

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. NUDITY, SEXUAL CONDUCT PROHIBITED.

CHAPTER 1

INTOXICATING LIQUORS

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¹Municipal code references

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Tax provisions: title 5, chapter 5.

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Tennessee Code Annotated, title 57.

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8-101. Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise.

Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural.

(1) "Alcoholic beverage" means and includes 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, beer or wine, where either of the latter has an alcoholic content of one percent (1%) by weight or less.

(2) "Applicant" means the party applying for a certificate of good moral character or a license.

(3) "Application" means the form or forms an applicant is required to file in order to obtain a certificate of good moral character or a license.

(4) "Bottle" means any container, vessel, bottle or other receptacle used for holding any alcoholic beverage. "Unsealed bottle" means a bottle with the original seal, cork, cap or other enclosing device either broken or removed, or on which the federal revenue strip stamp has been broken.

(5) "Certificate of good moral character" means the certificate provided for in of Tennessee Code Annotated, title 57, chapter 2 in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(6) "City" means the City of Jackson, Tennessee.

(7) "City recorder" means the city recorder of the city.

(8) "City council" or "council" means the City Council of the City of Jackson.

(9) "Corporate limits" means the corporate limits of the city as the same now exist or may hereafter be changed.

(10) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery, either by himself or by his agent.

(11) "Distillery" means and includes any place or premises wherein any alcoholic beverage is manufactured for sale.

(12) "Establishments dealing in alcoholic beverages." Any business or commercial establishment (whether open to the public at large or where entrance is limited by cover charge or membership requirement) including those licensed by the state for sale and/or service of alcoholic beverages, and any bottle club; hotel; motel; restaurant; night club; country club; cabaret; meeting facility utilized by any religious, social, fraternal; or similar organization; business or commercial establishment where any substance, element, product or article is sold, dispensed, served or provided with the knowledge, actual or implied, that the same will be or is intended to be mixed, combined with or drunk in

connection or combination with an alcoholic beverage on the premises of said business or commercial establishment; or business or commercial establishment where the consumption of alcoholic beverages is permitted. A private residence, whether permanent or temporary in nature, is not an establishment dealing in alcoholic beverages.

(13) "Federal statutes" means the statutes of the United States now in effect or as they may hereafter be changed.

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

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

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

(17) "Licensee" the holder of a license.

(18) "Liquor district" means and includes the geographical area within the corporate limits of the city for each of the six (6) separate areas designated as districts one (1) through six (6), inclusive, all as shown on a map, dated September 7, 1979, entitled: "Liquor Store District Map of the City of Jackson," including any future amendments to the map.

(19) "Liquor store" means the building or the part of a building where a licensee conducts any of the business authorized by his license.

(20) "Manufacturer" mean and includes a distiller, vintner and rectifier of alcoholic beverages. "Manufacture" means and includes distilling, rectifying and operating a winery or any device for the production of alcoholic beverages.

(21) "Person" shall mean and include an individual, partner, association or corporation.

(22) "Rectifier" means and includes any person who rectifies, purifies or refines any alcoholic beverage by any process other than as provided for on distillery premises, and also any person who, without rectifying, purifying or refining an alcoholic beverage, shall, by mixing an alcoholic beverage with any other material, thereby manufacture any imitation thereof, or who compounds an alcoholic beverage for sale under the name of: whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name.

(23) "Retail sale" or "sale at retail" means a sale of any alcoholic beverage to a consumer or to any person for any purpose other than for resale.

(24) "Sale" or "sell" means and includes the exchange or barter of alcoholic beverages, and also any delivery made otherwise than gratuitously of alcoholic beverages; and soliciting or receiving of an order for alcoholic beverages; and the keeping, offering or exposing alcoholic beverages for sale.

(25) "School" means public schools within the city school system and/or other school grades K-12, inclusive.

(26) "State" means the State of Tennessee.

(27) "State alcoholic beverage commission" means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including without limitation the provisions of Tennessee Code Annotated, title 57, chapter 1.

(28) "State liquor retailer's license" means a license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, title 57, chapter 1) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

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

(30) "State statutes" mean the statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(31) "Vintner" means any person who owns occupies, carries on, works, conducts or operates any winery, either by himself or by his agent.

(32) "Wholesale sale or sale at wholesale" means a sale to any person for purposes of resale.

(33) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 1.

(34) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including also champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced or unless designated as an artificial or imitation wine.

