, 7-11-23)

Sec. 5-19. Time, place of meetings.

The beer board shall meet on the first and third Thursday of each month at 9:00 a.m. in the assembly room at the city hall. The board may call special meetings as required with sufficient notice.

(Code 1986, § 5-18; Ord. No. 9502, § 1, 1-8-91)

Sec. 5-20. Inspectors to be appointed.

The Chief of Police shall designate beer inspectors and assign them to the regulatory unit for the purpose of enforcing the laws, ordinances, and rules regulating the distribution, possession, storage, or sale of beer at wholesale or retail. Such inspectors shall have all the powers and authority of regular police officers.

Sec. 5-21. Authority to grant or deny permits.

- (a) All applications for the issuance or renewal of beer permits shall be made to the regulatory unit.
- (b) The regulatory unit may approve any new beer permits (temporary or permanent) that meet the requirements of the applications.
- (c) The regulatory unit may defer an application to the beer board for approval.
- (d) If an applicant is denied a permit, the applicant shall be able to appeal to the beer board for a final determination of permit approval. The appeal shall be heard by the beer board who will review the application and decide to affirm or reverse the decision of the regulatory unit.

Sec. 5-22. When beer permit denied, waiting period; nonconforming use location.

When an application for a beer permit is denied for reasons relating to the location of the premises, no other application or reapplication shall be filed by any person for a beer permit at such location during a twelve (12) month period after such denial by the beer board. All beer permits currently issued to locations that constitute a nonconforming use under the zoning ordinances may be renewed, but no new permit shall be granted for the sale of beer at a location that now or hereafter constitutes a nonconforming use.

(Code 1986, § 5-20)

Sec. 5-23. Authority over violations of beer code.

- (a) The regulatory unit shall have authority to investigate suspected violations by permit holders and issue citations to the beer board for violation of any law regulating the sale, storage, and transportation of alcoholic beverages or for any violation of any provision of this Code.
- (b) The beer board and administrative hearing officer shall conduct a public hearing at the next regularly scheduled meeting, but not within ten (10) days of the citation being issued. A hearing may be specially set upon approval of the City Attorney, Administrative hearing officer, or beer board.
- (c) The beer board, after notice of hearing, shall have the authority to revoke or suspend any permits issued by it under this division. The City Attorney may grant a continuance for good cause shown.

- (d) The beer board may offer a permit holder the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each offense of making or permitting any sales to minors or a civil penalty not to exceed one thousand dollars (\$1,000) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn, and any right to appeal is deemed waived by the permit holder.
- (e) In addition, the beer board shall have the power to require additional training in the case of violation of this section or any other section of the beer code.
- (f) The beer board shall follow the requirements of the “Tennessee Responsible Vendor Act of 2006” T.C.A. §57-5-108(a) as they pertain to any responsible vendor as certified by the State of Tennessee Alcoholic Beverage Commission. The burden shall be on the permit holder to establish that it is a responsible vendor.
- (g) Nothing in this Chapter shall be construed as interfering with the enforcement of any law or ordinance by another duly authorized agency.
- (h) Nothing in this Chapter shall be construed as interfering with the enforcement of any contractual or legal right against a permittee by a third party.
- (i) Beer permits shall be revoked in any manner inconsistent T.C.A. §57-5-108.

Sec. 5-24. Violations to be reported; other officers to cooperate.

The regulatory unit shall issue citations under this chapter. Police officers and inspectors shall report suspected violations by a licensee for investigation by the regulatory unit. All police officers and inspectors and the city treasurer or their assistants shall cooperate with and furnish all information requested by the beer board and the administrative hearing officer.

Sec. 5-25. No surrender of permit.

No beer permit shall be surrendered after the holder thereof has been cited before the beer board for an alleged violation and while any charges or citations are still pending.

(Code 1986, § 5-22)

Sec. 5-26. Finality of decisions and right to appeal.

The decisions of the beer board are final, and any party aggrieved thereby may appeal the outcome in accordance with Tennessee Code Annotated §57-5-108.

Sec. 5-27. Penalty.

Violation of this article shall constitute grounds for the revocation of the license, or for a suspension in the discretion of the beer board.

(Code 1986, § 5-24; Ord. No. 9654, § 65, 1-6-92)

ARTICLE III. BEER

(AS DEFINED AT T.C.A. § 57-5-101(b), AND AMENDMENTS THERETO)³

DIVISION 2. PERMITS

Sec. 5-28. Dealing is permitted subject to law.

The manufacture, distribution, sale, transportation, storage, and possession of beer is governed by the Tennessee Code Annotated, this Code, and permit requirements of this chapter. (Code 1986, § 5-41; Ord. No. 13127, § 1, 12-13-16)

Sec. 5-29. Not transferable.

No permit issued by the beer board or regulatory unit under the provisions of this division shall be transferred from one (1) person to another.

Sec. 5-30. To be posted.

- (a) The permit issued under this division shall be posted in a conspicuous place on the premises of the permittee.
- (b) Vendors shall post signs informing customers of the vendor's policy against selling beer to underage persons. The signs shall not be less than eight and one-half inches by five and one-half inches (8 ½ x 5 ½), and shall contain the following language: IF YOU ARE UNDER 21 YEARS OF AGE AND ARE IN POSSESSION OF BEER, YOU COULD LOSE YOUR DRIVER'S LICENSE.

Sec. 5-31. Maximum quantity to be possessed without permit.

- (a) Possession of more than three (3) cases of beer requires a permit as a:
 - (i) Wholesale distributor; or
 - (ii) Retail dealer; or
 - (iii) Nonrecurring social function, signed by the chief of police specifying the amount to be purchased and the time within which such purchase shall be made. The distributor making such sale return or mail the permit authorizing the sale to the chief of police by 12:00 noon of the next succeeding business day after such sale.
- (b) A retail dealer in beer shall not sell or deliver to any person more than three (3) cases of such beverages on any one (1) day.

³Editor's note(s)—Ord. No. 13127, § 4, adopted Nov. 15, 2016, amended the title of Art. III to read as herein set out. Former Art. III pertained to beer (beverages exceeding five percent (5%) alcohol).
(Code 1986, § 5-42)
⁴Editor's note(s)—Authority to regulate and license sale of beer and other light alcoholic beverages, T.C.A. § 57-5-106.

Sec. 5-32. Same- Required for liquor by the drink establishments.

Any person holding a liquor-by-the-drink license must also have a beer permit to sell beer for consumption on the premises.

Sec. 5-33. Retailers to purchase from a wholesaler who has a permit.

It shall be unlawful for any person holding a permit for the sale at retail of beer or other beverages of like alcoholic content to purchase beer or such other beverages from anyone other than a brewer, wholesaler or distributor who has been issued a permit to carry on business in the city.

(Code 1986, § 5-44)

Sec. 5-34. Solicitations of home delivery service prohibited.

Any person who is engaged in accepting orders and making deliveries of beer in the city shall be known and considered as operating a home delivery service of beer, and it shall be unlawful for any person engaged in the business of home delivery to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or deliveries except on voluntary calls or orders from customers.

(Code 1986, § 5-45)

Sec. 5-35. Reports required of permittees.

- (a) *Wholesalers.* Each wholesaler or wholesale distributor of beer or other beverages of like alcoholic content in the city shall file with the city treasurer the name of the brewer such wholesaler or wholesale distributor represents, together with the name of the beer sold at wholesale or distributed in the city. In the event of a change of breweries, such wholesaler or distributor shall immediately furnish the city treasurer with the name of any additional brewery represented. Any wholesaler or wholesale distributor making sales of beer or other beverages of like alcoholic content from the platform, or from an established place of business or other place, shall make a report in writing of such sales, giving the name and address of the purchaser and the quantity of beverages purchased. Such report shall be delivered or mailed to the chief of police by 12:00 noon of the following business day.
- (b) *Operators of vehicles.* Any person operating a vehicle, either for himself or a distributor, who sells beer or other beverages of like alcoholic content to any person other than a retailer who has been issued a permit shall make a report in writing of such sale, giving the name and address of the person to whom the sale was made, which shall be delivered or mailed to the chief of police by 12:00 noon of the following business day.
- (c) *Retailers.* Any retail permittee selling or delivering one (1) or more cases of beer shall make a report in writing of such sale or delivery, giving the name and address of the person to whom the sale was made. Such report shall be delivered or mailed to the chief of police by 12:00 noon of the following business day.

(Code 1986, § 5-46)

Sec. 5-36. Hours regulated.

