

Chapter 5

**ALCOHOLIC BEVERAGES<sup>1</sup>**

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**ARTICLE I. IN GENERAL**

**Secs. 5-1--5-15. Reserved.**

**ARTICLE II. BEER BOARD<sup>2</sup>**

**Sec. 5-16. Established.**

There is hereby established a board of nine (9) members, to be known as the “Beer Board of Chattanooga.”

(Code 1986, § 5-16; Ord. No. 9592, § 1, 8-6-91)

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<sup>1</sup> **Cross references**--Businesses, trades and occupations, Ch. 11; required notice to police by secondhand dealers of intended purchase from intoxicated or known habitual drunkard, § 11-223; driver education course for drinking drivers, § 16-54.

<sup>2</sup> **State law reference**--Authority to provide for board before which beer license applications are made, T.C.A. § 57-5-106.

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### **Sec. 5-17. Term; filling vacancies; chairman and secretary.**

(a) The members of the beer board shall be appointed by the mayor, subject to confirmation by the city council. Full time employees of the city shall not be eligible for appointment to the beer board. (Ord. No. 11341, 10-22-02)

(b) The members of the beer board shall be appointed so that they shall hold office for staggered terms. The members appointed from districts 6, 8, and 9 shall be initially appointed for one (1) year terms. The members appointed from districts 3, 4, and 5 shall be initially appointed for two (2) year terms. The members appointed from districts 1, 2, and 7 shall be initially appointed for three (3) year terms.

(c) After the initial appointments, terms of all members shall be for three (3) years. All members shall continue to serve until their successors are appointed.

(d) In the event of a vacancy on the beer board, the mayor, subject to confirmation by the city council, shall fill the same for the remainder of the term and each new appointee shall be a resident of the district of the vacant seat.

(e) The beer board shall organize and select its own chairperson, vice-chairperson and secretary. Officers of the board shall be elected annually, but no officer may serve consecutive terms in the same office.

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

### **Sec. 5-18. Time, place of meetings.**

The beer board shall meet on the first and third Thursday of each month at 9:00 a.m. in the assembly room at the city hall. All applications for a beer permit filed on or before the preceding day (Wednesday) shall be presented to the beer board in open meeting at its meeting on the following day. A proper investigation of the applicant and the intended location of the premises shall then be made, and no application shall be heard and acted upon by the beer board until its next meeting.

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

### **Sec. 5-19. Investigation of permit applications; assistance by chief of police; to grant or deny permit.**

All applications for the issuance or renewal of a permit to sell beer or other beverages of like alcoholic content shall be made to the beer board. The beer board shall make an investigation of each applicant to determine the character of the applicant and to determine whether or not the applicant is a suitable person to be issued a permit, and to determine whether or not the location for which the permit is sought is a suitable place for the sale of beer or other beverages of like alcoholic content. The board may call upon the chief of police to make any investigation and to furnish any information necessary with regard to any applicant. It shall be

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the duty of the chief of police to cooperate with the beer board in making investigations of applicants and their prospective locations. The beer board may, in its discretion, either grant or refuse the permit or renewal thereof.

(Code 1986, § 5-19)

### **Sec. 5-20. When beer permit denied, waiting period; nonconforming use location.**

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

(Code 1986, § 5-20)

### **Sec. 5-21. Investigation of permit holders charged with violations; action.**

When any holder of a permit for the sale of beer or other beverages of like alcoholic content is charged with the violation of any of the laws of the state, this Code or other ordinances of the city, or for any reason set out in section 5-82 of this Code, it shall be the duty of the beer board to make an investigation. In order that the beer board may make necessary investigations, it is hereby given authority to issue subpoenas for witnesses to appear before it for the purpose of giving testimony. The chairman is authorized to administer the oath to witnesses. The beer board, after its investigation, due notice and public hearing, may either revoke or suspend the permit of any permittee.

(Code 1986, § 5-21)

### **Sec. 5-22. No surrender of permit.**

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

(Code 1986, § 5-22)

### **Sec. 5-23. Violations to be reported; other officers to cooperate with.**

It shall be the duty of the police officers and inspectors to report to the beer board any violation of the laws of the state, this Code or other ordinances, rules and regulations of the city by a licensee. All police officers and inspectors and the city treasurer or his assistants shall cooperate with and furnish all information requested by the beer board.

(Code 1986, § 5-23)

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### **Sec. 5-24. Penalty.**

Any violation of this article shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). Violation of this article shall constitute grounds for the revocation of the license, or for a suspension in the discretion of the beer board. (Code 1986, § 5-24; Ord. No. 9654, § 65, 1-6-92)

### **Secs. 5-25 -- 5-40. Reserved.**

## **ARTICLE III. BEER (BEVERAGES NOT EXCEEDING FIVE PERCENT ALCOHOL)<sup>3</sup>**

### **DIVISION 1. GENERALLY**

### **Sec. 5-41. Dealing is permitted subject to law.**

It shall be unlawful to manufacture, distribute, sell, transport, store and possess beer of alcoholic content of not more than five (5) percent by weight and other beverages of like alcoholic content in the city, subject to all regulations, limitations and restrictions provided by Chapter No. 5 of Title 57 of the Tennessee Code Annotated, as amended, and subject to the provisions of this article.  
(Code 1986, § 5-41)

### **Sec. 5-42. Maximum quantity to be possessed without permit.**

It shall be unlawful for any person without a permit as a wholesale distributor or retail dealer in beer or other beverages of like alcoholic content to have in his possession or on his premises more than three (3) cases of beer or other beverages of like alcoholic content at any one time; provided that, a person or group of persons may purchase and possess more than three (3) cases to be used exclusively for nonrecurring social functions, and wholesale distributors may sell such person or group of persons more than three (3) cases at one time if such person or group of persons presents to such distributor a permit signed by the chief of police specifying the amount to be purchased and the time within which such purchase shall be made. The distributor making such sale shall return or mail the permit authorizing the sale to the chief of police by 12:00 noon of the next succeeding business day after such sale. It shall be unlawful for any retail dealer in beer or other beverages of like alcoholic content to sell or deliver to any person more than three (3) cases of such beverages on any one day.  
(Code 1986, § 5-42)

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<sup>3</sup> **State law reference**--Authority to regulate and license sale of beer and other light alcoholic beverages, T.C.A. § 57-5-106.

