

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. BEER.
2. INTOXICATING LIQUORS.

CHAPTER 1**BEER**²**SECTION**

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¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision on *Watkins v. Naifeh*, 635 S. W. 2d 104 (1982).

8-121 Violations and penalty.

8-101. Beer board. There is hereby created a board, to be known as the Town of Unicoi Beer Board, which shall be composed of the members of the board of mayor and aldermen of the Town of Unicoi, whose duty it shall be to regulate, supervise, and control the issuance, suspension, and revocation of permits to sell, store, distribute, dispense, serve, and/or manufacture beer and other beverages of like alcoholic content shall be the same as the definition appearing in *Tennessee Code Annotated*, § 57-5-101, in the Town of Unicoi. The mayor shall be the chairman and the town recorder shall be the secretary of said board. A majority of the board shall constitute a quorum for any purpose. Matters before the board will be decided by a majority present if a quorum is constituted.

The secretary of the board shall keep a record of all the proceedings of the board, which shall be a public record and shall contain at least the following:

- (1) The date of each meeting;
- (2) The names of the board members present and absent;
- (3) The names of the members introducing and seconding motions and resolutions, etc., before the board;
- (4) A copy of each such motion or resolution presented;
- (5) The vote of each member thereon; and
- (6) The provisions of each beer permit issued by the board.

The recorder shall further keep on file in his office all original applications and a duplicate of each permit issued. The board shall be empowered to employ a court reporter or person of equivalent ability whenever necessary in any hearing before it. The power, right, and authority are hereby conferred upon said board to arrange for and prescribe the details and form of the necessary applications, permits, and other matters incident to carrying out the provisions of this chapter.

The board shall meet upon call of the chairman of the board to transact such business as may properly come before it. The board may adjourn a meeting at any time to another time and place. All meetings of the board shall be open to the public.

The board shall perform such other duties and have such other power and authority provided by statute and this chapter. (2004 Code, § 8-101)

8-102. Authorization of beer businesses. Pursuant to *Tennessee Code Annotated*, §§ 57-5-202, *et seq.*, it shall be lawful in the Town of Unicoi to transport, store, sell, distribute, possess, receive, or manufacture beer of alcoholic content shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101, and/or any other beverage of like alcoholic content, subject to the provisions of this chapter and the privilege taxes provided in this code. Provided, however, it shall be unlawful for any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other

group operating as a unit to sell, store, dispense, serve, distribute, and/or manufacture any of the said beverages regulated by this chapter within the Town of Unicoi without having first obtained a duly issued permit and license to do so in the manner prescribed in this chapter. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors, including "wine coolers," having alcoholic content the same as the definition appearing in *Tennessee Code Annotated*, § 57-5-101.

All permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for the permit holder not to comply with any and all express restrictions or conditions which may be written into his permit by the Town of Unicoi Beer Board. (2004 Code, § 8-102)

8-103. Locations of beer businesses. No beer permit shall be granted for any location where there may be, in the opinion of the Town of Unicoi Beer Board, an adverse effect in consideration of the type and character of the neighborhood, the population density of the neighborhood, the proximity of places of public gathering, the likelihood of such business causing congestion of traffic or would otherwise interfere with public health, safety and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer, or the consumption of beer within three hundred feet (300') of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point of the property line upon which sits the building from which the beer will be manufactured, stored, or sold, or consumed to the nearest point on the property line of the hospital, school, church or other place of public gathering. (2004 Code, § 8-103)

8-104. Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content being the same definition appearing in *Tennessee Code Annotated*, § 57-5-101 within the corporate limits of Unicoi, Tennessee between the hours of 3:00 A.M. and 8:00 A.M. on weekdays, or between the hours of 3:00 A.M. and 12:00 noon on Sundays. No such beverages shall be consumed or opened for consumption on or about any premises where beer or other beverages with an alcoholic content being the same as the definition appearing in *Tennessee Code Annotated*, § 57-5-101 is sold within the corporate limits of Unicoi, Tennessee in either bottle, glass or other container after 3:15 A.M. (2004 Code, § 8-104)

8-105. Public consumption of beer prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, alley, boulevard, bridge, nor upon the grounds of any cemetery or school,

whether public or private, nor upon any park or public grounds nor upon the grounds belonging to any church nor upon vacant lots within two hundred feet (200') of any public street, highway, avenue, or other public place; provided, however, that the foregoing does not prohibit personal use, outside of public view of the beverages regulated on the private property of the user and/or his non-commercial guests, and it shall further be lawful for beverages regulated by this chapter to be consumed at special events and festivals as otherwise permitted herein at whatever such locations the special events and/or festival is permitted. (2004 Code, § 8-105)

8-106. Beer permits. (1) No permit shall be issued except upon application in writing of the owner or owners of the business made to the Town of Unicoi Beer Board, which application shall be sworn to by the applicants. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. All applications shall be made upon a regular form provided for that purpose, and shall be filed with the secretary of the board. In no event shall a permit be issued without the written approval of the application therefore by a majority of the board.

Special event and festival permits, which are temporary permits, extending for no more than a three (3) day period may be obtained upon proper application to the board as further set forth herein. Special events and festivals shall be defined as business, social, charitable, fraternal or other gatherings or events of a temporary nature not to extend in excess of three (3) twenty-four (24) hour days.

Prior to consideration of an application, except for special event and festival permits, the Town of Unicoi shall collect an applicant fee of two hundred fifty dollars (\$250.00) in the form of a cashier's check payable to the Town of Unicoi in accordance with *Tennessee Code Annotated*, § 57-5-204. Prior to consideration of an application for a special event or festival permit, the Town of Unicoi shall collect an applicant fee of one hundred dollars (\$100.00) in the form of a cashier's check payable to the Town of Unicoi in accordance with *Tennessee Code Annotated*, § 57-5-204.