- (a) No permittee under this article may sell or give away alcoholic beverages or malt beverages on the licensed premises between the hours of 3:00 a.m. and 8:00 a.m. on Monday through Saturday or between the hours of 3:00 a.m. and 10:00 a.m. on Sundays.
- (b) In addition to the requirements set forth in subsection (a) above, no permittee under this article with an on premise permit may permit alcoholic beverages or malt beverages to be consumed on the licensed premises between the hours of 3:00 a.m. and 8:00 a.m. on Monday through Saturday or between the hours of 3:00 a.m. and 10:00 a.m. on Sundays. All alcoholic beverages or malt beverages and all alcoholic beverages or malt beverages glasses and containers must be clear off tables at the end of serving hours. This subsection shall not apply to off premise permits.
- (c) No permittee whose permit authorizes sale for on premise consumption shall be open for business except during hours authorized by this section for consumption of alcoholic beverages or malt beverages on the licensed premises. However, this section shall not apply to an on premise consumption permittee having a dining room seating capacity of at least fifty (50) people at tables whose annual sales of food prepared in a fully functioning and sanitary kitchen, non-alcoholic beverages, non-malt beverages, and other commodities sold upon the premises comprise more than fifty percent (50%) of the permittee's annual gross sales and where the sale of malt beverages and alcoholic beverages is merely incidental to the business or to a theater as defined at Tenn. Code Ann. § 57-4-102(37). The burden of proof shall be on the permit holder to establish their percentage of sales of food, non-alcoholic beverages, non-malt beverages, and other commodities.
- (d) No person who holds a beer permit for premise consumption shall allow any person under the age of twenty-one (21) to be in, frequent or loiter about the premises of the licensee unless such underage person is accompanied by their parent or their legal guardian after 6:00 o'clock p.m. However, this section shall not apply to an on premise consumption permittee having a dining room seating capacity of at least fifty (50) people at tables whose annual sales of food prepared in a fully functioning and sanitary kitchen, non-alcoholic beverages, and other commodities upon the premises comprise more than fifty percent (50%) of the permittee's annual gross sales and where the sale of beer and alcoholic beverages is merely incidental to the business or to a theater as defined at Tenn. Code Ann. § 57-4-102(37). The burden of proof shall be on the permit holder to establish their percentage of sales of food, non-alcoholic beverages, and other commodities. Any establishment violating this provision shall, after the first offense, be required by the Beer Board to present a plan as to how the establishment will ensure there will be no further violations. Any violation may result in the permittee's license being suspended and, once a plan is submitted, three (3) subsequent violations within any twelve (12) month period, calculated from the date of the first subsequent violation, shall result in the revocation of the beer permit. The provisions of this subsection shall not apply to a temporary permit.

(Code 1986, § 5-47; Ord. No. 11845, §§ 1, 2, 6-27-06; Ord. No. 12990, § 1, 9-29-15 ; Ord. No. 13118 , § 1, 11-15-16)

Editor's note(s)—Paragraph (b) of § 5-49 is derived from Section 0100-1-.03(2) of the regulations of the Tennessee Alcoholic Beverage Commission.

Sec. 5-37. Privilege tax required.

Permanent Beer Permit Holders shall pay an annual privilege tax of one hundred dollars (\$100.00). New permits shall pay this tax on a prorated basis.

Sec. 5-38. Application Fee Required.

- (a) Any applicant for a permanent beer permit must pay an application fee of two hundred fifty dollars (\$250.00) to the city treasurer. This fee is non-refundable and non-transferable and shall be in addition to any other fees or taxes specified herein.
- (b) Any applicant for a temporary beer permit must pay to the city treasurer an application fee of one hundred dollars (\$100.00) for a one-day permit plus fifty dollars (\$50.00) for each additional day of the temporary beer permit, providing, however, that the maximum fee for a temporary thirty (30) day beer permit is two hundred fifty dollars (\$250.00). This fee is non-refundable and non-transferable and shall be in addition to any other fees or taxes specified herein.

Sec. 5-39. Application requirements.

- (a) The application for a permanent beer permit shall contain the following information:
 - (i) The name of the applicant;
 - (ii) Name of the applicant's business;
 - (iii) Applicant's Social Security Number or Federal Tax ID;
 - (iv) Address of business or location of premises permitted;
 - (v) At least one (1) phone number of record that a business will use to Name and address of persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;
 - (vi) Selection of permit type: on-premises consumption, off premises consumption or both;
 - (vii) Sworn and notarized statement that all facts included in the application are true, correct, and applicant has read and understood the Chattanooga beer code; and
 - (viii) Statement of whether the applicant will have security at their event or on the premises. The statement should indicate that should the applicant have security, said security is properly licensed and complies with all applicable Tennessee statutes.
- (b) The applicant must also submit the following documents with the application:
 - (i) Two (2) forms of identification, one of which must be a photo ID;
 - (ii) A Nationwide fingerprint background check for each person having at least a five percent (5%) ownership interest in the applicant's business showing no convictions for any violation of these laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;
 - (iii) Certificate of occupancy as issued by the fire inspector;

- (iv) Certificate of health inspection from:
 - (1) Hamilton County Health Department for on-premise permits or;
 - (2) Tennessee Department of Agriculture for off- premise permits
- (v) Use letter from Land Development Office (if a temporary beer permit)

Sec. 5-40. Location of premises to be designated.

The location of the premises at which the business of a permittee under this division will be conducted shall be designated in his permit and in the application therefor.

Sec. 5-41. Applicant to have certificate or registration and bond required by state law.

Before any permit required by this division is issued by the city treasurer, the applicant shall submit satisfactory evidence that he has registered and received from the commissioner of the department of revenue of the state a certificate showing such registration, and has filed with the clerk of the county court a bond, conditioned as provided by law.

Sec. 5-42. Temporary Beer Permits.

- (a) Temporary beer permits not to exceed thirty (30) days' may be issued upon the same conditions governing permanent permits and shall specify with reasonably particularity the premises on which the permit shall be valid and the time or times during which the permit shall be valid.
- (b) A temporary permit authorizing the sale of beer on public property may be issued following subject to the approval of the appropriate governmental authority charged with the management of such publicly owned property:
 - (i) A bona fide charitable or non profit or political organization as defined in T.C.A. §57-4-102;
 - (ii) An Applicant for a Festival License issued by the Tennessee Alcoholic Beverage Commission pursuant to T. C.A. §57-4-102(16), provided that the temporary beer permit shall be effective only for the dates and times of the Festival License issued by the Tennessee Alcoholic Beverage Commission.
 - (iii) The regulatory unit may approve all temporary/special event beer permits, provided they meet all requirements under state law and City Code. The Regulatory Unit shall provide notice of approvals of beer permits at its next regularly scheduled meeting after the approval of the permits.
 - (iv) The regulatory unit, at their discretion may defer the approval of a permit application to the beer board for approval.

Sec. 5-43. Submission of application.

- (a) Applications must be submitted in complete form before being placed on the agenda.
- (b) Applications ten (10) days before a meeting (by close of business on the Monday before a meeting) will be placed on the agenda for the next meeting.

- (c) The application must be completed within six (6) months of receipt of the sworn and notarized statement is submitted to the Regulatory Unit. An application is considered completed when all required and requested documentation has been submitted.

Sec. 5-44. Presentation of application by beer inspector; approval or denial by the beer board.

- (a) The beer inspector shall present the applications that have not been administratively approved by the regulatory unit on the agenda to the beer board, and;
- (b) Shall also present any evidence that the issuance of a beer permit would cause congestion of traffic, interfere with schools or churches, interfere with the public health and safety, or violate any law or ordinance.
- (c) The beer board shall consider each application that has been deferred or appealed to it for a permit under this division and shall grant the permit to a qualified applicant if there is no evidence of threat presented. The action of the beer board in granting or refusing a permit shall be final, except as it may be subject to review at law.
- (d) Tabled applications may be tabled once but must be heard within three (3) months from completion of their application.

Sec. 5-45. When to be refused.

- (a) No permit required by this division shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks, or other places of public assembly, or otherwise interfere with the public health, safety, and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws.
- (b) (1) The sale of beer or other beverages of like alcoholic content for consumption on the premises within five hundred (500) feet, or two hundred fifty (250) feet for consumption off the premises, as measured from any doorway entrance to the building of the applicant regularly used for public ingress or egress to the nearest doorway entrance to the school, church, adult-oriented establishment as defined in Chattanooga City Code, § 11-422(a), or other place of public gathering regularly used for public ingress or egress, specifically including day care centers for eight (8) or more children under seventeen (17) years of age for group care as defined in the Chattanooga Zoning Ordinance, shall be prohibited; provided however, this prohibition shall not apply to any proposed permit location within the area zoned C-3 Central Business District or UGC Urban General Commercial Zone or zoned pursuant to the Downtown Form-Based Code (City Code Chapter 38, Article XVI) or to any proposed permit location within five hundred (500') feet of Coolidge Park, Ross's Landing Park and Plaza, Miller Park and Plaza, Sanctuary Skate Park at Finley Stadium, East Brainerd Park, or the Walnut Street Bridge; provided, further, that this distance proximity prohibition shall not apply to any location that has heretofore been issued a valid permit to sell, store or manufacture beer or other beverages of like alcoholic content under previous distance proximity restrictions but if any such permittee shall cease or discontinue

the sale of beer for six (6) months, then the distance proximity prohibition contained in this section shall thereafter apply to such locations.

