TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

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8-101. Public display--public drinking. (1) For the purpose of interpreting this title, the terms "alcoholic beverage," "high alcohol content beer" and "wine" shall have the same definitions as provided in Tennessee Code Annotated, §57-3-101, as the same may be amended. For the same purpose of interpreting this title, the term "beer" shall have the same definition as provided in Tennessee Code Annotated §57-5-101, as the same may be amended.

(2) Except as permitted by the board of zoning appeals by special exception in the B-2 Central Business District, it shall be unlawful for any person publicly to drink any alcoholic beverage, wine, high alcohol content beer, or beer on any public street or public sidewalk or on any school ground or public walking trail or in any park, playground, theater, coliseum, stadium, or school. Except as permitted by the board of zoning appeals by special exception in the B-2 Central Business District, it shall be unlawful for any person to display, exhibit or show openly an unsealed, immediate container of any alcoholic beverage, wine, high alcohol content beer, or beer on any public street or public sidewalk or on any school ground or public walking trail, or in any park, playground, theater, coliseum, stadium, or school. The beer license for any establishment receiving a special exception from the board of zoning appeals shall automatically be amended to conform to the terms of the special exception, as the same may be amended.

\(^1\)State law reference

Intoxicating liquors: Tennessee Code Annotated, title 57.
but only for the time the special exception is in effect. No person shall publicly
drink, display, sell, exhibit or show openly an unsealed, immediate container of
any alcoholic beverage, wine, high alcohol content beer, or beer within Founders
Park, The Pavilion at Founders Park, the pedestrian areas containing flood
control measures installed by the city bounded by Roan Street, King Street,
Boone/Commerce Streets and State of Franklin Road, or the streets and public
spaces bounding the same, except for beer during downtown special
events/street festivals and/or pursuant to temporary occasion licenses (see
§ 8-217) approved by the city commission or during other events held in
accordance with the provisions of this title.

(3) For private events that are invitation-only and not open to the
public at Founders Park, The Pavilion at Founders Park, and the pedestrian
areas containing flood control measures installed by the city bounded by Roan
Street, King Street, Boone/Commerce Streets and State of Franklin Road,
scheduled through the Johnson City Development Authority (or through some
other entity managing these facilities, including the city itself), if no
consideration is charged or money exchanged for the sale of alcoholic beverages,
wine, high alcohol content beer, or beer or to attend the event, the serving (but
not sale), possession, and consumption of alcoholic beverages, wine, high alcohol
content beer, and beer are permitted during such hours allowed for such
beverages for on-premises consumption.

(4) For public and private events at Founders Park, The Pavilion at
Founders Park, and the pedestrian areas containing flood control measures
installed by the city bounded by Roan Street, King Street, Boone/Commerce
Streets and State of Franklin Road, scheduled through the Johnson City
Development Authority (or through some other entity managing these facilities,
including the city itself), if a consideration is charged or money exchanged either
to attend the event or for the sale of alcoholic beverages, wine, high alcohol
content beer, or beer, the sale, serving, possession, and consumption of alcoholic
beverages, wine, high alcohol content beer, and beer are permitted during such
hours allowed for such beverages for on-premises consumption, provided that
a temporary occasion license is obtained from the Board of Commissioners of the
City of Johnson City (for beer) and a license is obtained from the Tennessee
Alcoholic Beverage Commission (for alcoholic beverages, wine, and high alcohol
content beer). Notwithstanding the foregoing, no alcoholic beverages, wine, or
high alcohol content beer shall be allowed to be sold, consumed, or possessed in
these areas at downtown special events/street festivals such as the Blue Plum
or UMOJA festivals, which have specific regulations as shown below. Caterers
holding a valid license pursuant to Tennessee Code Annotated, § 57-4-101 et seq.
to sell wine, beer, and other alcoholic beverages may cater events authorized by
this paragraph without a temporary occasion license from the city.

(5) Notwithstanding the provisions of subsection (2) above, retail sales
and the consumption of beer shall be allowed at Cardinal Park on Legion Street
in the City of Johnson City, except for events involving pre-K through 12th
grade institutions.
(6) No person shall be allowed to bring any alcoholic beverages, wine, high alcohol content beer, or beer into Cardinal Park for the purposes of "brown bagging" or otherwise.

(7) No person shall be allowed to carry beer out of Cardinal Park. All beer allowed at Cardinal Park shall be consumed within the gates of those premises.

(8) Any violation of this section shall be punishable by a fine of not more than fifty dollars ($50.00) for each separate violation in addition to any other penalties authorized within this title. (1985 Code, § 3-1, as amended by Ord. #3876, May 2002, and Ord. #4308-08, May 2009, and replaced by Ord. #4596-15, March 2016)

8-102. Open containers on premises whether or not allowing brown bagging. (1) It shall be unlawful for any person to open, or to have open, or to consume anywhere inside or outside on the premises of a business, during the hours of operation of said business, any alcoholic beverages, wine, high alcohol content beer, or beer, whether those alcoholic beverages, wine, high alcohol content beer, or beer are contained in a bottle, can, flask, or any other container of any and every kind and description, after the hour of 3:15 A.M. local time and before the hour 8:00 A.M. local time on weekdays including Saturdays, or after the hour of 3:15 A.M. local time and before the hour of 10:00 A.M. local time on Sundays.

(2) It shall be unlawful for any owner, operator, or employee of any restaurant, club, whether or not such club is restricted, a lounge, a café or any business of any and every kind and description to permit any person to open, have open, or consume any alcoholic beverages, wine, high alcohol content beer, or beer upon such premises, whether those alcoholic beverages, wine, high alcohol content beer, or beer are contained in a bottle, can, flask, keg, or any other container of any and every kind and description, during the hours of operation of said business, after the hour of 3:15 A.M. local time and before the hour of 8:00 A.M. local time on weekdays including Saturdays, or after the hour of 3:15 A.M. local time and before the hour of 10:00 A.M. local time on Sundays.

(Ord. #3512, Sept. 1997, as replaced by Ord. #4596-15, March 2016)

8-103. Sale of wine containing unlawful amount of alcohol. It shall be unlawful for any person to sell, or offer to sell, or aid or abet in selling or offering to sell, within the city, any wine containing a greater percentage of alcohol by volume than that authorized by the laws of the state. (1985 Code, § 3-2)

8-104. Face lotion, hair tonic, etc., with unlawful amount of alcohol. (1) It shall be unlawful for any person to sell or distribute for beverage purposes any face lotion, hair tonic, bitters, extract or other liquid with an alcoholic content of an excess of five (5) percent by volume.

(2) The possession or display for sale at retail of such face lotions, hair tonics, bitters or other alcoholic liquids by any person, other than a bona fide
barbershop, grocery or cosmetic, drug or department store shall be deemed prima facie evidence that they are kept for sale for beverage purposes.  

8-105. **Prohibited acts on premises selling beer, wine, and other alcoholic beverages.** (1) It shall be unlawful for any person to appear in any place or establishment or upon the premises thereof where wine, beer, or other alcoholic beverages are offered for sale, consumed, possessed, or otherwise present and to:

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

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

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

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

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

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

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

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

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

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

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1 State law reference
Contraband goods:  **Tennessee Code Annotated, § 57-9-101, et seq.**
(4) It shall be unlawful for any person to engage in or encourage any of the acts or conduct set forth in subsection (3) hereinabove in any place or establishment or upon the premises thereof where wine, beer, or other alcoholic beverages are offered for sale, consumed, possessed, or are otherwise present.