(2) Each beer licensee must show in its application and by affidavit later filed as to all subsequent hires that all of the laws with reference to a person serving alcoholic beverages under the permit have been complied with.

(3) All applications for any permits required hereunder shall be verified by oath or affidavit and shall establish the following:

(a) That neither the applicant nor any person or persons employed by him in such distribution or sale has been convicted of any violation of the statutes of the State of Tennessee prohibiting the possession, sale, manufacture, or transportation of intoxicating liquors or any other crime involving moral turpitude in the past ten (10) years.

(b) That no sale shall be made to persons under twenty-one (21) years of age, nor shall underage persons be employed directly in the sale or distribution of such beverages.

(c) That no minor shall be allowed to loiter about the applicant's premises.

(d) That no sale shall be made to persons intoxicated or who are insane or otherwise mentally incapacitated.

(e) That the applicant is of good character and has a sufficient legal interest in a suitable location as to entitle the applicant to conduct the sale of beer at such place of business.

(f) That, in the place of business where such beverages will be sold or distributed, no loud, unusual or obnoxious noises shall be allowed, and the applicant shall conduct such place of business otherwise in an orderly, peaceful, and lawful manner.

(g) That no sale or distribution of such beverages shall be made at a place where such sale or distribution will cause congestion of traffic or interference of schools, churches, or other places of public gathering, or will otherwise interfere with public health, safety and morals.

(h) That, in the place of business where such beverages will be sold or distributed, the consumption of any beverages with an alcoholic content The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101, shall not be allowed, except in places that hold valid licenses for the sale of alcoholic beverages by the drink, as issued by the Alcoholic Beverage Commission of the State of Tennessee.

(i) That, in the place of business where such beverages are sold for consumption on-premises, proper sanitary facilities for both sexes shall be provided.

(j) That the person so applying will conduct the business in person, or if he is acting as agent for any other person, firm, corporation or association, the name or names of the owners of such business, together with their addresses and the nature of the firm, corporation or association for whom the applicant is acting.

(4) Permits, other than temporary permits for special events or festivals as otherwise set forth herein, shall be issued for an indefinite period of time except that the Town of Unicoi Beer Board may issue a permit for a shorter or probationary period if, in its discretion, it deems such action proper and reasonable under the circumstances.

(5) There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1995, and on each successive January 1, to the Town of Unicoi, Tennessee. At the time a new permit is issued to any business

subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date, all as provided in *Tennessee Code Annotated*, § 57-5-104. A penalty of ten dollars (\$10.00) will be assessed on the second working day following January 1st, and on each successive working day until the privilege tax is paid.

(6) No permit now in force or hereafter issued shall be good or valid except at the location described in the application upon which it is based; nor shall any such permit be transferable.

(7) The applicant or a representative may be required to appear in person before the board and subject himself to examination upon any and all questions appertaining to his qualifications under this chapter and amendments thereto.

(8) No permit may be granted hereunder to any establishment when any person, firm or corporation having at least a five percent (5%) ownership in the establishment has been convicted within ten (10) years prior to the application for a permit hereunder of a violation of the laws governing the sale or manufacture of alcoholic beverages or of any felony, or has had a beer permit revoked or suspended within the past ten (10) years.

(9) Every permit and license issued pursuant to this chapter shall be displayed in a conspicuous place framed under glass and placed so it can be easily read in the place of business named and described in the permit.

(10) No permit or license shall be issued pursuant to this chapter unless the applicant establishes to the satisfaction of the beer board that he has obtained all permits and paid all required fees and privilege taxes, and has met all other requirements of the laws of the State of Tennessee and the United States. No permit or license shall be granted unless or until the party desiring the same shall have filed with the town recorder a copy of the bond provided for in *Tennessee Code Annotated*, §§ 57-5-101, *et seq.*

(11) The holder of a permit issued pursuant to this chapter desiring to voluntarily surrender the permit shall tender said permit to the Town of Unicoi Beer Board. The board shall take such action upon the offer to surrender as it may determine necessary and advisable under the circumstances, and it shall have the absolute authority to refuse to accept the surrender of any permit.

(12) A majority of the full board shall consider all applications filed under this chapter and grant or refuse the license according to its best judgment under all of the facts and circumstances, and the action of the majority of the full board in granting or refusing a license shall be final, except as same is subject to review by law.

In the consideration of the applications, the beer board shall take into consideration the type and character of the neighborhood; the population density in the area; present and future traffic conditions in the location and in the neighborhood; the proximity of schools, parks and playgrounds; the proximity of churches or other religious establishments; any problems of law enforcement

in the area; and other such factors as are brought to the attention of the board which will affect the public health and welfare.

(13) Any person, firm or corporation holding a permit under this chapter who proposes to transfer the business operated under the permit to any other person, firm or corporation with the intention or the expectation that the buyer will engage in the business of selling beer at the same location shall be required to notify the beer board of such intention to transfer the business.

The board shall be furnished with the name of the proposed buyer, who shall be required to make application for a permit to the board. Such application shall conform to the requirements for other applications for permits as set out in this chapter.

In the event a proposed buyer acquires the business operated under this permit, and such transfer is to become final upon condition that the buyer obtains a regular beer permit, the buyer may obtain a temporary permit from the town recorder upon the determination of the town recorder that the buyer is about to comply with this chapter. Such temporary permit shall be valid only until the first meeting of the beer board is held after the issuance of said temporary permit and in no event shall such temporary permit be valid more than twenty-one (21) days from the date of issuance. The holder of a temporary permit shall be subject to all restrictions and penalties provided for regular permit holders by this chapter. Temporary permits shall not be issued except for premises for which the beer permit has been issued to another owner or operator at the time application is made for such temporary permit.

(14) In the event a holder of a permit shall cease to operate his business for which said permit was issued, the permit shall become invalid and void at 12:00 midnight of the date on which the holder ceases to operate the business. Said licensee shall, within five (5) days thereafter, surrender said permit to the town recorder.