- (2) The distance requirement for the on premise consumption of beer brewed on the premises does not apply within the area zoned M-1 Manufacturing Zone to any brewery that has as its principal purpose the wholesale production of beer for consumption off the premises.
- (3) For zones C-2, C-4 and C-5, the distance requirements set forth in Sec 5-45 (b)(1) shall be reduced to three hundred (300) feet for consumption on the premises and two hundred (200) feet for consumption off the premises, as measured from any doorway entrance to the building of the applicant regularly used for public ingress or egress to the nearest doorway entrance to the school, church, adult-oriented establishment, or other place of public gathering regularly used for public ingress or egress, specifically including day care centers for eight (8) or more children under seventeen (17) years of age for group care.
- (c) All applicants for a beer permit shall be required in their application to list and identify all schools, churches, or other places of public gathering, specifically including day care centers for eight (8) or more children under seventeen (17) years of age for group care as defined in the Chattanooga Zoning Ordinance, which are believed to be within the distance specified in paragraph (b).
- (d) The beer board may, in its discretion, require any applicant for a beer permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.
- (e) To the extent that it shall be called to the attention of the beer board that it may hereafter have issued any beer permit to a location not qualified under the provision of this section or that a nonconforming permittee within the prohibited distance provision has ceased to sell beer for more than six (6) months, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section.
- (f) No permit required by this division shall be issued where a person, firm, corporation, joint stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years, or has had a permit under this chapter revoked within one (1) year or is currently under suspension. The Board, in its discretion, may determine that issuance of a license or permit before the expiration of one (1) year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of intestate succession.
- (g) No permit required by this division shall be issued to any applicant whose business operation is located less than three hundred (300) feet away from the nearest property line

of any business establishment licensed as a "teen social club" pursuant to the provisions of Chapter 11, Article XV of the Chattanooga City Code.

Sec. 5-46. Hearing before the beer board.

No beer permit of any kind shall be issued to any applicant unless the applicant or a specified agent or employee is designated on the application as being charged with overall responsibility for the beer business which is conducted on the premises. If the applicant is not a resident of the county, the applicant shall designate a person residing within the county who shall be authorized to accept service of process and to receive notice of any actions of the city or the beer board respecting the applicant or the premises. The permit holder shall be responsible for providing any change of address information for their address or the address of their registered agent to the regulatory unit. Failure to comply with the requirements set out in this section will cause any permit previously issued to be revoked by the beer board or administrative hearing officer.

Sec. 5-47. When the treasurer may issue.

- (a) The City treasurer shall issue permit only after the applicant has registered with the state department of revenue and filed a bond with the clerk of the county court; and
- (b) The beer board or regulatory unit has submitted a request in writing to issue the permit.

Sec. 5-48. Renewal of the Beer Permit

Each beer permit is required to be renewed each year. If a permit is not renewed within thirty (30) days of expiration of the permit, then a permittee shall have to submit another application through the regulatory unit.

Sec. 5-49. Operating without a Beer Permit.

If the owner of an establishment operates an establishment without a beer permit and has not previously obtained a beer permit, that owner shall be subject to civil penalty not to exceed one thousand dollars (\$1,000.00).

Sec. 5-50. Grounds for revocation or suspension of permit.

- (a) The beer board shall have the authority to revoke or suspend any permits issued by it under this division, upon notice to the permittee and a hearing thereon under the administrative hearing officer, who shall make recommendations to the beer board, for any violation of any provision of federal or state law regulating the sale, storage, and transportation of alcoholic beverages or for any violation of any provision of this Code, including a failure to comply with requirements set out herein.
- (b) It is a violation of this chapter for any beer permit holder to:

- (i) Deny access to any portion of the premises to any police or inspector;
- (ii) Sell or furnish alcoholic beverages to a person under the age of twenty-one (21) or to allow such a minor to possess or drink an alcoholic beverage on the permit holder's premises. The burden of ascertaining the age of persons who may not lawfully possess beer shall be on the permit holder and his agent or employee.
- (iii) Sell or allow the sale of alcoholic beverage any sale to any intoxicated or otherwise mentally incapacitated person; nor allow any such person to loiter on or about the premises.
- (iv) Allow any gambling or gambling devices on the premises.
- (v) Allow litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; or fail to provide and maintain adequate solid waste containers.
- (vi) Allows anyone to leave the permitted premises with an open container not within the Entertainment district.
- (vii) Employ a person in the manufacture, sale, transportation, or storage of beer who has been convicted within the preceding ten (10) years of any violation of the laws of the state against the sale, manufacture, possession, consumption of intoxicating liquors, or of any crime involving moral turpitude.
- (viii) Purchase beer from a brewer, wholesaler or distributor who has not been issued a permit to carry on business in the city.
- (ix) Permit a person under the age of eighteen (18) years to transport, possess, sell, or dispense alcoholic beverages, wine, or beer in the course of his or her employment.
- (x) Sell, give away or allow consumption of alcoholic beverages on the licensed premises between the hours of 3:00 a.m. and 8:00 a.m. on Monday through Saturday or between the hours of 3:00 a.m. and 10:00 a.m. on Sundays. All alcoholic beverages and their serving containers must be cleared off tables at the end of serving hours.
- (xi) Engage in or allow on the premises any sexual or pornographic conduct as described in T.C.A. §57-4-204.
- (xii) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages.
- (xiii) Obtained the permit by false statements made in the application for a beer permit therefore and shall not issue another permit to such permittee for a period of ten (10) years.
- (xiv) Allow overcrowding of their establishment. For the purposes of this section, overcrowding shall mean continuing to allow patrons on the premises after the occupancy limit has been reached. Premises shall be defined as the owner
- (xv) Allow their establishment to be operated in a disorderly manner. It shall be prima facie evidence that a permittee's establishment is being operated in a disorderly manner if disorderly conduct (as defined in T.C.A. §39-17-305), chronically occurs on the premises, if there is any breach of the peace, or unusual disturbance on the premises, or if there is evidence that any violation of law has occurred on the premises. Executive orders issued by the governor, executive orders issued by the

mayor, resolutions and regulations issued by the county board of health, or orders issued by the county health director or the county health officer have the force of law, and for purposes of this subsection, these orders, resolutions, and regulations, are considered to be “laws” that must be complied with by beer permittees. Failure to comply with the requirements set forth in any such law may be cause for a beer permit to be revoked or suspended.

Sec. 5-51. Telephone and reports of disorders.

- (a) All permittees must maintain a telephone in good working order and update their phone number with the Chattanooga Police Department immediately upon any change to the phone number.
- (b) All permittees shall report all fights and other public disorders (as defined herein) occurring on such premises immediately to the Chattanooga Police Department by calling 9-1-1 or the non-emergency line as appropriate.
- (c) Nothing in this section requires a permittee to notify police of an incident if police are already present to investigate that incident at the time it becomes known to the permittee.

Sec. 5-52. Offenses involving minors; loitering; gambling.

- (a) No sale of beer or other alcoholic beverages shall be made to any person under the age of twenty-one (21) years; nor, shall any person under the age of twenty-one (21) consume any alcoholic beverages; nor shall any person purchase or otherwise obtain any such beverage for any person under the age of twenty-one (21), except as set forth hereinbelow.
- (b) No permittee shall allow any person under the age of twenty-one (21) years to loiter about his place of business, the burden of ascertaining the age of such customer shall be upon the owner or operator of such place of business; provided, that nothing herein shall be deemed to prohibit the employment of persons aged eighteen (18) years of age or over. This section shall not apply to a theater as defined at T.C.A. § 57-4-102(37).
- (c) No permittee shall allow any gambling or gambling devices on his premises.
- (d) No permanent permittee shall allow any person on its premises to purchase, hand over or pass off an alcoholic beverage to a person under the age of twenty-one (21) on the permit holder’s premises. It shall be a violation of the provisions of this Section for a permanent permit holder to allow any person under the age of twenty-one (21) to possess, control, hold, receive, or drink an alcoholic beverage on the permit holder’s premises. The burden of ascertaining the age of persons who may not lawfully possess beer shall be on the permanent permit holder and his agent or employee.

(Code 1986, § 5-48; Ord. No. 9245, § 2, 9-19-89; Ord. No. 12263, 7-14-09; Ord. No. 13118, § 2, 11-15-16)

Cross reference(s)—Offenses against morals, § 25-81 et seq.

State law reference(s)—Similar provisions, T.C.A. § 1-3-113.

Sec. 5-53. Unauthorized use or consumption of beverages on premises.

- (a) No permittee under this article whose permit authorizes sale for consumption off the premises only shall sell for consumption on the premise, nor shall he permit any consumption to take place on the premises.
- (b) No sale for consumption on the premises shall be made by any permittee except where meals or lunches are regularly served, unless otherwise authorized by his permit.

(Code 1986, § 5-49)

Sec. 5-54. Sales to incapacitated or incompetent persons prohibited.

No permittee under this article shall make or allow any sale to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person; nor allow any such person to loiter on or about the premises.

(Code 1986, § 5-50)

Sec. 5-55. Use of premises not authorized by permit.