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### **Sec. 5-43. Inspectors to be appointed; powers and duties.**

The mayor shall employ inspectors for the purpose of enforcing the laws, ordinances and rules regulating the distribution, possession, storage or sale of beer at wholesale or retail or other beverages of like alcoholic content, who shall work under the supervision of the chief of police and aid the police officers in the enforcement of such laws, ordinances, rules and regulations. Such inspectors shall have all the powers and authority of regular police officers.  
(Code 1986, § 5-43; Ord. No. 9654, § 13, 1-6-92)

### **Sec. 5-44. Retailers to purchase from a wholesaler who has a permit.**

It shall be unlawful for any person holding a permit for the sale at retail of beer or other beverages of like alcoholic content to purchase beer or such other beverages from anyone other than a brewer, wholesaler or distributor who has been issued a permit to carry on business in the city.  
(Code 1986, § 5-44)

### **Sec. 5-45. Solicitations of home delivery service prohibited.**

Any person who is engaged in accepting orders and making deliveries of beer in the city shall be known and considered as operating a home delivery service of beer, and it shall be unlawful for any person engaged in the business of home delivery to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or deliveries except on voluntary calls or orders from customers.  
(Code 1986, § 5-45)

### **Sec. 5-46. Reports required of permittees.**

(a) *Wholesalers.* Each wholesaler or wholesale distributor of beer or other beverages of like alcoholic content in the city shall file with the city treasurer the name of the brewer such wholesaler or wholesale distributor represents, together with the name of the beer sold at wholesale or distributed in the city. In the event of a change of breweries, such wholesaler or distributor shall immediately furnish the city treasurer with the name of any additional brewery represented. Any wholesaler or wholesale distributor making sales of beer or other beverages of like alcoholic content from the platform, or from an established place of business or other place, shall make a report in writing of such sales, giving the name and address of the purchaser and the quantity of beverages purchased. Such report shall be delivered or mailed to the chief of police by 12:00 noon of the following business day.

(b) *Operators of vehicles.* Any person operating a vehicle, either for himself or a distributor, who sells beer or other beverages of like alcoholic content to any person other than a retailer who has been issued a permit shall make a report in writing of such sale, giving the name and address of the person to whom the sale was made, which shall be delivered or mailed to the chief of police by 12:00 noon of the following business day.

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(c) *Retailers.* Any retail permittee selling or delivering one (1) or more cases of beer shall make a report in writing of such sale or delivery, giving the name and address of the person to whom the sale was made. Such report shall be delivered or mailed to the chief of police by 12:00 noon of the following business day.

(Code 1986, § 5-46)

### **Sec. 5-47. Hours regulated.**

(a) No permittee under this article may sell or give away alcoholic beverages or malt beverages or permit the same to be consumed on the premises except during the same hours authorized by the state alcoholic beverage commission for establishments selling liquor by the drink. All beer, glasses and containers must be clear of the tables at the end of serving hours.

(b) No permittee under this article may sell or give away alcoholic beverages or malt beverages or permit the same to be consumed on the licensed premises between the hours of 3:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. and 12:00 noon on Sundays.

(c) No permittee whose permit authorizes sale for on premise consumption shall be open for business except during hours authorized by Sub-Section (b) above for consumption of alcoholic beverages on the licensed premises.

(d) No person who holds a beer permit for on premise consumption shall allow any person under the age of twenty-one (21) to be in, frequent or loiter about the premises of the licensee unless such underage person is accompanied by their parent or their legal guardian after 6:00 p.m. o'clock p.m. However, this section shall not apply to an on premise consumption permittee whose annual sales of food prepared in a fully functioning kitchen as defined by Section 5-78(c) of this Chapter, non-alcoholic beverages, and other commodities upon the premises comprise more than fifty percent (50%) of the permittee's annual gross sales and where the sale of beer and alcoholic beverages is merely incidental to the business. The burden of proof shall be on the permit holder to establish their percentage of sales of food, non-alcoholic beverages, and other commodities. Any establishment violating this provision shall, after the first offense, be required by the Beer Board to present a plan as to how the establishment will assure there will be no further violations. Any violation may result in the permittee's license being suspended and, once a plan is submitted, three (3) subsequent violations within any twelve-month period, calculated from the date of the first subsequent violation, shall result in the revocation of the beer permit. The provisions of this subsection shall not apply to a temporary permit.

(Code 1986, § 5-47; Ord. No. 11845, §§ 1-2, 6-27-06)

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

### **Sec. 5-48. Offenses involving minors; loitering; gambling.**

(a) No sale of beer or other alcoholic beverages shall be made to any person under the age of twenty-one (21) years; nor, shall any person under the age of twenty-one (21)

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consume any alcoholic beverages; nor shall any person purchase or otherwise obtain any such beverage for any person under the age of twenty-one (21), except as set forth hereinbelow.

(b) No permittee shall allow any person under the age of twenty-one (21) years to loiter about his place of business, the burden of ascertaining the age of such customer shall be upon the owner or operator of such place of business; provided, that nothing herein shall be deemed to prohibit the employment of persons age eighteen (18) years of age or over.

(c) No permittee shall allow any gambling or gambling devices on his premises.

(d) No permanent permittee shall allow any person on its premises to purchase, hand over or pass off an alcoholic beverage to a person under the age of twenty-one on the permit holders premises. It shall be a violation of the provisions of this Section for a permanent permit holder to allow any person under the age of twenty-one (21) to possess, control, hold, receive, or drink an alcoholic beverage on the permit holders premises. The burden of ascertaining the age of persons who may not lawfully possess beer shall be on the permanent permit holder and his agent or employee. (Ord. No. 12263, 7-14-09)

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

**Cross reference**-Offenses against morals, § 25-81 et seq.

**State law reference**-Similar provisions, T.C.A. § 1-3-113.

### **Sec. 5-49. Unauthorized use or consumption of beverages on premises.**

(a) No permittee under this article whose permit authorizes sale for consumption off the premises only shall sell for consumption on the premise, nor shall he permit any consumption to take place on the premises.

(b) No sale for consumption on the premises shall be made by any permittee except where meals or lunches are regularly served, unless otherwise authorized by his permit.

(Code 1986, § 5-49)

### **Sec. 5-50. Sales to incapacitated or incompetent persons prohibited.**

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

(Code 1986, § 5-50)

### **Sec. 5-51. Use of premises not authorized by permit.**

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

(Code 1986, § 5-51)

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### **Sec. 5-52. Employment of former violators.**

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

(Code 1986, § 5-52)

### **Sec. 5-53. Employment of minors.**

No person under the age of eighteen (18) years shall be permitted to transport, possess, sell or dispense alcoholic beverages, wine or beer in the course of his employment.

(Code 1986, § 5-53)

**State law reference**-Persons 18 or over may sell, etc., T.C.A. § 1-3-113(b)(1).

### **Sec. 5-54. Prohibited acts on premises.**

(a) No operator, entertainer, or employee of any establishment licensed under this chapter shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia on the premises.

(b) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(c) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee, or customer.

(d) No entertainer, employee, or customer shall be permitted to have any physical contact with any other entertainer, employee or customer on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee and/or customer.

