DIVISION 2. - BEER BOARD [17]

Sec. 3-121. - Beer board.
Sec. 3-122. - Meetings of the beer board.
Sec. 3-123. - Requirements for quorum and action.
Sec. 3-124. - Record of beer board proceedings to be kept.
Sec. 3-125. - Powers and duties of the beer board.
Sec. 3-126. - Hearings before the beer board.

Sec. 3-121. - Beer board.

(a) There is hereby established a beer board for the city to be composed of three (3) residents of the city over the age of twenty-one (21) years. The members of the beer board shall be appointed by the mayor. The members of the beer board shall hold office for a term of three (3) years, which shall expire on December 31 of each year or until their successors are appointed.

(b) Vacancies shall be filled for the unexpired term with appointment by the mayor.

(c) Three (3) absences in a calendar year by a member of the beer board shall result in mandatory resignation. Any member may be removed at any time with or without cause by the mayor.

(d) Each member of the beer board shall receive such compensation as may be established by the city council.

(e) The beer board shall elect from its membership, on an annual basis, a chairperson to preside at its meetings. The beer board shall have the authority to designate any other officers as it deems necessary.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-122. - Meetings of the beer board.

All meetings of the beer board shall be open to the public. The beer board shall hold regular meetings upon the third Thursday of each month when there is business to come before the beer board. A special meeting of the beer board may be called by its chairperson, provided reasonable notice thereof is given to each beer board member and public notice given a minimum of five (5) days in advance of such special meetings. Such public notice shall, at a minimum, include posting of same at city hall.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-123. - Requirements for quorum and action.

The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the beer board shall be decided by a majority of the members present, if a quorum is present. The beer board may adjourn a meeting at any time to another time and place.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-124. - Record of beer board proceedings to be kept.

The city recorder (or his or her designee) shall attend all meetings of the beer board. A separate record of the proceedings of all meetings of the beer board shall be maintained. This record shall be a public record and shall contain at least the following: the date of each meeting; names of the beer board members present and absent and, in cases of hearings before the beer board, a record of evidence introduced and testimony heard before the beer board and the provisions of each permit issued by the beer board as to whether it is a permit for off-premises consumption or on-premises consumption or a combination thereof. The city recorder (or his or her designee) shall also maintain a list of the names and addresses of all holders of beer permits, which list shall be kept on a current basis.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-125. - Powers and duties of the beer board.

(a) The beer board shall have the power, and it is hereby directed, to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the city. The beer board shall also have the power to enforce the provisions of this article consistent with the requirements of state law, including the power to investigate and inspect at all reasonable hours the premises of any applicant and all permit holders. Pursuant to T.C.A. § 57-5-103, the beer board may enter into an agreement with the state bureau of investigation to perform said investigation.

(b) The chairperson of the beer board may call a special session of the beer board upon notification of a violation of this article. The permit holder in violation shall be summoned to appear at a designated time and place.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-126. - Hearings before the beer board.

(a) All matters brought before the beer board shall be heard in the following order:
  (1) Requests for continuances;
  (2) Rehearings and decisions where no protests have been received;
  (3) Special hearings;
  (4) Applications for issuance of beer permits;
  (5) Violations in which permit holders are represented by counsel and/or at the request of the police; and
  (6) Rehearings and decisions where protests have been received.

(b) Those permit holders charged with violations shall be given written notice not less than five (5) days in advance to appear before the beer board to answer charges.

(c) All alleged permit violators at the hearing have the right to plead not guilty to any or all of the charges, to have the assistance of counsel, to cross-examine witnesses, and to testify and present witness(es) and evidence on their behalf.

(d) All witnesses in a contested matter before the beer board shall first be sworn in by the city recorder, or another person authorized to administer an oath, or by a certified court reporter prior to any testimony or evidence being given.

(e) Hearsay evidence is admissible in hearings before the beer board.

(f) The beer board has no power to subpoena or require the presence of any witness.

(g)

A recording shall be made of all contested beer board proceedings.