No beer or other beverages of like alcoholic content shall be manufactured, stored, or sold except at the premises designated in the permit therefor.

(Code 1986, § 5-51)

Sec. 5-56. Possession of federal license without city permit.

The possession by any person of any federal license to sell alcoholic beverages without the corresponding city permit required by this division shall be prima facie evidence in all cases that the holder of such federal license is selling beer or other beverages of like alcoholic content in violation of the provisions of this article.

Sec. 5-57. Training.

- (a) Anyone who sells or serves beer must possess either a server permit from the Tennessee Alcoholic Beverage Commission or a certificate of training from a trainer approved by the Beer Board. Such permit or certificate must be on the person of such employee or on the premises of the permitted establishment and is subject to inspection by the City or any law enforcement agency.
- (b) Applicants for new beer permits must comply with subsection (a) within (60) days of being issued a beer permit or, in the case of temporary permits before the event begins.
- (c) This section shall not apply to any entity that possesses a license from the Tennessee Alcoholic Beverage Commission or is certified as a responsible Vendor by the Tennessee Alcoholic Beverage Commission.

Sec. 5-58. Caterers.

- (a) A caterer licensed to operate in the City of Chattanooga shall obtain a beer permit as contemplated by this Chapter.
 - (i) All caterers with a beer permit shall give advance notice to the Regulatory Board of each site or locations where beer will be sold and consumed. Such notice shall include, but not be limited to the date, time, and location of the event five (5) days prior to the date of the scheduled event.
 - (ii) A beer permit issued to a caterer shall not be valid for the sale and consumption of beer on any premises for which a retailer's "on-sale" permit has been revoked within the past twelve month period, nor shall a caterer use a beer permit for the sale and consumption of beer on any premises owned or leased by a person, firm, or corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the establishment that has had a retailer's "on-sale" permit revoked within the past twelve (12) month period.
- (b) The distance requirements in this Chapter shall not be applicable to a catered event by the holder of a valid caterer's permit.

Sec. 5-59. Notification to Tennessee Alcoholic Beverage Commission of beer board suspension or revocation of a beer permit of an establishment that holds a license issued by the Tennessee alcoholic beverage commission.

- (a) Whenever the beer board suspends or revokes a permit, the beer board shall notify the alcoholic beverage commission by certified mail, return receipt requested, of the action taken by the beer board. Such notice shall include the record of evidence and the determination made by the beer board in suspending or revoking the permit.
- (b) Any decision of the beer board is final, and any aggrieved thereby may appeal the decision of the beer board in accordance with Tennessee Code Annotated, Title 57, Chapter 5.

Sec. 5-60. Beer board action upon notification by Tennessee Alcoholic Beverage Commission of suspension or revocation of license.

- (a) If, pursuant to T.C.A. §57-4-202(c), the alcoholic beverage commission sends a certified letter, return receipt requested to the beer board providing notice that the commission has suspended or revoked the license of an establishment for a violation of Tennessee Code Annotated, Title 57, Chapter 4, upon receipt of the certified letter, the beer board shall:
 - (i) Notify by certified mail, the individual or business entity that their beer license shall be suspended or revoked on the same terms as decided by the commission unless the licensee can show by a preponderance of the evidence that no violation occurred at a hearing at the next regularly scheduled beer board meeting that occurs later than two (2) weeks after the individual or entity is notified.

Sec. 5-61. Employment of former violators.

No person shall be employed in the manufacture, sale, transportation or storage of beer or other beverages of like alcoholic content who has been convicted within the preceding ten (10) years of any violation of the laws of the state against the sale, manufacture, possession, consumption, or transportation of intoxicating liquors, or of any crime involving moral turpitude, be so employed.
(Code 1986, § 5-52)

Sec. 5-62. Employment of minors.

No person under the age of eighteen (18) years shall be permitted to transport, possess, sell, or dispense alcoholic beverages, wine, or beer in the course of his employment.
(Code 1986, § 5-53)
State law reference(s)—Persons 18 or over may sell, etc., T.C.A. § 1-3-113(b)(1).

Sec. 5-63. Notification of employment.

Within three (3) days of the employment of any person who will dispense, serve, or sell beer or other beverages of like alcoholic content for consumption on the premises of any establishment granted a permit under this article, the permit holder must notify the Beer Inspector in writing of such employee's full name, current address, date of birth, race, and Social Security number. The permit holder must also notify the Beer Inspector in writing within seven (7) days of any such employee leaving the employment of a permit holder. This section shall not apply to employees with a server permit issued by the Tennessee Alcoholic Beverage Commission.

Sec. 5-64. Prohibited acts on premises.

- (a) No operator, entertainer, or employee of any establishment licensed under this chapter shall permit to be performed, offer to perform, perform, or allow customers, employees, or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia on the premises.
- (b) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
- (c) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts, or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee, or customer.
- (d) No entertainer, employee, or customer shall be permitted to have any physical contact with any other entertainer, employee, or customer on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest entertainer, employee and/or customer.
- (e) Any display of any films or pictures depicting any live performance of acts which are prohibited by subparagraphs (a) through (d) of this section is prohibited upon the premises.

(Code 1986, § 5-54; Ord. No. 10177, § 1, 3-7-95)

Sec. 5-65. Hotels, clubs, lodges, poolrooms, theaters.

- (a) *Hotels.* Permits may be issued under this division to hotels for sale and consumption on the premises in rooms where meals or lunches are served and in guests' rooms.
- (b) *Clubs and lodges.* Permits may be issued under this division 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 permits.
- (c) *Motion picture theaters.* Permits may be issued under this division to theaters as defined at T.C.A. § 57-4-102(37).

(Code 1986, § 5-78; Ord. No. 9261, § 1, 11-14-89; Ord. No. 10644, § 1, 12-2-97; Ord. No. 13118, § 3, 11-15-16)

Sec. 5-66. To be posted.

The permit issued under this division shall be posted in a conspicuous place on the premises of the permittee.

(Code 1986, § 5-79)

Sec. 5-67. Regulation of outdoor advertising.

Pursuant to Tennessee Code Annotated, Section 57-5-304, outdoor advertising signs that advertise beer are regulated as follows:

- (a) No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one (1) sign, advertisement or display which makes reference to the fact that the establishment sells beer but does not use brand names, pictures, numbers, prices, or diagrams relating to beer.
- (b) This Act shall not apply to any sign, advertisement or display erected or maintained by or at the request of a temporary beer permittee or to any sports arena, stadium, or entertainment complex.
- (c) Any sign, advertisement or display prohibited by this Act which is painted on or before the effective date of this Act onto an exterior wall of a building in which a retail beer establishment is located shall be removed no later than January 1, 1991. Any other sign, advertisement or display erected on or before the effective date of this Act and prohibited by this Act shall be removed no later than January 1, 1989.

(Ord. No. 9245, § 5, 9-19-89)

Sec. 5-68. Consumption of alcoholic beverages and beer prohibited in certain places; open containers of alcoholic beverages and beer prohibited in certain places.

- (a) For the purposes of this section, "open container," means any drinking or pouring vessel, including any open or unsealed bottle, jar, can, cup, or container without a lid or with a lid

but with a straw protruding therefrom or with only a partial lid, with the contents being capable of immediate consumption.

- (b) It shall be unlawful for any person to drink or consume any alcoholic beverage or beer or have an open container of alcoholic beverage or beer in or on any of the following places:
 - (1) Public street, alley, avenue, highway;
 - (2) Public sidewalk;
 - (3) Public park;
 - (4) Public school ground;
 - (5) Any other public place;
 - (6) Teen social clubs, as defined in Chapter 11 of this Code; and
 - (7) Any parking lot held open to use by the public.
- (c) It shall be unlawful for any person to consume any alcoholic beverage or beer upon the private business premises of another without permission of the owner or person in control of such premises.
- (d) All teen social clubs, as defined in Chapter 11 of this Code, shall post signs in visible locations prohibiting consumption of beer and alcoholic beverages on the premises as follows: "No consumption of or open containers of beer or alcoholic beverages permitted on these premises." Such signs shall be located (1) at the entrance to the establishment, (2) inside the establishment near all exits, and (3) in the parking lot or parking lots of such establishments.
- (e) This section shall not prohibit the sale or consumption of beer or alcoholic beverages permitted pursuant to a temporary beer permit issued by the Beer Board of the City or pursuant to a special occasion license issued by the Tennessee Alcoholic Beverage Commission provided that (1) the location of such sale or consumption has been designated in the temporary beer permit issued by the Beer Board of the City or in the special occasion license issued by the Alcoholic Beverage Commission, (2) the activities at such location conform to the requirements of the Chattanooga City Code and the Alcoholic Beverage Commission, and (3) such sale and consumption is confined to the location designated in the temporary beer permit or special occasion license.
- (f) This section shall not prohibit the consumption of beer as defined at T.C.A. § 57-5-101(b), and amendments thereto, by weight on a pedal carriage as defined in City Code § 35-241 provided that the pedal carriage is operated in compliance with City Code § 35-252(h).
- (g) This section shall not prohibit the consumption of beer or alcoholic beverages on Station Street located between Market Street and Rossville Avenue during times that the following conditions are met:
 - (1) All beer and alcoholic beverages on the premises are sold and served only by a business located within or adjacent to Station Street;
 - (2) All beverages, whether alcoholic or not, are dispensed in paper or plastic cups that are clearly labeled with the words "Station Street" and/or "STST" and/or a Station Street

logo and that all businesses located within or adjacent to Station Street utilize cups with a uniform design;

- (3) Signs are erected at exits from Station Street giving conspicuous notice to pedestrians that beer and alcoholic beverages may not be removed from Station Street; and,
- (4) No beer or alcoholic beverages may be sold at any location defined in subsection (b) of this section.