Renewal of a permit upon the expiration of same shall be done likewise in accordance with the provisions of this chapter. (2004 Code, § 8-106)

8-107. Permits for retail sale; types designated. Permits for the retail sale of beer shall be of two (2) types:

(1) On-premises permits. On-premises permits shall be issued for the consumption of beer on the premises in accordance with the provisions of this chapter. There shall be no limitation on the number of beer permits issued for on-premises consumption.

On-premises permits shall include special event and festival permits, which are temporary permits, extending for no more than a three (3) day period.

(2) Off-premises permits. Off-premises permits shall be issued for the sale of beer only for consumption off the business premises in accordance with the provisions of this chapter.

Both on-premises and off-premises permits may be held and the permits may be for an indeterminate time or temporary as set forth in the permit or permits. (2004 Code, § 8-107)

8-108. Restrictions upon issuance of on-premises beer permits.

Permits for the on-premises sale of beer shall be issued according to the following limitations:

(1) Any applicant for an on-premises beer permit must first obtain, and show satisfactory proof to the board that he has obtained a license to serve mixed beverages pursuant to chapter 2 of this title and the provisions of the *Tennessee Code Annotated* referenced therein.

(2) Additionally, with respect to any applicant who applies under the auspices of being a "restaurant" under chapter 2 of this title and the provisions of the *Tennessee Code Annotated* referenced therein, said applicant's annual sales of alcoholic beverages as defined in this chapter shall not exceed fifteen percent (15%) of total taxable sales. In the application of this section, "total taxable sales" shall be defined as those food and non-alcoholic beverage sales subject to state and local sales taxes. It shall be a violation of this section if the alcoholic beverage sales exceed the fifteen percent (15%) limit in two (2) consecutive months or three (3) months in any calendar year. (2004 Code, § 8-108)

8-109. Restrictions on financial interests of beer permit holders.

No brewer, wholesaler, or manufacturer of any of the beverages regulated by this chapter, nor any agent or agents of such brewer, wholesaler, or manufacturer shall be permitted to make any loan of money or furnish any fixtures of any kind or have any interest either directly or indirectly in the business of any retailer of such beverages, or in the premises occupied by any such retailer. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall, while so doing, convey or grant or contract to convey or grant any interest in the business located at the place named in said permit, or any interest in the premises or any property therein, to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall incur or contract any indebtedness or financial obligation to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter, except for the purchase of said beverages. No permit or license shall be granted under this chapter to any applicant who, at the time of making application, is indebted or financially obligated to any such brewer, wholesaler, or manufacturer, except for the purchase of said beverages in the case of applicants seeking renewal of permits. (2004 Code, § 8-109)

8-110. Restrictions upon issuance of off-premises beer permits.

Permits for the off-premises sale of beer shall be issued according to the following classes and limitations:

(1) Off-premises where beer is sold at a grocery (food store). "Grocery" shall mean a business establishment whose primary business is the retail sale of food merchandise and household items. Beer shall not be sold for consumption on the premises of grocery stores. There shall be no limitation on the number of beer permits issued to grocery stores.

(2) Off-premises where beer is sold at a convenience store or market. "Convenience store or market" shall mean a business establishment whose business is the retail sale of gasoline and petroleum products and food merchandise, household supplies, and sundries. Beer shall not be sold for consumption on the premises of convenience stores or markets. There shall be no limitation on the number of beer permits issued to convenience stores or markets.

(3) Off-premises where beer is sold at a drug store. "Drug store" shall mean a business establishment whose primary business is the retail sale of pharmaceuticals, food merchandise, household items, and sundries. Beer shall not be sold for consumption on the premises of drug stores. There shall be no limitation on the number of beer permits issued to drugstores.

(4) Off-premises where beer is sold on the premises of a permitted manufacturer. "Permitted manufacturer" shall mean a business establishment which has been granted a manufacturing permit under this chapter. There shall be no limitation on the number of beer permits issued to manufacturing facilities. Retail sales of beer for off-premises consumption must be labeled in accordance with the requirements of the Federal Bureau of Alcohol, Tobacco and Firearms and must meet all other state and local regulations regarding off-premises sales. Retail sales of beer for off-premises consumption by a microbrewery pursuant to an off-premises permit must take place within the same premises where the product is manufactured. The requirements of *Tennessee Code Annotated*, § 75-5-101 as currently in effect are hereby adopted as if set out herein. Applications for permits under this section must be presented to the planning commission for a site plan approval prior to the beer board's consideration of the application. (2004 Code, § 8-110)

8-111. Selling or otherwise dispensing beer to persons in motor vehicles prohibited. The beverages regulated by this chapter shall not be sold, given away, served, or otherwise dispensed to persons in automobiles or other motor vehicles. This provision shall not apply to holders of off-premises permits lawfully selling and dispensing beer to persons in automobiles or other vehicles through a drive-up window as of January 1, 2007, and/or subsequent holders of an off-premises permit to sell beer for off-premises consumption at a location where beer was lawfully sold and dispensed to persons in automobiles

for other vehicles through a drive-up window as of January 1, 2007. (2004 Code, § 8-111)

8-112. Restrictions pertaining to underage persons. Except as authorized by state laws, no sales, gifts, or distribution of such beverages shall be made or permitted to be made to persons under twenty-one (21) years of age (hereinafter referred to as "underage persons"); nor shall any minor be employed or used or permitted to be employed or used for or in the sale or distribution or other handling of such beverages where on-premises consumption of such beverages is permitted; nor shall any minor be permitted or allowed to drink beer or other beverages of like alcoholic content in any establishment or place of business or premises where a permit issued pursuant to this chapter is exercised. Every person to whom a permit is issued under this chapter shall require any and every employee as to whose majority there is any possible question or doubt to present and leave with him a copy of such employee's birth certificate. Underage persons shall not be permitted to loaf or loiter in any place where the beverages regulated by this chapter are sold. The burden of ascertaining the age of minor customers shall be upon the holder of the permit. (2004 Code, § 8-112)