(h) In assessing a penalty, the beer board may consider the past record of the permit holder and location.

(i) Upon receiving an adverse ruling by the beer board, an applicant or permit holder may:

(1) Accept the decision and penalty;

(2) Request a rehearing (reconsideration); or

(3) Seek review by the circuit or chancery court in the manner authorized by law.

(j) Any penalty assessed by the beer board shall take effect at 12:01 a.m. on the fifteenth day after the beer board decision and will be continuously enforced throughout the period of suspension or revocation. In the event a permit holder requests a rehearing or seeks review by the circuit or chancery court in the manner authorized by law, the enforcement period will become effective upon completion of the rehearing or the disposition of the review by the circuit or chancery court in the manner authorized by law.

(k) The beer board shall cause the city attorney or city recorder to give written notice to the chief of police of the suspension or revocation of any beer permit.

(Ord. No. O0910-77, 12-15-09)

FOOTNOTE(S):

---

(17) ***Cross reference***— *Boards, committees, commissions, § 2-116 et seq.* *(Back)*

(17) ***State Law reference***— *Authority to establish, T.C.A. § 57-5-108.* *(Back)*

DIVISION 3. - PERMIT

Sec. 3-158. - Permit required for engaging in beer business.
Sec. 3-159. - Privilege tax.
Sec. 3-160. - Beer permits shall be restrictive.
Sec. 3-161. - Permit issuance; validity; sales generally.
Sec. 3-162. - Conditions for receiving permit.

Sec. 3-158. - Permit required for engaging in beer business.

(a) It shall be unlawful for any person or business 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. The application shall be made on such form as the beer board shall prescribe and furnish. The application shall be accompanied by a nonrefundable application fee, in the amount determined by resolution of the city council. The application fee shall be paid in advance by the applicant as a prerequisite to further consideration of the application. Each applicant must be of good moral character and must certify that it is familiar with the provisions of this article.

(b) There shall be five (5) classes of permits issued by the beer board as follows:

(1) *Class I - Off-premises permit.* An off-premises permit is one issued to any person or legal entity engaged in the sale of beer where it is not to be consumed by the purchaser upon the premises of the seller.

(2) *Class II - On-premises permit.* An on-premises permit is one issued to a person or legal entity engaged in the sale of beer where it is to be consumed by the purchaser upon the premises of the seller. For such persons or legal entities holding an on-premises permit, no such sale of beer may be made except:

a. Where meals are regularly served at tables or counters; or

b. At hotels, where meals are regularly served at tables or counters or to persons in guest rooms.

(3) *Class III - Mixed permit.* Any person or legal entity that obtains an on-premises permit may also, upon the payment of an additional two hundred fifty dollars ($250.00), obtain a mixed permit that would allow for sales both on and off-premises. For establishments holding such a permit, no beer may be consumed on-premises other than as allowed in subsection (2) above. Upon payment of the yearly privilege tax required by section 3-238 of this Code, holders of mixed permits shall provide the city recorder with a photocopy of the most recent sales tax return submitted to the state.

(4) *Class IV - Special event permit.* A special event permit is required to be issued to any nonprofit organization engaged in the sale or distribution of beer. The special events permit will be issued, after the payment of fifty dollars ($50.00) fee after approval by the beer board. Each permit will be issued for a specific date and a specific time. The specific time will be consistent with state and municipal

law. A nonprofit organization may receive no more than three (3) special events permits during a calendar year. For purposes of this subsection, nonprofit organization shall mean a nonprofit entity that has received a determination from the Internal Revenue Service under Section 501(c)(3) or other similar provision of the Internal Revenue Code that it qualifies as a tax-exempt entity.

(5) *Class V - Special private club permit.* An on-premises consumption permit may be granted for any club or lodge while it is incorporated and operates under a charter and by-laws in which the officers are elected by regular membership requiring a substantial membership or initiation fee of its members and has a purpose of organization and existence other than the sale of beer.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-159. - Privilege tax.

