

Motion Failed

October 19, 2021

ORDINANCE NO. 2021-112

AN ORDINANCE TO ADOPT TITLE 8, CHAPTER 2, TO ESTABLISH A BEER BOARD AND REGULATE THE SALE, STORAGE MANUFACTURE AND/OR DISTRIBUTION, OF BEER IN THE CITY LIMITS OF THE CITY OF RIDGETOP

WHEREAS, TITLE 57, CHAPTER 5, Section 106 of the Tennessee Code Annotated, (T.C.A 57-5-106) authorizes municipalities to pass ordinances governing the issuance of licenses and regulations regarding the storage, sale, manufacture and/or distribution of beer, and

WHEREAS, the Ridgetop Municipal Code currently does not provide such regulations; and

WHEREAS, the Board of Mayor and Aldermen of the City of Ridgetop find it desirable and necessary to the economic development of the City to permit the storage, sale, manufacture and/or distribution of beer;

NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF RIDGETOP, TENNESSEE, THAT TITLE 8, CHAPTER 2 BE ADOPTED WITH THE LANGUAGE THAT FOLLOWS:

CHAPTER 1

8-101. Definitions:

BEER

1. *Applicant* shall mean the person on whose behalf an application for beer permit is filed.
2. *Barrel* shall mean thirty-one (31) gallons.
3. *Beer* means beer, ale or other malt beverages, or any other beverages having an alcoholic content as defined in Tennessee Code Annotated §57-5-101(b), and any amendments thereto to become effective in the future; provided, however, that no more than forty-nine (49) percent of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.
4. *Beer board* or *board* means that administrative body organized and empowered under the authority of Tennessee Code Annotated §57-5-106.
5. *Certified clerk* shall mean a clerk who has successfully satisfied the training requirements contained in this part, or who has received certification from a responsible vendor training program.
6. *Clerk* shall mean any person working in a capacity to sell beer directly to consumers for off- premise consumption.
7. *Commission* shall mean the Tennessee Alcoholic Beverage Commission.
8. *Craft Beer Enterprise* shall mean a craft beer business whose primary business is the retail sale of craft beer.
9. *Craft Beer* shall mean beer manufactured by breweries with an annual production of six million (6,000,000) barrels or less.
10. *Growler* shall mean a refillable rigid glass, plastic, aluminum or stainless steel container with a flip-top or screw lid that is no larger than 2 liters (0.5283 gallons) into which craft beer is prefilled, filled or refilled for off-premises consumption.
11. *Hotel/Motel* shall mean any establishment which meets any definition found in Tennessee Code Annotated §57-4-102 (21)
12. *Manufacture* shall mean producing beer at a rate of at least two hundred (200) barrels each calendar year on the licensed premises.
13. *Meals* shall be defined as any of the following:
 - a. Food sold in a heated state or heated by the seller;
 - b. Two (2) or more food ingredients mixed or combined by the seller for sale as a single item.
 - c. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins or straws. A plate does not include a container or packaging used to transport the food; or
 - d. Non-alcoholic beverages, except for beverages sold in unopened containers to be consumed off-premises.
14. *Outdoor Venue* shall mean an outdoor location which does not meet the definition of premises as defined in § 8-201(19). It may or may not be on a separate non-adjacent parcel. It must be appropriately zoned for commercial

- activity.
15. *Package Retail Sales* shall mean the sale of beer bottled or packaged at the manufacturer's or wholesaler's location and transported to the retail establishments.
 16. *Permit* shall mean any permit issued pursuant to this article.
 17. *Permittee* shall mean any person to whom any permit has been issued pursuant to this article.
 18. *Person* shall mean any private individual, partnership, joint venture, corporation, and any other business entity or association.
 19. *Premises* shall mean contiguous property owned, leased, or controlled by the permittee and so connected with the beer business in which the permittee is engaged as to form a component or integral part of it, including, but not limited to, the building and the parking areas surrounding it. Premises includes all decks, patios and other well-defined outdoor serving and consuming areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business identified in the permit. A permit shall be valid for all decks, patios and other well-defined outdoor serving areas that are contiguous to the exterior of the building in which the business is located; that are operated by the business and only for a business operating under the name identified in the permit.
 20. *Responsible vendor* shall mean a person, corporation or other entity that has been issued a permit to sell beer and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated §57-5-601, et seq.
 21. *Responsible Vendor Training Program* shall mean a training program related to the responsible sale of beer which has met all the statutory and regulatory requirements set forth in Tennessee Code Annotated §57-5-601 et seq.
 22. *Restaurant* shall mean a business establishment whose primary business is the sale of prepared food to be consumed on the premise and be open for a minimum of eight (8) hours per day five (5) days per week.
 23. *Storage* shall mean the storing or possessing of beer for the purpose of resale by the permitholder.
 24. *TABC* shall mean the Tennessee Alcoholic Beverage Commission.
 25. The pronouns *he*, *him* and *his* shall refer to persons of the female, as well as the male, gender, as applicable.