(e) Any display of any films or pictures depicting any live performance of acts which are prohibited by subparagraphs (a) through (d) of this section is prohibited upon the premises.  
(Code 1986, § 5-54; Ord. No. 10177, § 1, 3-7-95)

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### **Sec. 5-55. Telephone and reports of disorders.**

(a) All permittees under this article are required to maintain a telephone in good working order that provides direct access to the City's emergency communication telephone line, or 9-1-1, and provides the street address for the permit holder's location. A cellular or wireless telephone or other communication media shall not be used as the primary telephone service at a location permitted to sell alcoholic beverages under this Chapter unless such media provides direct access to 9-1-1. The permit holder shall be responsible for notifying the Chattanooga Police Department of any changes in the permit holders' telephone number.

(b) All permittees shall report all fights and other public disorders occurring on such premises immediately to the Chattanooga Police Department, whether or not participants in any such disorder have left the premises.

(Code 1986, § 5-55; Ord. No. 12445, § 1, 11-23-10)

### **Sec. 5-56. Penalty.**

Any violation of this article shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). Violation of this article shall constitute grounds for the revocation of the license, or for a suspension in the discretion of the beer board. (Code 1986, § 5-56; Ord. No. 9654, § 65, 1-6-92)

### **Secs. 5-57 -- 5-70. Reserved.**

## DIVISION 2. PERMITS

### **Sec. 5-71. Required generally - Application.**

(a) No person shall engage in manufacturing, distributing, selling, possessing or storing beer or other beverages of like alcoholic content in the city until the business tax authorized by law has been paid and a permit issued to such person.

(b) It shall be unlawful for any person not holding a permit for the sale of beer or other beverages of like alcoholic content to sell or offer for sale beer or other beverages of like alcoholic content at any time within the city.

(c) The applicant for a permit for the sale of beer or other beverage of like alcoholic content shall pay to the city treasurer an application fee of two hundred fifty dollars (\$250.00), imposed for the cost of investigating the location and the character of the applicant, for each location for which a beer permit is sought. Such fee shall apply to all applications for each and every classification of beer permit including any initial or first time application and shall further apply to applications for a transfer of a permit to a new owner or a new location, as well as applications for a temporary thirty (30) day permit. This fee is non-refundable and shall be in addition to any other fees or taxes specified herein.

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- (d) The application shall distinctly state:
    - (1) Name of the applicant;
    - (2) Name of applicant's business:
      - (a) A beer permit shall not be issued to a caterer permit that does not hold a valid caterer's license from the State of Tennessee's Alcoholic Beverage Commission for sale and consumption of wine and other alcoholic beverages pursuant to Chapter 4 of Title 57 of the Tennessee Code Annotated. Should the holder of a caterer's permit cease to hold a valid caterer's license from the state Alcoholic Beverage Commission, such caterer's beer permit shall be automatically deemed revoked by the Beer Board.
      - (b) A beer permit shall not be issued to a caterer that does not hold a valid retailer's "on-sale" permit for its permanent catering hall issued pursuant to the provisions and requirements of this subsection, including the location restrictions specified in Section 5-75(b).
      - (c) All caterers with a beer permit shall give advanced notice to the Beer Board or Chattanooga Police Department of each site or locations where beer will be sold and consumed. Such notice shall include, but not be limited to, the date, time, and location of the event five (5) days prior to the date of the scheduled event.
      - (d) A beer permit issued to a caterer shall not be valid for the sale and consumption of beer on any premises for which a retailer's "on-sale" permit has been revoked within the past twelve month period, nor shall a caterer use a beer permit for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate, or association having at least a five (5%) percent ownership interest in the establishment that has had a retailer's "on-sale" permit revoked within the past twelve (12) month period.
  - (3) A caterer's permit is valid for each catering site, provided that the notice requirements of Subsection (c)(3) are met.
- (Ord. No. 12541, §1, 8/23/11)

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- (4) If beer will be sold at two (2) or more restaurants or other businesses within the same building pursuant to the same permit;
- (5) Identity and addresses of persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;
- (6) Identity and address of a representative to receive annual tax notices and any other communication from the county legislative body or its committee;
- (7) That no person, firm, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant nor any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;
- (8) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premises consumption, or both of the foregoing; and
- (9) Such other information as may be required by the Beer Board of the City of Chattanooga. An applicant or permit holder shall be required to amend or supplement its application promptly if a change in circumstances affects the responses provided in its application.

Any applicant making a false statement in the application shall forfeit the permit and shall not be eligible to receive any permit for a period of ten (10) years.

(e) The beer inspector shall give notice of all applications for permits for new premises to the chief building official and the fire marshal, so that they may make such inspections as shall be advisable to check the premises for compliance with the fire codes, building codes, and zoning ordinances.

(f) Temporary beer permits not to exceed thirty (30) days' duration may be issued at the request of an applicant on the same conditions governing permanent permits; provided, that such temporary permits shall not be issued for the sale of beer on publicly-owned property without the approval of the appropriate governmental authority charged with the management of such property.

(g) There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association, engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Chattanooga, Tennessee. At the time a new permit is issued to any

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business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

(h) *Caterer* means a business engaged in offering food and beverage service for a fee at various locations, which (1) operates a permanent catering hall on an exclusive basis; (2) has a complete and adequate commercial kitchen facility; and (3) is licensed as a caterer by the Tennessee Alcoholic Beverage Commission Tennessee Department of Health. (Ord. No. 12541, §1, 8/23/11)

(i) A caterer licensed to operate in the City of Chattanooga shall obtain a beer permit as contemplated by this Chapter. Provided, however, the distance requirements provided herein shall not be applicable to a catered event by the holder of valid caterer's permit issued pursuant to this Chapter. (Ord. No. 12541, §1, 8/23/11)

(j) In addition to the other requirements of this Chapter:

- (1) A beer permit shall not be issued to a caterer permit that does not hold a valid caterer's license from the State of Tennessee's Alcoholic Beverage Commission for sale and consumption of wine and other alcoholic beverages pursuant to Chapter 4 of Title 57 of the Tennessee Code Annotated. Should the holder of a caterer's permit cease to hold a valid caterer's license from the state Alcoholic Beverage Commission, such caterer's beer permit shall be automatically deemed revoked by the Beer Board.
- (2) A beer permit shall not be issued to a caterer that does not hold a valid retailer's "on-sale" permit for its permanent catering hall issued pursuant to the provisions and requirements of this subsection, including the location restrictions specified in Section 5-75(b).
- (3) All caterers with a beer permit shall give advanced notice to the Beer Board or Chattanooga Police Department of each site or locations where beer will be sold and consumed. Such notice shall include, but not be limited to, the date, time, and location of the event five (5) days prior to the date of the scheduled event.
- (4) A beer permit issued to a caterer shall not be valid for the sale and consumption of beer on any premises for which a retailer's "on-sale" permit has been revoked within the past twelve month period, nor shall a caterer use a beer permit for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the establishment that has had a retailer's "on-sale" permit revoked within the past twelve (12) month period.