8-113. Restrictions pertaining to intoxicated persons. None of the beverages regulated by this chapter shall be sold or given away or otherwise dispensed or served to any person in a drunken condition; nor shall any person in such condition be permitted or allowed to consume any such beverages upon or in any premises or place of business where such beverages are sold, dispensed, served, or distributed. No person holding a permit under and dealing in or handling the beverages regulated by this chapter shall permit or allow upon his premises or in his place of business any person who is under the influence of any intoxicant whatsoever. It shall be the duty of any person holding a permit under and dealing in and handling the beverages regulated by this chapter to promptly notify police officers when any person under the influence of any intoxicant whatsoever enters the premises or place of business of the person holding such permit.

No owner, co-owner, operator, proprietor, employee or servant of a place of business holding and/or exercising a permit issued pursuant to this chapter shall drink or be under the influence of any of the beverages regulated by this chapter or any other intoxicant while in or working at any such place of business or while upon any such premises. (2004 Code, § 8-113)

8-114. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited. It shall be unlawful for any person, firm, co-partnership, corporation, syndicate, joint stock company, association or other group operating as a unit, who or which holds and/or exercises a distributor's or wholesaler's permit under this

chapter, except those sales, gifts, deliveries or distributions pursuant to a special event or festival provided for herein, to sell, give away, deliver, or distribute any of the beverages regulated by this chapter to any person, firm, co-partnership, corporation, syndicate, club, joint stock company, association, or other group operating as a unit, in the Town of Unicoi, who or which does not hold a valid retailer's permit issued pursuant to this chapter, or to permit or allow any agent or employee to do so. Provided, further, that it shall also be unlawful for any such distributor or wholesaler knowingly to sell, give away, deliver, or distribute such beverages to any such retailer who has violated or is violating any of the provisions of this chapter, or to permit or allow any agent or employee to do so. (2004 Code, § 8-114)

8-115. Suspension or revocation of beer permits. The Town of Unicoi Beer Board is hereby empowered and directed, whenever from facts and evidence presented to it at a public hearing hereinafter provided for it is of the opinion that such action is justified in the public interest, to suspend or revoke any permit or license issued pursuant to this chapter to any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or group operating as a unit, who:

(1) Makes any material representation or false statement in the application upon which the permit is based or fails to keep and maintain as true any promise or fact set forth in said application.

(2) Violates any of the provisions of this chapter.

(3) Is convicted of any violation of the laws of the United States or of the State of Tennessee or of the ordinances of any town prohibiting the manufacture, sale, possession, storage or transportation of intoxicating liquors of alcoholic content being the same as the definition appearing in *Tennessee Code Annotated*, § 57-5-101.

(4) Knowingly permits or allows, or negligently fails to prevent, the violation of any of the aforesaid laws or ordinances against said intoxicating liquors upon any premises occupied or owned by or under the control of the licensee.

Upon any complaint being made to the said board by a board member, the public safety director, or one (1) or more reputable citizens that any of the acts above-mentioned in this section has been committed or any other provision of this chapter has been or is being violated by a person holding and/or exercising a permit issued pursuant to this chapter, or when said board has knowledge of any such act or violation, the holder of said permit shall be notified in writing by the secretary of the board and afforded an opportunity for a hearing before the board. Said notice shall be mailed at least five (5) days before the hearing to the address shown upon the application for a permit, shall state the nature of the complaint or violation, and shall direct the holder of said permit to appear before the board at a time and place specified and show cause, if any he has, why the holder's permit should not be revoked. The hearing shall be broad in

character, and evidence may be heard upon any facts or circumstances pertinent to or applicable to the violation charged. The reputation or character of the place and of the holder of the permit complained of shall be material and competent evidence for the consideration of the board at such hearing.

Whenever complaint is made charging that false statements or misrepresentations have been made in any application for a permit under this chapter, the burden of proof shall be upon the holder of the permit to establish the truth of the statement charged to be false. Provided, that no formal complaint shall be necessary or required whenever the falsity of such statement or representation, or the commission of any of the acts above-mentioned in this section, or the violation of any other provision of this chapter, may be made to appear by the records of any court of competent jurisdiction; and in such case, such records or duly certified copies thereof shall be conclusive evidence of the falsity or misrepresentation or of the commission of said act or of said violation.

Provided, further, that no person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit, whose permit and license are revoked by said board shall be eligible to make application for or be granted another permit under this chapter for a period of ten (10) years from the date said revocation becomes final.

Provided, further, that when a permit and license are revoked by said board pursuant to this chapter no new permit or license shall be issued for the same premises until the expiration of one (1) year from the date said revocation becomes final.

The secretary shall notify the Town of Unicoi Beer Board of the revocation of any permit under this chapter. (2004 Code, § 8-115)

8-116. Civil penalty in lieu of suspension. The Town of Unicoi Beer Board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense or making or permitting to be made any sales to underage persons or, a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (2004 Code, § 8-116)

8-117. Inspection of beer businesses. The Unicoi County Sheriff's Department and/or police officers of the Town of Unicoi 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 Town of Unicoi for any law violations. (2004 Code, § 8-117)

8-118. Prior permit holders. Any person, firm, corporation, or legal entity heretofore issued a permit for the sale of beer by the Town of Unicoi, and conducting sales under such permit on the effective date of this chapter shall, in order to continue such sales, be required to apply for a permit for the sale of beer within the municipality under the provisions of this chapter at the regular renewal date of their present permit. (2004 Code, § 8-119)

8-119. Information to be kept on file with town recorder. Each holder of a beer permit shall continuously maintain in this town:

(1) A registered office which may be the same as the permitted place of business. Notice shall be provided to the town recorder of any change in the registered office.