(Ord. No. 11318, 09-10-02; Ord. No. 12826, § 1, 04-15-14; Ord. No. 13127 , § 2, 12-13-16; Ord. No. 13240, § 1, 11-14-17 ; Ord. No. 13531 , § 4, 1-28-20)

Sec. 5-69. Consumption of alcoholic beverages and beer in parklet cafés open containers of alcoholic beverages and beer in parklet cafés.

- (a) A parklet café shall mean an expansion of a restaurant or bar (the, "establishment") creating an outdoor dining and/or drinking area on part of the public street right-of-way that immediately adjoins the premises for the purpose of consuming food or beverage prepared at the establishment adjacent thereto. A parklet café must obtain a temporary use permit from the Transportation Department.
- (b) Sections 5-87 and 5-105 of this Code shall not apply to a parklet café if the establishment complies with the following provisions:
 - i. The area of the parklet café shall be clearly defined with a forty-two (42") inch high (measured from the street asphalt) sturdy barrier such as freestanding sectional fencing, rope, or chain erected on all four (4) sides.
 - ii. The area of the parklet café shall have one (1) clear entrance opening to the sidewalk. The entrance to the parklet café shall be at least forty-eight (48") inches wide to accommodate a wheelchair but may not be more than sixty (60") inches wide.
 - iii. Beer and/or alcoholic beverages may be sold and served in the parklet café only if the beer permit and/or alcohol license of the establishment includes the area of the parklet café as part of the establishment's premises.
 - iv. Beer and/or alcoholic beverages may be sold and served only by employees of the establishment and sold or served only to patrons seated in the parklet café.
 - v. No beer or alcoholic beverage may be served or consumed on the sidewalk between the establishment's premises and the parklet café nor may an open container of beer or alcoholic beverage be in the possession of anyone while on the sidewalk between the establishment's premises and the parklet café other than an open container in the possession of an employee of the establishment while in the process of serving the beer or alcoholic beverage to a patron in the parklet café or while in the process of removing the beer or alcoholic beverage from the parklet café.
 - vi. The establishment shall not allow patrons of the parklet café to bring beer or alcoholic beverages into the parklet café, nor to carry open containers of beer or alcoholic beverages about the parklet café area, nor to carry open containers of beer or alcoholic beverages served in the parklet café outside the parklet café area.

- vii. The area of the establishment from which the beer and alcoholic beverages are dispensed shall be located indoors and shall not be located in the parklet café area.
- viii. At times of closing or during times when consumption of beer or alcoholic beverages is prohibited, the establishment shall remove from the parklet café all containers used for or containing beer or alcoholic beverages.

(Ord. No. 13093 , § 1, 8-9-16; Ord. No. 13444, § 3, 3-12-19)

Secs. 5-70—5-100. Reserved.

ARTICLE IV. LIQUOR

(AS DEFINED AT T.C.A. § 57-5-101(a)(1), AND AMENDMENTS THERETO)⁴

DIVISION 1. GENERALLY

Sec. 5-101. Scope of article.

The provisions of this article shall apply to all alcohol beverages as defined by Tennessee Code Annotated, Section 57-3-101, and amendments thereto. It shall not apply to beer as defined at T.C.A. § 57-5-101(b), and amendments thereto, regulated under the provisions of article III of this chapter.

(Code 1986, § 5-101; Ord. No. 13127 , § 3, 12-13-16)

Sec. 5-102. Dealing in beverages declared lawful.

It shall be lawful to manufacture, store, transport, sell, possess, distribute, and receive alcoholic beverages in the city, subject to the provisions of this article.

(Code 1986, § 5-102)

Sec. 5-103. Powers and duties of inspectors.

The inspectors employed by the city shall examine the records of wholesale and retail dealers in the city and shall enforce in the city the state laws and city ordinances and rules and regulations promulgated by the alcoholic beverage commission of the state with reference to the sale, possession, storage, delivery, and distribution of alcoholic beverages. Such inspectors shall have the powers and authority of police officers.

(Code 1986, § 5-103)

Sec. 5-104. —Violations to be reported; request for revocation of license.

~~Each inspector shall report to the chief of police any violation of the state law and rules and regulations promulgated by the alcoholic beverage commission of the state or any other law or regulation relating to the possession, sale, storage, delivery of alcoholic beverages. The chief of police~~

shall, when he deems it warranted, report any such violations to the mayor or city council, and the mayor or a majority of the city council may in turn certify such facts to the alcoholic beverage commission of the state when deemed appropriate with the request that the license of such violator be revoked.

(Code 1986, § 5-104; Ord. No. 9654, § 2, 1-6-92)

Sec. 5-105. Drinking in public or prohibited places.

It shall be unlawful for any person to publicly drink alcoholic beverages on any public street, public sidewalk or in any public park.

(Code 1986, § 5-105)

Sec. 5-106. Prohibited acts on premises.

- (a) It shall be unlawful for any person owning or operating a premises having a permit for consumption of alcoholic beverages on the premises to knowingly permit or allow any person to perform therein any of the following acts or conduct:
 - (1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
 - (2) The actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals in public; or
 - (3) The actual or simulated public display of the pubic hair, anus, vulva, or genitals.
- (b) It shall be unlawful for any female in any place where a permit has been issued for the consumption of alcoholic beverages on the premises so costumed or dressed that one or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for the owner or operator of such premises to knowingly permit or allow any such person to appear on the premises owned or operated by him. "Wholly or substantially exposed to public view" as it pertains to breasts shall mean the showing of the female breast with less than a fully opaque covering of any portion of the breast below the top of the nipple.

(Code 1986, § 5-106)

Sec. 5-107. State regulations for purchase and sale of intoxicating liquors adopted by reference.

Tennessee Code Annotated, Sections 57-3-404, 57-3-405 and 57-3-406 as may be amended from time to time, are hereby incorporated herein by reference and made a part hereof.

(Code 1986, § 5-107)

Sec. 5-108. Location and signs for liquor stores.

- (a) No lot proposed for a liquor store site may be located within five hundred (500) feet from the nearest property line of a site which is used for the purpose of a recreational park (ornamental parks are not to be considered in this requirement), place of worship, school (an academic learning center whether public or private, from the level of nursery through twelfth grade), day care center or other liquor store. Measurement shall be made from the nearest property line of the applicant's premises to the nearest property line of the above mentioned uses. Measurements for leased premises shall be measured from the property line of the applicant to the nearest property line of the above mentioned uses measured on a straight line basis. For purposes of this subsection, the applicants' property line on leased premises shall be construed to be the nearest point of a leasehold line.
- (b) The distance prohibition set forth in Subsection (a) shall not apply to a retail license or permit for the sale of wine and/or high alcohol content beer as defined by T.C.A. § 57-3-101 within the area zoned C-3 Central Business District or within the area zoned pursuant to the Downtown Form-Based Code (City Code Chapter 38, Article XVI).
- (c) (1) The distance prohibition set forth in Subsection (a) shall not apply to a retail license or permit within the areas zoned C-3 Central Business District or within the Downtown Core and Urban Form-Based Code Context Areas for liquor stores that have gross sales of distilled beverages (defined as: "alcoholic beverages other than wine and beer (both high alcohol content beer as defined by T.C.A. § 57-3-101 and beer as defined by T.C.A. § 57-5-101)" that is thirty-three (33) percent or less than the total gross sales of the liquor store.
- (2) In order to qualify for the provisions of Subsection (c)(1), a liquor store located within the areas zoned C-3 Central Business District or within the Downtown Core and Urban Form-Based Code Context Areas must comply with the following:
 - (i) Each calendar year (by no later than February 15 of each year), the liquor store must file with the Land Development Office, or its successor, a sales report for the preceding year stating the liquor store's total gross sales and the liquor store's gross sales of distilled beverages. The report shall be certified by a Tennessee Certified Public Accountant.
 - (ii) Should the gross sales of distilled beverages exceed thirty-three (33%) percent of the total gross sales of the liquor store for a calendar year, the liquor store's right to sell distilled beverages shall be suspended for one (1) year.
 - (iii) Should a liquor store fail to file the report required in Subsection (i) by February 15, the liquor store's right to sell distilled beverages shall be immediately suspended and the right to sell distilled beverages will not resume until the liquor store has complied with Subsection (i) and demonstrated that the gross sales of distilled beverages did not exceed thirty-three (33%) percent of the total gross sales of the liquor store for the preceding calendar year.
- (d) Signs on liquor stores and on lots containing liquor stores shall conform to the following regulations:
 - (1) As used in this subsection (b), the following words and phrases shall be deemed to have the same definitions set forth in Chapter 3 of this Code: attached sign, banner,

detached sign, facade, free-standing sign, incidental sign, premises, projecting sign, roof sign, sign, and sign area.