(Ord. No. 12541, § 1, 8-23-11)

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(k) A caterer's permit is valid for each catering site, provided that the notice requirements of Subsection (j)(3) above are met. (Ord. No. 12541, § 1, 8-23-11)  
(Code 1986, § 5-71; Ord. No. 9245, § 1, 9-19-89; Ord. No. 9969, § 1, 10-26-93; Ord. No. 12541, § 1, 8-23-11)

### **Sec. 5-72. Same - Required for liquor-by-the-drink establishments.**

It shall be unlawful for any person holding a liquor-by-the-drink license to sell beer for consumption on the premises without a beer permit.  
(Code 1986, § 5-72)

### **Sec. 5-73. Approval or rejection of application.**

The beer board shall consider each application filed for a permit under this division, and shall grant or refuse the permit according to its best judgment, under all the facts and circumstances, and endorse its action on the application. The action of the beer board in granting or refusing a permit shall be final, except as it may be subject to review at law.  
(Code 1986, § 5-73)

### **Sec. 5-74. Location of premises to be designated.**

The location of the premises at which the business of a permittee under this division will be conducted shall be designated in his permit and in the application therefor.  
(Code 1986, § 5-74)

### **Sec. 5-75. When to be refused.**

(a) No permit required by this division shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws.

(b) The sale of beer or other beverages of like alcoholic content for consumption on the premises within five hundred (500) feet, or two hundred (200) feet for consumption off the premises, as measured from any doorway entrance to the building of the applicant regularly used for public ingress or egress to the nearest doorway entrance to the school, church, adult-oriented establishment as defined in Chattanooga City Code, § 11-422(a), or other place of public gathering regularly used for public ingress or egress, specifically including day care centers for eight (8) or more children under 17 years of age for group care as defined in the Chattanooga Zoning Ordinance, shall be prohibited; provided however, this prohibition shall not apply to any proposed permit location within the area zoned C-3 Central Business District or C-7 North Shore Commercial Zone or UGC Urban General Commercial Zone or to any proposed permit location within five hundred (500) feet of Coolidge Park, Ross's Landing Park and Plaza, Miller Park and Plaza, Sanctuary Skate Park at Finley Stadium, East Brainerd Park, the Walnut Street Bridge or

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the area of Warner Park occupied by the Chattanooga Zoo; provided, further, that this distance proximity prohibition shall not apply to any location that has heretofore been issued a valid permit to sell, store or manufacture beer or other beverages of like alcoholic content under previous distance proximity restrictions contained in Ordinance No. 6777, dated July 23, 1974, Ordinance No. 6978, dated November 18, 1975, Ordinance No. 7679, dated June 17, 1980, or Ordinance No. 8021, dated July 20, 1982, but if any such permittee shall cease or discontinue the sale of beer for six (6) months, then the distance proximity prohibition contained in this section shall thereafter apply to such locations. (Ord. No. 12319, § 1, 11-17-09)

(c) All applicants for a beer permit shall be required in their application to list and identify all schools, churches, or other places of public gathering, specifically including day care centers for eight (8) or more children under 17 years of age for group care as defined in the Chattanooga Zoning Ordinance, which are believed to be within the distance specified in paragraph (b).

(d) The beer board may, in its discretion, require any applicant for a beer permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.

(e) To the extent that it shall be called to the attention of the beer board that it may hereafter have issued any beer permit to a location not qualified under the provision of this section or that a nonconforming permittee within the prohibited distance provision has ceased to sell beer for more than six (6) months, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section.

(f) No permit required by this division shall be issued where a person, firm, corporation, joint stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years, or has had a permit under this chapter revoked within one (1) year or is currently under suspension. The Board, in its discretion, may determine that issuance of a license or permit before the expiration of one (1) year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of intestate succession.

(g) No permit required by this division shall be issued to any applicant whose business operation is located less than five hundred (500) feet away from the nearest property line of any business establishment licensed as a "teen social club" pursuant to the provisions of Chapter 11, Article XV of the Chattanooga City Code.

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(Code 1986, § 5-75; Ord. No. 9969, § 2, 10-26-93; Ord. No. 10165, § 1, 1-24-95; Ord. No. 10367, § 1, 1-30-96; Ord. No. 10871, § 1, 6-22-99; Ord. No. 10974, § 1, 2-22-00; Ord. No. 11845, § 3, 6-27-06; Ord. No. 12170, § 1, 10-14-08; Ord. No. 12205, § 1, 1-20-09; Ord. No. 12319, § 1, 11-17-09)

### **Sec. 5-76. Applicant to have certificate or registration and bond required by state law.**

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

(Code 1986, § 5-76)

### **Sec. 5-77. When treasurer may issue.**

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

(Code 1986, § 5-77)

### **Sec. 5-78. Hotels, clubs, lodges, poolrooms, theaters.**

(a) *Hotels.* Permits may be issued under this division to hotels for sale and consumption on the premises in rooms where meals or lunches are served and in guests' rooms.

(b) *Clubs and lodges.* Permits may be issued under this division to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee. and which are organized and exist for purposes other than the sale of beverages under such permits.

(c) *Motion picture theaters.* Permits may not be issued under this division to a motion picture theater or any place operated as a motion picture theater except as follows: Before any permit required by this division is issued by the City Treasurer, the applicant shall submit satisfactory evidence that the motion picture theater is a public place, kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being supplied with adequate and sanitary kitchen and dining room equipment and seating capacity of at least fifty (50) 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, with not less than two-thirds (2/3) of its annual gross sales being from the sale of food. In addition thereto, the permittee must agree that:

- (1) No alcoholic beverages may be served except while hot meals are also being served.

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- (2) No motion picture will be shown, while alcoholic beverages are being served, which depicts “specified sexual activities” or “specified anatomical areas” as defined by Chattanooga City Code, Part II, Section 11-422.

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

### **Sec. 5-79. To be posted.**

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

(Code 1986, § 5-79)

### **Sec. 5-80. Not transferable.**

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

(Code 1986, § 5-80)

### **Sec. 5-81. Possession of federal license without city permit.**

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

(Code 1986, § 5-81)

### **Sec. 5-82. Grounds for revocation or suspension.**

(a) The beer board shall have the power to revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it under this division, upon notice to the permittee and a hearing thereon, for any violation of any provision of state law regulating the sale, storage and transportation of alcoholic beverages or for any violation of any provision of this Code or any other ordinance of the city or when the permittee:

- (1) Operates a disorderly place; or
- (2) Allows gambling on the premises; or
- (3) Allows fighting or boisterous or disorderly conduct on the premises; or
- (4) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or
- (5) Allows minors to congregate about the premises; or