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

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

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

   (ii) The touching, caressing or fondling of the breasts, buttocks, anus or genitals;

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

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

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

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

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

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

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

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

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

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

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

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

(11) The violation of any provision of this section is hereby declared to be a public nuisance. (Ord. #3134, March 1993)
CHAPTER 2

BEER OF NOT MORE THAN FIVE PERCENT
ALCOHOLIC CONTENT

SECTION
8-201. Penalty.
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8-220. Alcohol awareness training.
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8-222. Application for fee; privilege tax; permits.
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8-224. Training of licensees, employees, etc.
8-225. [Repealed.]
8-226. Drive-through window sales.
8-227. Grandfathered status.
8-228. Downtown special events/street festivals.

8-201. **Penalty.** Any person violating the provisions of this chapter shall upon conviction be fined not more than fifty dollars ($50.00) for each offense; each separate occurrence and each day of an offense shall be construed as constituting a separate offense. (1985 Code, § 3-20)

8-202. **Applicability of chapter.** Except as otherwise specifically provided, the provisions of this chapter shall apply to beer and any other beverage of like alcoholic content. (1985 Code, § 3-21, as replaced by Ord. #4596-15, March 2016)
8-203. **Transport, sale to comply with rules.** It shall be unlawful for any person to transport, store, sell, distribute, possess, receive or manufacture beverages mentioned in § 8-202 within the corporate limits of the city, except as provided by all of the regulations, limitations and restrictions provided by the laws of the state and this chapter, and subject to the rules and regulations enacted by authorized public officials or boards.\(^1\) (1985 Code, § 3-22)

8-204. **Hours of sale.** (1) **Off-premises sales:** The sale of beer is authorized for off-premises licensees between the hours of 6:00 A.M. and 3:00 A.M., Monday through Saturday. The sale of beer shall be prohibited for all off-premises licensees on Sunday between the hours of 3:00 A.M. and 8:00 A.M., but shall be authorized for all off premises licensees on Sunday at hours outside of that time period.

(2) **On-premises sales:** The sale of alcoholic beverages, wine, high alcohol content beer, and beer is prohibited between the hours of 3:00 A.M. and 8:00 A.M. Monday through Saturday and between the hours of 3:00 A.M. and 10:00 A.M. on Sunday for all on-premises licensees.

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

(4) Any person operating or otherwise having charge and control of any on-premises licensed location shall cause any and all containers as described in the previous paragraph, whether the same are open or not, to be removed from any tables, bars, or other areas occupied by patrons not later than fifteen (15) minutes beyond the time that beer sales for on-premises establishments end. (Ord. #3320, Sept. 1995, as amended by Ord. #3499, July 1997, and replaced by Ord. #4408-11, Sept. 2011 and Ord. #4596-15, March 2016)

8-205. **Minors; intoxicated persons; loitering.** (1) It shall be unlawful for anyone under the age of twenty-one (21) years to purchase or attempt to purchase beer, wine, high alcohol content beer, or alcoholic beverages and it shall be unlawful for anyone under the age of twenty-one (21) years to possess any such beverage upon the premises of a licensee.

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

\(^1\)State law reference

Rules and regulations of Tennessee alcoholic beverage commission:

*Tennessee Code Annotated*, § 57-1-209.
(3) It shall be unlawful for a person under the age of twenty-one (21) years to submit a false identification for the purpose of misrepresenting the age or identity of the person attempting to make a purchase of beer, wine, high alcohol content beer, or alcoholic beverages, and which offense shall be punishable by fine or otherwise as provided by law.

(4) It shall be unlawful for any licensee or his agent or employee to allow or permit any intoxicated person or person under the age of twenty-one (21) years to loiter upon or about the licensed premises.

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

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

(7) Anyone who acts in violation of any one (1) or more of the provisions of this section shall be guilty of a misdemeanor and, if of suitable age, shall be taken before juvenile court for appropriate disposition.1

8-206. Wholesale beer tax. Pursuant to the authority contained in Tennessee Code Annotated, § 57-6-103, as the same may be amended, there is hereby imposed a tax on the sale of beer at wholesale within the city.2

8-207. Advertising signs or displays. Notwithstanding any provision of any other ordinance of the City of Johnson City to the contrary, and particularly those pertaining to signs, no retail licensee may erect, maintain or suffer any on-premises signs, advertising or displays for the purpose of advertising beer except as provided in this section, as follows:

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

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1State law references
"Minor" defined: Tennessee Code Annotated, § 1-3-105.
Sale of beer to minors: Tennessee Code Annotated, § 57-5-301, et seq.

2State law reference
Local enforcement of wholesale beer tax law: Tennessee Code Annotated, § 57-6-113.
communication which relate to, describe or in any sense modify or explain the word "beer" shall be permitted.

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

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

(Ord. #3623 Version B, Oct. 1998)

8-208. License--required. No person shall engage in the storing, selling, distributing or manufacturing of beer or any other beverage referred to in § 8-202 within the corporate limits of the city until he receives a license to do so. (1985 Code, § 2-38)

8-209. License--classes. (1) Licenses for the sale of beer shall be according to the following classes:

Class 1: On-premises, where alcoholic beverages, beer, high alcohol content beer, or wine is sold for consumption at a restaurant. "Restaurant" shall mean any place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least twenty-five (25) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted.

Class 2: On-premises, where alcoholic beverages, beer, high alcohol content beer, or wine is sold for consumption at a hotel, motel, club, or lodge.

Class 3: On-premises, where alcoholic beverages, beer, high alcohol content beer, or wine is sold for consumption in a bar.

Class 4: Off-premises, where beer is sold for consumption off the premises.

Class 5: Off-premises, originally licensed by Washington County, Carter County, or Sullivan County, where beer is sold for consumption off the premises and on which said premises there exists at the time of annexation a lawful, valid, and unrestricted license for the sale of off-premises consumption of beer. The license authorized by this class shall be permitted to exist following annexation only if the licensee shall be properly qualified for the sale of beverages under this code, as provided in § 8-212 hereinafter, has filed a duly
certified copy of the license issued to said licensee by Washington County, Carter County, or Sullivan County with the city recorder; and, all such licenses, upon annexation and qualification under this part, shall not be transferred from the premises occupied at the time of annexation and qualification under this chapter, any other provision of this code, or other rule, regulation, ordinance or law to the contrary notwithstanding.

Class 6: Wholesale license, which is for a business engaged in the delivery of beer (or high alcohol content beer, where applicable) by a wholesaler to a retailer and which does not allow sales to any persons not holding a retail beverage sales license.

Class 7: Manufacturer/retailer, which is for a business engaged in the manufacture of beer and which sells the aforesaid beer for consumption on the premises or off the premises, providing that the aggregate of such sales shall not exceed the sum of twenty-five thousand (25,000) barrels of beer annually, in accordance with all provisions of Tennessee Code Annotated, chapter 5, title 57, as the same may be amended, which chapter is hereby incorporated in its entirety by reference as fully as if set forth verbatim herein.