- (2) Each premises upon which a liquor store is located and upon which no other business or establishment is located shall be allowed one (1) free-standing sign which shall conform to the following restrictions:
 - a. Such sign shall not have more than two (2) sign faces, and the sign area of each face shall not exceed thirty (30) square feet.
 - b. Each face of such sign shall spell out the word "liquor," and no other letters, words, phrases, or designs shall be allowed on the sign.
 - c. Such sign shall have a white background and red letters, and no other colors shall be permitted on the sign face.
 - d. The top edge of such sign shall not exceed twenty (20) feet above the ground upon which the sign is located.
 - e. No such free-standing sign shall be located closer than ten (10) feet to the closest point of the nearest public right-of-way, and no such sign shall be located closer than forty (40) feet to two (2) or more public rights-of-way.
- (3) A liquor store located on premises upon which any other business or establishment is located shall be allowed one (1) free-standing sign, provided, however, that such free-standing sign shall not be in addition to any detached sign(s) permitted by Chapter 3 of this Code. Such free-standing sign shall conform to the provisions of subsection (b)(2) above or, in the alternative, if and only if a free-standing sign is maintained on the premises which lists or designates two (2) or more of the other businesses or establishments on the premises, shall conform to the following restrictions:
 - a. Such liquor store sign shall be a part of the free-standing sign listing or designating the other businesses or establishments on the premises.
 - b. Each sign face of such liquor store sign shall have maximum dimensions of ten (10) feet horizontally and three (3) vertically.
 - c. Such liquor store sign shall have not more than two (2) sign faces, and the sign area of each face shall not exceed thirty (30) square feet.
 - d. Each face of such sign shall state only the following: "(NAME GIVEN TO LIQUOR STORE, AT OPTION OF OWNER) PACKAGE (or LIQUOR) STORE."
 - e. No such liquor store sign shall be added to or placed upon any free-standing sign which does not conform with the provisions of Chapter 3 of this Code.
- (4) In addition to the free-standing sign permitted above, each premises upon which a liquor store is located shall be allowed one (1) attached sign, not in excess of one hundred twenty (120) square feet in sign area, on each facade of the liquor store which faces a public right-of-way immediately adjacent to the premises. Such sign(s) shall state only the following: "(NAME GIVEN TO LIQUOR STORE, AT

OPTION OF OWNER) PACKAGE (OR LIQUOR) STORE." Such attached sign shall be placed only upon an exterior wall of the area occupied by the liquor store and shall not be placed upon an exterior wall of the space occupied by any other business or establishment on the premises.

- (5) In addition to the free-standing and attached signs permitted above, the owner or occupant of a liquor store shall be allowed one (1) on-premise banner not in excess of forty (40) square feet in sign area. Any such banner shall be mounted flush with the facade to which it is attached and shall be securely fastened on all four (1) corners.
- (6) No free-standing sign or attached sign allowed pursuant to subsections (b)(2) and (b)(3) above shall be erected or installed without a sign permit which shall be issued in conformance with the provisions of sections 3-6, 3-7, 3-8 and 3-9(a) of this code. No sign permit for such signs shall be issued unless all other existing liquor store signs on the premises are in compliance with the provisions of this subsection (b). Each free-standing liquor store sign shall be subject to the annual safety inspection fee set forth in section 3-8 of this code and, upon failure to pay same, shall be subject to removal as provided in Chapter 3, Article I of this code.
- (7) No roof sign shall be permitted for any liquor store. Incidental signs shall be allowed on liquor stores without the necessity of obtaining a sign permit.
- (8) Liquor stores are permitted on-premise window signs within the interior of the building. These signs are to state only the following: "(NAME GIVEN TO LIQUOR STORE, AT THE OPTION OF THE OWNER) PACKAGE (OR LIQUOR) STORE."
- (9) No off-premise sign referring to a liquor store can be located within five hundred (500) feet of the premises upon which there is a proposed or existing liquor store.
- (10) All signs as described above, if illuminated, shall have internal illumination, and shall not have blinking, flashing, or pulsating lights or moving parts.
- (11) Any violation of the provisions of this article by any person is declared to be a public nuisance and shall be abated as set out hereinafter. Every sign to which the prior provisions of this article applied that was erected prior to June 17, 1975, and was in use on such date, but which violates any of the present or prior provisions of this article, shall not be subject to removal until or unless the location ceases to be used as a retail liquor store; then and thereafter such location shall fully comply with all the provisions of this article. Every sign to which the provisions of this article shall apply that was legally erected prior to the effective date of this section and was in use on such date, but which violates any of the provisions of this article, shall not be subject to removal until or unless the location ceases to be used as a retail liquor store; then and thereafter such location shall fully comply with all the provisions of this article.
- (12) Upon ascertaining a violation of the provisions of this article, the building inspector shall cause to be served upon both the offender or his agent and upon the owner or his agent or the occupant(s) of the premises a written notice to abate which shall (1) describe the conditions constituting a nuisance under the subparagraph (b)(11)

of this section, and (2) state that the nuisance may be abated by the City at the expense of the offender or the owner or the occupant of the premises at the expiration of not less than fifteen (15) days nor more than sixty (60) days from the date of such notice if such condition is not corrected by the offender or the owner or the occupant or the person in control of the premises.

- (13) If at the expiration of the time given in such notice to abate the condition constituting a nuisance has not been corrected, then such conditions shall be corrected and the nuisance abated by the City at the expense of the offender or the owner or the occupant of the premises under the direction of the building inspector, and the City shall have a lien on the property to secure the amount expended by the abatement of such nuisance which shall be superior to all other contractual liens.
- (14) An appeal in writing may be taken within five (5) days from any adverse decision of the building inspector and shall be filed with the city council, whose decisions after notice and hearing shall be final.

(Code 1986, § 5-108; Ord. No. 9824, § 1, 1-5-93; Ord. No. 11930, § 1, 1-30-07; Ord. No. 12265, 7-21-09; Ord. No. 12883, § 1, 12-09-14; Ord. No. 13075, § 2, 7-5-16)

Sec. 5-109. Site plans to be submitted.

- (a) The applicant for a license under division 2 of this article must submit a site plan to the executive director of the Chattanooga-Hamilton County regional planning commission for the proposed liquor store drawn at a minimum scale of one (1) inch equals one hundred (100) feet, and the site plan shall:
 - (1) Define the location, size, accessibility, and existing zoning of the proposed site;
 - (2) Indicate the surrounding type of development and land use within six hundred (600) feet of the property lines;
 - (3) Detail the location of all structures and parking areas which are to be utilized by the liquor store owner or tenant;
 - (4) In addition to the above, the executive director of the regional planning commission or the city council may require such other additional information as may be determined necessary to adequately review the proposed site.
- (b) The planning staff of the Chattanooga-Hamilton County regional planning commission shall conduct an analysis of the proposed liquor store site which will include, but shall not be limited to, the following:
 - (1) A land use survey of the surrounding development;
 - (2) Off-street parking and loading facilities;
 - (3) Proposed points of access and ease of ingress and egress;
 - (4) The lot, yard, and open space requirements; and
 - (5) Whether a traffic hazard will be created.

- (c) The executive director shall submit the findings of the staff of the Chattanooga-Hamilton County regional planning commission to the city council for consideration and action. This report is to include, but is not limited to, the following areas of concern:
 - (1) The probable effect on the property adjacent to the site under consideration.
 - (2) The consistency of the proposal with the intent and purpose of this article to promote public health, safety, morals, and general welfare.
 - (3) Additional requirements which are needed in order to make the development more compatible with the surrounding land use.

(Code 1986, § 5-109; Ord. No. 9654, § 2, 1-6-92)

Sec. 5-110. Distilleries.

Distilleries, as defined at T.C.A. § 57-3-101, are allowed only on property zoned C-2 Convenience Commercial, C-3 Central Business, UGC Urban General Commercial, M-1 Manufacturing Zones, and the D-CX, D-SH, U-CX, U-SH, U-IX, U-CC, U-IN, E-CX, E-SH, E-IX, and E-IN zones of the Downtown Chattanooga Form-Based Code and must comply with the following:

- (a) For the C-2 Convenience Commercial, UGC Urban General Commercial, and M-1 Manufacturing Zones:
 - (1) Consumption of alcoholic beverages not manufactured on the premises by the distiller shall be prohibited;
 - (2) Processing and bottling of products not produced by the distiller shall be prohibited in C-2 Convenience Commercial and UGC Urban General Commercial Zones; and,
 - (3) The following activities are permitted with this use:
 - A. Growing, harvesting and other products suitable for processing and bottling products produced on the premises;
 - B. Sale of alcohol manufactured on the premises by the distiller for off premise consumption;
 - C. Sale of merchandise related to alcohol or the distillery;
 - D. Tastings involving serving to the public for the purpose of sampling the alcohol manufactured or distilled at the premises by the distiller; and,
 - E. Special events such as weddings, dances, and other social occasions associated with the distillery.
 - (4) Notwithstanding the prohibition in Subsection (a)(1), alcoholic beverages not manufactured on the premises by the distiller may be consumed on the site provided the alcoholic beverages are provided by a caterer holding an appropriate license

from the Tennessee Alcoholic Beverage Commission and/or permit from the Beer Board of Chattanooga as required by law.