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- (6) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or
- (7) Has made a false statement of a material fact in any application or notice to the board; or
- (8) Sells, furnishes, dispenses or allows to be used or consumed, any beer or other alcoholic beverages to any person under the age of twenty-one (21) years; except to the extent lawful under section 5-48(b), (c) or (d) of this Code; or
- (9) Denies access to any portion of the premises at which the sale of beer is permitted, whether or not that portion of the premises is used for the sale of beer, to any policeman or inspector; or
- (10) Allows a minor, as such term is defined in Tennessee Code Annotated, section 1-3-105(29), in his employ to sell beer; or
- (11) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or
- (12) Allows any violation of any provision of this article to occur on the licensed premises; or
- (13) Allows any violations of the rules and regulations of the health department; or
- (14) Consumes or permits an employee to consume any beer or any alcoholic beverage while on the premises, or to be intoxicated while on the premises; or
- (15) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and or fails to provide and maintain adequate solid waste containers; or
- (16) The beer board may also, in its discretion, suspend, revoke or impose a civil penalty for due cause not specified herein. (Ord. No. 12541, § 2, 8-23-11)

(b) The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

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Subsequent to July 1, 2007, the Board shall not suspend or revoke the permit of a responsible vendor for each offense of making or permitting to be made any sales to minors by a responsible vendor for off premise consumption as certified by the State of Tennessee Department of Agriculture pursuant to the "Tennessee Responsible Vendor Act of 2006," T.C.A. § 57-5-108(a) but may impose a civil penalty not to exceed one thousand dollars (\$1,000.00). The Board may, at the time it imposes a revocation or suspension, offer a permit holder that is not certified as a responsible vendor as set forth in this Section the alternative of paying a civil penalty a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) and two thousand five hundred dollars (\$2,500.00) after July 1, 2007 for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. The term "responsible vendor" for the purpose of this article, means a person who has been issued a permit to sell beer for off-premise consumption and has been certified as a responsible vendor by the State of Tennessee Alcoholic Beverage Commission. The burden shall be on the permit holder to establish that it is a responsible vendor.

(Code 1986, § 5-82; Ord. No. 9969, § 3, 10-26-93; Ord. No. 11845, § 4, 6-27-06)

### **Sec. 5-83. Notification of employment.**

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

(Ord. No. 11224, 01-15-02)

### **Sec. 5-84. Reserved.**

### **Sec. 5-85. Suspension or revocation of permits of establishments having liquor-by-drink permits.**

(a) In the event the beer board shall determine that the permittee of an establishment also having a license for the sale of alcoholic beverages under the provisions of Tennessee Code Annotated, Title 57, Chapter 4, Part 2, shall have violated any provision defined in Chapter 4 of Title 57, then the beer board may in its discretion suspend the operation of the establishment for specified periods of time, and such beer or malt beverage sale suspension may also include suspension of such establishment's authority to sell alcoholic beverages for the same period of time, provided that the Alcoholic Beverage Commission shall review the beer board's action and affirm such suspension.

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(b) It invokes the provisions of this Section, the beer board shall direct the beer inspector to serve written notice upon the Alcoholic Beverage Commission of its decision and provide said Commission with a tape recording and/or transcript of the proceedings. A copy of the notice shall also be sent to the permittee.

(c) Pursuant to T.C.A. Section 57-4-202, such decision by the beer board shall be final upon a review and affirmance of that decision by the Alcoholic Beverage Commission or if the Alcoholic Beverage Commission shall fail to act within thirty (30) days, that shall be construed as an affirmation of such suspension.

(d) The suspension of the sale of beer shall be effective at the same time as receipt of the notice of the affirmation of the suspension of the sale of alcoholic beverages or the thirty-first (31st) day following notice to the Alcoholic Beverage Commission if it fails to render a decision. If the Alcoholic Beverage Commission reverses the decision of the beer board and there are no separate offenses pending, then the decision of the beer board shall be vacated subject to any appeal of the Alcoholic Beverage Commission's decision.  
(Ord. No. 9245, § 3, 9-19-89)

### **Sec. 5-86. Regulation of outdoor advertising.**

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

(a) No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one (1) sign, advertisement or display which makes reference to the fact that the establishment sells beer but does not use brand names, pictures, numbers, prices or diagrams relating to beer.

(b) This Act shall not apply to any sign, advertisement or display erected or maintained by or at the request of a temporary beer permittee or to any sports arena, stadium or entertainment complex.

(c) Any sign, advertisement or display prohibited by this Act which is painted on or before the effective date of this Act onto an exterior wall of a building in which a retail beer establishment is located shall be removed no later than January 1, 1991. Any other sign, advertisement or display erected on or before the effective date of this Act and prohibited by this Act shall be removed no later than January 1, 1989.

(Ord. No. 9245, § 5, 9-19-89)

### **Sec. 5-87. Consumption of alcoholic beverages and beer prohibited in certain places; open containers of alcoholic beverages and beer prohibited in certain places.**

(a) For the purposes of this section, "open container," means any drinking or pouring vessel, including any open or unsealed bottle, jar, can, cup, or container without a lid or with a lid but with a straw protruding therefrom or with only a partial lid, with the contents being capable of immediate consumption.

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(b) It shall be unlawful for any person to drink or consume any alcoholic beverage or beer or have an open container of alcoholic beverage or beer in or on any of the following places:

- (1) public street, alley, avenue, highway;
- (2) public sidewalk;
- (3) public park;
- (4) public school ground;
- (5) any other public place;
- (6) teen social clubs, as defined in Chapter 11 of this Code; and
- (7) any parking lot held open to use by the public.

(c) It shall be unlawful for any person to consume any alcoholic beverage or beer upon the private business premises of another without permission of the owner or person in control of such premises.

(d) All teen social clubs, as defined in Chapter 11 of this Code, shall post signs in visible locations prohibiting consumption of beer and alcoholic beverages on the premises as follows: "No consumption of or open containers of beer or alcoholic beverages permitted on these premises." Such signs shall be located (1) at the entrance to the establishment, (2) inside the establishment near all exits, and (3) in the parking lot or parking lots of such establishments.

(e) This section shall not prohibit the sale or consumption of beer or alcoholic beverages permitted pursuant to a temporary beer permit issued by the Beer Board of the City or pursuant to a special occasion license issued by the Tennessee Alcoholic Beverage Commission provided that (1) the location of such sale or consumption has been designated in the temporary beer permit issued by the Beer Board of the City or in the special occasion license issued by the Alcoholic Beverage Commission, (2) the activities at such location conform to the requirements of the Chattanooga City Code and the Alcoholic Beverage Commission, and (3) such sale and consumption is confined to the location designated in the temporary beer permit or special occasion license.

(Ord. No. 11318, 09-10-02)

**Secs. 5-88 -- 5-100. Reserved.**

### **ARTICLE IV. LIQUOR (BEVERAGES EXCEEDING FIVE PERCENT ALCOHOL)<sup>4</sup>**

#### **DIVISION 1. GENERALLY**

**Sec. 5-101. Scope of article.**

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<sup>4</sup> **Charter reference--**Authority to regulate, § 2.1(17).

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The provisions of this article shall apply to all alcohol beverages as defined by Tennessee Code Annotated, Section 57-3-101, and amendments thereto. It shall not apply to beer and other alcoholic beverages with an alcoholic content of five (5) percent by weight or less regulated under the provisions of article III of this chapter.

