

TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. General prohibition regarding alcohol and definition of term "minor."
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8-101. General prohibition regarding alcohol and definition of term "minor." Except as authorized by applicable laws and/or ordinances, it shall be unlawful for any person or legal entity, regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight pursuant to Tennessee Code Annotated, § 57-5-101.

For purposes of any chapter within the Athens City Code, the term "minor" means any person who has not attained eighteen (18) years of age, except that within any chapter of the Athens City Code which addresses, deals with, or relates to any form of alcoholic beverage, whether beer, liquor, wine, or otherwise, the term "minor" means any person who has not attained twenty-one (21) years of age. (1972 Code, § 2-101, as amended by Ord. #834, Sept. 1997, and replaced by Ord. #873, Jan. 2001, and Ord. #1011, Oct. 2012)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

8-102. Consumption of alcoholic beverages on premises. Title 57, Chapter 4, inclusive of the Tennessee Code Annotated and any amendment thereto is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Athens, Tennessee. It is the intent of the city council that the said Title 57, Chapter 4, inclusive of the Tennessee Code Annotated and any amendment thereto, shall be effective in Athens, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #873, Jan. 2001)

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, and any amendment thereto, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated § 57-4-301, for the City of Athens General Fund to be paid annually as provided in this chapter) upon any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., engaging in the business of selling at retail in the City of Athens alcoholic beverages for consumption on the premises where sold. (as added by Ord. #873, Jan. 2001)

8-104. Annual privilege tax to be paid to the director of finance. Any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Athens shall remit annually to the director of finance the appropriate tax described in § 8-103. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., failing to make payment of the appropriate tax when due shall be subject to any penalty provided by law, including revocation of the privilege of selling alcoholic beverages for consumption on the premises in the City of Athens. (as added by Ord. #873, Jan. 2001)

8-105. Sign restrictions. Notwithstanding any provision in Title 57, Chapter 4 of the Tennessee Code Annotated, no outdoor sign, advertisement or display that advertises alcoholic beverages may be erected or maintained on or about the property from which alcoholic beverages for consumption on the premises is made other than one sign, advertisement or display which makes reference to the fact that the establishment sells alcoholic beverages for consumption on the premises but does not use brand names, pictures, numbers, prices or diagrams relating to any particular type or brand of alcoholic beverages. (as added by Ord. #873, Jan. 2001)

8-106. Responsibilities of licensee. Each licensee must furnish the chief of police with a list of the names, date of birth, and social security number of all persons to be employed in the place where alcoholic beverages are to be sold and must inform the chief of police within 72 hours of employment as to the names, date of birth, and social security number of any persons employed after such list has been originally submitted. The list will be maintained by the police department at city hall. Employee shall be defined in this chapter as any person engaged in the operations of the business on a regular basis or who receives compensation from the business. Licensee shall be deemed responsible for the actions of all employees or agents in regard to state and local legislation related to alcoholic beverages, and a violation thereof by an employee or agent shall subject the licensee to appropriate sanction, including revocation or suspension of any license. Prior to January 1 of each year, it is the responsibility of permittee to pick up copies of any new legislation regulating the sale of alcoholic beverages. It is also the responsibility of the licensee to immediately notify the chief of police of any convictions or pleas for unlawful activity as defined in § 8-213 of the Athens Municipal Code. (as added by Ord. #873, Jan. 2001)

8-107. Unregulated and unlicensed possession and consumption of beer and alcoholic beverages. This section shall make the unregulated and unlicensed possession and consumption of beer and alcoholic beverages in a business in the city unlawful.

(1) For the purposes of this section, the term “beer” shall mean all beers, ales, and other malt liquors having an alcoholic content of not more than five (5) percent by weight. For purposes of this section, the term “alcoholic beverages” shall mean alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being other than patent medicine or beer where the latter contains an alcoholic content of five (5) percent or less by weight. For the purposes of this section, an “open container” is a container, which has any opening through which its contents may pass in order to be consumed by any person. For the purposes of this section, “hotel” is as defined in Tennessee Code Annotated, § 67-4-1401, being any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(2) 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 in the city.

(3) 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.

(4) It is unlawful for any owner of a business open for business in the city, or the owner's agent or employee, knowingly or intentionally to permit any person to possess an open alcoholic 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 any 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.