(35) "Winery" means and includes any place or premises wherein wine is manufactured or brandies are distilled as the byproduct of wine or where cordials are compounded. (1995 Code, § 8-101)

8-102. Federal, state and local regulations applicable. It shall be unlawful for any person either to engage in the business of selling, storing, transporting or distributing any alcoholic beverage within the corporate limits of the city, or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the city, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (1995 Code, § 8-102)

8-103. Manufacture prohibited. It shall be unlawful for any person to manufacture any alcoholic beverage within the corporate limits of the city. (1995 Code, § 8-103)

8-104. Granting of wholesaler's license; wholesalers located outside city conducting business in city. (1) Unless hereafter authorized by an ordinance of the city, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the city of any business for the sale at wholesale of any alcoholic beverage.

(2) Any wholesaler, whose business is located outside the city and who holds a valid state license, and who has paid to the city all privilege taxes and fees applicable to such wholesale business, may sell at wholesale any alcoholic beverage to a licensee in the city, and such licensee may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes and by this chapter. (1995 Code, § 8-104)

8-105. Sale by licensee legalized. It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store within the corporate limits, provided such sales are made in compliance with applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter. (1995 Code, § 8-105)

8-106. Qualifications of applicant for certificate of good moral character. To be eligible to apply for or to receive a certificate of good moral character, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license, and must have been a resident of Madison County at least two (2) consecutive years immediately preceding the date when the application is filed with the city recorder. If the applicant is either a partnership or a corporation, then each partner of the partnership and each stockholder, director and officer of the corporation shall have been a resident of the county during the two (2) consecutive years immediately preceding the date when the application is filed with the city recorder. If the applicant is a corporation, then such corporation shall be incorporated under the laws of the state and shall have its principal office in the city. (1995 Code, § 8-106)

8-107. Application for certificate of good moral character.¹

(1) Each applicant for a certificate of good moral character shall file with the city recorder a completed form of application, on a form to be provided by the city recorder, which shall contain the following information:

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

¹State law reference

Tennessee Code Annotated, § 57-3-208.

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

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

(d) The statement that each applicant has been a resident of the county during the two (2) consecutive years immediately preceding the date the application is filed;

(e) The names and addresses of at least three (3) residents of the county who have known each applicant for at least two (2) years;

(f) The agreement of each applicant to comply with the state statutes, federal statutes, this chapter and with the state rules and regulations with reference to the sale of alcoholic beverages; and

(g) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within ninety (90) days after the license is granted to such applicant.

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

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

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

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

(d) At a scale of one inch (1") equals fifty feet (50'), the identification of every parcel of land within three hundred feet (300') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon, and the use being made of every such parcel.

(3) The application form shall be signed and verified by each person to have any interest in the licensee either as owner, partner or stockholder, director, officer or otherwise.

(4) If at any time the applicable state statutes shall be changed so as to dispense with the requirement of a certificate of good moral character, no original or renewal license shall be issued until an application in the same form has been filed with the city recorder.

(5) The city recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the council for consideration and action. (1995 Code, § 8-107)

8-108. Misrepresentation or concealment of material facts. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the city recorder shall forthwith report such violation to the state alcoholic beverage commission together with the request that the state alcoholic beverage commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (1995 Code, § 8-108)

8-109. General restrictions on issuance of certificates of good moral character. (1) The board is authorized to refuse to consider the issuance of a certificate of good moral character whenever there has been previously issued two (2) outstanding certificates of good moral character, or where there are two (2) outstanding licenses for the liquor district in which the applicant seeks a license to operate a liquor store.

(2) No certificate of good moral character shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(3) Issuance of certificate to person convicted of felony involving moral turpitude; effect of conviction following issuance of license. No certificate of good moral character shall be issued to a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity with which he is connected files application therefor; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and provided, further, that in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him as an employee, and such convicted felon shall forthwith divest himself of all interest in the business of the licensee, either as a partner, officer, director, stockholder or otherwise.

(4) Issuance of certificate to person convicted of offense under federal, state or local regulations; effect of conviction following issuance of license. No certificate of good moral character shall be issued to any person who, within ten (10) years preceding application therefor, shall have been convicted of any offense under the state statutes, state rules and regulations, the federal statutes, this chapter or of the statutes of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing,

manufacturing or otherwise handling of alcoholic beverages, or who has, during said period, been engaged in business alone or with others in violation of any of the state statutes, state rules and regulations, the federal statutes or the laws, rules and regulations of any other state, county or city of the United States; and provided further that in case of any such conviction occurring after a license has been issued and received, it shall be recommended that the said license shall immediately be revoked.