(a) There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer an annual privilege tax in the maximum amount permitted by T.C.A. §57-5-04, as may be amended from time to time. Any person or business entity engaged in the sale, distribution, storage, or manufacture of beer shall remit the tax each successive January 1 to the city.

(b) Written notice shall be mailed to each permit holder of the payment date of the annual privilege tax at least thirty (30) days prior to January 1 of each year to the address specified by the permit holder on the permit application. If the permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed, whichever is later, a notice by certified mail shall be sent to the permit holder giving notice that the tax payment is past due. If the permit holder does not pay the privilege tax within ten (10) days after receiving notice of the delinquency by certified mail, the permit shall be void.

(c) At the time a new permit is issued to any person or business entity 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 payment date.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-160. - Beer permits shall be restrictive.

All beer permits shall be restrictive as to the type of beer establishment authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption or on-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by its permit. It shall likewise be unlawful for any beer permit holder not to comply with any and all express restrictions or conditions in its permit.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-161. - Permit issuance; validity; sales generally.

(a) Permits shall be issued to the applicant, whether a person or business entity. Subject to the provisions of division (F) herein, permits shall be valid only for a business operating under the name identified in the permit application.

(b) A permit cannot be transferred to another person or business entity. The transfer of fifty

(50) percent or more of the beneficial interests in any business entity which is the holder of the permit shall constitute a change of control and render the permit invalid.

(c) A permit shall be valid only for a single location, except as provided in subsection (d) of this section, and cannot be transferred to another location. A permit shall be valid for all decks, patios, and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business.

(d) Every application for a beer permit shall state the class or classes of permits requested. The number of businesses for which permits may be issued is unlimited; provided, however, a permit holder who operates two (2) or more restaurants or other businesses within the same building may, in his or her sole discretion, operate all or some of the businesses pursuant to the same permit. Such multiple use permits must be issued for the classes applicable to the conduct of the restaurants or businesses.

(e) A permit shall become invalid upon cessation of operation of the business to which it was issued, or change of control, or relocation of the business, or change of the name of the business; provided, however, that if the holder of the permit advises the city recorder of the anticipated new name of the business before the name of the business is changed, the city recorder shall change the records to reflect that the subject beer permit is then issued in the name of the new business. This provision shall have no application to the temporary closing of a business for the purpose of constructing improvements, provided the business reopens under the same name and ownership.

(f) Any person or business entity engaged in the sale, distribution, or manufacture for sale of beer without the permit required by this article commits a misdemeanor, which shall be punishable under the general clause for this Code.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-162. - Conditions for receiving permit.

The following procedures must be followed by all applicants in seeking a hearing for a beer permit before the beer board:

(1) The applicant must complete an official application form and return the form to the city recorder at least fifteen (15) business days prior to the next regularly scheduled meeting of the beer board.

(2) The applicant must secure a telephone number for the proposed business location.

(3) In order to receive a permit, an applicant must establish with respect to its business that:

a. No beer will be sold, stored, distributed, or manufactured except at places where such activity will not cause congestion of traffic or interference with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety, and morals, the beer board having the right to forbid such sale, storage, distribution, or manufacture for sale at places on the foregoing grounds;

b. No sales shall be made to minors;

c. Neither (i) a person or business entity having at least five (5) percent ownership interest in the applicant; or (ii) the owner of at least five (5) percent ownership interest a business entity having at least a five (5) percent ownership interest in the applicant; or (iii) any person to be employed in the distribution, sale, or manufacture or sale of beer; shall

have been convicted:

1. Within the past ten (10) years of any felony involving misuse or abuse of alcohol or the illegal use of drugs, or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude; or
2. Within the past two (2) years of any misdemeanor involving misuse or abuse of alcohol or the illegal use of drugs, including, but not limited to, driving under the influence, public intoxication, as defined in T.C.A. § 39-17-310, disorderly conduct when it involves the use of alcohol or the illegal use of drugs, and/or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude; or
3. Within the past five (5) years of any two (2) or more misdemeanors involving misuse or abuse of alcohol or the illegal use of drugs, including, but not limited to, driving under the influence, public intoxication, as defined in T.C.A. § 39-17-310, disorderly conduct when it involves the use of alcohol or the illegal use of drugs, and/or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude; and

d. No sales shall be made for on-premises consumption unless the application so states.