- (b) For the C-3 Central Business Zone and the D-CX, D-SH, U-CX, U-SH, U-IX, U-CC, U-IN, E-CX, E-SH, E-IX, and E-IN zones of the Downtown Chattanooga Form-Based Code:
- (1) Consumption of alcoholic beverages not manufactured on the premises by the distiller shall be prohibited;
 - (2) Processing and bottling of products not produced by the distiller shall be prohibited; and,
 - (3) Three (3) of the following activities shall be required with this use:
 - A. Growing, harvesting and other products suitable for processing and bottling products produced on the premises;
 - B. Sale of alcohol manufactured on the premises by the distiller for off premise consumption;
 - C. Sale of merchandise related to alcohol or the distillery;
 - D. Tastings involving serving to the public for the purpose of sampling the alcohol manufactured or distilled at the premises by the distiller; and,
 - E. Special events such as weddings, dances, and other social occasions associated with the distillery.
 - (4) Notwithstanding the prohibition in Subsection (b)(1), alcoholic beverages not manufactured on the premises by the distiller may be consumed on the site provided that the alcoholic beverage is provided by a caterer holding an appropriate license from the Tennessee Alcoholic Beverage Commission and/or permit from the Beer Board of Chattanooga as required by law.

(Ord. No. 12818, § 1, 3-25-14; Ord. No. 13226, 10-3-17)

Secs. 5-111—5-120. Reserved.

DIVISION 2. LICENSE

Sec. 5-121. Required.

Before any person in the city shall engage in the manufacture or sale at wholesale or retail of alcoholic beverages, to include beverages for consumption on the premises, he shall obtain a license or permit therefor as provided by Title 57, Tennessee Code Annotated, and shall have paid to the city treasurer, any and all privilege taxes or inspection fees, including interest and penalties thereon, which the city may be authorized by law to collect.

(Code 1986, § 5-121)

Sec. 5-122. Application for certificate; contents.

- (a) Before any certificate as required by Tennessee Code Annotated, section 57-3-208 shall be signed by the mayor or any member of the city council, an application in writing shall be filed with the city treasurer on a form to be provided by the city giving the following information:
 - (1) Name, age, and address of the applicant.
 - (2) Number of years resident in the city.
 - (3) Occupation or business and length of time engaged in such occupation or business.
 - (4) Whether or not the applicant has been convicted of the violation of any state or federal law or of the violation of this Code or any city ordinance, and, if so, the date and offense for which such person was convicted, and whether it constituted a felony, misdemeanor, or ordinance violation.
 - (5) If employed, the name and address of employer.
 - (6) If in business, the kind of business and location thereof.
 - (7) The location of the proposed store for the sale of alcoholic beverages.
 - (8) The name and address of the owner and the amount of rent to be paid.
 - (9) The amount of money invested or to be invested and the source of the funds to be used and, if borrowed, the name of the person from whom borrowed, and the name of the bank with which applicant does business, and the name of any person who is aiding the venture financially, either by loan or endorsement.
 - (10) The name of any person who will be interested directly or indirectly in the business with applicant, and if the applicant owns an interest directly or indirectly in any other retail liquor store.
 - (11) If the applicant is a partnership, the name, age and address of each partner and his occupation, business, or employer.
 - (12) If the applicant is a corporation, the application shall contain sufficient information to verify that the corporation is qualified for a license under the provisions of Tennessee Code Annotated, section 57-3-202, 57-3-203 or 57-3-204, as applicable.
 - (13) Whether the applicant or any member of his family, whether blood kin or by marriage, has any interest directly or indirectly in any other retail or wholesale liquor business by way of stock ownership, loan, partner's interest or otherwise which is prohibited by Tennessee Code Annotated, section 57-3-406(a).
 - (14) The present zoning of the site of the proposed liquor store.
- (b) The application required herein shall be verified by the oath of the applicant; if the applicant is a partnership, it shall be verified by the oath of each partner; and, if the applicant is a corporation, it shall be verified by the oath of its president.

- (c) The original and five (5) copies of the application shall be filed with the office of the city treasurer.
- (1) One (1) copy shall be returned to the applicant showing the date and time when the application was filed with the city treasurer.
 - (2) One (1) copy shall be promptly forwarded to the traffic engineer, who shall make a report in writing to the mayor and city council and the city treasurer within thirty (30) days giving a recommendation as to whether the proposed site is suitable from the standpoint of satisfactory traffic flow.
 - (3) One (1) copy shall be promptly forwarded to the chief of police, who shall cause an investigation of the applicant to be made relative to his or her character, prior criminal record, if any, and any other pertinent information together with a recommendation as to whether the applicant is of good moral character and shall report in writing the findings and a recommendation to the mayor and city council and the city treasurer within thirty (30) days.
 - (4) One (1) copy shall be promptly forwarded to the executive director of the Chattanooga-Hamilton County regional planning commission, who shall cause his staff to determine whether the proposed site of the liquor store complies with all applicable ordinances and shall report the findings and a recommendation in writing within thirty (30) days to the mayor and city council and the city treasurer.
 - (5) One (1) copy shall be promptly forwarded to the office of the city attorney.
- (d) Within sixty days (60) days from the date when the application is filed, the city council shall require the applicant to appear for a hearing as provided in section 5-124 and after which the city council shall by motion either grant or deny the application. If granted, a majority of the city council shall then sign the certificate as provided by Tennessee Code Annotated, section 57-3-208.

(Code 1986, § 5-122; Ord. No. 9654, §§ 2, 66—68, 1-6-92)

Sec. 5-123. Applicant to agree to comply with laws.

The applicant for a certificate for a license under this division shall agree to comply with the state and federal laws and ordinances of the city and rules and regulations of the alcoholic beverage commission of the state with reference to the sale of alcoholic beverages.

(Code 1986, § 5-123)

Sec. 5-124. Applicant to appear before city council; duty to give information.

An applicant for a certificate for a license under this division, a renewal of a license or a transfer of a license, whether to a new owner or a different location, shall be required to appear in person before the city council for such examination as may be desired by the city council. He shall furnish such information as may be required, and shall agree to the examination of his bank account, books, records, or other accounts by any member of the council or by any person designated by the council to make such investigation and examination.

(Code 1986, § 5-124; Ord. No. 9654, § 2, 1-6-92)

Sec. 5-125. Action on application.

The action of the city council on an application for a certificate for a license under this division shall be noted thereon, and such application shall be forwarded to the alcoholic beverage commission by the city treasurer.

(Code 1986, § 5-125; Ord. No. 9654, § 2, 1-6-92)

Sec. 5-126. Number limited.

The number of retail licenses issued under this division and outstanding in the city at any time shall be limited to fifty-four (54), and the number of wholesale licenses so issued and outstanding shall be limited to five (5); provided, however, any person to whom a license had been issued as of July 1, 1980 shall continue to be entitled to a license so far as the total number of licenses is concerned.

(Code 1986, § 5-126)

Secs. 5-127—5-140. Reserved.

DIVISION 3. INSPECTION FEE ON RETAIL SALES;

PRIVILEGE TAX FOR CONSUMPTION ON PREMISES⁵

Sec. 5-141. Definition.

The term "alcoholic beverages," for the purpose of this article, shall mean and include whiskey, wine, rum, gin, and all other alcoholic beverages, as defined by the provisions of Tennessee Code Annotated, section 57-3-101.

(Code 1986, § 5-141)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 5-142. Inspection fee—Levied; amount; collection.

There is hereby levied upon licensed retailers of alcoholic beverages in the city an inspection fee to be measured by the wholesale price of the alcoholic beverage purchased by the retailer. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages supplied by a wholesaler. The inspection fee shall be added by the wholesaler to each invoice for alcoholic beverages sold to each retailer within the city and shall be collected by such wholesaler from such retailer and remitted to the city treasurer as provided in this division.

(Code 1986, § 5-142) _____

⁵State law reference(s)—Authority to levy privilege tax, T.C.A. § 57-4-301(b)(2); authority to levy inspection fee, § 57-3-501.

Sec. 5-143. Same—To be remitted to treasurer by wholesalers; sales on credit; reports by wholesalers.