(5) Public officers and employees: Ineligible to receive certificate, interest in retail business. No certificate of good moral character shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county; and it shall be unlawful for any such person to have any interest in the liquor retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(6) The city recorder shall not sign and/or certify any certificate of good moral character for any applicant until:

(a) Such applicant's application has been filed with the city recorder;

(b) The location stated in the certificate has been approved by the board as a suitable location for the operation of a liquor store; and

(c) The application has been considered at a meeting of the board and approved by the vote of at least two (2) members thereof. (1995 Code, § 8-109)

8-110. Application fee. A nonrefundable fee of two hundred fifty dollars (\$250.00) shall accompany the application for a certificate of good moral character. (1995 Code, § 8-110)

8-111. Miscellaneous restrictions on licensees and their employees. (1) Manufacturer's, wholesaler's interest in licensee's rental or revenues. It shall be unlawful for any manufacturer or wholesaler to have any interest in the licensee's rental or revenues.

(2) Disclosure of interest in business. It shall be unlawful for any person to have ownership in, or to be a partner in or a stockholder, director or officer, or to participate, either directly or indirectly, in the profits of, any business for which a license is granted hereunder, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall have been fully disclosed in writing by supplement to the application filed with the city recorder and approved in writing by him before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is

acquired after the issuance of the license, the burden of the required disclosure of the proposed acquisition of such interest shall be upon both the seller and the purchaser.

(3) Employment of persons under 18; permitting minors on premises. No licensee shall employ in the storage, sale or distribution of alcoholic beverages to a person under the age of eighteen (18) years, and it shall be unlawful for any licensee to permit a minor in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

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

(5) Soliciting, receiving orders. No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor or representative for the purpose of receiving an order from a consumer for any alcoholic beverage at the residences or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

(6) Manner of making retail sales. All retail sales shall be confined to the premises of the licensee. No curb service shall be permitted, nor shall there be permitted drive-in windows.

(7) Location of liquor stores on ground level; requirements for ingress and egress. Liquor stores shall be located in the city on the ground floor level only. Each liquor store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, however, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as said lobby is open to the public.

(8) Additional provisions applicable if licensee a corporation. If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in, or who is an officer or director in, such corporate licensee shall have any interest as an owner, stockholder, officer, director or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverages in the state or in any other place;

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who has not

been a resident of the city for the two (2) consecutive years immediately preceding the date of any such transfer; nor shall any of said stock be so transferred to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(9) Recorder's duty upon licensee's failure to operate during normal business hours. If any licensee, for any reason, shall not be actively engaged in and keep open its liquor store during normal business hours for a period of fifteen (15) work days in any calendar year, then the city recorder shall forthwith report such fact to the state alcoholic beverage commission and take such other action as may appear necessary or proper to have the license of such licensee revoked.

(10) Management of liquor store. Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where any alcoholic beverage is sold by a licensee that is either a partnership or a corporation, the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the city recorder. The holder or manager must be a resident of the City of Jackson. (1995 Code, § 8-111)

8-112. License deemed a privilege; revocation or suspension.

(1) The issuance of a license hereunder shall vest no property rights in the licensee, and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations.

(2) In the event of any violation of the state statutes, state rules and regulations, federal statutes or of the provisions of this chapter by a licensee, or by any person for whose acts the licensee is responsible, then the city recorder shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or its successor and shall take such action before the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (1995 Code, § 8-112)

8-113. Display of license. The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (1995 Code, § 8-113)

8-114. Maximum number of licenses. No more than twelve (12) licenses shall be issued and outstanding at any time under the provisions of this chapter, and only two (2) such licenses shall be issued for each of the six (6)

liquor districts provided for in § 8-115 below. No person shall make application, nor shall any person have on file and pending at any time an application, for more than one (1) certificate of good moral character or for more than one (1) license to operate a liquor store, and such application shall be limited to only one (1) location in the city. (1995 Code, § 8-114)

8-115. Location of liquor stores in liquor and zoning districts.¹

(1) For the purposes of this chapter, the city is hereby divided into six (6) separate liquor districts, and the area covered by each liquor district is shown on a map of the city dated September 22, 1972, entitled "Liquor Store District Map of the City of Jackson." Not more than two (2) liquor stores shall be operated and maintained in any one of the six (6) liquor districts shown on said map, and then only if such liquor store also shall be located within a zoning district classified as either a B-3, B-4, B-5, SC-1 and I-0 District, as provided in the Zoning Ordinance of the City of Jackson, Tennessee, and as shown on the Zoning Map of Jackson, Tennessee, as in effect on the date of any application for a license hereunder.