(5) An applicant shall disclose the following information in its application for a beer permit:

a. Name of the applicant;

b. Name of the applicant's business;

c. Location of the business by street address or other geographical description sufficient to permit an accurate determination of conformity with the requirements of state law and this article;

d. If beer will be sold at two (2) or more restaurants or other businesses within the same building pursuant to the same permit as provided by T.C.A. § 57-5-103(a)(4), a description of all such businesses or restaurants;

e. Persons or business entities having at least a five (5) percent ownership interest in the applicant, and if a business entity owns at least a five (5) percent ownership interest in the applicant, the owners of at least a five (5) percent ownership interest in such business entity shall also be disclosed;

Identity and address of a representative to receive annual tax notices and any other communication from the beer board;

g. That no person or business entity having at least a five (5) percent ownership interest in the applicant, and if a business entity owns at least a five (5) percent ownership interest in the applicant, no owner of at least a five (5) percent ownership interest in such business entity, nor any person to be employed in the distribution, sale, or manufacture or sale of beer shall have been convicted:

1. Within the past ten (10) years of any felony involving misuse or abuse of alcohol or the illegal use of drugs, or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude; or

2. Within the past two (2) years of any misdemeanor involving misuse or abuse of alcohol or the illegal use of drugs, including, but not limited to, driving under the influence, public intoxication, as defined in T.C.A. § 39-17-310, disorderly conduct when it involves the use of alcohol or the illegal use of drugs, and/or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude; or

3. Within the past five (5) years of any two (2) or more misdemeanors involving misuse or abuse of alcohol or the illegal use of drugs, including, but not limited to, driving under the influence, public intoxication, as defined in T.C.A. § 39-17-310, disorderly conduct when it involves the use of alcohol or the illegal use of drugs, and/or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude;

h. The class of permit being requested and an acknowledgment that if the applicant desires to change the method of sale or operation in the future a new application shall be submitted to the beer board requesting a new permit;

i. Such other relevant information as may be required from time to time by the beer board. 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; and

j. The applicant's certification that it has read and is familiar with all provisions of this article.

(6) Any applicant making a false statement in the application shall forfeit such

applicant's permit and shall not be eligible to receive any type beer permit for a period of three (3) years.

(7) Each applicant shall be entitled to a hearing upon its application before the beer board. In no event shall a permit be issued without a full and proper hearing before the beer board and a majority vote thereon in favor of such issuance.

(8) Where a beer permit has been refused by the beer board, the applicant shall not be allowed to apply again for a permit on the same premises until after the expiration of one (1) year from the date of the refusal. Nothing in this division shall be construed as prohibiting or in any manner limiting the right of review by the circuit or chancery court in the manner authorized by law.

(9) Following filing of any application, the beer board, at the applicant's expense, may direct such investigation of the contents of the application as it deems proper.

(Ord. No. O0910-77, 12-15-09; Ord. No. O1010-68, § 1, 11-1-10)

Gallatin, Tennessee, Code of Ordinances >> PART II - MUNICIPAL CODE >> Chapter 3 - ALCOHOLIC BEVERAGES >> ARTICLE III. - BEER >> DIVISION 4. - REGULATIONS >>

DIVISION 4. - REGULATIONS

Sec. 3-221. - General conditions.
Sec. 3-222. - Restrictions on the issuance of beer permits.
Sec. 3-223. - Sanitation for the premises.
Sec. 3-224. - Hours of operation.
Sec. 3-225. - Revocation or suspension of beer permits.
Sec. 3-226. - Civil penalty in lieu of revocation or suspension.
Sec. 3-227. - Loss of certification for sale to minor.
Sec. 3-228. - Additional regulations.
Sec. 3-229. - Display of permit.
Sec. 3-230. - Provisional permit; new facilities.
Sec. 3-231. - Reserved.
Sec. 3-232. - Violations.
Sec. 3-233. - Gender.
Sec. 3-234. - Severability.
Sec. 3-235. - Penalty.
Secs. 3-236—3-238. - Reserved.