(Code 1986, § 5-101)

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

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

(Code 1986, § 5-102)

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

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

(Code 1986, § 5-103)

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

Each inspector shall report to the chief of police any violations of state law and rules and regulations promulgated by the alcoholic beverage commission of the state or any other law or regulation relating to the possession, sale or delivery of alcoholic beverages. The chief of police shall, when he deems it warranted, report any such violations to the mayor or city council, and the mayor or a majority of the city council may in turn certify such facts to the alcoholic beverage commission of the state when deemed appropriate with the request that the license of such violator be revoked.

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

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

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

(Code 1986, § 5-105)

### **Sec 5-106. Prohibited acts on premises.**

(a) It shall be unlawful for any person owning or operating a premises having a permit for consumption of alcoholic beverages on the premises to knowingly permit or allow any person to perform therein any of the following acts or conduct:

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- (1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- (2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals in public; or
- (3) The actual or simulated public display of the pubic hair, anus, vulva or genitals.

(b) It shall be unlawful for any female in any place where a permit has been issued for the consumption of alcoholic beverages on the premises so costumed or dressed that one or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for the owner or operator of such premises to knowingly permit or allow any such person to appear on the premises owned or operated by him. "Wholly or substantially exposed to public view" as it pertains to breasts shall mean the showing of the female breast with less than a fully opaque covering of any portion of the breast below the top of the nipple.

(Code 1986, § 5-106)

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

Tennessee Code Annotated, Sections 57-3-404, 57-3-405 and 57-3-406 as may be amended from time to time, are hereby incorporated herein by reference and made a part hereof.  
(Code 1986, § 5-107)

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

(a) No lot proposed for a liquor store site may be located within five hundred (500) feet from the nearest property line of a site which is used for the purpose of a recreational park (ornamental parks are not to be considered in this requirement), place of worship, school (an academic learning center whether public or private, from the level of nursery through twelfth grade), day care center or other liquor store. Measurement shall be made from the nearest property line of the applicant's premises to the nearest property line of the above mentioned uses. Measurements for leased premises shall be measured from the property line of the applicant to the nearest property line of the above mentioned uses measured on a straight line basis. For purposes of this subsection, the applicants' property line on leased premises shall be construed to be the nearest point of a leasehold line. Provided however, the distance prohibition set forth in this subsection shall not apply to a retail license or permit for the sale of wine as defined by T.C.A. § 57-3-101 within the area zoned C-3 Central Business District or C-7 North Shore Commercial Zone. (Ord. No. 12265, 7-21-09)

(b) Signs on liquor stores and on lots containing liquor stores shall conform to the following regulations:

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- (1) As used in this subsection (b), the following words and phrases shall be deemed to have the same definitions set forth in Chapter 3 of this Code: attached sign, banner, detached sign, facade, free-standing sign, incidental sign, premises, projecting sign, roof sign, sign, and sign area.
- (2) Each premises upon which a liquor store is located and upon which no other business or establishment is located shall be allowed one free-standing sign which shall conform to the following restrictions:
  - a. Such sign shall not have more than two (2) sign faces, and the sign area of each face shall not exceed thirty (30) square feet.
  - b. Each face of such sign shall spell out the word "liquor", and no other letters, words, phrases or designs shall be allowed on the sign.
  - c. Such sign shall have a white background and red letters, and no other colors shall be permitted on the sign face.
  - d. The top edge of such sign shall not exceed twenty (20) feet above the ground upon which the sign is located.
  - e. No such free-standing sign shall be located closer than ten (10) feet to the closest point of the nearest public right-of-way, and no such sign shall be located closer than forty (40) feet to two (2) or more public rights-of-way.
- (3) A liquor store located on premises upon which any other business or establishment is located shall be allowed one (1) free-standing sign, provided, however, that such free-standing sign shall not be in addition to any detached sign(s) permitted by Chapter 3 of this Code. Such free-standing sign shall conform to the provisions of subsection (b) (2) above or, in the alternative, if and only if a free-standing sign is maintained on the premises which lists or designates two or more of the other businesses or establishments on the premises, shall conform to the following restrictions:
  - a. Such liquor store sign shall be a part of the free-standing sign listing or designating the other businesses or establishments on the premises.
  - b. Each sign face of such liquor store sign shall have maximum dimensions of ten (10) feet horizontally and three (3) vertically.
  - c. Such liquor store sign shall have not more than two (2) sign faces, and the sign area of each face shall not exceed thirty (30) square feet.

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- d. Each face of such sign shall state only the following: "(NAME GIVEN TO LIQUOR STORE, AT OPTION OF OWNER) PACKAGE (or LIQUOR) STORE."
  - e. No such liquor store sign shall be added to or placed upon any free-standing sign which does not conform with the provisions of Chapter 3 of this Code.
- (4) In addition to the free-standing sign permitted above, each premises upon which a liquor store is located shall be allowed one attached sign, not in excess of 120 square feet in sign area, on each facade of the liquor store which faces a public right-of-way immediately adjacent to the premises. Such sign(s) shall state only the following: "(NAME GIVEN TO LIQUOR STORE, AT OPTION OF OWNER) PACKAGE (OR LIQUOR) STORE." Such attached sign shall be placed only upon an exterior wall of the area occupied by the liquor store and shall not be placed upon an exterior wall of the space occupied by any other business or establishment on the premises.
  - (5) In addition to the free-standing and attached signs permitted above, the owner or occupant of a liquor store shall be allowed one on-premise banner not in excess of 40 square feet in sign area. Any such banner shall be mounted flush with the facade to which it is attached and shall be securely fastened on all four corners.
  - (6) No free-standing sign or attached sign allowed pursuant to subsections (b)(2) and (b)(3) above shall be erected or installed without a sign permit which shall be issued in conformance with the provisions of sections 3-6, 3-7, 3-8 and 3-9(a) of this code. No sign permit for such signs shall be issued unless all other existing liquor store signs on the premises are in compliance with the provisions of this subsection (b). Each free-standing liquor store sign shall be subject to the annual safety inspection fee set forth in section 3-8 of this code and, upon failure to pay same, shall be subject to removal as provided in Chapter 3, Article I of this code.
  - (7) No roof sign shall be permitted for any liquor store. Incidental signs shall be allowed on liquor stores without the necessity of obtaining a sign permit.
  - (8) Liquor stores are permitted on-premise window signs within the interior of the building. These signs are to state only the following: "(NAME GIVEN TO LIQUOR STORE, AT THE OPTION OF THE OWNER) PACKAGE (OR LIQUOR) STORE."
  - (9) No off-premise sign referring to a liquor store can be located within five hundred (500) feet of the premises upon which there is a proposed or existing liquor store.
  - (10) All signs as described above, if illuminated, shall have internal illumination and shall not have blinking, flashing or pulsating lights or moving parts.