(2) The Liquor Store District Map of the City of Jackson shall be maintained on file in the office of the city recorder.

(3) Upon the annexation of new area by the City of Jackson, the planning department shall amend the liquor store district in order to incorporate the new area into the liquor store district closest thereto. In the event that a newly annexed area is contiguous to two (2) or more liquor store districts, the planning department shall determine the best interpretation of the boundaries. The members of the Jackson Wine and Spirits Retailers Association are encouraged to periodically review the liquor store district lines and recommend any necessary changes to the city council for consideration.

(4) All provisions of the Zoning Ordinance of the City of Jackson, Tennessee, including but not limited to those provisions relating to the required yard area, off-street loading and unloading of vehicles and off-street parking, which are applicable to the zoning district in which a liquor store is authorized to operate hereunder, shall be complied with by each licensee as a condition precedent to the operation of any liquor store authorized by this chapter. No radios, televisions, record players, pinball machines or other amusement devices and no seating facilities other than for employees shall be permitted in any liquor store. No political advertising of or for any candidate or party by poster, card, matches or otherwise and no campaign material shall be placed, displayed or dispensed on the premises of any liquor store.

¹Municipal code reference

Zoning ordinance: title 14, chapter 2. (See the zoning ordinance and zoning map for zoning district designations and locations).

(5) A liquor store shall not be located within Liquor Zone 1 within one hundred feet (100') of any church edifice, school, public park, or playground, as measured in a direct line from the center of the front door of the licensee's place of business. A liquor store shall not be located within Liquor Zones 2-6 within three hundred feet (300') of any church edifice, school, public park, or playground, as measured in a direct line from the center of the front door of the licensee's place of business. (1995 Code, § 8-115, modified, as amended by Ord. #2010-003, March 2010, and Ord. #2012-017, Oct. 2012)

8-116. Transferability of license. A licensee shall not sell, assign, give, pledge or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of law through any proceedings in bankruptcy, insolvency or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one location to another location without the prior written approval of the board, and then only within the same liquor district of the city wherein such license was last granted. (1995 Code, § 8-116)

8-117. Sales to underage persons and persons visibly intoxicated prohibited. It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to any person who is under twenty-one (21) years of age (hereinafter also referred to as "underage"), or to any person who is visibly intoxicated. It shall be unlawful for any underage or visibly intoxicated person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store, with the exception that an underage person may enter the store only when accompanied by a parent, legal guardian or spouse. It shall be unlawful for a licensee to knowingly allow any underage person, not accompanied by a parent, legal guardian or spouse, or any visibly intoxicated person to enter or remain in the licensee's liquor store or any part of the licensee's premises adjacent to the liquor store. It shall be unlawful for any underage or visibly intoxicated person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a person under twenty-one (21) years of age to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy an alcoholic beverage from any licensee. It shall be unlawful for any person to purchase any alcoholic beverage from any licensee for the purpose of selling or giving such alcoholic beverage to an underage or visibly intoxicated person. Licensee shall have the authority, but shall not be required, to obtain the identification and ascertain the age of any person upon entering a liquor store or remaining on the licensee's premises adjacent to the liquor store. Licensee shall have the authority to require any underage or visibly intoxicated person to leave the liquor store and/or licensee's premises adjacent to the liquor store. Failure by an underage or visibly intoxicated person to leave the liquor store and/or licensee's premises adjacent to the liquor store upon licensee's request shall constitute prima facie

evidence of trespass. (1995 Code, § 8-117, as replaced by Ord. #2011-015, Dec. 2011)

8-118. Consumption on premises of liquor store. It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (1995 Code, § 8-118)

8-119. Public drinking and display prohibited. It shall be unlawful for any person to drink any alcoholic beverage or visibly and openly possess, display, exhibit or show an unsealed bottle containing any alcoholic beverage in the parking area of any drive-in restaurant, or on any public street or sidewalk, or in any public park, playground, theater, stadium, school or school ground. (1995 Code, § 8-119)

8-120. Inspection fee.¹ Under the authority of Tennessee Code Annotated, § 57-3-501, there is hereby levied on each licensee of the city an inspection fee in the amount of five percent (5%) of the wholesale price of alcoholic beverages supplied in the city. The inspection fee shall be collected and paid to the city as prescribed by Tennessee Code Annotated, §§ 57-3-502--503. (1995 Code, § 8-120)

8-121. Funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the city. The city shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed. (1995 Code, § 8-121)

8-122. Violations of federal and state regulations by licensee deemed violation of chapter. Any licensee, who in the operation of such licensee's liquor store, shall violate any federal statute, any state statute or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages shall be guilty of a violation of the provisions of this chapter. (1995 Code, § 8-122)

¹Municipal code reference

Alcoholic beverage privilege tax: title 5, chapter 5.