(5) This section does not prohibit the sale of beer or alcoholic beverages by any business which possesses a valid beer permit or alcoholic beverage license during such hours authorized by the laws of 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 circumstances is held invalid, such invalidity shall not affect other provisions or application of this section which can be given effect without the invalid provisions or application. (as added by Ord. #888, Dec. 2001)

CHAPTER 2

BEER<sup>1</sup>

SECTION

- 8-201. Beer board established.
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- 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.
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- 8-207. Permit required for engaging in beer business.
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- 8-211. Interference with public health, safety, and morals prohibited.
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- 8-213. Prohibited conduct or activities by beer permit holders, agents, servants, employees or other persons engaged in the sale of beer.
- 8-214. Employees required to have identification and proof of employment.
- 8-215. Revocation and suspension of beer permits.
- 8-216. Civil penalty in lieu of suspension.
- 8-217. Loss of clerk's certification for sale to minor.
- 8-218. Violations.
- 8-219. Possession or consumption of alcoholic beverages, wine, and/or beer on certain property prohibited.
- 8-220. Sign, advertisement and display restrictions.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the city council. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1972 Code, § 2-201, as replaced by Ord. #873, Jan. 2001)

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 following each regular meeting of the city council at the city hall whenever there is business to come before the beer board. An adjourned or special meeting of the beer board may be called by its chairman provided reasonable notice thereof is given to each

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<sup>1</sup>State law reference

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

board member of the board and there is a reasonable and just cause for such an additional session. Reasonable public notice shall likewise be given for any adjourned or special meeting. (1972 Code, § 2-202, as replaced by Ord. #873, Jan. 2001, and amended by Ord. #925, Jan. 2005)

8-203. Record of beer board proceedings to be kept. 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 and Tennessee law, to include the issuance, suspension, and revocation of any license. The beer board shall also regulate as permitted by law matters related to any other alcoholic beverage whether defined as an intoxicating liquor or otherwise. (1972 Code, § 2-203, as replaced by Ord. #873, Jan. 2001, and Ord. #963, Nov. 2007)

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. (1972 Code, § 2-204, as replaced by Ord. #873, Jan. 2001)

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 and Tennessee law, to include the issuance, suspension, and revocation of any license. The beer board shall also regulate as permitted by law matters related to any other alcoholic beverage whether defined as an intoxicating liquor or otherwise. (1972 Code, § 2-205, and replaced by Ord. #963, Nov. 2007)

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 or any other beverage of alcoholic content as described in Tennessee Code Annotated, § 57-5-101. (1972 Code, § 2-206, as amended by Ord. #834, Sept. 1997, and replaced by Ord. #873, Jan. 2001)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc. 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 authorize and furnish and shall be filed in the city manager's office, accompanied by a non-refundable application fee of two

hundred and fifty dollars (\$250). Said fee shall be in the form of a cashier's check payable to the City of Athens. Each applicant, and if an entity, a person with ownership interest in the entity, must be a person of good moral character and certify that the applicant has not been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or any crime involving moral turpitude within the past five (5) years. Further, the applicant must certify that the applicant has read and is familiar with the provisions of this chapter. Upon receipt of the notarized application, the city manager's office will schedule the presentation of the application to the beer board and will notify the permittee or licensee of the date and time of such meeting. (Ord. #784, Nov. 1993, as replaced by Ord. #873, Jan. 2001)

8-208. Responsibilities of permittee. Each licensee must furnish the chief of police with a list of the names, date of birth, and social security number of all persons to be employed in the place where beer is to be sold and must inform the chief of police within 72 hours of employment as to the names, date of birth, and social security number of any persons employed after such list has been originally submitted. The list will be maintained by the police department at city hall. Employee shall be defined in this chapter as any person engaged in the operations of the business on a regular basis or who receives compensation from the business. Licensee shall be deemed responsible for the actions of all employees or agents in regard to state and local legislation related to beer, and a violation thereof by an employee or agent shall subject the licensee to appropriate sanction, including revocation or suspension of any license. Prior to January 1 of each year, it is the responsibility of permittee to pick up copies of any new legislation regulating the sale of beer. It is also the responsibility of the licensee to immediately notify the chief of police of any convictions or pleas for unlawful activity as defined in § 8-213 of the Athens Municipal Code. (as added by Ord. #873, Jan. 2001)

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 the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by permit or license. It shall likewise be unlawful for the licensee not to comply with any and all express restrictions or conditions which may be written into the permit or license by the beer board. (1972 Code, § 2-208, as replaced by Ord. #873, Jan. 2001)

8-210. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100). To sustain a valid permit, any licensee shall remit the

tax the 1<sup>st</sup> day of January of each year thereafter to the City of Athens, 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. #784, Nov. 1993, as replaced by Ord. #873, Jan. 2001)

8-211. Interference with public health, safety and morals prohibited.