Class 8: On-premises for a governmental entity, where the governing body of the governmental entity has authorized the sale of beer.

(2) The determination of the class of license to be granted shall be solely within the discretion and judgment of the city commission. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4596-15, March 2016)

8-210. [Repealed]. (Ord. #3848, Nov. 2001, as repealed by Ord. #4223-06, Oct. 2006)

8-211. License--hotels; motels; clubs, lodges. (1) Hotels; motels. Licenses may be issued to hotels and motels for the sale of beverages for consumption on the premises.

(2) Clubs; lodges. Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee and which are organized and exist for purposes other than the sale of beverages under such license. (1985 Code, § 3-41, as amended by Ord. #3378, March 1996)

8-212. License--application--generally. (1) Each applicant for a license under this chapter shall file with the city manager or his or her designee a sworn petition in writing, establishing the following facts, to the satisfaction of the city manager, the truth of each and all of which facts at the time of approval of the application are hereby made conditions of any license issued hereunder:

(a) The applicant shall be the owner of the business regulated by this chapter. The name and date of birth or date of creation of the applicant, whichever is applicable, his or her social security number or its tax i.d. number, as applicable, the residence addresses of all of the applicant's managers, supervisors in charge of the daily operation of the
business, and all personnel completing the sale on behalf of the license holder, for the ten (10) years next preceding the date of the application, and the telephone number of the applicant.

(b) The name, address, and zoning designation of the location for which the license is requested.

(c) The classification of the license requested.

(d) A statement that the applicant is the owner of the business and shall conduct the business in person for himself or herself, and if he or she is acting as an agent for the owner in the event the owner is a corporation, firm, syndicate, stock company, association, or other entity, the agent shall state the name, address and telephone number of the corporation, firm, syndicate, stock company, association, or other entity that is the owner of the business and for which the agent intends to act.

(e) The owner or owners of the premises, including any and all persons, corporations, or other entities as may have a partial ownership interest therein, or who may share a portion of any proceeds therefrom, as well as a legal description thereof, photographs of the finished exterior and interior of the actual building wherein the business is or shall be located, copies of the deed to the subject premises and any leases and other agreements to which the same are subject, and a survey by a licensed surveyor depicting all boundaries of the subject premises and showing the location of any and all structures thereon.

(f) In the event that the applicant is a corporation or other entity, the names, addresses, and telephone numbers of the manager of the licensed premises, any immediate supervisor of such manager, and the chief executive officer of such corporation or other entity and the name and address of the entity's registered agent for service of process and the principal office address of the entity.

(g) That the applicant will not engage in the sale of such beverages except at the place for which the license has been issued.

(h) That no sale of such beverages will be made except in accordance with all terms and conditions of the license granted.

(i) That the applicant has not had a license for the sale of alcoholic beverages or controlled substances revoked or suspended by the City of Johnson City, Tennessee.

(j) That the applicant has received a copy of the sections of the Johnson City Code applicable to the sale of such beverages or conduct of business in connection therewith, including but not limited to any applicable zoning, building, and sign codes, and that the applicant has read all of such ordinances and is familiar with their contents and applicant's responsibilities thereunder.

(k) That, at the time of making the application, the applicant does not employ within Johnson City any person or persons as a manager, supervisor, person in charge of daily operations, cashier or other person whose duties include serving or completing the sale of beer on behalf of the license holder, who has been convicted of violating any
statute, rule or regulation against the prohibition, sale, consumption, manufacture, handling or transportation of beer within the ten (10) year period next preceding the date of the application or the possession, sale, manufacture, and transportation of intoxicating liquor or any crime of moral turpitude within the ten (10) year period next preceding the date of the application.

(l) That, at the time of making application, the applicant does not employ within Johnson City any person or persons as a manager, supervisor, person in charge of daily operations, cashier or other person whose duties include serving or completing the sale of beer on behalf of the license holder who has been convicted of violating any statute, rule, or regulation regarding any controlled substances within the ten (10) year period next preceding the date of application.

(m) That, at the time of making application, the applicant does not employ within Johnson City any person or persons as a manager, supervisor, person in charge of daily operations, cashier or other person whose duties include serving or completing the sale of beer on behalf of the license holder, who has been convicted of committing any state or federal felony, violating any DUI/DWI/implied consent laws, or violating any criminal law regarding theft, burglary, violence, child abuse, spousal abuse, prostitution, or pandering within the ten (10) year period next preceding the date of application.

(n) That the applicant and all managers, supervisors, and persons in charge of daily operations, consent to be investigated by municipal, county, state, and federal law enforcement agencies or any other agency or representative thereof; or such other firms as may be employed concerning any information presented in the application and any other information which any of the aforementioned authorities deem pertinent.

(o) Any additional information as may be required by the board of commissioners or their designee or the city manager or his or her designee from time to time in their absolute discretion.

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

(3) The foregoing notwithstanding, the provisions of this chapter shall not be construed so as to disqualify the holder of any license hereunder as of January 1, 1998, by virtue of any act committed prior to that date from the holding of any present or future license.

(4) Any provision of any ordinance or statute not withstanding, an application shall be considered void and of no effect and shall be returned to the
applicant without a refund of the application fee, unless at the time of filing the application, the following requirements are met:

(a) The premises for which the application is filed shall be wholly within the corporate limits of the City of Johnson City;
(b) The premises for which the application is filed shall be properly zoned;
(c) Payment in full of all application fees has been made to and received by the recorder of the City of Johnson City;
(d) The application shall be in all respects accurate and complete;
(e) The applicant shall have complied with all other requirements of this section.

(5) The city shall issue no license until the premises for which the application is filed has received a certificate of occupancy from the city. (Ord. #3848, Nov. 2001, as replaced by Ord. #4223-06, Oct. 2006, and amended by Ord. #4596-15, March 2016).

8-213. License—application procedure. Accurate and complete applications meeting all requirements of title 8 of the Johnson City Municipal code that are filed under this chapter shall be considered by the board of commissioners in an open, public meeting. The board of commissioners shall grant or refuse the license according to its best judgment and absolute discretion under all of the facts and circumstances then appearing to it. The action of said board of commissioners in granting or refusing a license shall be final and subject to judicial review as provided by the laws of the State of Tennessee. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4223-06, Oct. 2006)

8-214. License—limitations upon issuance. No license under this chapter shall be authorized for, granted to, or held at any time by any person, firm, corporation, partnership, limited liability company, or other legal entity:

(1) In violation of any law.
(2) For a premises in violation of the zoning code, building code, fire code, and public health requirements of the city.
(3) At any location where, in the opinion of the board of commissioners acting in its sole and absolute discretion, it appears that there may be an adverse effect in consideration of the type and the character of the neighborhood, the population density of the neighborhood, the proximity of residences, schools, child day care centers, parks and playgrounds, the proximity of churches, other bona fide religious establishments, other places where youth may congregate, any problem with law enforcement in the area, and such other factors which may affect the public health, safety, welfare or morals. The foregoing notwithstanding, no licenses under this article shall be issued for a premises located within one hundred feet (100') of any school, child day care center, playground, park, church, or other bona fide religious establishment. The said one hundred feet (100') shall be measured from the center of the front door of the licensed premises to the center of the nearest entrance/exit door of any
school building, child day care center or church building in a straight line. For playgrounds and parks the one hundred foot (100') measurement shall be from the center of the front door of the licensed premises to the nearest point on the property line bounding the playground or park in a straight line.