8-102. Beer board created; powers. A beer board is hereby created for the City of Ridgetop and named the Ridgetop Beer Board.

The board shall have such power and authority as set forth in Tennessee Code Annotated, § 57-5-101, et seq. and shall have the absolute authority to issue permits for the sale of beer and to revoke the said permits duly issued for violation of any ordinance of the city or any governmental agency within Robertson County, Tennessee, or for such cause as the board may consider necessary to promote the public health, morals and safety of the citizens of the City of Ridgetop, Tennessee.

8-103. Membership, appointment and compensation; removal of members and filling of vacancies. The Ridgeway Beer Board shall consist of the sitting duly elected Mayor and Aldermen of the City. Board members shall serve without any additional compensation in excess of their compensation as Mayor and/or alderman. Any vacancy on the board for any reason shall be filled in the same manner as the appointment of a vacancy on the Board, Mayor, or Aldermen, and the individual so appointed will serve out the unexpired term. The Mayor shall serve as the Chairperson of the Beer Board and the Vice-Mayor or Vice-Chairperson to preside in the absence of the Chairperson.

8-104. Issuance of permits by Beer Board.

- a. The Beer Board is vested with full and complete authority to issue permits, which permits shall be issued only for locations which are within a commercially zoned area as indicated on the then current and applicable zoning map at the time the application is made, for the sale, storage, and warehousing of beer for on-premises consumption and off-premises consumption.
- b. The permittee's establishment or place of business for the off-premise retail beer sales shall be located within an appropriate zoning district and open for customers by public access not less than five (5) days per week and eight (8) hours per day.

8-105. Permits for the manufacture of beer.

Permits for the manufacture of craft beer shall be issued in accordance with the general requirements of this chapter. A manufacturer of beer can further apply for permits for retail sale for on-premises and/or off-premises consumption. Documentation by the manufacturer of the number of barrels produced each calendar year may be required.

8-106. Permits for the sale of beer.

There are two (2) types of permits and each type has classes of permits within the type. The two (2) types of permits the Beer Board may issue are:

A retailer's "off-premises" permit shall be issued for the sale of beer only for the consumption off the business premises in accordance with the provisions of this chapter.

A retailer's "on-premises" permit shall be issued to any business engaged in the sale of beer where the beer is to be consumed by the purchaser or his guests upon the premises of the seller. A retailer's "on-premises" permit may be issued only for use in connection with these establishments defined in § 8-211 through § 8-220 below.

A business can sell beer for both on-premises and off-premises consumption at the same location if otherwise permitted by law and this ordinance.

If the character of the establishment changes from the classification under which a permit was originally issued, the permittee will be required to obtain a new permit to conform to the type of establishment being operated by the permittee.

8-107. Permit required for engaging in beer business.

It shall be unlawful for any person or entity to sell, store for sale, distribute for sale or manufacture beer without first making application to and obtaining a permit from the Beer Board pursuant to Tennessee Code Annotated § 57-5-103. The application shall be made on such forms as the Board shall prescribe and/or furnish, and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of cash, cashier's check, or company check made payable to the City. Each person signing an application must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. For purposes of this chapter, "entity" means a firm, partnership, Limited Liability Company, corporation, Joint Stock Company, syndicate, association or any other legal entity whatsoever.

8-108. Qualifications for permit.