(1) No permit or license authorizing the storage, sale, distribution or manufacturing of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals.

In no event will a permit be issued authorizing the storage, sale, or manufacture of beer to a permit holder within a minimum distance as listed below from any building

(a) Used as a church, provided a church service is held at the premises at least on one day of each week; or

(b) Used as a school, provided the school is operated by a public school system of the City of Athens, Tennessee or McMinn County, Tennessee, or is a private school, and such school is licensed and accredited by the State of Tennessee to provide and is providing a kindergarten, elementary or secondary education to students at the building; or

(c) Used by the City of Athens or McMinn County to operate city or county government or the city or county public school system or public library.

(2) The minimum distance requirement for the various types of permit holders is as follows:

(a) Restaurant - 300 feet

(b) Grocery store (10,000 square feet or more) - 300 feet

(c) Grocery store (under 10,000 square feet) - 500 feet

(d) Package store - 500 feet

(e) [Deleted.]

(f) Package store - 500 feet

(g) Caterer - 300 feet.

(h) Golf course - 300 feet.

The distance shall be measured in a straight line between the nearest corner of the building proposed to sell, store or manufacture beer and the nearest corner of the building from which there must be a minimum distance. The above minimum distance requirement from certain buildings shall not be applicable with respect to the building of a restaurant permit holder located within the downtown business district which is defined as that area within the interior of the boundaries of Baxter Street, Green Street, College Street, Hill

Street and Park Street as shown on the map of the City of Athens attached hereto and incorporated herein by reference.

These changes as listed above shall not affect those businesses which have valid permits on the date of the passage of this chapter, and further would not affect said locations if they should change ownership in the future.

(3) The number of beer permits permitted in the City of Athens, Tennessee, and the classification thereof are as follows:

(a) Restaurants. There shall be no limitation on the number of beer permits issued to restaurants. A restaurant shall be defined as an establishment having a minimum indoor seating capacity of thirty (30), whose principal business is serving food for consumption on premises. A restaurant eligible for a beer permit shall not have monthly gross beer sales greater than twenty-five percent (25%) of the monthly gross sales of food. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar year has gross beer sales greater than twenty-five percent (25%) of its gross food sales shall have its beer permit revoked. Food sales for the purpose of this section shall include the sale of food and non-alcoholic beverages or drinks. Food sales for the purpose of this section shall not include the sale of any type of alcoholic beverage, including, but not limited to, beer, wine, or liquor.

"On premises" is defined as any portion of the building interior and any deck, patio, porch or other outdoor serving area that:

(i) Is only accessible from the interior of the principal structure housing the restaurant; and

(ii) Is fully enclosed by a permanent fence that is attached to the principal structure housing the restaurant with the fence or wall made of brick, stone, wrought iron, or exterior wood panels with a minimum height of forty-eight inches (48") with maximum spaces between rods, spindles or boards of four inches (4") and such that a four inch (4") sphere cannot pass between any rods, spindles or boards. If an emergency exit is required by any regulation, ordinance or law within the fence or wall it shall be clearly marked as an emergency exit only and used only for this purpose. The emergency exit shall be equipped with an alarm which emits an audible sound when the exit gate or door is opened. The fence or wall shall be permanently affixed to the ground per building official's recommendation and approval. Any deck, patio, porch or other outdoor serving area and the fence or wall shall comply with any applicable provisions of the building code.

Prior to any existing or new restaurant adding an outdoor dining area wherein beer may be sold for consumption, the owner of the restaurant and the permit holder shall submit a site plan for the outdoor dining area which meets the requirements of section 4.17 of the Athens Zoning Code to the Athens Regional Municipal Planning Commission for

approval. The site plan shall show that the new outdoor serving area meets all requirements of the zoning district it lies within, to include, but not limited to parking and land coverage requirements. The site plan shall show that the new outdoor serving area meets all requirements of the landscaping and storm water ordinances.