Sec. 3-221. - General conditions.

(a) No gambling shall be permitted upon the premises where beer is sold, stored, distributed, or manufactured for sale.

(b) Neither the permit holder nor any person employed by the permit holder shall drink beer or other intoxicating beverages or illegally use drugs while performing his or her employment duties. An owner is always assumed to be on duty while in his or her establishment and in the public part of the business.

(c) No beer shall be sold or served to persons who are intoxicated as defined in T.C.A. § 39-17-310.

(d) In all locations where beer is sold, there must be sufficient lighting for employees to properly inspect the age and identification cards of customers. In no event shall a permit be issued to any location equipped with windows which are painted or otherwise not transparent.

(e) The permit holder shall maintain an orderly establishment and not be in violation of any health, building, or fire department regulations or ordinances of the city, county or state. Permit holders shall cooperate fully with the city police department in any necessary and normal investigation.

(f) At all times when beer is being sold, the permit holder shall have designated a person as a manager who shall have supervisory authority for the permit holder's facility. No such manager shall have been convicted:

(1) Within the past ten (10) years of any felony, involving misuse or abuse of alcohol or the illegal use of drugs, or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or

the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude; or

(2) Within the past two (2) years of any misdemeanor involving misuse or abuse of alcohol or the illegal use of drugs, including, but not limited to, driving under the influence, public intoxication, as defined in T.C.A. § 39-17-310, disorderly conduct when it involves the use of alcohol or the illegal use of drugs, and/or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude; or

(3) Within the past five (5) years of any two (2) or more misdemeanors involving misuse or abuse of alcohol or the illegal use of drugs, including, but not limited to, driving under the influence, public intoxication, as defined in T.C.A. § 39-17-310, disorderly conduct when it involves the use of alcohol or the illegal use of drugs, and/or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell any controlled substance that is listed in T.C.A. title 39, chapter, 17, part 2, schedules I through V, and/or any crime involving moral turpitude;

(g) The beer board has the full power and authority to enter, inspect, and investigate any business operated pursuant to any beer permits issued by it. The beer board has full authority to call upon any members of the police and health departments for assistance in the enforcement of the state laws, city ordinances, and the rules and regulations of the beer board pertaining to the sale of beer.

(h) It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer to employ any minor less than eighteen (18) years of age in the sale, distribution, or manufacture of beer.

(i) It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer to make or allow any sale of beer to any mentally incapacitated person.

(j) It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer to allow intoxicated persons to loiter on the premises for which a permit has been issued.

(k) It shall be unlawful to fail to prominently display a current beer permit.

(l) It shall be unlawful for a permit holder to have a manager and/or employee fail to call the police promptly to report any fight or disturbance.

(m) It shall be unlawful to sell or allow the sale to or consumption of beer by any person under twenty-one (21) years of age.

(n) It shall be unlawful to sell, serve, or allow to be sold on its premises any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight, unless such location holds a valid, current mixed drink license issued by the Tennessee Alcoholic Beverage Commission.

(o) It shall be unlawful to allow any minor under the age of twenty-one (21) to frequent its place of business, except where the business is a restaurant, and in the case said minor shall only be allowed in the business for the sole purpose of eating prepared food from the menu.

(p) It shall be unlawful to permit customers or employees to be nude, topless, or

bottomless at any time.

(q) It shall be unlawful to allow the sale or consumption of beer from any location under suspension by the beer board.

(r) It shall be unlawful to fail to comply with the laws regarding hours of operation as outlined in this article.

(s) Violations of divisions (a) through (r) above shall be considered prima facie evidenced that the violation is allowed by the permit holder and the burden of proof to prove otherwise shall be shifted to the permit holder.