(4) At any on-premises location which does not offer separate restrooms for each sex.

(5) Who is delinquent in tax payments to any governmental agency.

(6) Who has made a false statement in the application, and which such misstatement shall be deemed to invalidate or void the application and any license issued pursuant thereto.

(7) Who has omitted any relevant fact required to be stated in the application or supporting materials.

(8) Who, at the time of making the application or who after receiving a license required by this chapter, employs within Johnson City as a manager, supervisor, person in charge of daily operations, cashier, or other person whose duties include serving or completing the sale of beer on behalf of the license holder, any person who has been convicted ("convicted" for purposes of this chapter includes license suspensions, civil penalties, and fines) of violating any statute, rule, or regulation against the prohibition, sale, consumption, manufacture, handling or transportation of beer within the ten (10) year period next preceding the date of the application or the possession, sale, manufacture, and transportation of intoxicating liquor or any crime of moral turpitude within the ten (10) year period next preceding the date of the application.

(9) Who, at the time of making the application required by this chapter or who after receiving a license, employs within Johnson City as a manager, supervisor, person in charge of daily operations, cashier, or other person whose duties include serving or completing the sale of beer on behalf of the license holder, any person who has been convicted of violating any statute, rule, or regulation regarding any controlled substances within the ten (10) year period next preceding the date of application.

(10) Who, at the time of making the application required by this chapter or who after receiving a license, employs within Johnson City as a manager, supervisor, person in charge of daily operations, cashier, or other person whose duties include serving or completing the sale of beer on behalf of the license holder, who has been convicted of committing any state or federal felony, any DUI/DWI/implied consent laws, or violating any criminal laws regarding theft, burglary, crime of violence, child abuse, spousal abuse, prostitution, or pandering within the ten (10) year period next preceding the date of application.

(11) Whose beer license has been suspended or revoked or who has been fined for a violation of this chapter by the City of Johnson City, Tennessee, at any time prior to the submission of the application, unless the applicant presents clear and convincing proof that changes in management and operations have occurred that warrant the issuance of a new license. Changes in management, procedures regarding sales, educational programs, improvements to the premises and appurtenances thereto, personnel policies, and such other factors shall be considered regarding a new application from an applicant with
a prior fine, license suspension, or license revocation by the City of Johnson City.

(12) To any applicant unless the applicant has been a citizen or lawful resident of the United States for not less than one (1) year immediately preceding the date upon which the application is made to the city. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4223-06, Oct. 2006, and Ord. #4596-15, May 2016)

8-215. License--display. The license granted pursuant to this chapter shall be framed under glass and placed so that it is conspicuous and may be easily read at all times. (1985 Code, § 3-45)

8-216. License--transfer. (1) Licenses issued hereunder shall not be transferred. Any license issued hereunder shall expire upon the termination of the business, change in ownership, relocation of the business or change in the business' name as provided in Tennessee Code Annotated, § 57-5-103(a)(6).

(2) In the event a license expires as a result of a change of ownership of a business, the license which expired as a result thereof shall be awarded to the new owner of said business if, and only if:
   (a) The new owner files an application for a license; and
   (b) The purchase of the business otherwise meets the requirements set forth in § 8-212(1)-(2) and § 8-214;
   (c) The type of business contemplated by the new owner is operated and maintained in a manner which is substantially similar to the type of business purchased (e.g., supermarket, convenience store, etc.); and
   (d) The business remains at the same location.

In the event the new owner of the business does not satisfy one or more of the foregoing four (4) requirements, the license shall be awarded as otherwise provided herein.

(3) In the event a license expires as a result of relocation of a business, the license which expired as a result thereof shall be awarded to the owner(s) of the relocated business if, and only if:
   (a) The owner(s) of the relocated business is or are the same as the owner(s) of the business which was relocated; and
   (b) An application for a license for the new location of the business is filed by the owner(s) of the relocated business; and
   (c) The owner(s) of the relocated business, and the new location of the business, otherwise meet the requirements set forth in §§ 8-212(1)-(2) and 8-214; and
   (d) The names of the old and relocated businesses are identical; and
   (e) The type of business contemplated at the new location will be operated and maintained in a manner which is substantially similar to the type of business purchased (e.g., supermarket convenience store, etc.)
In the event a license expires as a result of the change of the name of a business, the license which expired as a result thereof shall be awarded to the previous license holder if, and only if:

(a) The previous license holder files an application for a license which identifies the new name of the business; and
(b) The previous license holder otherwise meets the requirements set forth in § 8-212 (1)-(2) and § 8-214; and 
(c) The business operated and maintained under the new business name is substantially similar to that which was operated and maintained under the former business name (e.g., supermarket, convenience store, etc.); and
(d) The business operated under the new business name remains at the same location as that which operated under the former business name.

In the event the previous license holder does not satisfy one or more of the foregoing four requirements, the license shall be awarded as set forth elsewhere herein. (Ord. #3623 Version B, Oct. 1998)

8-217. **Temporary occasion licenses.** (1) The board of commissioners may grant temporary occasion licenses to bona fide charitable, non-profit organizations and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission) for such temporary occasions involving the sale of beer for consumption or the inclusion of beer for consumption in conjunction with the sale of other products or food items or serving beer in conjunction with any temporary occasion for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Temporary occasion licenses are also allowed for The Pavilion at Founders Park, Founders Park, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, King Street, Boone/Commerce Streets and State of Franklin Road, subject to the restrictions of this title. No temporary occasion licensee shall sell beer for consumption or allow taking beer off of the premises whereon the temporary occasion occurs, unless such is allowed at a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, subject to the limitations on the hours of sale imposed by law.

(2) For the purposes of this section, "bona fide charitable, non-profit organization" means any corporation or organization recognized as exempt from federal taxes under 26 U.S.C. section 501(c)(3) or (4).

(3) The fee for each such temporary occasion license shall be seventy-five dollars ($75.00); this fee may be adjusted by resolution of the board of commissioners.

(4) Any charitable, non-profit organization or licensed business possessing such a temporary occasion license shall obtain beer for sale or
distribution at any such temporary occasion only from licensed sources provided pursuant to law.

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

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

(7) All temporary occasion licensees shall use servers possessing server's permits issued by either the city or the State of Tennessee to serve beer during the temporary occasion. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4223-06, Oct. 2006, and Ord. #4596-15, March 2016)

8-218. License suspension, revocation generally, calculations of time and number of violations, etc. (1) A license issued under the provisions of this chapter may be suspended by the city manager:

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

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

(c) If the city manager has reason to believe that the licensee is conducting or operating or has conducted or operated any place of business herein regulated in violation of or contrary to any provision of this chapter, or at any place, or for any purpose, or in any manner other than as stated in his application for such license, or has made any false or misleading statement in his application for such license or any report required hereunder, or has failed to furnish any information;
(d) If occurrences at the licensee's place of business reasonably appear to have adversely affected the public health, safety and welfare or morals; or
(e) If the licensee's place of business is not operating as a retail beer sales outlet and has been inoperative as such for thirty (30) consecutive days.