In order to qualify for a permit to sell beer, an applicant must fully satisfy, comply with and adhere to the following qualifications and criteria for the applicant and location for the sale of beer:

- (a) No sale of such beverages shall be made except in accordance with the permit granted.
- (b) Neither the applicant nor any persons employed or to be employed by the applicant in such distribution or sale of such beverages shall have ever been convicted of any violation of law regarding the prohibition, sale, possession, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (c) The property upon which the business is operating is located in a zoning district approved for such use.
- (d) The applicant shall execute an authorization enabling the City to receive from each and every wholesale supplier to the permittee, the dollar value and amounts of beer sold by the wholesaler or distributor to the permittee, at such time or times as the City may request such information. This authorization shall be in full force and effect during the entire time of the permit.
- (e) The applicant shall not make a false statement in his application for any beer permit. Such a statement shall be cause for immediate revocation of the permit.

8-109. Minimum distance from dwellings, etc.

- (a) No beer permit shall be issued to an applicant whose location is less than one hundred feet (100') from a building containing one to four (1 - 4) residential dwelling units (dwelling), a church, park, a playground, a school, a State of Tennessee licensed day care center (day care center) or a nursery. The date on which a church, school, day care center or nursery is established will be the date of the certificate of occupancy for new construction.

- (b) In determining the distance from a park or playground, the distance shall be measured in a straight line from the nearest point of the property boundary of the park or playground in a straight line to the center of the nearest main entrance of the applicant's facility. The distance from a dwelling, church, school, day care center and nursery shall be measured in a straight line from the nearest point of the structure of any dwelling, church, school, day care center, nursery or church to the center of the nearest main entrance of the applicant's facility. The applicant maybe required to provide the documentation that the distances have been measured and certified by a professional engineer or registered surveyor and recorded on a drawing prepared by the engineer or surveyor and made available to the board at the expense of the applicant.
- (c) The distance from a dwelling and the means and method of measuring such distance provided for herein shall not apply to locations holding permits prior to the adoption of the provisions of this chapter, nor to the renewal of such permits, but shall apply to permits issued after the adoption of the provisions thereof. The distance shall also not apply to an applicant for an on-premises permit whose location is a part of a planned unit development as defined by the Ridgetop Zoning Ordinance and approved as a part of a master plan which includes residential and community facility activities developed as a planned community. The provisions regarding the distance requirement to licensed day care centers and nurseries shall not apply to permittees holding a permit issued prior to the approval date of the provisions of this chapter and in violation of such provisions; provided renewal of such permits shall only be granted to those permittees as defined in this chapter holding valid permits on the effective date of the provisions of this chapter and to transferees or such permittees, who were operating under valid permits prior to the location of such licensed day care center or nursery within one hundred feet (100') thereof.
- (d) Nothing in this section shall be interpreted to allow the City to revoke, suspend, or deny a permit to a business selling, distributing, or manufacturing beer on the basis of its proximity to a church, school, or other place of public gathering if valid permit has been issued to the business prior to the effective date of the provisions of this chapter. However, if beer is not sold at such a business for six (6) continuous months, the protection provided herein ceases to apply.

8-110. Requirements to maintain any permit issued under this Section.

The following requirements shall be met at all times to maintain a permit issued by the City Beer Board.

a. A permit holder shall not

- i) Operate a disorderly place
- ii) Permit boisterous or disorderly conduct on the premises.
- iii) Sell or allow to be sold on the premises of the permittee, beer to any person using foodstamps issued pursuant to state or federal law for the purchase of such beer.

b. Hours and days of operations. It shall be unlawful to offer for sale or sell beer within the corporate limits of the City between the hours of 3:00 A.M. and 10:00 A.M. on Sunday and between the hours of 3:00 A.M. and 6:00 A.M.

Monday through Saturday.