8-123. Vintners and wineries excluded. Notwithstanding foregoing sections of this chapter, a vintner issued a valid winery license pursuant to the Grape and Wine Law of the State of Tennessee as set forth in Tennessee Code Annotated, § 57-3-207 is exempt from the prohibitions and requirements of this chapter 1, title 8 of the City of Jackson Municipal Code which regulates intoxicating liquors. The activities of such vintner shall be regulated by the Grape and Wine Law of the State of Tennessee and the state regulations promulgated in accordance therewith. (Ord. #2004-046, Sept. 2004)

CHAPTER 2

BEER

SECTION

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8-201. Beer board established. There is hereby established a beer board to be composed of three (3) members appointed by the city council upon the recommendation of the mayor. The term of each board member shall be one (1) year from the date of appointment. A chairman shall be elected annually by the board from among its members. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-202. Meetings of the beer board. Meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a

reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions before the board; a copy of each such motion or resolution presented; a vote count; and the provisions of each beer permit issued by the board. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-204. Requirements for beer board 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 board shall be decided by a majority of the members present if a quorum is constituted. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, manufacturing, transportation of and possession of beer within this municipality in accordance with the provisions of this chapter and pursuant to all regulations, limitations and restrictions provided by chapter 5 of title 57 of the Tennessee Code Annotated, as amended. The beer board may promulgate such bylaws, rules, and regulations not inconsistent with state law or the charter or any ordinance of the City of Jackson, as it deems appropriate for the conducting of its business, copies of which shall be filed with the secretary of the board. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-206. Beer defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-207. Permit required for engaging in beer business. (1) It shall be unlawful for any person to sell, store 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 board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars

(\$250.00) plus such other fees as necessary to defray the actual cost of investigation, meetings of the beer board members and publication, which are to be determined within the discretion of the beer board. Each applicant must be a person of good moral character and must certify that they have read and are familiar with the provisions of this chapter.

(2) Before any permit is issued by the beer permit board, the applicant therefor shall file with the beer permit board a sworn petition in writing on forms prescribed by and furnished by the board, and shall establish the following:

(a) The location of the premises at which the business shall be conducted.

(b) The owner(s) and managers of such premises.

(c) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer permit board has issued a permit or permits to such applicant.

(d) That no sale of such beverages will be made except in accordance with the permit granted.

(e) That if the application is for a permit to sell "not for consumption on the premises," no sale will be made for consumption on the premises and that no consumption will be allowed on the premises.

(f) That no sale will be made to minors, and that the applicant will not permit minors or disorderly or disreputable persons heretofore connected with the violation of liquor laws to loiter around the place of business.

(g) That the applicant will not allow gambling or gambling devices on the premises at which the business shall be conducted.

(h) That the applicant will not allow any beer with alcoholic content greater than such weight, volume or alcoholic content as allowed by the laws of the State of Tennessee to be consumed on his premises.

(i) That neither the applicant nor any persons employed or to be employed by him in such distribution or sale or such beverage, has ever been convicted of any violation of any law against prohibition, sale manufacture or transportation or intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(j) That the applicant will conduct the business in person for himself, or if he is acting as agent, the applicant shall state the person, firm or corporation, syndicate or association, or joint stock companies for whom, and only for whom, the applicant intends to act.

(k) No manufacturer, wholesaler or retailer, or any employee thereof, engaged in the physical manufacture, storage, sale or distribution of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any wholesaler or retailer to employ any person under eighteen (18) years of age for the physical

storage, sale or distribution of alcoholic beverages, or to permit any such person under said age on its place or business to engage in the manufacture, storage, sale or distribution of alcoholic beverages.

(l) Permits issued under the provisions of this chapter are not transferable, either as to location or to successor by purchase or otherwise, of the business for which the permit was issued, and in either case a new permit is required in the manner provided herein.

(m) Any other such information or documentation that the beer board in its discretion deems necessary to make an investigation of each applicant.

(3) The beer permit board may require the applicant to secure a certificate or a statement from the health officer that the premises which the application covers meets the requirement of § 8-222 of this chapter.