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- (11) Any violation of the provisions of this article by any person is declared to be a public nuisance and shall be abated as set out hereinafter. Every sign to which the prior provisions of this article applied that was erected prior to June 17, 1975, and was in use on such date, but which violates any of the present or prior provisions of this article, shall not be subject to removal until or unless the location ceases to be used as a retail liquor store; then and thereafter such location shall fully comply with all the provisions of this article. Every sign to which the provisions of this article shall apply that was legally erected prior to the effective date of this section and was in use on such date, but which violates any of the provisions of this article, shall not be subject to removal until or unless the location ceases to be used as a retail liquor store; then and thereafter such location shall fully comply with all the provisions of this article.
- (12) Upon ascertaining a violation of the provisions of this article, the building inspector shall cause to be served upon both the offender or his agent and upon the owner or his agent or the occupant(s) of the premises a written notice to abate which shall (1) describe the conditions constituting a nuisance under the subparagraph (b)(11) of this section, and (2) state that the nuisance may be abated by the City at the expense of the offender or the owner or the occupant of the premises at the expiration of not less than fifteen (15) days nor more than sixty (60) days from the date of such notice if such condition is not corrected by the offender or the owner or the occupant or the person in control of the premises.
- (13) If at the expiration of the time given in such notice to abate the condition constituting a nuisance has not been corrected, then such conditions shall be corrected and the nuisance abated by the City at the expense of the offender or the owner or the occupant of the premises under the direction of the building inspector, and the City shall have a lien on the property to secure the amount expended by the abatement of such nuisance which shall be superior to all other contractual liens.
- (14) An appeal in writing may be taken within five (5) days from any adverse decision of the building inspector and shall be filed with the city council, whose decisions after notice and hearing shall be final.

(Code 1986, § 5-108; Ord. No. 9824, § 1, 1-5-93; Ord. No. 11930, § 1, 1-30-07; Ord. No. 12265, 7-21-09)

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

(a) The applicant for a license under division 2 of this article must submit a site plan to the executive director of the Chattanooga-Hamilton County regional planning commission for the proposed liquor store drawn at a minimum scale of one inch equals one hundred (100) feet, and the site plan shall:

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- (1) Define the location, size, accessibility and existing zoning of the proposed site;
- (2) Indicate the surrounding type of development and land use within six hundred (600) feet of the property lines;
- (3) Detail the location of all structures and parking areas which are to be utilized by the liquor store owner or tenant;
- (4) In addition to the above, the executive director of the regional planning commission or the city council may require such other additional information as may be determined necessary to adequately review the proposed site.

(b) The planning staff of the Chattanooga-Hamilton County regional planning commission shall conduct an analysis of the proposed liquor store site which will include, but shall not be limited to, the following:

- (1) A land use survey of the surrounding development;
- (2) Off-street parking and loading facilities;
- (3) Proposed points of access and ease of ingress and egress;
- (4) The lot, yard and open space requirements; and
- (5) Whether a traffic hazard will be created.

(c) The executive director shall submit the findings of the staff of the Chattanooga-Hamilton County regional planning commission to the city council for consideration and action. This report is to include, but is not limited to, the following areas of concern:

- (1) The probable effect on the property adjacent to the site under consideration.
- (2) The consistency of the proposal with the intent and purpose of this article to promote the public health, safety, morals and general welfare.
- (3) Additional requirements which are needed in order to make the development more compatible with the surrounding land use.

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

**Secs. 5-110 -- 5-120. Reserved.**

## DIVISION 2. LICENSE

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### **Sec. 5-121. Required.**

Before any person in the city shall engage in the manufacture or sale at wholesale or retail of alcoholic beverages, to include beverages for consumption on the premises, he shall obtain a license or permit therefor as provided by Title 57, Tennessee Code Annotated, and shall have paid to the city treasurer, any and all privilege taxes or inspection fees, including interest and penalties thereon, which the city may be authorized by law to collect.  
(Code 1986, § 5-121)

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

(a) Before any certificate as required by Tennessee Code Annotated, section 57-3-208 shall be signed by the mayor or any member of the city council, an application in writing shall be filed with the city treasurer on a form to be provided by the city giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years resident in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of the violation of any state or federal law or of the violation of this Code or any city ordinance, and, if so, the date and offense for which such person was convicted, and whether it constituted a felony, misdemeanor or ordinance violation.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner and the amount of rent to be paid.
- (9) The amount of money invested or to be invested and the source of the funds to be used and, if borrowed, the name of the person from whom borrowed, and the name of the bank with which applicant does business, and the name of any person who is aiding the venture financially, either by loan or endorsement.
- (10) The name of any person who will be interested directly or indirectly in the business with applicant, and if the applicant owns an interest directly or indirectly in any other retail liquor store.

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- (11) If the applicant is a partnership, the name, age and address of each partner and his occupation, business or employer.
- (12) If the applicant is a corporation, the application shall contain sufficient information to verify that the corporation is qualified for a license under the provisions of Tennessee Code Annotated, section 57-3-202, 57-3-203 or 57-3-204, as applicable.
- (13) Whether the applicant or any member of his family, whether blood kin or by marriage, has any interest directly or indirectly in any other retail or wholesale liquor business by way of stock ownership, loan, partner's interest or otherwise which is prohibited by Tennessee Code Annotated, section 57-3-406(a).
- (14) The present zoning of the site of the proposed liquor store.
  - (b) The application required herein shall be verified by the oath of the applicant; if the applicant is a partnership, it shall be verified by the oath of each partner; and, if the applicant is a corporation, it shall be verified by the oath of its president.
  - (c) The original and five (5) copies of the application shall be filed with the office of the city treasurer.
    - (1) One (1) copy shall be returned to the applicant showing the date and time when the application was filed with the city treasurer.
    - (2) One (1) copy shall be promptly forwarded to the traffic engineer, who shall make a report in writing to the mayor and city council and the city treasurer within thirty (30) days giving a recommendation as to whether the proposed site is suitable from the standpoint of satisfactory traffic flow.
    - (3) One (1) copy shall be promptly forwarded to the chief of police, who shall cause an investigation of the applicant to be made relative to his or her character, prior criminal record, if any, and any other pertinent information together with a recommendation as to whether the applicant is of good moral character and shall report in writing the findings and a recommendation to the mayor and city council and the city treasurer within thirty (30) days.
    - (4) One (1) copy shall be promptly forwarded to the executive director of the Chattanooga-Hamilton County regional planning commission, who shall cause his staff to determine whether the proposed site of the liquor store complies with all applicable ordinances and shall report the findings and a recommendation in writing within thirty (30) days to the mayor and city council and the city treasurer.

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(5) One (1) copy shall be promptly forwarded to the office of the city attorney.

(d) Within sixty days (60) days from the date when the application is filed, the city council shall require the applicant to appear for a hearing as provided in section 5-124 and after which the city council shall by motion either grant or deny the application. If granted, a majority of the city council shall then sign the certificate as provided by Tennessee Code Annotated, section 57-3-208.