(2) For the first violation of any provision of this chapter, the city manager shall suspend a license for five (5) days by notice in writing given not less than twenty-four (24) hours prior to effecting said suspension, and may reinstate the license if the cause of circumstances warranting the suspension has been corrected. If the license holder refuses to accept the city manager's suspension, then the license holder must appeal to the board of commissioners by giving notice in writing to the city manager by certified mail. The city manager must receive this notice within ten (10) calendar days of the date of the city manager's decision to suspend.

(3) Upon appeal of the city manager's suspension by a first time offender (as calculated in § 8-218(10) below), or upon a second or subsequent violation of any provision of this chapter within a five (5) year period after the date of a prior violation, the city manager shall present this matter to the board of commissioners and give written notice to the license holder. Such notice shall be sufficient if sent by first-class mail or delivered to the place for which the license is issued. Such notice shall inform the licensee of the next regular meeting of the board of commissioners coming not less than three (3) days excluding Saturdays, Sundays and legal holidays, from the date of the alleged violation, informing the licensee that consideration may be given to the revocation as well as the suspension of the license.

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

(5) Concerning any violation of this chapter, regardless of the number of alleged violations, the board of commissioners shall not be limited as to their decision, which may include but not be limited to suspending the license until a certain date or until certain actions or requirements are met, or revocation of the license. The minimum punishment for a second or subsequent violation within a five (5) year period from the date of a prior violation shall be a suspension of fifteen (15) days. (See § 8-218(10) for calculating the number of violations.)

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

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

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

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

(10) For purposes of calculating the number of violations in § 8-218 or noise violations in § 8-219 following the effective date of these two sections, no suspension or revocation of any beer license imposed prior to the effective date of the ordinance comprising these sections shall be counted.

(11) For off-premises establishments, refer to state law regarding license suspensions, revocations, penalties, etc. (Ord. #3623 Version B, Oct. 1998, as replaced by Ord. #4223-06, Oct. 2006)

8-219. License—suspension for noise violations, calculations of time and number of violations, etc. (1) The city manager, or the assistant city manager, in the city manager's absence (hereinafter referred to collectively as the "city manager") following a recommendation made by the chief of police, shall suspend a license issued pursuant to title 8 of the Johnson City Code when the city manager is satisfied, based on the evidence presented to him, that two (2) or more violations of the maximum permitted sound levels set forth in § 11-503 of title 11 of the Johnson City Code (hereinafter referred to collectively as "noise violations") have occurred. Each day on which the maximum permitted sound level is exceeded shall constitute a separate violation.

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

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

(ii) If the noise violation is the third such violation within three (3) years next preceding the date of said violation and following the effective date of the ordinance comprising this section, the city manager's suspension shall be for a duration of not more than four (4) days; or

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

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

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

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

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

(a) Sent by first class mail, or

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

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

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

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

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

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

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

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

(11) For purposes of calculating the number violations in § 8-218 or noise violations in § 8-219 following the effective date of these two sections, no
suspension or revocation of any beer license imposed prior to the effective date of the ordinance comprising these sections shall be counted.

(12) For off-premises establishments, refer to state law regarding license suspensions, revocations, penalties, etc. (Ord. #3674, May 1999, as replaced by Ord. #4223-06, Oct. 2006)

8-220. Alcohol awareness training. (1) All holders of licenses issued pursuant to title 8 of the code of the City of Johnson City, Tennessee their principals and/or all employees directly working in a capacity or serving, selling or otherwise dispensing alcoholic beverages regulated pursuant to this chapter are required to successfully complete a program of alcohol awareness training by an entity certified by the city manager to have an adequate training curriculum for alcohol awareness. Said training is to be completed at least once every three (3) years.

(2) The city manager shall certify any organization or entity seeking to provide alcohol awareness training for servers or sellers or both, upon adequate demonstration to the city manager that the faculty, materials and facilities of the organization or entity meet such minimum standards as shall be fixed by the city manager or his designee and that the curriculum, at a minimum, includes the following components:

(a) Effects of alcohol on the human body.
   (I) Review of blood alcohol content;
   (ii) Absorption rates and factors affecting absorption of alcohol;
   (iii) Behavioral effects of alcohol;
   (iv) Interaction and combined effects of mixing alcohol with legal and/or illegal drugs;
   (v) Identification of problem drinkers.

(b) Identify situations in which seller/server intervention is appropriate.

(c) Handling situations and people in non-confrontational manner.

(d) Suggested responses by servers/sellers to situations involving intoxicated and/or underage persons.

(e) Review of Tennessee and City of Johnson City ordinances, law, rules and regulations regarding the sale and service of alcoholic beverages.

(f) Review of acceptable identification; spotting fake identification; acceptable secondary identification; responsibility for checking identification. (Ord. #3674, May 1999)

8-221. Seller/server permits. For server permits for off-premises establishments, refer to state law.

(1) It is unlawful for a licensee, any principal, manager, or any other employee to personally sell, serve, or otherwise dispense alcoholic beverages regulated pursuant to this chapter without a valid seller/server permit issued
pursuant to subsections (3) and (4) herein. It is made the duty of the licensee
to ensure that each person selling, serving, or dispensing alcoholic beverages in
his, her, or its place of business has a valid seller/server permit. The violation
of the licensee of his, her, or its duty to ensure proper permitting of each person
selling, serving, or dispensing alcoholic beverages regulated pursuant to this
chapter in his, her, or its place of business shall result in a suspension of that
license or revocation thereof under the provisions of § 8-218. Said permit must
be on the person of the seller, server, or dispenser or upon the premises of the
licensee at all times subject to inspection by the city's duly authorized agent.

(2) Any individual may be eligible for a seller/server permit by
completing an application for such permit on forms provided by the city
recorder's office. An applicant for a seller/server permit must demonstrate to
the city that the applicant meets the following requirements:

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

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

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

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

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

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

(3) The city manager or his designee may issue a temporary
seller/server permit to an applicant, which temporary permit shall not exceed
sixty-one (61) days, upon the filing of a completed application, submitted under
penalty of perjury, establishing that the applicant meets the requirements
imposed by this section. No licensee shall be liable for a violation of this section
involving the employment of a person who fails to meet the requirements for
employment, if that person has been issued a temporary seller/server permit.

(4) Each seller/server permit shall be valid for three (3) years.
Applications for renewal shall be made in the same manner as application for
original permits upon forms prescribed by the city recorder's office. Applicants 
for renewal must successfully complete a program of alcohol awareness training 
pursuant to § 8-220(1).