(b) Grocery (food stores). There shall be no limitation on the number of beer permits issued to grocery (food stores). Grocery (food stores) shall be defined as establishments with the dollar value of their inventory of beer at twenty percent (20%) or less of the dollar value of the total inventory. Beer shall not be sold for consumption on the premises of grocery (food) stores.

(c) [Deleted.]<sup>1</sup>

(d) Package beer stores (off premises). These are establishments where beer is sold to be consumed off the premises. There shall be one license for every one thousand (1,000) population according to the latest official census of the City of Athens. Beer shall not be consumed on the premises of these establishments.

(e) Wholesaler/distribution (off premises). Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer shall not be sold or consumed on the wholesaler's premises.

(f) Caterers. There shall be no limitation on the number of beer permits issued to caterers. A caterer is defined as a business engaged in offering food and beverage service for a fee at various locations, which

(i) Operates a permanent catering hall on an exclusive basis,

(ii) Has a complete and adequate commercial kitchen facility, and

(iii) Is licensed as a caterer by the Tennessee Department of Health.

The permit shall authorize the caterer to sell beer on the premises of the caterer and at such other sites as the caterer has given advanced notice to the Athens Beer Board through the city manager for the City of Athens, Tennessee. With such notice, the off premises site shall be considered to be within the premises of the caterer for the purposes of

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<sup>1</sup>The amendments to § 8-211 contained in subsection (3)(iii) above shall not affect the holder of any beer permit pursuant to the taverns classification as of the effective date of this Ord. #925, Jan. 18, 2005. Any holder of a tavern beer permit shall be entitled to keep and retain this permit until such time as it is surrendered, revoked, or otherwise terminated as provided by any applicable rule, regulation, ordinance or law of the City of Athens, Tennessee, or the State of Tennessee.

this chapter. The permit shall not authorize and the caterer shall not sell beer at a site within three hundred (300) feet of a building from which there must be a minimum distance as provided elsewhere herein. In all cases, beer may be sold for consumption only at the permanent catering hall of the caterer or at the site for which the caterer has given advanced notice to the Athens Beer Board.

(g) Golf Course. There shall be no limitation on the number of beer permits issued to golf courses. Beer may be sold for consumption on the premises only with the premises defined as any clubhouse, pro shop, restaurant, or the playing course itself. No consumption shall be permitted in or on the parking lot.

A golf course is defined as a recreational facility developed for the primary sport of golf, not to be less than nine (9) holes, managed and regularly maintained by the operator of the facility and located on a minimum of fifty (50) contiguous acres. To qualify as a golf course hereunder, receipts from the sales of beer, shall not exceed thirty (30%) of the total gross receipts for two (2) consecutive months or for any three (3) months in any calendar year for the business establishment.

Any beer consumed on the premises of the golf course, whether within any building or on the playing course itself, must be purchased at the golf course from the operator hereof.

As previously stated herein, any beer on the premises of the permit holder must be sold by the permit holder and consumed on the premises. Beer may be consumed within any building on the premises or the playing course itself. The minimum distance requirement from certain buildings as provided elsewhere herein shall be applicable to a golf course permit holder with the distance measured as required from the nearest corner of any building on the premises where beer may be consumed and the nearest corner of the building from which there must be a minimum distance. In the event the permit holder has a common property line with the owner of any building from which there must be a minimum distance, the permit holder shall provide a fence along that property line with a height not less than six (6) feet and visible space between boards not less than one and one-quarter (1 1/4") inch. A planted natural tree buffer or the use of elevated mounds shall serve as an acceptable substitute for the fence. In accordance with the zoning ordinance of the City of Athens, a buffer strip shall be defined as "A greenbelt planted strip thirty (30) feet in width." Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than fifteen (15) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart within the row and which grow to a height of five (5) feet or more after one full growing season and which shrubs will eventually grow to not less than ten (10) feet."