(t) It shall be unlawful to allow any loud, unusual, or obnoxious noises to emanate from the premises.

(u) It shall be unlawful to allow consumption of beer in an establishment restricted to off-premises consumption.

(v) It shall be unlawful to fail to provide at least one working telephone for incoming and outgoing phones at all times.

(w) It shall be unlawful for a permit holder to allow dancing on its premises by employees or agents of the business.

(x) It shall be unlawful to allow pool or billiard playing in the same room where beer is sold.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-222. - Restrictions on the issuance of beer permits.

The beer board shall be guided by the following restrictions and limitations in the deliberation and issuance of beer permits within the corporate limits of the city:

(1) Applicants must be citizens or resident aliens lawfully admitted into the United States, or, if a business entity, all owners thereof possessing at least a five (5) percent ownership interest in such business entity must be citizens or resident aliens lawfully admitted into the United States. If a business entity owns at least a five (5) percent ownership interest in the applicant, each owner of at least a five (5) percent ownership interest in such business entity must be a citizen or resident alien lawfully admitted into the United States.

(2) No permit to engage in the beer business shall be granted by the beer board to an individual applicant who is under twenty-one (21) years of age.

(3) Any individual may be employed where beer is sold, whether such individual is a citizen or alien resident of the United States, provided other requirements regulating the sale of beer are met.

(4) The beer board may restrict beer permits to off-premises consumption only, on-premises consumption only, or both.

(5) For class II or III permits, the applicants must serve at least one (1) hot meal a day at tables provided for that purpose with a menu available during regular business hours. At the time of initial application and on the occasion of each annual renewal thereafter, a copy of the current menu must be submitted. The holder of a class II or class III permit must continue to offer the menu items, or their equivalents, throughout the permit year. If upon inspection, it is determined that the permit holder is not serving meals as required by this subsection, such shall be grounds for immediate permit revocation by the beer board.

(6) For class I permits, the permit holder shall not allow consumption of beer on the premises, adjoining sidewalks or streets, or within two hundred (200) feet of the

immediate premises, including the building and parking lot. No alcoholic beverages shall be kept for sale in such premises except in the original containers or packages.

(7) For class II, III and IV permits, the areas serving alcoholic beverages must be clearly defined and appropriately designated that all patrons shall be twenty-one (21) years of age and above.

(8) No permit shall be issued in violation of any state law or the zoning code of the city, nor shall any permit be issued to any establishment which has not passed a life safety inspection within six (6) months prior to issuance of a permit. Said inspection shall be conducted in accordance with the Life Safety Code as adopted in section 9-69 of this Municipal Code. No establishment with an outstanding violation of the Life Safety Code shall be eligible to receive a permit.

(9) The beer board, in its discretion, may refuse to issue a permit for any place of business where, in the period immediately preceding the application for a permit, a business was operated in such a manner as to create a public nuisance or was operated in such a manner as to materially contribute, with places of like character in its vicinity, to the creation or maintaining of a public nuisance. In determining whether a permit shall be issued, the beer board shall consider the character of the neighborhood, the space available for the building, the space available for off-street parking, and the effect of the business on its neighbors.

(10) Each applicant for a beer permit shall pay to the city recorder, a minimum business license fee and gross receipts tax annually in order to renew the beer permit. The city recorder shall notify businesses which fail to pay the annual renewal tax by certified mail not later than February 28 and such failure to file and pay the tax shall result in presentation to the beer board for possible revocation.

(11) No beer shall be sold, stored, distributed, or manufactured except at places where such activity will not cause congestion of traffic or interference with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety, and morals, the beer board having the right to forbid such sale, storage, distribution, or manufacture for sale at places on the foregoing grounds.

(12) In no event shall any permit be issued authorizing the sale, storage, distribution, or manufacture of beer at places within 250 feet of any school, church, or other place of public gathering. Said distance shall be measured in a straight line from the nearest point on the principal building of the school, church, or other place of public gathering, or the nearest point on the space leased by such school, church, or other place of public gathering in a multi-tenant building, to the nearest point on the building, or the nearest point on the space leased by the applicant in a multi-tenant building, in which beer is to be sold, distributed, or manufactured.