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

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

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

 (8) The city may assess an application and renewal fee for the permits 
to be issued under this section. The city may assess a certification fee to any 
organization or entity seeking certification pursuant to §8-220(2). (Ord. #3674, 
May 1999, as replaced by Ord. #4223-06, Oct. 2006, and amended by Ord. #4271-
07, Sept. 2007)

8-222. Application fee; privilege tax; permits. Each applicant for a 
license issued hereunder shall pay to the city a non-refundable application fee 
of two hundred fifty dollars ($250.00) and each holder of a license issued 
hereunder shall pay to the city an annual privilege tax of one hundred dollars 
($100.00), and shall also be subject to any and all other provisions of Tennessee 
Code Annotated, § 57-5-104, to which reference is here made and which section 
is incorporated in its entirety by reference into this section as fully as set forth 
verbatim. (Ord. #3623 Version B, Oct. 1998)

8-223. Prohibited conduct or activities by beer permit holders, 
applicants, licensees, and employees. (1) The following acts or conduct on 
premises licensed by the city are deemed contrary to public policy, and therefore 
no beer permit issued by the city shall be held at any premises where the 
following conduct or acts are permitted, suffered, or allowed to occur:

 (a) To employ, use or allow any person in the sale or service of 
beer in or upon the licensed premises while such person is unclothed or 
in such attire, costume or clothing as to expose to view any portion of the 
male or female breasts below the top of the areola or of any portion of the 
pubic hair, anus, cleft of the buttock, vulva, or genitals;
 (b) To employ, use or allow the services of any host, hostess or 
other person to mingle with the patrons while such host, hostess or other 
person is unclothed or in such attire, costume or clothing as described in 
subsection (a) hereinabove;
 (c) To encourage or permit any person on the licensed premises 
to touch, caress or fondle the breasts, buttocks, anus or genitals of any 
other person;
 (d) To encourage or permit any act prohibited by Tennessee 
Code Annotated, § 57-4-204, or other applicable law or ordinance.
(e) To publicly perform acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts prohibited by law.

(f) To publicly engage in the actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus or genitals.

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

(h) To publicly wear or use any device or covering, exposed to public view, which simulates the human breasts, genitals, anus, buttocks, pubic hair or any portion thereof.

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

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

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

(ii) The touching, caressing or fondling of the breasts, buttocks, anus or genitals;

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

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

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

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

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

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

(b) Any person being touched, caressed, or fondled on the breasts, buttocks, anus, or genitals;
(c) Scenes wherein the person displays the vulva or the anus or the genitals;
(d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

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

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

(6) Nothing contained in this section shall be construed to prohibit the broadcast or display or any television program subject to regulation by the Federal Communications Commission of the United States on licensed premises. (Ord. #3154, Sept. 1993)

8-224. Training of licensees, employees, etc. Any person holding a license hereunder, or owning any business or any interest in any business licensed hereunder, or employed to operate or work in the same as a manager, cashier or other person completing the sale on behalf of the license holder, shall, within six (6) weeks of acquiring such license, ownership, ownership interest or employment satisfactorily complete a program of training, which program shall be in form and content satisfactory to the city manager or his/her designee, provided that any such person may be excused from the provisions of this section by waiver granted by the city manager or his/her designee if it is proven by evidence satisfactory to the aforesaid official, in his/her sole and absolute discretion:

(1) That such person is already sufficiently familiar with applicable laws and ordinances pertaining to the sale of alcoholic beverages pursuant to this chapter so as to merit such a waiver; or
(2) That such person holds a "server permit" issued by the Alcoholic Beverage Commission as provided in Tennessee Code Annotated, § 57-5-106 (a). An appropriate charge will be made for such training program in an amount to be set by the city manager. (Ord. #3623 Version B, Oct. 1998)

8-225. [Repealed]. (Ord. #3167, Oct. 1993, as repealed by Ord. #4223-06, Oct. 2006)

8-226. Drive-through window sales. It shall be unlawful for any person to sell or deliver alcoholic beverages pursuant to this chapter through a drive-through window.
The foregoing sentence notwithstanding, nothing contained herein shall be construed as prohibiting sales or delivery of such beverages through drive-in windows on premises which were properly licensed for off-premises sales at the same location on or before the date of passage of the ordinance comprising this section on third and final reading, for so long as said premises remained continuously licensed at that location. For the purposes of this subsection, the term "continuously licensed" shall mean licensed without any break, whether the same is due to expiration, suspension, or revocation, in excess or thirty (30) days. (Ord. #3623 Version B, Oct. 1998)

8-227. **Grandfathered status.** Nothing contained in this chapter shall be construed as granting "grandfathered" status to signage or any other practice or procedure except as expressly herein provided. (Ord. #3623 Version B, Oct. 1998)

8-228. **Downtown special events/street festivals.** (1) This section applies to downtown special events/street festivals such as the Blue Plum and UMOJA festivals. The area of Downtown Johnson City to which this section applies shall be: East Market Street from Colonial Way to Buffalo Street (but not including Colonial Way which shall remain open at all times); East Main Street from Colonial Way to Buffalo Street (but not including Colonial Way which shall remain open at all times); South Roan Street from State of Franklin Road to its intersection with Buffalo Street; Buffalo Street from its intersection with South Roan to its intersection with State of Franklin Road; Wilson Avenue and the pedestrian walkway reserved on former Wilson Avenue to its intersection with South Commerce Street; South Commerce Street from its intersection with Wilson Avenue to Lamont Street as the same borders Founders Park to before the railroad crossing gates at State of Franklin Road; Founders Park; The Pavilion at Founders Park; Tipton Street; McClure Street; Spring Street from State of Franklin Road to its intersection with East Main Street; South Commerce Street to West Market Street to Windsor Way to West Main Street to South Commerce Street, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, King Street, Boone/Commerce Streets and State of Franklin Road. Also included are all public sidewalks, public easements, public alleys, public squares, public parking lots, or other public ways or public spaces within the boundary of the areas listed above.

(2) An applicant for a downtown special event/street festival involving the public consumption of beer within the area or part of the area described in subsection (1) above shall apply for a permit using the City of Johnson City's special events application. Events that involve the consumption or sale of beer at Founders Park, the Pavilion at Founders Park, or the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, King Street, Boone/Commerce Streets and State of Franklin Road may also require an application and scheduling through the Johnson City Development
Authority or another entity that the board of commissioners designates for such purposes.

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

(4) The possession and consumption of beer within the permitted area shall not be allowed on Sundays. On all other days of the special event/street festival, the possession and consumption of beer in the permitted area shall be allowed no earlier than 1:00 P.M. and no later than 11:00 P.M.

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

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

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

(8) Notwithstanding any provision of this title to the contrary, the sale
of beer on public property during a special event/street festival is allowed only
at Founders Park (and also on the streets bordering Founders Park), The
Pavilion at Founders Park (but not on the streets bordering The Pavilion at
Founders Park), and the pedestrian areas containing flood control measures
installed by the city bounded by Roan Street, King Street, Boone/Commerce
Streets and State of Franklin Road. Beer sales at Founders Park (and on the
portion of South Commerce Street bordering it), at The Pavilion at Founders
Park (but not on the streets bordering it), and within the pedestrian areas
containing flood control measures installed by the city bounded by Roan Street,
King Street, Boone/Commerce Streets and State of Franklin Road shall be
authorized only for qualified organizations pursuant to a separate temporary
occasion license obtained prior to the special event/street festival from the board
of commissioners in accordance with § 8-217. Beer sales shall begin no earlier
than 1:00 P.M. and shall end no later than 10:30 P.M. on each day that the
temporary occasion license authorizes the sale of beer.