In the event any part of the playing course is within three hundred (300) feet from the nearest corner of a building from which there must be a minimum distance as provided elsewhere herein, that part of the playing course must have along or near its property line the same fencing, planted buffer strip, or elevated mounds, as required above, for that length of the playing course within three hundred (300) feet of the nearest corner of the building of concern.

(h) Club. There shall be no limitation on the number of beer permits issued to clubs as defined hereafter. A club shall mean a non-profit association as defined and described in Tennessee Code Annotated, § 57-4-102(7) (A) and (B), in effect upon final passage of this ordinance. Before receiving a beer permit, an applicant must have received a club license issued by the alcoholic beverage commission to serve alcoholic beverages containing more than five percent (5%) of alcohol by weight. After an applicant receives a beer permit, in the event the association no longer meets the definition of a club, the beer permit may be revoked. In addition to any other acts or conduct prohibited in the Athens City Code or any general statute of the State of Tennessee, the acts or conduct described in Tennessee Code Annotated, §§ 57-4-204(b)(1)(2)(3)(4) and (d)(1)(A)(B)(C)(D) are prohibited on the premises of a licensed club.

(i) Hotels. There shall be no limitation on the number of beer permits issued to hotels as defined hereafter. A hotel for the purpose of holding a beer permit is defined as a hotel located within a radius of one (1) mile from the intersection of Highway 30 and the entrance ramp to the northbound lanes of Interstate 75 which has available for occupancy sixty (60) or more interior corridor rooms for paid lodging by guests on a short-term basis, not to exceed seven (7) consecutive days by a guest. The permit shall authorize the hotel to offer and provide beer to registered guests only, for consumption in a common area or designated meeting or conference room on the premises of the hotel between the hours of 4:00 P.M. and 8:00 P.M. during any day of the week.

This permit shall not authorize or allow a hotel to offer or provide beer for a charge or fee. This permit shall not authorize or allow a hotel to offer or provide beer to a guest of the hotel for consumption in the guest's rented room. The permit holder shall not allow any beer in the area or room where the holder is providing beer at no charge except for beer provided by the permit holder.

Each permit hereafter issued shall specify the classification of permit along with the kind of establishment as herein set forth. No beer sales other than the class designated shall be permitted except as stated herein, i.e., at establishments with permits allowing on the premises consumption, it will be legal for beer to be consumed on the premises only. No beer shall be sold for off the premises consumption by these establishments. Likewise, no on the

premises consumption will be legal where the establishment has been granted an off premises permit.

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

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

A package store shall be further defined to be an establishment whose primary business is the sale of beer. Gasoline stations shall be excluded from the above definition of primary business. (1972 Code, § 2-210, as amended by Ord. #823, Dec. 1996, replaced by Ord. #873, Jan. 2001, amended by Ord. #889, Jan. 2002, Ord. #909, March 2003, Ord. #908, April 2003, Ord. #925, Jan. 2005, and Ord. #926, Jan. 2005, replaced by Ord. #963, Nov. 2007, and amended by Ord. #980, June 2009, Ord. #987, May 2010, and Ord. #1011, Oct. 2012)

8-212. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person or entity with a person with greater than ten percent (10%) ownership interest who has been convicted for the unlawful possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or any crime involving moral turpitude within the past five (5) years. (1972 Code, § 2-211, as replaced by Ord. #873, Jan. 2001, and Ord. #963, Nov. 2007)

8-213. Prohibited conduct or activities by beer permit holders, agents, servants, employees or other persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, agent, servant, employee or other person working in an establishment that is permitted to sell beer to:

(1) Knowingly employ any person convicted for the unlawful possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past five (5) years.

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

(3) It shall be unlawful for any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., to offer for sale or sell beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) by weight within the corporate limits of Athens, Tennessee, between the hours of three o'clock (3:00) A.M. and eight o'clock (8:00) A.M. on weekdays and between the hours of three o'clock (3:00) A.M. and twelve o'clock (12:00) noon on Sunday. No such beverages shall be consumed or opened for consumption or about any premises where beer or other beverage with an alcoholic content not exceeding five percent (5%) of weight is sold within the

corporate limits of Athens, Tennessee, in either bottle, glass, or other container after three fifteen o'clock (3:15) A.M.

(4) Deliver beer to any purchaser or purchasers except during those hours set out in § 8-213(3) of this code.