The inspection fee provided for in this division shall be remitted by all wholesalers who sell alcoholic beverages within the city to the city treasurer not later than the twentieth day of each month for the preceding month. The wholesaler is hereby required to collect the inspection fee from the retailer at the time of delivery of all alcoholic beverages on which the inspection fee is levied, and if credit is granted by the wholesalers to the retailers, then the obligation to the city for the inspection fee shall be that of the wholesaler. Every wholesaler who makes sales to retainers within the city shall make a monthly report to the city treasurer upon such form as may be prescribed by the city treasurer. The city treasurer shall have the authority to audit the records of wholesalers reporting to him in order to determine the accuracy of such reports.

(Code 1986, § 5-143)

Sec. 5-144. Same—Compensation of wholesalers.

Every wholesaler of alcoholic beverages, in reporting and paying the inspection fee imposed by this division, shall be entitled to deduct, and retain from the inspection fee collected as compensation or reimbursement for his services in collecting the inspection fee five percent (5%) of the inspection fee collected and remitted. Failure to collect and timely report and/or pay the inspection fee collected shall result in a penalty of ten (10) percent of the fee due the city.

(Code 1986, § 5-144)

Sec. 5-145. Consumption on premises; privilege tax levied.

(a) 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:

- (1) Private club - \$300.00
- (2) Hotel and motel - \$1,000.00
- (3) Convention center - \$500.00
- (4) Premiere type tourist resort - \$1,500.00
- (5) Restaurant, according to seating capacity, on licensed premises:
 - a. 75—125 seats - \$600.00
 - b. 126—175 seats - \$750.00
 - c. 176—225 seats - \$800.00
 - d. 226—275 seats - \$900.00
 - e. 276 seats and over - \$1,000.00

- (6) Limited Service Restaurants based on the gross sales of prepared food:
 - a. at least 30% but not more than 50% of gross - \$2,000.00
 - b. at least 20% but not more than 30% of gross - \$3,000.00
 - c. at least 15% but not more than 20% of gross - \$4,000.00
 - (7) Commercial passenger boat company - \$750.00
 - (b) The privilege tax levied by this section shall be remitted annually to the city treasurer no later than December 31st of each year.
- (Code 1986, § 5-145; Ord. No. 12447, 11-23-10)

Secs. 5-146—5-160. Reserved.

ARTICLE V. BOTTLE CLUBS (BROWN BAGGING)

DIVISION 1. GENERALLY

Sec. 5-161. Scope of article.

The provisions of this article shall apply to all persons who operate an establishment selling setups for mixed drinks, and who permit brown bagging. It shall not apply to those persons or businesses licensed or permitted under the provisions of article II of this chapter or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the alcoholic beverage commission of the state under the provisions of T.C.A. section 57-4-201.

(Code 1986, § 5-161)

Sec. 5-162. Definitions.

As used in this article, the following definitions shall apply:

Brown bag or brown bagging shall mean the practice of patrons, customers or guests bringing beer or other alcoholic beverages upon the premises of any person selling setups for mixed drinks.

Person selling setups for mixed drinks shall mean and include any person deriving receipts from the sale of setups for mixed drinks consumed on the premises and shall include any country club, nightclub, or private club in the nature of any social, dinner, athletic or sporting club or organization, and any fraternal society, order, or association making sales and charges for any of these items. The term shall not include sales of setups by cafes, cafeterias, and restaurants which are merely incidental to the principal business, and where no bar, lounge, or separate facility is maintained for the purpose of serving or selling setups for mixed drinks.

Setups for mixed drinks shall mean and include sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment.

(Code 1986, § 5-162)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 5-163. Beer board and beer inspectors to enforce article.

- (a) The city beer board, created and operating under the provisions of article II of this chapter, shall issue permits, and revoke or suspend licenses, except where such action would be inconsistent with any specific provision of this article.
- (b) The beer inspector appointed and acting under the provisions of section 5-43 and other applicable ordinances shall enforce all laws, ordinances and rules regulating establishments selling setups for mixed drinks or permitting brown bagging.

(Code 1986, § 5-163)

Sec. 5-164. Hours regulated.

No permittee under division 2 of this article shall sell any setup for purposes of mixing with alcoholic beverages or permit any alcoholic beverages to be consumed on the premises between the hours of 3:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. and 12:00 noon on Sundays. The permittee shall not permit or suffer the presence of any alcoholic beverages on the premises during such hours.

(Code 1986, § 5-164)

Sec. 5-165. Sales to incapacitated or incompetent persons prohibited.

No permittee under division 2 of this article shall permit or allow any intoxicated person to be on the premises.

(Code 1986, § 5-165)

Sec. 5-166. Employment of minors.

No person under the age of eighteen (18) years shall be permitted to dispense, serve, or sell setups in any establishment which has been issued a permit under division 2 of this article.

(Code 1986, § 5-166)

Sec. 5-167. Immoral acts prohibited at premises.

It shall be unlawful for any person to appear or be on the premises of a permittee under division 2 of this article so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:

- (1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

- (2) The actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals;
- (3) The actual or simulated displaying of the pubic hair, anus, vulva, or genitals;
- (4) The permitting by a permittee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus; or
- (5) The displaying of films or pictures depicting acts, a live performance of which is prohibited by the sections quoted above.

(Code 1986, § 5-167)

Sec. 5-168. Telephone and reports of disorders.

All permittees are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in any such disorder have left the premises.

(Code 1986, § 5-168)

Secs. 5-169—5-180. Reserved.

DIVISION 2. PERMIT

Sec. 5-181. Required.

No person shall engage in the business of operating establishments selling setups for mixed drinks or permitting brown bagging without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging.

(Code 1986, § 5-181)

Sec. 5-182. Application; fee.

- (a) All applications for a permit to sell setups for mixed drinks or to permit brown bagging shall be filed with the beer inspector. The beer inspector shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this article, and report his findings to the beer board. The beer board shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.
- (b) The application shall be accompanied by a fee of one hundred dollars (\$100.00) for use in offsetting the expense of investigating the applicant.

(Code 1986, § 5-182)

Sec. 5-183. Location to be designated.

The location of the premises at which the business of the permittee will be conducted shall be designated in his permit and in the application therefor.

(Code 1986, § 5-183)

Sec. 5-184. Grounds for refusal.

- (a) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks, or other places of public assembly, or otherwise interfere with the public health, safety, and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this article has been revoked within one (1) year or is under suspension.
- (b) No such establishment shall be located within five hundred (500) feet, as measured from any doorway entrance of the applicant regularly used for public ingress and egress to the nearest doorway entrance to the school, church, or other place of public gathering to the nearest corner of the licensed establishment; provided, however, this prohibition shall not apply to any location within the area zoned C-3 Central Business District; provided, further, that, this distance proximity prohibition shall not apply to any location that had a preexisting business as of the effective date of Ordinance No. 8272, but if such location is without a permit for more than one hundred twenty (120) consecutive days, then the distance proximity prohibition contained in this section shall thereafter apply to such location.
- (c) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in paragraph (b) of this section.
- (d) The beer board may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.
- (e) To the extent that it shall be called to the attention of the beer board that it may have issued any permit to a location not qualified under the provision of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section.

(Code 1986, § 5-184)

Sec. 5-185. When treasurer may issue.

The city treasurer shall issue no permit until the application therefor has been approved by the beer board and he has been notified by the beer board in writing to issue the same.

(Code 1986, § 5-185)

Sec. 5-186. To be posted.

The permit issued under this article shall be posted in a conspicuous place on the premises of the permittee.

(Code 1986, § 5-186)

Sec. 5-187. Not transferable.

No permit issued by the beer board under the provisions of this article shall be transferred from one (1) person to another.

(Code 1986, § 5-187)

Sec. 5-188. Grounds for revocation or suspension.

- (a) The beer board shall have the power to revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this article or any other ordinance, state law or regulation or federal law or regulation governing the operation of such establishments or when the permittee:
- (1) Operates a disorderly place; or
 - (2) Allows gambling on the premises; or
 - (3) Allows fighting or boisterous or disorderly conduct on the premises; or
 - (4) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or
 - (5) Allows minors to congregate about the premises; or
 - (6) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or
 - (7) Has made a false statement of a material fact in any application or notice to the board; or
 - (8) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages; provided that, members of the armed forces of the United States on active duty upon showing of proper identification any purchase a setup notwithstanding they are less than the age of twenty-one (21) years; and provided further, that for the period from August

1, 1985, through July 31, 1986, this minimum age provision shall not apply to any person born before August 1, 1965, or for those nineteen (19) or twenty (20) years of age when accompanied by a parent or legal guardian; or

- (9) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups; or
 - (10) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or
 - (11) Allows any violation of any provision of this article to occur on the licensed premises; or
 - (12) Allows any violations of the rules and regulations of the health department; or
 - (13) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises; or
 - (14) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers.
- (b) The beer board may also, in its discretion, revoke a permit for due cause not specified herein.

(Code 1986, § 5-188)

SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect ninety (90) days from and after its passage.

Passed on second and final reading: March 12, 2024

CHAIRPERSON

APPROVED:____ DISAPPROVED:____

MAYOR

/mem/v2