- c. **Sales to minors or intoxicated persons.** It shall be unlawful to sell or offer to sell beer to a person under the age of twenty-one (21) years or to a person who is visibly intoxicated.
- d. **Condition of premises generally.** No retailer's permit shall be granted to any person whose premises are not neat, clean and in good repair, both inside and outside. The premises shall at all times be free from litter, weeds, trash and other forms of debris. Any tires, old appliances, motor vehicle parts, tools, equipment or other similar materials shall not be displayed openly on the premises but must be stored inside an opaque enclosure.
- e. **Inspection of beer businesses.** The members of the Beer Board and staff authorized by Board of Mayor and Aldermen shall have the right to inspect at any and all times the entire premises and property where or upon or in which the beverages regulated by this chapter are sold, stored, transported or otherwise dispensed or distributed or handled, whether at retail or wholesale, in the City for any law violations.
- f. **Continually operate the business.** A permit holder must return a permit to the county or city that issued it within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name. Any such establishment for which two (2) consecutive months or for any three (3) months in any calendar year does not meet the established minimums of non-alcoholic sales shall have their permit revoked.
- g. **Properly pay all taxes, fees, and charges.** All property taxes, license fees or other charges owed by the permittee, or by the owners of the permittee, to the City Robertson County, Tennessee, must be kept current throughout the term of the license. This requirement shall not apply to the owners of a permittee that is a publicly held company.
- h. **Maintain property in compliance with all State, County, and City regulatory requirements.** The premises upon which the permit is granted shall at all times be in compliance with City zoning ordinances, and with all fire, health, safety and building codes of the City and/or the State of Tennessee.

8-111. Failure to maintain requirements.

Failure on the part of any permittee to observe the requirements of this chapter after issuance of a permit shall constitute grounds for suspension or revocation of the permit.

8-112. On-Premise Consumption Permits Defined.

The following classes of permits for on-premises consumption are established.

1. Restaurant
2. Craft Beer Establishment
3. Hotel/Motel

4. Caterer
5. Golf Course
6. Special Venue

Definitions for each of the classes are established in the section dedicated to the requirements and restrictions of each class.

8-113. Classification of existing permits.

All beer permits now issued and outstanding will be classified and placed in its appropriate category, and the holders of said beer permits shall be so notified, along with a copy of this ordinance.

8-114. Restaurant Classification Requirement and Restrictions.

- a. An establishment must meet the restaurant requirements of Tennessee Code Annotated § 57-4- 102 (27)
- b. In the event that a restaurant contains a bar or bar area, food service shall be equally available to the bar and bar area as it is in other areas of the restaurant.
- c. An establishment shall be eligible for a permit as a restaurant only if more than fifty percent (50%) of the gross revenue of the restaurant is generated from the serving of meals. Any such establishment for which two (2) consecutive months or for any three (3) months in any calendar year has fifty percent (50%) or less of its gross revenue from the serving of meals shall have its beer permit revoked. Each permit holder is to submit annually the individual gross sales of both meals and beer prior to the permit being renewed. If it is determined an independent audit of said records should occur the permit holder is to provide all necessary records. If a permit holder fails to provide such records then their on-premise beer permit shall automatically be revoked.
- d. Have a minimum of eighty (80) seats in which eighty percent (80%) must be in the interior of the building under a permanent roof and enclosed on all sides. The remaining twenty percent (20%) may be in an open air or patio area as permitted by subsection (e). Seats are to be counted by individual chairs or in the use of bench seats, twenty-two inches (22") would equal one (1) seat. Bench seats should not protrude past table edges. In case of any outdoor seating, the outdoor seating area must be accessible from the inside of the restaurant or eating place and the outdoor seating area must have some type of permanent enclosure around it, such as a wall or fencing. All table and chair locations are to meet all building, fire and life safety codes and regulations.
- e. A permittee having this category of license shall be allowed to sell and serve on a patio or open air area, for which access is provided only by going through the interior of the building. The patio or open air area

shall be enclosed by a permanent fence, railing, or similar structure, a minimum of forty-two inches (42") in height, which obstructs normal walking access to the patio or open air area, except by entry through the interior of the building. The fence, railing, or other structure shall have at least one (1) emergency exit, to be opened only in the event of an emergency and so marked, which will emit an audible sound, such as a bell, siren or other like sound, when the emergency exit is opened. Additional such exits may be required depending on the size of the fenced area, as specified in the Ridgetop Fire Protection Ordinance. Within thirty (30) minutes from the time that sale of beer has ceased as required by § 8-210(b), all containers, glasses or other vessels of any type which have been used for serving and consumption of beer shall be removed by the permittee from the area or areas where the beer had

- f. been consumed and shall be placed in areas not for access by patrons of the establishment. There shall be no advertising signage of any kind whatsoever outside the building containing the restaurant either for the restaurant or to advertise any matter pertaining to beer sold at the restaurant except as set forth herein. All advertising shall be subject to the restrictions herein and those specified in the Zoning Ordinances for the City of Ridgetop as last amended February 18, 2020 and no such sign shall contain letters of neon or tube lighting so as to produce lighting within the letters themselves. No reader board or changeable copy signs shall be permitted. Where the advertising signage for restaurants and on-premise consumption location restrictions contained herein are more restrictive than the restrictions contained in the Zoning Ordinance for the City of Ridgetop as last amended: February 18 2020, in which case the more restrictive provision shall apply.