(4) Before granting a new permit to sell beer "not for consumption on the premises," the beer board shall require the applicant to attend such training as approved by the beer board.

(5) The beer board may require any the applicant to provide copies of any and all governing documents of any business entity applying for a beer permit.

(6) In addition to the requirements and prerequisites for obtaining a permit as set forth in § 8-207(1) (a)-(m) during the pendency of the permit, the beer board is authorized to suspend or revoke such permit holder's permit pursuant to § 8-214 - § 8-217.

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

(8) If at any time there is a change to any of the information provided to the beer board on an application for a beer permit, whether before or after a permit has been issued, it is the responsibility of the permittee to make that change known to the beer board within fifteen (15) days of such change, unless this requirement is otherwise waived within the discretion of the beer board.

(9) For ten (10) days prior to the scheduled hearing date on an application for a beer permit, the applicant must place a conspicuous sign, which is visible from the street, at the location for which the permit is sought, notifying the general public and community residents that application has been made to the beer board to sell beer at that location and the hearing date has been established to consider any support or opposition to said application. This provision may be waived within the discretion of the beer board. (Ord. #2006-

007, March 2006, as replaced by Ord. #2012-009, Aug. 2012, and amended by Ord. #2014-004, Feb. 2014)

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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 each successive January 1 to the City of Jackson, 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. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-209. Types of permits Permits for the sale of beer shall be according to the following classes:

(1) **Manufacturers.** A manufacturer's permit to a manufacturer of beer, or any other beverage of an alcoholic content of not more than five percent (5%) by weight, for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacture, not to be consumed by the purchaser upon or near the premises of such manufacturer.

(2) **Off-premises sale.** An "off-premises sale" to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser upon or near the premises of such seller.

(3) **On-premises sale.** An "on-premises sale" permit to any person or legal organization engaged in the sale of such beverages where they are to be consumed by the purchaser or his guests upon the premises of the seller, and provided such beverages may also be sold in hotel rooms or regularly conducted hotels and in regularly incorporated clubs and lodges upon their obtaining the required permit.

(4) **Special occasion permit.** A special occasion permit to engage in the sale of such beverages, for a limited period of time, where they are to be consumed by the purchaser or his guests upon the premises for which the permit was issued. A special occasion permit may be issued for sale of beer on city property and/or streets and sidewalks. Prior to making application for a permit, the applicant shall have written approval of the head of the city department having authority and control over the property for which the permit is to be issued.

(5) **Sports venues.** An ongoing permit may be issued for the sale of beer at city sports stadiums and at the municipal owned golf course. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-210. Limitations upon issuance of beer permits. No permit shall be issued by the beer permit board:

- (1) In violation of any provisions of state law;
- (2) In violation of the zoning ordinance of the City of Jackson;
- (3) At any location which does not offer restrooms for both sexes complete with commode and wash basin, provided however, the Beer Board of the City of Jackson may waive the requirement for the wash basins when issuing special occasion permits for open-air functions;
- (4) Where a person, firm, corporation, joint stock company, syndicate, or association having at least five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years, or has had a permit under this chapter revoked within one (1) year or is currently under suspension. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-211. Not transferrable. No permit issued by the beer board under the provisions of this division shall be transferred from one (1) person or business entity to another. (Ord. #2006-07, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-212. Valid permit—limitations. A permit shall be valid:

- (1) Only for a single location, except as provided in subsections (4) 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;
- (2) Only for a business operating under the name identified in the application;
- (3) Only for the owner to whom the permit is issued and cannot be transferred to another owner. Should the ownership of a location change, the new owner shall apply for a new permit in accordance with this chapter. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred;
- (4) Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may, at the owner's discretion, operate some or all such businesses pursuant to the same permit;
- (5) A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one (1) permit. (Ord. #2006-07, March 2006, as amended by Ord. #14-004, Feb. 2014)

8-213. Interference with public health and safety prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would otherwise interfere with the public health and safety. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-214. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of beer or other alcoholic beverage, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-215. Certain activities by permittees prohibited. It shall be unlawful and it is hereby declared to be a misdemeanor for any person engaged in the business regulated hereunder:

(1) To make or to permit to be made, any sales or distribution of such beverages to persons under the age of twenty-one (21) years or to persons intoxicated.

(2) To sell or distribute such beverages to persons who are feeble-minded, insane or otherwise mentally incapacitated.

(3) To fail to provide proper sanitary facilities where such beverage is permitted to be consumed on-premises.