(2) A registered agent, who shall be an individual who resides in Unicoi County and whose business office is identical with the registered office. Notice shall be provided to the town recorder of any change in the registered agent.

(3) All documentation on file with the town recorder required to be provided to, and on the forms provided by the town recorder to assure compliance with the provisions of this chapter. (2004 Code, § 8-120)

8-120. Adoption of open container statute. (1) By the authority granted under *Tennessee Code Annotated*, the Town of Unicoi adopts by reference as if fully set forth in this section, the "Open Container Law," as codified in *Tennessee Code Annotated*, § 55-10-416.

(2) The penalty for each violation of this section shall be punishable as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00) plus Town of Unicoi Municipal Court costs. (2004 Code, § 8-122)

8-122. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

CHAPTER 2

INTOXICATING LIQUORS

SECTION

- 8-201. Definition of "alcoholic beverages."
- 8-202. Consumption of alcoholic beverages on premises.
- 8-203. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-204. Annual privilege tax to be paid to the town recorder.
- 8-205. Gross sales tax.
- 8-206. Concurrent sales of liquor by the drink and beer.
- 8-207. Advertisement of alcoholic beverages.
- 8-208. Retail stores.
- 8-209. Violations and penalty.

8-201. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101. (2004 Code, § 8-201)

8-202. Consumption of alcoholic beverages on premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Unicoi, Tennessee. It is the intent of the board of mayor and aldermen that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in Unicoi, Tennessee, the same as if said code sections were copied herein verbatim. (2004 Code, § 8-202)

8-203. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, § 301, for the Town of Unicoi General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Unicoi alcoholic beverages for consumption on the premises where sold. (2004 Code, § 8-203)

8-204. Annual privilege tax to be paid to the town recorder. Any person, firm, corporation, joint stock company, syndicate or association

exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Unicoi shall remit annually to the town recorder the appropriate tax described in § 8-203. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (2004 Code, § 8-204)

8-205. Gross sales tax. It shall be the responsibility of the town recorder to ensure that the town receives its share of the fifteen percent (15%) tax levied on the gross sales of alcoholic beverages sold at retail for consumption on premises and collected by the alcoholic beverage commission under *Tennessee Code Annotated*, § 57-4-301(c), and distributed to the state and its political subdivisions under *Tennessee Code Annotated*, § 57-4-306. (2004 Code, § 8-205)

8-206. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the Town of Unicoi, pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall qualify to receive a beer permit from the town. Note: Although an applicant may qualify, the beer board shall regulate the issuance of all beer licenses. (2004 Code, § 8-206)

8-207. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (2004 Code, § 8-207)

8-208. Retail stores. (1) Sale authorized. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store within the corporate limits of Unicoi, provided such retail license has been appropriately approved by the town and the state, and such sales are made in compliance with applicable state and federal statutes, rules and regulations, as well as the provisions established in this chapter. It shall be unlawful to engage in the business of selling, storing, transporting, distribution, or to purchase or possess alcoholic beverages within the corporate limits of this town except as provided by this chapter and *Tennessee Code Annotated*, title 57.

(2) License and certificate required. It shall be unlawful for any person, firm or corporation to sell alcoholic beverages at retail without first obtaining a license for such privilege in an off-premises liquor store through the State of Tennessee Alcoholic Beverage Commission, and without obtaining a

certificate of compliance for a specific store location by the Unicoi Board of Mayor and Aldermen as required by *Tennessee Code Annotated*, § 57-3-208.

(3) License restrictions. The requirements or restrictions established in *Tennessee Code Annotated*, §§ 57-3-204 to 57-3-210 apply to applicants for a retail liquor store license in Unicoi, including, but not limited to, the following:

(a) No retail license shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, town or county except as specified in § 57-3-210(b)(1).

(b) No retailer or any employee shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time of the application, with the exception of such person whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. No license shall be issued to a retailer who within ten (10) years preceding the application has been convicted of any offense under the laws of Tennessee or any other state in the United States prohibiting or regulating the sale, possession, transportation, storing, or manufacturing or otherwise handling of intoxicating liquors.

(c) No person shall have ownership in, or participate in, either directly or indirectly, the profits of any wholesale or retail liquor business licensed through the *Tennessee Code Annotated*, unless the interest in such business and the nature, extent and character thereof shall appear on the application or unless such interest is fully disclosed to the alcoholic beverage commission and is approved by it.

(d) No person shall be employed in a retail liquor store within the Town of Unicoi unless they are a citizen of the United States.

(e) No retailer or any employee thereof shall be a person under eighteen (18) years of age.

(f) The Town of Unicoi may make unscheduled inspections of retail liquor stores within the Town of Unicoi at any time.

(4) License application. Any person, firm, or corporation desiring to sell alcoholic beverages at a retail liquor store and not for consumption on premises, shall make application to the Tennessee Alcoholic Beverage Commission (ABC) for a retailer's license. The following conditions apply.

(a) Conditions established in *Tennessee Code Annotated*, § 57-3-204 must be met including payment of the application fee mandated by the State of Tennessee, as well as compliance with any applicable rules and regulations of the alcoholic beverage commission.

(b) The license application must be accompanied by a properly executed certificate of compliance from the Town of Unicoi.

(c) The license expires in twelve (12) months following the date of issuance. Each licensee must submit renewal applications annually to the ABC accompanied by the annual license fee.

(d) The applicant for a license must meet the public notice requirements established in § 0100-03-09(10) and (11) of the rules of the alcoholic beverage commission and must submit to the Town of Unicoi a copy of the newspaper notice with paper header showing compliance with this requirement.