8-115. Hotel/Motel Classification Requirements and Restrictions.

- a. It shall be lawful for the Beer Board to issue a permit for the sale of beer to hotels, motels, or inns, subject to the limitations and restrictions contained in the state law and the rules and regulations contained in the permit required by this chapter.
- b. Permits may be issued under this section to hotels, motels, or inns for sale and consumption on the premises in rooms where meals or lunches are served, all enclosed areas of the hotel/motel and in guests' rooms.
- c. Beer also may be sold and dispensed to adult guests only through locked, in-room units.
- d. Beer sold from a "convenience store" located within the confines of the sight and oversight of a paid employee may only be sold for consumption on the premises and to a guest of the hotel.
- e. The permittee is responsible for verifying the age and guest status of the purchaser.
- f. In the case of locked in-room units, a key separate from that used to enter the room shall be supplied and no person under the age of twenty-

one (21) shall be issued or supplied with such a key.

8-116. Craft Beer Enterprise Requirements and Restrictions.

- a. A craft beer enterprise shall meet the definition found in § 8-201.
- b. A craft beer enterprise may exist without a corresponding City manufacturing permit.
- c. A craft beer enterprise shall be required to have no less than thirty-four percent (34%) of the gross revenue of the enterprise generated from the serving of meals. Each permit holder is to submit annually the individual gross sales of both meals and beer prior to the permit being renewed. If it is determined an independent audit of said records should occur the permit holder is to provide all necessary records. If a permit holder fails to provide such records then their on-premise beer permit shall automatically be revoked.
- d. Have a minimum of eighty (80) seats in which eighty percent (80%) must be in the interior of the building under a permanent roof and enclosed on all sides. The remaining twenty percent (20%) may be in an open air or patio area as permitted by subsection (e). Seats are to be counted by individual chairs or in the use of bench seats, twenty-two inches (22") would equal one (1) seat. Bench seats should not protrude past table edges. In case of any outdoor seating, the outdoor seating area must be accessible from the inside of the restaurant or eating place and the outdoor seating area must have some type of permanent enclosure around it, such as a wall or fencing. All table and chair locations are to meet all building, fire and life safety codes and regulations.
- e. A permittee having this category of license shall be allowed to sell and serve on a patio or open air area, for which access is provided only by going through the interior of the building. The patio or open air area shall be enclosed by a permanent fence, railing, or similar structure, a minimum of forty-two inches (42") in height, which obstructs normal walking access to the patio or open air area, except by entry through the interior of the building. The fence, railing, or other structure shall have at least one (1) emergency exit, to be opened only in the event of an emergency and so marked, which will emit an audible sound, such as a bell, siren or other like sound, when the emergency exit is opened. Additional such exits may be required depending on the size of the fenced in area, as specified in the Ridgetop Fire Protection Ordinance.
- f. Within thirty (30) minutes from the time that sale of beer has ceased as required by § 8-210(b), all containers, glasses or other vessels of any type which have been used for serving and consumption of beer shall be removed by permittee from the area or areas where the beer had been consumed and shall be placed in areas not for access by patrons of the

establishment.

8-117. Caterer Classification Requirements and Restrictions.

- a. Meet the requirements of Tennessee Code Annotated § 57-4-102(6) as a "Caterer".
- b. Beer may be sold for consumption only at the permanent catering hall of the caterer or at a site for which the caterer has given advance notice to the City Clerk.
- c. Only employees of a licensed caterer may serve beer at any event, whether at the caterer's designated premises or a remote venue.
- d. No caterer may provide only alcohol without meals present and available for consumption at any catered event.

8-118. Golf Courses Classification.

