

## TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. BROWN BAGGING AND CORKAGE.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

- 8-101. Definitions.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on premises.
- 8-104. Annual privilege tax to be paid to the city recorder.
- 8-105. Concurrent sales of liquor by the drink and beer.
- 8-106. Advertisement of alcoholic beverages.
- 8-107. [Deleted.]
- 8-108. [Deleted.]
- 8-109. [Deleted.]
- 8-110. [Deleted.]

8-101. Definitions. As used in this chapter, unless the context indicates otherwise: All of the definitions and provisions of Tennessee Code Annotated, section 57-3-101 are adopted for the the interpretation of this chapter and are made applicable to the sale and regulation of alcoholic beverages within the city. (1977 Code, § 2-101, as amended by Ord. #320, Jan. 1995; and replaced by Ord. #489, May 1997, Ord. #536, July 2000, Ord. #723, Sept. 2009, and Ord. #764, Jan. 2011)

8-102. 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

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<sup>1</sup>Municipal code reference

Driving under the influence: § 15-104.

State law reference

Tennessee Code Annotated, title 57.

limits of Collegedale, Tennessee. It is the intent of the board of commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Collegedale, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #489, May 1997, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)

8-103. 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 authorized by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Collegedale 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 City of Collegedale on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #489, May 1997, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)

8-104. Annual privilege tax to be paid to the city 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 City of Collegedale shall remit annually to the city recorder the appropriate tax described in § 8-103. Such payments 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. (as added by Ord. #489, May 1997, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)

8-105. Concurrent sales of liquor by the drink and beer. In order to concurrently sell 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 City of Collegedale, pursuant to Tennessee Code Annotated, title 57, chapter 4 shall also qualify to receive a beer permit from the city for on-premises consumption as required by chapter 2 of this title. (as added by Ord. #489, May 1997, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)

8-106. 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. (as added by Ord.

#489, May 1997, replaced by Ord. #536, July 2000, amended by Ord. #594, May 2004, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)

8-107. [Deleted.] (as added by Ord. #489, May 1997, amended by Ord. #594, May 2004, deleted by Ord. #723, Sept. 2009, added by Ord. #764, Jan 2011, and deleted by Ord. #848, June 2012)

8-108. [Deleted.] (as added by Ord. #489, May 1997, amended by Ord. #594, May 2004, and deleted by Ord. #723, Sept. 2009)

8-109. [Deleted.] (as added by Ord. #489, May 1997, and deleted by Ord. #723, Sept. 2009)

8-110. [Deleted.] (as added by Ord. #489, May 1997, replaced by Ord. #704, Nov. 2008, and deleted by Ord. #723, Sept. 2009)

## CHAPTER 2

BEER

## SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Consumption permits
- 8-211. Sale of beer for both on premises and off premises consumption
- 8-212. [Deleted.]
- 8-213. [Deleted.]
- 8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-215. Revocation or suspension of beer permits.
- 8-216. Civil penalty in lieu of revocation or suspension.
- 8-217. Loss of clerk's certification for sale to minor.
- 8-218. Hours of beer sales allowed.
- 8-219. Violations.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of commissioners. The mayor shall be the chairman of the beer board. (as added by Ord. #723, Sept. 2009)

8-202. Meetings of the beer board. All 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. (as added by Ord. #723, Sept. 2009)

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, etc., before the board; a copy of each such motion or resolution presented; the vote of each

member thereon; and the provisions of each beer permit issued by the board. (as added by Ord. #723, Sept. 2009)

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. Any member present but not voting shall be deemed to have cast a "nay" vote. (as added by Ord. #723, Sept. 2009)

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, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (as added by Ord. #723, Sept. 2009)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. (as added by Ord. #723, Sept. 2009, and replaced by Ord. #1029, April 2017)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the 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). Said fee shall be in the form of a cashier's check payable to the City of Collegedale, Tennessee. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (as added by Ord. #723, Sept. 2009)

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 Collegedale, 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. (as added by Ord. #723, Sept. 2009)

8-209. Beer permits shall be restrictive. All beer 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. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit. (as added by Ord. #723, Sept. 2009)

8-210. Consumption permits. Permits issued by the beer board shall consist of two (2) classes:

(1) On premises permit. An on premises permit shall be issued for the consumption of beer only on the premises.