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

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

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

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

(13) Alcoholic beverages, wine, and high alcohol content beer as defined
in this title shall not be allowed for possession or consumption within the
permitted area and must be consumed within the licensed establishments
fronting the streets closed in the permitted area.

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

(15) The authorized license holder making the sale shall be responsible
at the entrance to the business premises for checking all identification in order
to ensure legal compliance with the laws pertaining to legal drinking age and
no such license holders shall allow beer as permitted herein to leave the licensed
premises for off-premises consumption after 10:30 P.M.
(16) Each violation of a provision of this section shall subject a violator to a fine as specified in the Code of the City of Johnson City, Tennessee, in § 1-104; furthermore, a violator with a beer license is subject to all fines, suspensions, and revocations as set forth in title 57 of the Tennessee Code, § 1-104 of the Code of the City of Johnson City, Tennessee, and title 8 of the Code of the City Of Johnson City, Tennessee. (as added by Ord. #4596-15, March 2016)
CHAPTER 3

ALCOHOLIC BEVERAGES OF MORE THAN FIVE PERCENT
ALCOHOLIC CONTENT

SECTION
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8-301. Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

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

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

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

(4) "Certificate of compliance." The certificate mentioned in Tennessee Code Annotated, § 57-3-208, as the same may be amended, in connection with the prescribed procedure for obtaining a state liquor retailer's license.
(5) "Federal statutes." The statutes of the United States now in effect or as they may hereafter be changed.

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

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

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

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

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

(11) "Manufacture." Distilling, rectifying and operating a winery.

(12) "Manufacturer." A distiller, vintner and rectifier.

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

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

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

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

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

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

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

(20) "Wine." This definition shall be the same as provided in Tennessee Code Annotated, §57-3-101, as the same may be amended. (1985 Code, § 3-65, as amended by Ord. #4596-15, March 2016)

[State law reference]
8-302. **Selling, storing, transporting, manufacturing; generally.**

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

(2) The manufacture of alcoholic beverages is prohibited within the corporate limits of the city. (1985 Code, § 3-66, as replaced by Ord. #4596-15, March 2016)

8-303. **Wholesale business generally.** No person shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits of the city. (1985 Code, § 3-67)

8-304. **Sale at retail.** It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store; provided, that all such sales are made in strict compliance with all federal statutes, all state statutes, all state rules and regulations and all provisions of this chapter. (1985 Code, § 3-68)

8-305. **Licensee responsible for officers and agents.** Each licensee shall be responsible for all acts of such licensee's officers, employees, agents and representatives, so that any violation of this chapter by any officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1985 Code, § 3-69)

8-306. **Violations of federal, state statutes, etc.** Any licensee who, in the operation of such licensee's liquor store, shall violate any federal statute, any state statute or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages shall be guilty of a violation of the provisions of this chapter. (1985 Code, § 3-70)

8-307. **Location of liquor store.** It shall be unlawful for any person to operate or maintain a liquor store in the city unless the liquor store is located in a zone district permitting such business and as recorded on the zoning map of the city dated December 5, 1963, and subsequent revisions thereof and on file in the recorder's office. Such liquor store shall not be located within one hundred feet (100') of any school, child daycare center, park, playground, church or other bona fide religious establishment. The said one hundred feet (100') shall be measured from the center of the front door of the licensed premises to the center of the nearest entrance/exit door of any school building, child day care center or
church building in a straight line. For playgrounds and parks the one hundred foot (100') measurement shall be from the center of the front door of the licensed premises to the nearest point on the property line bounding the playground or park in a straight line. No liquor store shall be located at any place where excessive congestion is present or is likely to develop. Off-street parking space shall be provided as stated in Article V, section 2 of the zoning ordinance of the city. To assure that these requirements are satisfied, no original or renewal license and no original or renewal certificate of compliance for an applicant for a license shall be issued for any location until a majority of the members of the board of commissioners have approved the proposed location as being suitable for the location of a liquor store after a consideration of this matter at a meeting of the board of commissioners. (1985 Code, § 3-71, as replaced by Ord. #4596-15, March 2016)

8-308. **Time of operation.** No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, on Thanksgiving Day or on any Sunday. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. or after 11:00 P.M. In the event of any emergency, liquor stores shall be closed upon the order of the city manager or the chief of police.¹ (1985 Code, § 3-72)

8-309. **Records kept by licensee.** In addition to any records specified in the rules and regulations promulgated by the city recorder pursuant to § 8-311, each licensee shall keep on file at such licensee's liquor store the following records:

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

¹State law reference
Regulation of retail sales: *Tennessee Code Annotated*, § 57-3-406.
All such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. (1985 Code, § 3-73)

8-310. Inspections—generally. The city manager and the city recorder, or the authorized representative of either of them, are authorized to examine the books, papers and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city manager, the city recorder, the chief of police and any police officer of the city are authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store, shall be a violation of this chapter and shall constitute sufficient reason for the revocation of the license of the offending licensee, or for the refusal to renew the license of the offending licensee. (1985 Code, § 3-74)

8-311. Inspections—fees. (1) Amounts—generally. There is hereby levied on each licensee, including retail food store licensees, pursuant to Tennessee Code Annotated, § 57-3-501, as the same may be amended, an inspection fee of five percent (5%) of the gross purchase price of all alcoholic beverages and wine acquired by the licensee for sale from any wholesaler or any other source. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee or at the time the retailer makes payment for the delivery of the alcoholic beverages and/or wine, and in such case, payment for the delivery of the alcoholic beverages and/or wine, and in such case, payment of the inspection fee by such collecting wholesaler or other source shall be made to the city recorder on or before the twentieth day of each calendar month for all collections in the preceding calendar month. Nothing herein shall relieve the licensee of the obligation of the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the city recorder on or before the twentieth day of each calendar month for the preceding month. There is also imposed on a manufacturer of high alcohol content beer with an on-premises retail license a fifteen percent (15%) inspection fee to inspect the retail store in which such products are sold by the manufacturer, pursuant to Tennessee Code Annotated, § 57-3-501, as the same may be amended. This inspection fee is imposed on the wholesale price of the high alcohol content beer supplied pursuant to § 57-3-204(e)(7)(B) by a wholesaler for those products manufactured and sold by the manufacturer at its retail store as authorized pursuant to § 57-3-204(e)(7).
(2) **Amounts--private clubs.** An annual liquor inspection fee of three hundred dollars ($300.00) shall be paid to the city by the operators of private clubs.