Proprietors of golf courses, on-premises shall mean within the building or on any decks, patios and other outdoor serving areas that are contiguous to the exterior of the building and/or the course. Where on premises consumption is permitted on a golf course, beer may be purchased either at the restaurant, club house or from a beverage cart.

8-119. Outdoor Venue Approval (Special Event).

Beer may be sold on a temporary basis at an Outdoor Venue by businesses holding an On-Premises Permit not to exceed 48 consecutive hours otherwise specified under the following conditions:

- a. The location meets the Tennessee Alcoholic Beverage Commission's requirements for alcoholic service.
- b. An application has been submitted to the City Clerk for the location and dates where the beer will be sold or provided
- c. The Permit Fee of two hundred fifty dollars (\$250.00) per application has been paid and a fee of fifty dollars (\$50.00) per day of event.
- d. The City may adopt Administrative Policies that govern the process, timing, rules, and review procedures for Outdoor Venues. Copies of said policies shall be made available at City Hall to all holders of permits for on-premises consumption.

8-120. Off-premises Consumption Sales.

The following classes of permits for off-premises consumption are established.

1. Package Retail Sales
2. Growler Sales

8-121. Package Retail Classification Requirements and Restrictions.

- a. The monthly off-premises package retail beer sales of any establishment that holds an off-premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Each permit holder is to submit annually the individual gross sales of both beer and of any other products prior to their permit being renewed. If it is determined an independent audit of said records should occur the permit holder is to

provide all necessary records. If a permit holder fails to provide such records then their off-premise permit shall automatically be revoked.

8-122. Growler Classification Requirements and Restrictions.

- a. A Growler permit may be held by the holder of any other on-premises or off-premises permit holder. A Growler permit may not be the only permit held by a permittee.
- b. Holders of the Growler permit may fill or refill growlers on demand with beer for off-premises consumption provided the label as required by this section is affixed to the growler.
- c. Each growler must be securely sealed and removed from the premises in its original sealed condition. Each growler shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale and/or refilling, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extend over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the business filling the growler. The containers or bottles shall be labeled as a craft beer, contain the name of the beer, and bear the name, address and telephone number of the business selling the beer. Any known allergens shall also be included on any label.
- d. Growlers must be filled in a manner that is sanitary and meets all applicable food and alcohol handling laws and standards.
- e. Consumption of the contents of any growler on the premises where it was filled is strictly prohibited. However, the license may provide free samples of any beer on tap. Each such sample shall not exceed one (1) fluid ounce.
- f. Sales of growlers shall be limited to the legal hours during which the licensee may sell such alcoholic beverages and must be removed from the premises before the applicable closing time.

8-123. Prohibited acts pertaining to beer and beer places.

It is unlawful for any beer permit holder or his agent or employee:

- (a) To employ any person convicted for the possession, sale, manufacturing or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years;
- (b) To employ any person that has been convicted within the past ten (10) years of any crime involving moral turpitude. For purposes of this subsection, "moral turpitude" means premeditated murder, all sex related crimes, the illegal sale of Schedule I and II controlled substances, and crimes of fraud and embezzlement.
- (c) To make or permit to be made any sale of beer to a person under twenty-one (21) years of age;
- (d) To sell, give away, or allow beer to be consumed on any premises granted

- a permit under this chapter from 12 AM.(midnight) to 10:00 AM. on weekdays and from 12 AM. (midnight) to 12:00 PM. (Noon on Sundays;
- (e) To allow any person under eighteen (18) years of age hereafter referred to as a minor to loiter or congregate about the premises. The burden of ascertaining the age of minor persons shall be on the permit holder and his agent or employee. When a minor is seated at a table, there shall be no beer served at the table unless such minor is accompanied by one or both of his parents, but only if served in conjunction with food;
 - (f) To make false statement of a material fact in his application for any beer permit;
 - (g) To operate a disorderly place;
 - (h) To knowingly allow beer to be passed from a lawful purchaser or possessor to any individual under the age of twenty-one (21) years of age for consumption on the premises of the permit holder. The burden of ascertaining the age of persons who may not lawfully possess beer shall be on the permit holder and his agent or employee;
 - (i) For a retailer to knowingly sell to a lawful purchaser who purchases beer for consumption by an individual under the age of twenty-one (21) years of age. The burden of ascertaining the age of persons who may lawfully possess beer shall be on the permit holder and his agent or employee;
 - (j) To permit boisterous or disorderly conduct on the premises;
 - (k) To sell or transfer the equipment or assets of the business authorized by his permit to another for the purpose of continuing the business on the same premises, unless he shall notify the board in writing immediately upon such sale or transfer, and unless he shall give the name and address of the purchaser within said notice. A beer permit holder shall surrender his license to the board within fifteen (15) days after the sale or transfer is consummated;
 - (l) Allow any intoxicated person to loiter on or about the premises;
 - (m) For a retailer or wholesaler, to store beer in any place other than the address listed on the permit;
 - (n) To sell or allow to be sold on the premises of the permittee beer to any person using food stamps issued pursuant to state or federal law for the purchase of such beer;
 - (o) To allow gambling or gambling devices of any kind or description contrary to state law on the premises;
 - (p) To allow solicitation for purposes of prostitution on the premises;
 - (q) To allow or engage in any criminal activity on the premises.