(4) To sell or distribute beverages at any place where pool or billiards are played, unless the sale or distribution of such beverage is made in the front of such room or place where a partition wall separates the place from the pool or billiard parlor.

(5) To permit persons under the age of twenty-one (21) or disorderly or intoxicated persons to loiter on the premises.

(6) To permit gambling or gambling devices in, on, or about the premises.

(7) To permit any person to be employed on the premises in violation of any provision of this chapter.

(8) To knowingly permit, or allow to be performed, on the premises for which the beer permit is issued, any of the following acts or conducts; any acts defined as public indecency by Tennessee Code Annotated, § 39-13-511, et seq., or the types of conduct prohibited by § 8-301 of this code. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-216. Revocation or suspension of beer permits. (1) All permits subject to suspension and/or revocation. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter or state or federal law regulating the sale, storage and/or transportation of alcoholic beverages.

(2) Authority of the board. The beer board created by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of state or federal law regulating the sale, storage and/or transportation of alcoholic beverages.

(3) Complaints. Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and may be filed by the police chief or his designee, by any member of the beer board, or by the city's attorney.

(4) Hearing; notice to appear; contents; service. No beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. When the board has reason to believe that any permit holder has violated any of the provisions of this chapter or of the provisions of state or federal law regulating the sale, storage and/or transportation of alcoholic beverages, the board is authorized; in its discretion, to notify the permittee of said violations and cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department of the city upon the permittee's last known address.

(5) Responsible vendor means a person, corporation or other 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," Tennessee Code Annotated, § 57-5-601, et seq. Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under

Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

(6) 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 five hundred dollars (\$1,500.00) for any other offense. The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

(7) Effect of board action. The action of the board in all such hearings shall be final, subject only to review by a court of law. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location until the expiration of one (1) year from the date the revocation becomes final. However, the board, in its discretion, may determine that issuance of a license or permit before the expiration of one (1) year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of intestate succession. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-217. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-218. Beer permit to be displayed. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit

holder. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-219. Wholesalers, distributors, manufacturers--restrictions as to places of business. No wholesaler of alcoholic beverages regulated herein shall maintain more than one (1) place of business. However, the beer permit board in its discretion may issue a special permit to any distributor to allow said distributor to store beer in a warehouse or building apart from the building from which the business is conducted. In addition, such distributors are authorized to store draft beer for refrigeration purposes only, in one (1) additional ice house or refrigeration plant under the following conditions:

(1) For the purpose of this chapter, any employee of such ice house or refrigeration plant who may be in any manner connected with the sale or distribution of beer stored therein shall be deemed to be an employee of the wholesaler or distributor when beer is so stored, and any violation of this chapter or any provisions of the beer law by such employees shall be deemed to be a violation by said wholesaler or distributor.

(2) Except sales from trucks from duly authorized salesmen, or as otherwise provided herein, no beer shall be transferred from, sold in, stored in, brought to rest in, sold from, possessed in, receipted for at, manufactured, wholesaled or distributed from any other place, building or location, except from said building, place or location set out and called for in the wholesaler's, distributor's or manufacturer's beer permit, and/or said ice house or refrigeration plant, and no beer shall be transferred to a retailer or any other purchaser except from the location called for in said wholesaler's, distributor's or manufacturer's beer permit, and/or said ice house or refrigeration plant, by any wholesaler, distributor or manufacturer, their salesmen or authorized representatives. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-220. Only sale to permittee authorized. It shall be unlawful for any wholesaler, distributor or manufacturer of beer, or any of their salesmen or representatives to sell or deliver beer enroute, or from delivery vehicles, to any persons, other than the holders of valid retail beer permits, and it shall be the duty of such wholesaler, distributor or manufacturer, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid retail beer permit. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-221. Hours of sale, consumption in licensed premises. It shall hereafter be unlawful and it is hereby declared to be a misdemeanor for any person, firm or corporation, or any agent thereof, to sell or distribute any of the beverages regulated hereunder, within the City of Jackson between the hours

of 3:00 A.M. and 6:00 A.M. daily, Monday through Saturday, and before noon on Sunday. No such beverage shall be consumed or opened for consumption on or about the premises of a permittee, in either bottle, glass, or other container after 3:15 A.M. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-222. Sanitation requirements, standards for licensed premises; inspections. (1) Any person holding a permit under this chapter for sale or consumption on the premises, shall keep and maintain the premises in a clean and sanitary condition as determined by the county health department or any other properly authorized governmental agency.