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

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

(5) **Use of funds.** All funds derived from the inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants, and in seeing that all provisions of this chapter are observed; and the board of commissioners finds and declares that the amount of these inspection fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for such purposes.¹ (1985 Code, § 3-75, as amended by Ord. #4596-15, March 2016)

8-312. **Selling or furnishing to minors, etc.** It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to a minor, or to a person visibly intoxicated or to any habitual drunkard or person of known intemperate habits. It shall be unlawful for any such person to enter or remain in a liquor store or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in such licensee's liquor store or any part of the licensee's premises adjacent to such licensee's liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to

¹State law reference
Municipal inspection fees: Tennessee Code Annotated, § 57-3-501, et seq.
8-313. Consumption on premises of liquor store. Except as permitted by Tennessee law, it shall be unlawful for any licensee to sell or furnish any alcoholic beverage, wine, beer, or high alcohol content beer for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. Except as permitted by Tennessee law, it shall be unlawful for any person to consume any alcoholic beverage, wine, beer, or high alcohol content beer in a liquor store or in the immediate vicinity of a liquor store. Except as permitted by Tennessee law, it shall be unlawful for any licensee to allow any person to consume any alcoholic beverage, wine, beer, or high alcohol content beer in such licensee's liquor store or on the premises used by the licensee in connection therewith. (1985 Code, § 3-77, as replaced by Ord. #4596-15, March 2016)

8-314. Maximum number of licenses. No more than one (1) license shall be issued and outstanding for each five thousand five hundred (5,500) persons, or any fraction thereof, residing in the city according to the official census for the city as certified by the State of Tennessee Department of Economic and Community Development or any successor Tennessee department certifying the city's population. (1985 Code, § 3-89, as replaced by Ord. #4480-13, March 2013)

8-315. License—qualifications of applicant. To be eligible to apply for or to receive a license, an applicant must satisfy all of the requirements of the state statutes and of the state rules and regulations for a holder of a state liquor retailer's license. (1985 Code, § 3-90, as replaced by Ord. #4596-15, March 2016)

8-316. State privilege tax. Before any person shall engage in the sale of alcoholic beverages, a privilege tax shall be paid as required by state laws and regulations. (1985 Code, § 3-91)

8-317. License—issuance; term; renewal. Each license shall expire on December thirty-first of each year. A license shall be subject to renewal each year by compliance with all applicable state statutes, all applicable state rules and regulations and the provisions of this chapter. The city recorder shall not be authorized to issue any license until the applicant has qualified as a liquor retailer under the state statutes and has exhibited to the city recorder the state liquor retailer's license issued to the applicant by the Tennessee alcoholic beverage commission. The license issued by the city recorder shall be of no
effect after the expiration of the period for which issued or at any time while the license is suspended or revoked. (1985 Code, § 3-92)

8-318. License--display. The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (1985 Code, § 3-93)

8-319. Restrictions upon licensees and employees. (1) Applicant to pay fee. The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter.

(2) Public officers and employees. No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage or lien, or to participate in the profits of any such business.

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

(4) Felons--employees. No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted he shall immediately be discharged; provided, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

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

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

(7) Disclosure of interest. It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in such business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the city manager and approved by him. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of such disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

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

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

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

(11) Off-premises business. All retail sales shall be confined to the premises of the licensee. No curb service is permitted, nor shall there be permitted drive-in windows. No licensee shall employ any canvasser, agent, solicitor or other representative for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the
solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises.

(12) **Location; entrance.** No liquor store shall be located in the city on any premises above the ground floor. Each such store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as such lobby is open to the public.1 (1985 Code, § 3-94)

8-320. **License—transfer.** A licensee shall not sell, assign or transfer his license or any interest therein to any other person. No license shall be transferred from one (1) location to another location without the prior written approval of the board of commissioners. (1985 Code, § 3-95)

8-321. **Nature of license; suspension or revocation.** The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by the board of commissioners for any violation of this chapter by the licensee or by any person for whose acts the licensee is responsible, but the licensee shall be given reasonable notice and an opportunity to be heard before the board of commissioners suspends or revokes a license for any violation other than one established by final judgment in any court having jurisdiction thereof. If the licensee is convicted of a violation of this chapter by a final judgment in any court and the operation of the judgment is not suspended by an appeal, on written notice to the licensee, the city manager may suspend the license for a period not to exceed thirty (30) days and the board of commissioners may revoke the license on the basis of such conviction. Notwithstanding any provision contained in this section, a license shall be subject to revocation or suspension without a hearing whenever such action is expressly authorized by other provisions of this chapter stating the effect of specified violations. (1985 Code, § 3-96)

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1State law references
Licensee to display sign prohibiting weapons:  Tennessee Code Annotated, § 57-3-204.
"Minor" defined:  Tennessee Code Annotated, § 1-3-105.
8-322. Certificate of compliance—application—filing; contents.

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

(a) The name and street address of each person to have any interest, direct or indirect, in the license as owner, partner or stockholder or otherwise;

(b) The name of the liquor store to be operated under the license;

(c) The address of the liquor store to be operated under the license and the applicable zoning designation; and

(d) The agreement of each applicant to comply with the state, federal and city laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages, and the agreement of each applicant as to the validity of and the reasonableness of the regulations, inspection fees and taxes provided in this chapter with reference to the sale of alcoholic beverages.

(2) The application form shall be accompanied by a copy of each questionnaire form and other material to be filed by the applicant with the Tennessee Alcoholic Beverage Commission in connection with this same application, and shall also be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one inch equals twenty feet (1" = 20'), giving the following information:

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

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

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

(d) The identification of every parcel of land within one hundred feet (100') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon, and the use being made of every such parcel. The application form shall be signed and verified by each person to have any interest in the license either as owner, partner or stockholder or otherwise. If at any time the applicable state statutes should be changed so as to dispense with the requirement of a certificate of compliance, no original or renewal license shall be issued until an application in the same form has been filed with the city recorder. (1985 Code, § 3-108, as replaced by Ord. #4596-15, March 2016)
8-323. Certificate of compliance—misrepresentation; concealment of fact. If any applicant misrepresents or conceals any material fact in any application form filed for the purpose of complying with the requirements contained in § 8-322, such applicant shall be deemed to have violated the provisions of this chapter. (1985 Code, § 3-109, as replaced by Ord. #4596-15, March 2016)

8-324. Certificate of good moral character—consideration. In making the initial certification of good moral character for the first six (6) persons, firms or corporations, the board of commissioners will consider all applications filed before a closing date to be fixed by it and select from such applications the persons by it deemed to have the qualifications required by law and the most suitable circumstances for the lawful conduct of the business for which they seek licenses, without regard to the order or time in which applications are filed. (1985 Code, § 3-110)

8-325. Certificate of compliance—restriction upon issuance.
(1) The mayor and the board of commissioners are authorized to refuse to consider the issuance of a certificate of compliance whenever the number of such previously issued and outstanding certificates of compliance, when added to the number of outstanding licenses, equals or exceeds the number of licenses authorized by this chapter.
(2) No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provision of this chapter.
(3) No member of the board of commissioners shall sign any certificate of compliance for any applicant until:
   (a) Such applicant’s application has been filed with the city recorder;
   (b) The location stated in the certificate has been approved by the board of commissioners as a suitable location for the operation of a liquor store; and
   (c) The application has been considered at a meeting of the board of commissioners and approved by the vote of at least three (3) members thereof. (1985 Code, § 3-111, as replaced by Ord. #4596-15, March 2016)
CHAPTER 4

PRIVILEGE TAX FOR CONSUMPTION ON PREMISES

SECTION
8-401. Definition.
8-402. Consumption on premises; privilege taxes levied.

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

8-402. Consumption on premises; privilege taxes levied. (1) It is hereby declared that every person is exercising a taxable privilege who engages in the business of selling at retail in this city alcoholic beverages for consumption on the premises. For the exercise of such privilege, the following taxes are levied for city purposes to be paid annually, to wit:

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

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

¹State law reference
Tennessee Code Annotated, § 57-4-301.