(2) Off premises permit. An off premises permit shall be issued for the consumption of beer only off the premises. (as added by Ord. #723, Sept. 2009)

8-211. Sale of beer for both on premises and off premises consumption. A single permit may be issued to sell beer for both on premises and off premises consumption at the same location. (as added by Ord. #723, Sept. 2009)

8-212. [Deleted.] (as added by Ord. #723, Sept. 2009, and deleted by Ord. #1029, April 2017)

8-213. [Deleted.] (as added by Ord. #723, Sept. 2009, replaced by Ord. #764, Jan 2011, and deleted by Ord. #848, June 2012)

8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(2) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.

(3) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(4) Allow drunk persons to loiter about his premises.

(5) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(6) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (as added by Ord. #723, Sept. 2009)

8-215. Revocation or suspension of beer permits. 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. However, 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. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board. 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. (as added by Ord. #723, Sept. 2009)

8-216. Civil penalty in lieu of revocation or suspension. (1) Definition. "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.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. 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. (as added by Ord. #723, Sept. 2009)

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. (as added by Ord. #723, Sept. 2009)

8-218. Hours of beer sales allowed. (1) For on-premises consumption, beer as defined herein to may not be consumed on the licensed premises between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday unless the local jurisdiction has opted out of the expanded hours.

(2) For off-premises consumption, the sale of beer as defined shall be permitted seven (7) days a week, twenty-four (24) hours a day. (as added by Ord. #723, Sept. 2009, and replaced by Ord. #764, Jan. 2011)

8-219. Violations. Except as provided in § 8-215, 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. (as added by Ord. #723, Sept. 2009)

## CHAPTER 3

BROWN BAGGING AND CORKAGE

## SECTION

- 8-301. Brown bagging and corkage, generally.
- 8-302. Definitions.
- 8-303. Beer board and police to enforce chapter
- 8-304. Hours regulated.
- 8-305. Sales to incapacitated or incompetent persons prohibited.
- 8-306. Employment of minors.
- 8-307. Immoral acts prohibited on premises.
- 8-308. Telephone and reports or disorders.
- 8-309. Permit required.
- 8-310. Application fee.
- 8-311. Location to be designated.
- 8-312. Grounds for refusal.
- 8-313. When beer board may issue.
- 8-314. To be posted.
- 8-315. Not transferrable.
- 8-316. Grounds for revocation or suspension.

8-301. Brown bagging and corkage, generally. The provisions of this chapter shall apply to all persons who operate an establishment selling setups for mixed drinks or provide corkage setups for wine, and who permit brown bagging in their establishment. It shall not apply to those persons or businesses only having a beer permit as provided in title 8, chapter 2 of the city code or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the Alcoholic Beverage Commission of the state under the provisions of Tennessee Code Annotated, § 57-4-201. (as added by Ord. #764, Jan 2011)

8-302. Definitions. As used in this chapter, the following definitions shall apply:

(1) "Brown bag" or "brown bagging" shall mean the practice of patrons, customers or guests bringing alcoholic beverages upon their premises or any person selling setups for mixed drinks or providing corkage services for wine.

(2) "Corkage" shall mean the practice of providing patrons, customers, or guests with opening devices and glasses in connection with the consumption of wine.

(3) "Person selling setups for mixed drinks" shall mean and include any person deriving receipts from the sale of setups for mixed drinks consumed on the premises.

(4) "Setups for mixed drinks" shall mean and include sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment. (as added by Ord. #764, Jan 2011)

8-303. Beer board and police to enforce chapter. (1) The beer board shall issue permits, and revoke or suspend licenses issued for the activities described in § 8-108, except where such action would be inconsistent with any specific provision of this chapter.