(13) Within the city's downtown development zone, the retail sale of beverages shall be permitted regardless of any distance prescriptions contained in this article, provided that the applicant meets all other requirements for the sale of beverages.

(14) If a school, church, or other place of public gathering locates within the applicable distance limitation of a location for which a valid beer permit exists, such valid, existing beer permit for the same location shall not be affected by the proximity of such location to the school, church, or other place of public

gathering. If a beer permit issued for such location becomes invalid for any reason, another person or business entity may apply for a new beer permit for such location within one (1) year of the date of such invalidity, and, if a new beer permit is issued by the beer board for the same location, the location shall continue to be subject to the protections of this subsection; otherwise, the location shall not be subject to the protections of this subsection.

(15) The distance limitations contained in this section shall have no effect on a valid permit issued prior to the adoption of this article.

(16) If a location for which a beer permit has been issued is not subject to the distance limitations contained in this section at the time when the beer permit for such location either expires, is surrendered, or is revoked, and if no new application for a beer permit at the same location is filed within one (1) year of the date of such expiration, surrender, or revocation, then such location shall become subject to the distance limitations contained in this section.

(17) No location shall be eligible for a permit which does not abut a public street or sidewalk.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-223. - Sanitation for the premises.

The premises of the permit holder shall be defined as the lot or property under control of the permit holder, both inside the building and outside the building. The permit holder shall be responsible for the sanitation of the premises, including refuse storage, both inside and outside the building, lavatory facilities, and general cleanliness of the grounds and structure. The permit holder shall provide and maintain separate sanitary toilet facilities for men and women. The mayor, or his or her designee, the county health officer, or any properly authorized person is authorized to enter the premises at all reasonable hours for the making of such inspections as may be necessary. The determination of the sanitary conditions is solely a question for the city.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-224. - Hours of operation.

Beer may be sold by permit holders at all times, except from 3 a.m. to 6 a.m. on Monday through Saturday; and 3 a.m. to 10 a.m. on Sunday.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-225. - Revocation or suspension of beer permits.

(a) The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this article when the holder thereof is guilty of making a false statement or misrepresentation in the application or of violating any of the provisions of this article. However, no beer permit shall be revoked or suspended until a public hearing is held by the beer board after reasonable notice to all known parties in interest.

(b) Pursuant to T.C.A. § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of T.C.A. § 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 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 T.C.A. § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that it has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-226. - Civil penalty in lieu of revocation or suspension.

(a) Definition. "Responsible vendor" means a person or business entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," T.C.A. § 57-5-601 et seq.

(b) 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 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.

(c) 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.

(d) 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.

(e) In the event a special event occurs and the special event permit required under § 3-158 (b)(4) is not secured by the sponsor of the special event, and administrative penalty of one hundred dollars ($100.00) shall be imposed and the sponsor shall be ineligible to receive any future special event permits until the penalty is paid.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-227. - Loss of certification for sale to minor.

If the beer board determines that a clerk of an off-premises beer permit holder certified under T.C.A. § 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.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-228. - Additional regulations.

(a) All on-premises permit employees shall be required to have an ID badge or work

apparel that clearly identifies the employee and distinguishes the employee from patrons of the establishment. Failure by employees to have an ID badge or work apparel on the permit holder's premises shall be grounds for permit suspension.

(b) Locations with class III beer permits shall be allowed to sell beer to go, provided that it is unopened, and is in its original container.

(c) Each permit holder shall be required to complete and sign an affidavit certifying that it has read the ordinance governing the sale and consumption of beer and acknowledges responsibility to strictly enforce the beer ordinance in its establishment. Such affidavits shall be signed annually and kept on file in the city recorder's office with the beer permit. Failure to complete the required affidavit shall be considered basis for permit revocation.

(d) Each permit holder shall notify the beer board of any change in address within ten (10) days thereof.