(5) Application for certificate of compliance. An applicant for a license shall first obtain a certificate of compliance from the Town of Unicoi, as provided in *Tennessee Code Annotated*, § 57-3-208. The application for the certificate shall be in writing on forms prescribed and furnished by the town recorder. The application includes a request for a certificate of good moral character, as provided by *Tennessee Code Annotated*, §§ 57-3-208, *et seq.* Applications shall include, but not be limited to, the following information:

(a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the license as owner, partner, or stockholder, director, officer, member or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information herein required by the town.

(b) Statement that each applicant or member in the applicant group has been a bona fide resident of the State of Tennessee for at least two (2) years immediately preceding the date the application is filed.

(c) The names and addresses of at least three residents of the town or state that have known each applicant for at least two (2) years.

(d) Occupation or business name and location of such business of applicant or persons in the applicant group, and length of time engaged in such occupation or business, including the name of the licensee and address of any other off-premises liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group members holding each interest.

(e) In the case where the applicant is a partnership, corporation, limited liability company or other such legally recognized entity, the application shall be accompanied by a copy of the partnership agreement, corporate charter, operations agreement or other such document as well as a breakdown of all partners, shareholders, members, etc. with their ownership percentages.

(f) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the retail liquor store.

(g) Certification that the applicant or applicant group or any employee, now intended or in the future, that will be employed to manage or assist in the operation of the retail liquor store has not been convicted

of a felony within the ten (10) year period immediately preceding the date of the application of any violation of any state or federal law, or of any violation of any municipal ordinance involving alcohol related offenses. This certification shall be accompanied by a criminal background check or consent to and request for same for each applicant, applicant group and management employee of the liquor store. The cost of obtaining such criminal background checks shall be borne and paid by the applicant, applicant group and employer of the management employee

(h) Name of the retail liquor store proposed in the application and the zoning designation applicable to such location.

(i) Address of the retail liquor store proposed in the application.

(j) A site plan drawn to a scale by a licensed surveyor or engineer, of not less than one inch equals twenty feet (1" = 20') that includes the following information:

(i) The shape, size, and location of the lot where the retail liquor store is to be located.

(ii) The shape, size, height, number of floors and location on the lot of all buildings whether they are to be erected, altered, moved or existing upon the lot.

(iii) Off-street parking spaces and off-street loading/unloading area.

(iv) Ingress and egress to lot.

(v) Location of all doors accessing the building with designation of public access to building and designation of any landscaping, walls, fencing or other such possible obstruction limiting visual access to building entrances.

(vi) Designation of zone(s) of lot and adjoining properties.

(vii) Owners of adjoining properties, designation of use, and name of any business.

(viii) The identification of every parcel within two hundred feet (200') of the lot which the liquor store is to be operated, indicating ownership thereof, and the locations of structures situated thereon and the use being made of every such parcel.

(ix) Lighting of building exterior and parking area.

(k) Certification by the applicant stating that the premises of the proposed retail liquor store are in full compliance with the distance requirements established in subsection (8) below.

(l) The agreement of each applicant to comply with state and federal statutes, Unicoi regulations governing retail liquor stores, and all state rules and regulations with reference to the sale of alcoholic beverages.

(m) Verification that the applicant has secured the location for the business at the location submitted in the application.

(n) A time schedule detailing any construction or renovation of the store building, improvements to grounds, and store opening date.

(o) Copies of all documentation required by the Tennessee Alcoholic Beverage Commission for license application to the State of Tennessee for a retail liquor store license.

(p) Applicant's business plan for the retail liquor store including, but not limited to, start-up funding, cost of establishing and opening the business and projected sales for the first twenty-four (24) months of operation.

(q) The application form shall be signed and verified by each person who has any interest in the license either as owner, partner, stockholder, director, officer or otherwise.

(r) The application for certificate of compliance shall be submitted with payment of the first year of the two (2) year certificate's non-refundable annual application fee of five hundred dollars (\$500.00). On the one (1) year anniversary of the issuance of the certificate of compliance the second annual application fee shall be due and payable and must be paid to the town recorder not later than thirty (30) days after the one (1) year anniversary of issuance of the certificate of compliance.

(6) Application advertising requirements. Before a certificate of compliance application for a retail liquor store may be considered by the planning commission and then the board of mayor and aldermen, whether the application is for a transfer of an existing license to a new location or for a new license, the applicant must place at least one (1) advertisement, at his own expense, in a newspaper of general circulation in the town, a minimum of seven (7) days prior to the application being initially reviewed by the Unicoi Planning Commission, with the published notice, including the following information:

(a) Name and address of applicant;

(b) Nature and purpose of application;

(c) Location/address of store location; and

(d) Date the application is proposed to be reviewed by the planning commission.

(7) Review and consideration of applications for certificate of compliance. Applications to the town for a certificate of compliance needed to license a retail liquor store shall be submitted to the town recorder. The town recorder shall review the documentation provided to see that all information requested has been submitted and appears to be complete. Although the recorder will initially review materials submitted for compliance, and will to the extent possible identify insufficient information, it is responsibility of the applicant to provide all of the information required regardless of the recorder's review. When the recorder does identify insufficient information, the applicant shall have until the materials are sent to the planning commission to complete the application packet. An application shall not be deemed "filed" until it

contains all of the information requested. After the initial review, a date shall be determined to send the full application to the planning commission for consideration. The applicant must provide proper notification in an acceptable publication at least seven (7) days in advance of the meeting in which the planning commission will consider the application and supply unto the Town of Unicoi a copy of the newspaper notice with paper header showing compliance with this requirement. In reviewing the application, the planning commission shall consider at least the following:

(a) Whether the application meets all state and federal requirements.

(b) When there is more than one (1) application for a certificate of compliance in the same overlay zone area or more applications than the maximum number of retail liquor store licenses authorized by this chapter, the planning commission shall consider at least the following without necessity of regard for the order in which the applications were filed:

(i) The retail store locations submitted and the considerations of safety, lighting, ingress and egress, size of store, impact on traffic patterns, and ease of enforcement relative to each location.