8-124. Application for permit authorizing the sale of beer.

1. Before any permit is issued by the Beer Board, the applicant shall make payment of a non-refundable application fee in the sum of two hundred and fifty dollars (\$250.00) to the City and file with the Board a written application, under oath, containing the following information:
 - (a) The name of the applicant

- (b) The residential and business address of the applicant. If the person applying for the permit is acting as agent for another person or entity, the name and address of such other person or entity shall be listed.
 - (c) The owner or owners of the place of business must provide a copy as recorded in the Robertson County Register of Deeds office of the deed for the property evidencing ownership of the premises upon which the sale of beer will be conducted. If the premises are subject to a lease or rental agreement, a copy of all executed documents evidencing the right to use the premises must be submitted with the application. a copy of the current lease or rental agreement must be kept on file with the Board at all times. If a lease or rental agreement is renewed, a copy of the renewed lease or rental agreement must be provided to the Board.
 - (d) A valid copy of the applicant's Tennessee Department of Revenue sales and use tax certificate of registration.
 - (e) An authorization for criminal history inquiry form must be provided for each person having at least five percent (5%) ownership interest in the business, along with a copy of each such person's driver's license. All criminal history checks are to be paid by the applicant.
2. An application shall become null and void if it is not presented to the Board at a public meeting within three (3) months after the application is filed, or if another application for a permit for the same location is approved before the application is presented to the Board at a public meeting.

8-125. Privilege tax.

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 or entity engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on _____ January 1 _____, and each successive January 1, to the City. At the time each new permit is issued to any business subject to this tax, the permittee 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.(57-5-104 (b) (1))

The annual privilege tax notice of payment due shall be mailed to the permittee no later than thirty (30) days prior to January 1 of each year. Notice shall be mailed to the address specified by the permittee on the permit application. The annual privilege tax shall be payable and due no later than January 31 of each year. If a permittee does not pay the privilege tax by January 31 of each year, then the City shall notify the permittee in writing, either by certified mail or by hand delivery by a member of the Beer Board or City Police Department, which the privilege tax is past due. If a permittee does not pay the tax within ten (10) days after receiving notice of its delinquency, then the permit shall automatically become revoked and void and any further sales of the licensed beverage after that time shall be illegal and in violation of the City Beer Ordinance.

8-126. Permits not transferable - cessation of business - relocation - name change - change of ownership.

- a. Except as set forth in subsection (b) below, a permittee must return a permit to sell beer to the City Clerk within fifteen (15) days of termination of the business, change in ownership, relocation of the business, or change of the business names. The provisions of this section regarding change in ownership shall not apply to a permittee that is a publicly held company. If the permittee is an entity other than a publicly held company, a change in ownership shall occur, for purposes of this chapter, when control of at least fifty percent (50%) interest, whether it be stock or otherwise, in the entity is transferred to a new owner. Notwithstanding the failure to return a beer permit, as provided herein, a permit shall expire on the date of termination of business, change of ownership, relocation of the business, or change of the business name.
- b. Immediately upon the Beer Board's acting on the new owner's application, shall surrender that permit to the City Clerk within fifteen (15) days. Any violation of any part or provision of this chapter by the new owner/applicant while the application is pending shall automatically result in the application being denied and the applicant shall not be eligible to apply for a beer permit within the City for a period of six (6) months.