(Ord. No. O0910-77, 12-15-09; Ord. No. O1010-68, § 2, 11-1-10)

Sec. 3-229. - Display of permit.

The permit required by this chapter shall be posted in a conspicuous space on the premises of the permit holder, together with all other permits, licenses, and stamps as required by law.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-230. - Provisional permit; new facilities.

The beer board, in its discretion, may issue a permit to a new business prior to its construction and operation. The permit shall be provisional in nature, pending final inspection of the facility, and in no event shall be valid for a period longer than sixty (60) days. The beer board shall consider the type of permit requested and the nature of the business in its deliberations.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-231. - Reserved.

Editor's note—

Ord. No. O1010-68, § 3, adopted November 1, 2010, amended the Code by repealing former § 3-231 in its entirety. Former § 3-231 pertained to bond requirements, and derived from Ord. No. O0910-77, adopted December 15, 2009.

Sec. 3-232. - Violations.

Any violation of this article or any provision of T.C.A. § 57-5-101 et seq. shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provisions of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-233. - Gender.

Words importing the neuter in this article shall include the feminine and the masculine unless the gender is clearly indicated or unless the context in which it is used would not otherwise permit such meaning.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-234. - Severability.

If any provision of this article or the application therefore to any circumstance or person or any other entity subject to the provisions hereof is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to that end the beer board declares the provisions of this article to be so severable.

(Ord. No. O0910-77, 12-15-09)

Sec. 3-235. - Penalty.

Any person or business entity violating any of the ordinances of the city shall be fined not more than fifty dollars ($50.00) or the maximum amount permitted by state law, whichever is greater, for each offense, and a separate offense shall be deemed committed for each day of violation.

(Ord. No. O0910-77. 12-15-09)

Secs. 3-236—3-238. - Reserved.

ARTICLE V. - BROWN BAGGING

Sec. 3-301. - Definitions.
Sec. 3-302. - Regulations.
Sec. 3-303. - Violations and penalty.
Sec. 3-304. - Punishment for violations.

Sec. 3-301. - Definitions.

Alcoholic beverages shall mean and include alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits or wine and capable of being consumed by a human being, other than patented medicine or beer where the latter contains an alcoholic content of five (5) percent by weight, or less, Notwithstanding any provision to the contrary in this title, "alcoholic beverage" or "beverage" also includes any liquor product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content.

Beer shall mean all beers, ales and other malt liquors having an alcoholic content of not more than five (5) percent by weight.

(Ord. No. O0704-21, § 1, 5-1-07)

Sec. 3-302. - Regulations.

(a) No owner, operator or employee of any business establishment, that does not have a valid beer permit, shall permit or allow any person to open, or to have open, or to consume inside or on the premises a bottle, can, flask or container of any kind or description, of alcoholic beverages or beer.

(b) No owner, operator or employee of any business establishment possessing a valid beer permit shall permit or allow any person to open, or to have open, or to consume inside or on the premises a bottle, can, flask or container of any kind or description, of alcoholic beverages or beer, except such beer that is sold on the premises.

(c) This section shall not apply to any business establishment possessing a valid permit for the on premises sale of alcoholic beverages issued by the state alcoholic beverage commission.

(Ord. No. O0704-21, § 1, 5-1-07)

Sec. 3-303. - Violations and penalty.

Any violation of this chapter by the owner, operator or employee of a business establishment not possessing a valid permit issued by the city for the on-premises sale of beer shall be punishable by monetary penalty of up to fifty dollars ($50.00), with each day of violation constituting a separate offense.

(Ord. No. O0704-21, § 1, 5-1-07)

Sec. 3-304. - Punishment for violations.

Any violation of this division by the owner, operator or employee of a business establishment possessing a valid permit for the on-premises sale of beer shall be subject to punishment pursuant to section 3-170 of this chapter as provided for other violations of the beer ordinance, including but not limited to, suspension or revocation of the beer permit.

(Ord. No. O0704-21, § 1, 5-1-07)