(ii) The most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of Unicoi and the lawful operation of an off-premises retail liquor store.

(iii) The ability of the applicant to obtain the necessary license from the state, and to construct, renovate or otherwise develop the premises necessary for the retail store and open it to the public in a timely manner.

(iv) The compatibility of the building and landscaping with the surrounding properties, including building materials, roof pitch, etc., as well as compatibility with any Town of Unicoi plan and vision for commercial areas of Unicoi.

(v) An applicant for a retail liquor license shall appear at the planning commission considering the applicant's application for certificate of compliance.

(c) Initially, the town will advertise, at a convenient time, the projected schedule for adoption of the ordinance governing location, number, and other considerations regulating retail liquor stores and the issuance of a certificate of compliance. The notice will also establish a date the ordinance will become effective which will be the first date to receive applications. The projected meeting date of the planning commission in which liquor store applications will be reviewed shall also be included in the notice, as well as the date the board of mayor and aldermen will act on the applications so that the application, review, and

approval/denial process falls within the sixty (60) day requirement for action outlined in *Tennessee Code Annotated*, § 57-3-208.

(d) If a retail liquor store becomes available in an existing zone area or a new store zone is established, any voluntary request to transfer an existing and operating store location shall be evaluated and considered based on the criteria in subsection (7)(b) the same as any other application submitted.

(e) Applications, and all matters submitted with or as a part of such applications become at the time they are submitted the sole and exclusive property of the town and constitute public records open to public inspection.

(f) Because of the sixty (60) day requirement for board action on applications outlined in *Tennessee Code Annotated*, § 57-3-208, any application submitted that is not approved for a certificate of compliance shall be denied by the board of mayor and aldermen. Said applications, however, shall be held by the town until the retail liquor store(s) approved are open and operating. At that time, the application may be disposed of by the town. If the approved store is not licensed by the ABC or fails to open in a timely manner and loses its license, the applications on file for a certificate of compliance may be reactivated and considered submitted upon written request by the applicant.

(8) Restrictions on location of and access to retail liquor stores. No location for a retail store shall be approved on any premises within the town, except on premises that are:

(a) Zoned B-3, B-4 or PBD.

(b) Within a Retail Liquor Store (RLS) Overlay Zone and within the B-3, B-4 or PBD zones with one (1) and only one (1) retail store authorized per RLS Overlay Sub-District Zone area and no more than two (2) retail stores total within the Town of Unicoi in all of the RLS Overlay Sub-District zones. The number of permitted liquor stores and the number of sub-district zones may be modified from time to time by the board of mayor and aldermen.

(c) At least two hundred feet (200') from the nearest front entrance of any church, public or private school, daycare center, playground or park, recreational facility or residential buildings. For the purposes of measurement, the distance shall be determined from the center of the public entrance to the retail liquor store in a straight line the shortest most direct distance to the main entrance to the facilities and institutions listed. The restrictions set forth herein as to locations apply to conditions existing as of the time the application for a certificate is filed, and the future presence of any uses listed above in this subsection within the two hundred feet (200') distance requirement shall not be grounds for revocation of a license or denial of a certificate if a valid

license had been issued to any retail liquor store at the same location and the business has been in continuing operation since that date.

(d) Located in or developed with a building in which the retail liquor store is only on the ground floor.

(e) The retail liquor store shall have one (1) entrance for use by the public. Provided, however, in the event the building is located on a corner with building entrances and parking fronting on both intersecting streets the applicant may petition the Town of Unicoi for approval of a second public entrance to the retail liquor store. Such petition must be accompanied by all supporting documentation as is required for a second entrance to a retail liquor store under the statutes and regulations provided by the State of Tennessee.

(f) The retail liquor store must meet all Town of Unicoi regulations concerning commercial building and nothing shall be "grandfathered in" from a prior business location. Any non-conforming business premises must be renovated to current Town of Unicoi standards prior to the location of a retail liquor store on said premises.

(g) The minimum size for a retail liquor store within the Town of Unicoi shall be one thousand eight hundred (1,800) square feet.

(9) Number of stores. There shall, unless later modified by act of board of the mayor and aldermen, be only two (2) liquor stores within the Town of Unicoi and no more than one (1) liquor store may be located in any RLS Overlay Sub-District Zone. The board of mayor and aldermen retains the power and authority to modify the number of total retail liquor stores and the number and location of Overlay Sub-District Zones at any time.

(10) Restrictions on issuance of certificate of compliance. No original or renewal certificate of compliance shall be issued for any location until:

(a) An application has been filed with the town recorder.

(b) All requirements to obtain a certificate have been met, and the application complies with all restrictions as to location and number of retail licenses issued within Unicoi.

(c) A written certification by the applicant is submitted stating that the premises of the retail liquor store are in full and complete compliance with the distance requirements established in subsection (8) above.

(d) The application shall be signed and verified by each person to have an interest in the retail liquor store either as an owner, partner, member, stockholder or otherwise.

(e) The application has been reviewed and considered by the Unicoi Planning Commission and recommended to the board of mayor and aldermen.

(f) The application has been considered at a regular or called meeting of the Unicoi Board of Mayor and Aldermen and approved by majority vote.

(11) Term of certificate of compliance. Once issued by the board of mayor and aldermen, a certificate of compliance required by *Tennessee Code Annotated*, § 57-3-208 shall be valid for two (2) years. A new certificate therefore is required every other year, to be submitted to the ABC with application for the annual license renewal.