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

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

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

(Code 1986, § 5-123)

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

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

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

### **Sec. 5-125. Action on application.**

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

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

### **Sec. 5-126. Number limited.**

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

(Code 1986, § 5-126)

### **Secs. 5-127 -- 5-140. Reserved.**

## DIVISION 3. INSPECTION FEE ON

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RETAIL SALES; PRIVILEGE TAX  
FOR CONSUMPTION ON PREMISES<sup>5</sup>

**Sec. 5-141. Definition.**

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

(Code 1986, § 5-141)

**Cross reference--**Definitions and rules of construction generally, § 1-2.

**Sec. 5-142. Inspection fee – Levied; amount; collection.**

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

(Code 1986, § 5-142)

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

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

(Code 1986, § 5-143)

**Sec. 5-144. Same – Compensation of wholesalers.**

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

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<sup>5</sup> **State law references--**Authority to levy privilege tax, T.C.A. § 57-4-301(b)(2); authority to levy inspection fee, § 57-3-501.

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pay the inspection fee collected shall result in a penalty of ten (10) percent of the fee due the city.

(Code 1986, § 5-144)

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

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

- (1) Private club ..... \$ 300.00
- (2) Hotel and motel ..... 1,000.00
- (3) Convention center ..... 500.00
- (4) Premiere type tourist resort ..... 1,500.00
- (5) Restaurant, according to seating capacity, on licensed premises:
  - a. 75-125 seats ..... \$ 600.00
  - b. 126-175 seats ..... 750.00
  - c. 176-225 seats ..... 800.00
  - d. 226-275 seats ..... 900.00
  - e. 276 seats and over ..... 1,000.00
- (6) Limited Service Restaurants based on the gross sales of prepared food:
  - a. at least 30% but not more than 50% of gross.....\$2,000.00
  - b. at least 20% but not more than 30% of gross.....\$3,000.00
  - c. at least 15% but not more than 20% of gross.....\$4,000.00

(Ord. No. 12447, 11-23-10)

- (7) Commercial passenger boat company ..... \$ 750.00

(Ord. No. 12447, 11-23-10)

(b) The privilege tax levied by this section shall be remitted annually to the city treasurer no later than December thirty-first of each year.

(Code 1986, § 5-145)

**Secs. 5-146 -- 5-160. Reserved.**

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ARTICLE V. BOTTLE CLUBS  
(BROWN BAGGING)

DIVISION 1. GENERALLY

**Sec. 5-161. Scope of article.**

The provisions of this article shall apply to all persons who operate an establishment selling setups for mixed drinks, and who permit brown bagging. It shall not apply to those persons or businesses licensed or permitted under the provisions of article II of this chapter or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the alcoholic beverage commission of the state under the provisions of T.C.A. section 57-4-201. (Code 1986, § 5-161)

**Sec. 5-162. Definitions.**

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

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

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

*Setups for mixed drinks* shall mean and include sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment. (Code 1986, § 5-162)

**Cross reference-**Definitions and rules of construction generally, § 1-2.

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

(a) The city beer board, created and operating under the provisions of article II of this chapter, shall issue permits, and revoke or suspend licenses, except where such action would be inconsistent with any specific provision of this article.

(b) The beer inspector appointed and acting under the provisions of section 5-43 and other applicable ordinances shall enforce all laws, ordinances and rules regulating establishments selling setups for mixed drinks or permitting brown bagging. (Code 1986, § 5-163)

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### **Sec. 5-164. Hours regulated.**

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

(Code 1986, § 5-164)

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

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

(Code 1986, § 5-165)

### **Sec. 5-166. Employment of minors.**

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

(Code 1986, § 5-166)

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

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

- (1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- (2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;
- (3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;
- (4) The permitting by a permittee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus;  
or

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- (5) The displaying of films or pictures depicting acts, a live performance of which is prohibited by the sections quoted above.

(Code 1986, § 5-167)

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

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

(Code 1986, § 5-168)

### **Secs. 5-169 -- 5-180. Reserved.**

## DIVISION 2. PERMIT

### **Sec. 5-181. Required.**

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

(Code 1986, § 5-181)

### **Sec. 5-182. Application; fee.**

(a) All applications for a permit to sell setups for mixed drinks or to permit brown bagging shall be filed with the beer inspector. The beer inspector shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this article, and report his findings to the beer board. The beer board shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.

(b) The application shall be accompanied by a fee one hundred dollars (\$100.00) for use in offsetting the expense of investigating the applicant.

(Code 1986, § 5-182)

### **Sec. 5-183. Location to be designated.**

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

(Code 1986, § 5-183)

### **Sec. 5-184. Grounds for refusal.**

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(a) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this article has been revoked within one (1) year or is under suspension.

(b) No such establishment shall be located within five hundred (500) feet, as measured from any doorway entrance of the applicant regularly used for public ingress and egress to the nearest doorway entrance to the school, church, or other place of public gathering to the nearest corner of the licensed establishment; provided, however, this prohibition shall not apply to any location within the area zoned C-3 Central Business District; provided, further, that, this distance proximity prohibition shall not apply to any location that had a preexisting business as of the effective date of Ordinance No. 8272, but if such location is without a permit for more than one hundred twenty (120) consecutive days, then the distance proximity prohibition contained in this section shall thereafter apply to such location.

(c) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in paragraph (b) of this section.

(d) The beer board may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.

(e) To the extent that it shall be called to the attention of the beer board that it may have issued any permit to a location not qualified under the provision of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section.

(Code 1986, § 5-184)

### **Sec. 5-185. When treasurer may issue.**

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

(Code 1986, § 5-185)

### **Sec. 5-186. To be posted.**

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

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(Code 1986, § 5-186)

### **Sec. 5-187. Not transferable.**

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

(Code 1986, § 5-187)

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

(a) The beer board shall have the power to revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this article or any other ordinance, state law or regulation or federal law or regulation governing the operation of such establishments or when the permittee:

- (1) Operates a disorderly place; or
- (2) Allows gambling on the premises; or
- (3) Allows fighting or boisterous or disorderly conduct on the premises; or
- (4) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or
- (5) Allows minors to congregate about the premises; or
- (6) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or
- (7) Has made a false statement of a material fact in any application or notice to the board; or
- (8) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages; provided that, members of the armed forces of the United States on active duty upon showing of proper identification any purchase a setup notwithstanding they are less than the age of twenty-one (21) years; and provided further, that for the period from August 1, 1985, through July 31, 1986, this minimum age provision shall not apply to any person born before August 1, 1965, or for those nineteen (19) or twenty (20) years of age when accompanied by a parent or legal guardian; or

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- (9) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups; or
  - (10) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or
  - (11) Allows any violation of any provision of this article to occur on the licensed premises; or
  - (12) Allows any violations of the rules and regulations of the health department; or
  - (13) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises; or
  - (14) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers.
- (b) The beer board may also, in its discretion, revoke a permit for due cause not specified herein.  
(Code 1986, § 5-188)