8-127. Suspension or Revocation.

The Beer Board is vested with the full and complete power and authority to suspend, cancel, or revoke permits to sell beer upon the following grounds:

- (1) Any violation of the provisions of this chapter.
- (2) Any violation of any law of the State of Tennessee, now in existence or hereinafter adopted, regulating the sale, manufacture or distribution of beer.
- (3) Any violation of the provisions of title 57, chapter 4 Tennessee Code Annotated, regarding the consumption of alcoholic beverages on premises, to the extent permitted by the provisions of said title 57.

8-128. Procedure.

(1) When the Beer Board has reason to believe that any permittee has violated any of the provisions of this chapter or any provision of state law regarding regulating the sale, manufacture or distribution of beer, the Board is authorized in its discretion to notify the permittee of violation in writing and to give notice that the permittee must appear and show cause why the permit should not be suspended or revoked for the alleged violations. The notice to appear and show cause shall state the nature of the violation and shall be served upon the permittee either by certified mail or by a member of the City Police Department. The notice shall be served on or mailed to the permittee at least ten (10) days before the date scheduled for the hearing. The Beer Board shall, at the public hearing, allow evidence to be presented on behalf of the holder of the permit and thereafter, in its discretion, either dismiss the charges or complaint, or suspend or revoke the permit. The action of the Beer Board shall, in all such hearings, be final, subject only to review by a court of competent jurisdiction as provided by state law. When a permit is revoked, no new permit at the same location for the sale of beer shall be issued hereunder to the permittee, or to any person or entity having any ownership interest in the permittee, until the expiration of one (1) year from the date the revocation becomes final.

(2) If the State Alcoholic Beverage Commission suspends or revokes a license to sell alcoholic beverages on the premises at any establishment for any violation or violations as provided in title 57, chapter 4, Tennessee Code Annotated, and the Commission notifies the Beer Board by certified mail, return receipt requested, of the action taken by the Commission, and includes with such notice the record of evidence and the determination made by the Commission in suspending or revoking the license of establishment, then upon receipt of such notice, the Beer Board may temporarily suspend the beer permit of the establishment and shall:

- (a) Schedule a hearing for the next regularly scheduled meeting of the Beer Board to be held at least fourteen (14) days following the date the Beer Board receives the certified letter to provide an opportunity for the permit holder to appear and show cause why the permit to sell beer on the premises should not be suspended or revoked for a violation or violations as provided in title 57, chapter 4, based on actions taken by the Commission; and
- (b) Notify the individual or business entity, which is listed as the permit holder at the same location where the alcoholic beverage license had been suspended or revoked, of the date and time of the hearing.

(3) If the Beer Board finds at a hearing that a sufficient violation or violations have occurred as provided in title 57, chapter 4, at such location, then the Beer Board may suspend or revoke the permit to the same extent and at least for the same period of time as the Commission has suspended or revoked the license of the establishment.

(4) If the permit holder fails to appear or decides to surrender the permit to the Beer Board in lieu of appearing at the hearing the permit may be suspended or revoked by the Beer Board; provided, that if the permit is suspended or revoked, no permit to sell beer on the premises shall be issued by the Beer Board to any person for the location where the Commission has suspended or revoked the license for the period of time included in the decision of the Commission.

(5) Pursuant to Tennessee Code Annotated § 57-5-608, the Beer Board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the Beer Board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the Beer Board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

(6)The decision of the Beer Board is final, and any party aggrieved thereby may appeal the decision of the Beer Board in accordance with Tennessee Code Annotated § 57-5-108.

8-129. Civil penalty in lieu of suspension.

- (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated § 57-5-601, et seq.
- (2) Penalty, revocation or suspension. The Beer Board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense or 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.

The Beer Board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or 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. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the City may impose.

8-130. Loss of clerk's certification for sale to a minor.

If the Beer Board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated §57-5-606 sold beer to a minor, the Beer Board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the Beer Board's determination.

8-131. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

This ordinance shall take effect fifteen (15) days from and after its final passage, the public welfare requiring it.

Mayor

Passed first reading: _____
(date)

City Recorder

Passed second reading: _____
(date)

Approved as to form and legality

City Attorney