(12) Full and accurate disclosure required. (a) It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail store license under this chapter, unless his interest in the business and the nature, extent and character thereof shall appear on the application for a certificate of compliance; or if the interest is acquired after the issuance of a license, unless it is fully disclosed to and approved by the board of mayor and aldermen (town recorder). Where such interest is owned by such a person on or before the application for any certificate, the burden shall be upon such person to see that this section is not violated, whether he signs or prepares the application, or whether the same is prepared by another; or if the interest is acquired after the issuance of the certificate, the burden of disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(b) Misrepresentation of a material fact, or concealment of a material fact, required to be shown in the application for a license or certificate shall be a violation of this chapter. The board of mayor and aldermen may refuse to issue a certificate if, upon investigation, the town finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the retail liquor store, or if the interest of any applicant in the operation of the business is not truly stated in the application, or in case of any fraud or false swearing by any applicant concerning any matter related to the operation of the business. All data, written statements, affidavits, evidence, or other documents submitted in support of an application are part of the application.

(c) If the provisions of this section and chapter are alleged to have been violated, the board of mayor and aldermen may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant(s) or licensee to refute such allegations and/or show cause why the certificate should not be revoked.

(13) Regulation of retail sales. Retailers licensed under *Tennessee Code Annotated*, § 57-3-204 shall comply with the regulation of retail sales established in *Tennessee Code Annotated*, § 57-3-406 included, but not limited to, the following:

(a) Hours and days of operation. No retailer shall sell or give away or otherwise dispense any alcoholic beverages except between the hours of 8:00 A.M. and 11:00 P.M. on Monday through Saturday, but not the holidays specified below. No retailer shall sell or give away alcoholic

beverages between 11:00 P.M. on Saturday and 8:00 A.M. on Monday each week.

(b) Sale during holidays. No retailer shall sell or give away alcoholic beverages on Thanksgiving Day, Christmas Day, New Year's Day, Independence Day (Fourth of July), and Labor Day.

(c) No audible radio, pinball machine, slot machine, video game, audible music machine, or other amusement devices which tend to cause persons to congregate in such place shall be maintained in any retail liquor store. This provision shall not prevent the broadcast of "elevator" or background music or personal music devices heard only by one person.

(d) No alcoholic beverages shall be sold or given away for consumption on the premises of the retailer and no cups, ice or other supplies for drinking items shall be sold at a retail liquor store within the Town of Unicoi.

(e) Retail liquor stores shall only sell alcoholic beverages.

(f) The sale and delivery of alcoholic beverages at a retail liquor store shall be confined to the building premises of the licensee, and no curb service or drive-thru service is permitted.

(14) License display. Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business, display and post and keep displayed and posted, in the most conspicuous place in their premises, such license.

(15) Advertising/signage. Advertising by a licensee, and signs, displays, posters and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the Tennessee Alcoholic Beverage Commission and/or the sign provisions and restrictions of the underlying zoning district as may be specified in the Unicoi Sign and Zoning Ordinances.

(16) Transfer of license and certificate. The holder of a license for a retail liquor store may not sell, assign or transfer such license to any other person, and such license shall be good and valid only for the twelve (12) months after the same was issued. Except as expressly authorized, there shall be no transfer of any license from one (1) location to another. An application for a retail liquor store license from the alcoholic beverage commission resulting from a change in ownership or store location shall require a re-submittal of an application for a certificate of compliance.

(17) Inspection fee levied. For the purpose of providing a means of regulating the sale of alcoholic beverages within the town, and to provide means of enforcing the provisions of this chapter, there is hereby levied and imposed an inspection fee of five percent (5%) of the wholesale price of all alcoholic beverages sold by wholesalers to any licensed retail liquor store within the corporate limits of Unicoi. Collection of this inspection fee by wholesalers shall be undertaken under regulations established in *Tennessee Code Annotated*, §§ 57-3-501 to 57-3-503, including, but not limited to, the following:

(a) The inspection fee is imposed upon licensed retailers but is collected by wholesalers.

(b) The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages, and said fee may be added by the wholesaler to the invoice for alcoholic beverages sold to the licensed retailers.

(c) Each wholesaler making sales to retailers located within the Unicoi town limits shall make monthly payments to the town of the inspection fees invoiced.

(d) Monthly payments shall be paid by the twentieth (20th) day of the month following which sales were made, and shall be accompanied with monthly reports that include the information required in *Tennessee Code Annotated*, § 57-3-503.

(e) Wholesalers collecting and remitting inspection fees to the town shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of the inspection fees collected, and such reimbursement may be deducted and shown on the monthly report to the Town of Unicoi.

(f) Failure to collect and/or report and/or to pay the inspection fee collected by the day required shall result in a penalty of ten percent (10%) of the fee due, which shall also be paid to the town.

(g) The Town of Unicoi has the authority to audit the records of wholesalers supplying liquor and reporting sales to retail liquor stores in Unicoi to determine the accuracy of reports.

(h) Nothing within this subsection (17) herein shall relieve the licensee of the obligation for the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the town recorder.

(i) The inspection fee levied in this chapter shall be in addition to any general gross receipts, sales and other general taxes applicable to the sale of alcoholic beverages, and shall not be in substitution for such taxes.

(18) Surrender of license if business discontinued. Whenever any licensee discontinues business for any reason, he shall immediately notify the alcohol beverage commission and the town.

(19) Record in writing and surrender the license and certificate of compliance.

(20) Revocation procedures. Whenever the board of mayor and aldermen find that a licensee has been, or is, in violation of the *Tennessee Code Annotated*, title 57, chapter 1, the rules and regulations of the alcoholic beverage commission, or the provisions of this chapter, the board shall certify such violation(s) to the State Alcoholic Beverage Commission, in such form as the commission requires. The alcoholic beverage commission shall have the responsibility for determining whether the offender's license shall be revoked.

The board of mayor and aldermen, upon determination of violations of state or local regulations governing the retail sale of alcoholic beverages may revoke the town issued certificate of compliance, and shall communicate said revocation to the alcoholic beverage commission for possible further action. (Ord. #2012-219, Jan. 2013, as amended by Ord. #2020-276, August 2020)

8-209. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.