(2) The county health officer or any properly authorized person is hereby authorized to enter the premises of an on-premises permittee at all reasonable hours, for the making of such inspection as may be necessary. The determination of the sanitary conditions is solely a question for the city. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-223. Return of beer permit upon termination of business. A permit holder must return its .permit to the board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change in the business name; provided that, regardless of the failure to return a beer permit, a permit shall expire upon termination of the business, change in ownership, relocation of the business or change in the business's name. (Ord. #2006-007, March 2006, as amended by Ord. #2014-004, Feb. 2014)

8-224. Violation of this chapter declared a misdemeanor. Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of not more than fifty dollars (\$50.00) per offense; each separate occurrence and each day of an offense shall be construed as constituting a separate offense. That penalty is in addition to, and separate from, any action the beer board may take to suspend or revoke a beer license for violation of this chapter. (as added by Ord. #2014-004, Feb. 2014)

8-225. Brown-bagging/BYOB. (1) Between the hours of 12:00 A.M. and 6:00 A.M., it is unlawful for any person to consume beer or an alcoholic beverage not lawfully sold by the business on the premises of any business open. for business during these hours in the city.

(2) Between the hours of 12:00 A.M. and 6:00 A.M., it is unlawful for any person to possess an open container of beer or an alcoholic beverage not lawfully sold by the business on the premises of any business open for business during these hours in the city.

(3) Between the hours of 12:00 A.M. and 6:00 A.M., it is unlawful for any owner of a business open for business during these hours in the city knowingly or intentionally to permit any person to possess an open container of beer or an alcoholic beverage not lawfully sold by the business or to consume beer or an alcoholic beverage not lawfully sold by the business on the premises of said business. For the purposes of this section, notice to an agent or employee of a business shall constitute notice to the owner of the business.

(4) Between the hours of 1:00 A.M. and 6:00 A.M., the open display by any person on the premises of a business open for business during these hours of any open container of beer or an alcoholic beverage marked as if for resale and not lawfully sold by the business, shall be evidence of a violation of subsection (3) above.

(5) This section does not prohibit the sale of beer or alcoholic beverages by any business that possesses a valid beer-permit or alcoholic beverage license during such hours authorized by the laws or the state and the ordinances of the city nor does this section prohibit any other conduct permitted under the laws of the state or the ordinances of the city. This section does not prohibit the owner of a business who resides on the premises of the business from consuming beer or alcoholic beverages at any time on the premises or from possessing an open container of beer or alcoholic beverages at any time on the premises. This section does not prohibit the consumption of beer or alcoholic beverages or the possession of an open container of beer or alcoholic beverages by any person within the confines of the person's individual room in any hotel within the city.

(6) The provisions of this section are severable. If any provision of this section or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provisions or application. (as added by Ord. #2014-003, Jan. 2014)

CHAPTER 3

NUDITY, SEXUAL CONDUCT PROHIBITED

SECTION

8-301. Types of conduct prohibited.

8-302. Violation; penalty.

8-301. Types of conduct prohibited. It shall be unlawful for any person to engage in any of the following activities in any establishment dealing in alcoholic beverages:

(1) No person shall expose to public view his or her genitals, pubic areas, vulva, anus, anal cleft or cleavage or buttocks or any simulation thereof in an establishment dealing in alcoholic beverages.

(2) No female person shall expose to public view any portion of her breast below the top of the areola or any simulation thereof in an establishment dealing in alcoholic beverages.

(3) No person maintaining, owning, operating an establishment dealing in alcoholic beverages shall suffer or permit any person to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks or simulation thereof within the establishment dealing in alcoholic beverages.

(4) No person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any female person to expose to public view any portion of her breast below the top of the areola or any simulation thereof in an establishment dealing in alcoholic beverages.

(5) No person shall engage in and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act which is prohibited by law, touching, caressing or fondling of the breasts, buttocks, anus or genitals or the simulation thereof within an establishment dealing in alcoholic beverages.

(6) No person shall cause and no person maintaining, owning or operating an establishment dealing in alcoholic beverages shall suffer or permit the exposition of any graphic representation, including pictures or the projection of film, which depicts human genitals, pubic area, vulva, anus, anal cleft or cleavage, buttocks, female breasts below the top of the areola, sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act prohibited by law, touching, caressing or fondling of the breasts, buttocks, anus, or genitals, or any simulation thereof with any establishment dealing in alcoholic beverages. (1995 Code, § 8-301)

8-302. Violation; penalty. Any person violating this chapter shall be guilty of a misdemeanor and shall be punished and penalized according to the general penalty provision of this code of ordinances. (1995 Code, § 8-302)