(2) The city police and building inspector shall enforce all laws, ordinances and rules regulating establishments selling setups for mixed drinks, wine consumption, or permitting brown bagging. (as added by Ord. #764, Jan 2011)

8-304. Hours regulated. No permittee under this chapter shall sell any setup for purposes of mixing with alcoholic beverages, provide corkage services, or permit any alcoholic beverages to be consumed on the premises between the hours of 11:00 P.M. and 10:30 A.M. on any day of the week. The permittee shall not permit or suffer the presence of any alcoholic beverages on the premises during such hours. (as added by Ord. #764, Jan 2011)

8-305. Sales to incapacitated or incompetent persons prohibited. No permittee under this chapter shall permit or allow any intoxicated person to be on the premises or to dispense, serve, sell setups or provide corkage to such persons. (as added by Ord. #764, Jan 2011)

8-306. Employment of minors. No person under the age of eighteen (18) years shall be permitted to dispense, serve, sell setups, or provide corkage in any establishment which has been issued a permit under this chapter without being in full compliance with Tennessee Code Annotated, § 57-3-704. (as added by Ord. #764, Jan 2011)

8-307. Immoral acts prohibited at premises. It shall be unlawful for any person to appear or be on the premises of a permittee under this chapter so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;

(4) The permitting by a permittee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus; or

(5) The displaying of films or pictures depicting acts, a live performance of which is prohibited by the sections quoted above. (as added by Ord. #764, Jan 2011)

8-308. Telephone and reports of disorders. All permittees are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in any such disorder have left the premises. (as added by Ord. #764, Jan 2011)

8-309. Permit required. No person shall engage in the business of operating establishments selling setups for mixed drinks, providing corkage services, or permit brown bagging on any premises without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging. (as added by Ord. #764, Jan 2011)

8-310. Application; fee. (1) All applications for a permit to sell setups for mixed drinks or to permit brown bagging shall be filed with city recorder. The police department shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this chapter, and report all findings to the beer board. The beer board shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.

(2) The application shall be accompanied by a fee of one hundred dollars (\$100.00) for use in offsetting the expense of investigating the applicant and an annual renewal fee of fifty dollars (\$50.00) every year thereafter to be paid on or before January 1 of each year. (as added by Ord. #764, Jan 2011)

8-311. Location to be designated. The location of the premises at which the business of the permittee will be conducted shall be designated in the permit and in the application therefor. (as added by Ord. #764, Jan 2011)

8-312. Grounds for refusal. (1) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this

chapter or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this chapter has been revoked within three (3) years or is under suspension.

(2) No such establishment shall be located within three hundred feet (300') of any active school or church. The distances provided for herein shall be measured in a straight line by beginning at the front door of the business location and going from that point to the front door of any active church house or active school.

(3) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in subsection (2) of this section.

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

(5) To the extent that it shall be called to the attention of the beer board that it may have issued any permit to a location not qualified under the provisions of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section. (as added by Ord. #764, Jan 2011)

8-313. When beer board may issue. The beer board shall issue no permit until the application therefor has been approved following a public hearing at a regularly scheduled council meeting with reasonable public notice. (as added by Ord. #764, Jan 2011)

8-314. To be posted. Any permit issued under this chapter shall be posted in a conspicuous place on the premises of the permittee. (as added by Ord. #764, Jan 2011)

8-315. Not transferable. No permit issued by the beer board under the provisions of this chapter shall be transferable from one (1) person to another. (as added by Ord. #764, Jan 2011)

8-316. Grounds for revocation or suspension. (1) The beer board shall revoke or suspend, and shall be charged with the duty of revoking or

suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this chapter or any other ordinance, state law or regulation or federal law or regulation governing the operation of such establishments or when the permittee:

- (a) Operates a disorderly place; or
- (b) Allows gambling on the premises; or
- (c) Allows fighting or boisterous or disorderly conduct on the premises; or
- (d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or
- (e) Allows minors to congregate about the premises after normal hours of business; or
- (f) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or
- (g) Has made a false statement of a material fact in any application or notice to the board; or
- (h) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages; or
- (i) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups; or
- (j) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or
- (k) Allows violation of any provision of this chapter to occur on the licensed premises; or
- (l) Allows violations of the rules and regulations of the health department; resulting in revocation or suspension of any permit issued by the health department; or
- (m) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises; or
- (n) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or
- (o) Allows any server under eighteen (18) years of age to serve any set-ups without being in full compliance with Tennessee Code Annotated, § 57-3-704.

(2) The beer board may also, in its discretion, revoke a permit for due cause not specified herein. (as added by Ord. #764, Jan 2011)