(5) Sell intoxicating liquor as defined in Chapter 1 (§ 8-101) of this title, except in establishments that have a state-issued "liquor by the drink" license.

(6) Allow the possession of beer by any person, including permittee, within the permittee's place of business at a time when beer may not be legally sold. Such possession shall constitute evidence of an illegal sale.

(7) Allow any loud, unusual or obnoxious noises to emanate from the premises.

(8) Make or allow any sale of beer or any other alcoholic beverage, including an intoxicating liquor to a minor under the age of twenty-one (21) years.

(9) Allow any minor under twenty-one (21) years of age to loiter in or about the place of business. The term "loitering" within the meaning of this section shall mean "to be dilatory, to be slow in movement, to stand around, to spend time idly, to saunter, to delay, to idle, to linger, to lag behind." However, nothing in this section shall prohibit persons under the age of twenty-one from dining in establishments which have a beer permit but whose exclusive or primary business is the sale of food. But such establishments shall insure that all containers of alcoholic beverages, both open and closed, are not provided by customers, patrons, or any other persons, to persons under the age of twenty-one; shall immediately remove empty and partially empty containers of alcoholic beverages from the tables where persons under the age of 21 are seated unless accompanied by a parent or guardian and shall store all alcoholic beverages behind the bar or other proper storage place not ordinarily accessible to customers or patrons.

(10) Make or allow any sale of beer or any other alcoholic beverage, including an intoxicating liquor to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(11) Allow drunk or disreputable persons to loiter about the premises.

(12) Allow patrons to remain in the permittee's place of business longer than thirty (30) minutes past the time the permittee closes the place of business to the public.

(13) Any person who holds a permit shall continuously operate the business, and if any permit holder either voluntarily or involuntarily fails or refuses to carry on the business for a period of sixty (60) days, then said permit shall be revoked.

(14) With the exception of a beer license classified as a "restaurant," pool or billiard playing will not be permitted in the same room where beer is sold and/or consumed.

(15) Fail to provide and maintain separate sanitary toilet facilities for men and women at locations for consumption on premises.

(16) Proper and prominent signs will be displayed stating there shall be no form of gambling on or about the permittee's place of business.

(17) Sell beer at places where dancing allowed, except:

(a) No beer shall be sold on premises upon any part of which dancing is allowed, unless the cleared area provided for dancing shall contain at least one hundred forty-four (144) square feet of floor space. In computing the cleared area of floor space, only the compact floor area used primarily for dancing shall be counted. No area upon which counters, tables, chairs or obstructions are located, and no aisles used primarily for providing access to tables, shall be included for computing such cleared floor space.

(b) No beer shall be sold or consumed on premises upon any part of which dancing is allowed unless the part of such premises where such beverage is sold and consumed is separated from the other part of the building or premises where dancing is allowed by a partition or wall, railing or rope, or other definite means of separation, and such beverage shall not be sold or consumed upon the space set apart for dancing. (1972 Code, § 2-212, as amended by Ord. #801, Dec. 1994, modified, further amended by Ord. #823, §§ 2 and 3, Dec. 1997, and Ord. #834, § 2, 3 and 4, Sept. 1997, replaced by Ord. #873, Jan. 2001, and amended by Ord. #874, April 2001, Ord. #963, Nov. 2007, and Ord. #980, June 2009)

8-214. Employees required to have identification and proof of employment. Every employee employed by an establishment licensed under this chapter shall be required to have on his or her person at all times while upon the premises bona fide identification with his or her name, birth date, age, and description, and written proof of present employment furnished by the employer. Upon demand by any law enforcement officer, any and every employee shall be required to immediately produce such identification and proof of employment at any time the employee in question is on or about the premises. (as added by Ord. #873, Jan. 2001)

8-215. Revocation or suspension of beer permits. The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the license or permit holder or any agent, servant or employee of the permittee or licensee is guilty of violating the provisions of this chapter, any of the municipal codes of the City of Athens addressing the sale, manufacture, storage or distribution of beer, wine, liquor or any other alcoholic beverage or any state law regarding the sale, manufacture, storage or distribution of beer, wine, liquor or any other alcoholic beverage. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after a reasonable notice to all the known parties

in interest. Suspension or revocation proceedings may be initiated by the police chief, city manager 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-month period. The revocation shall be for three (3) years.

In the event a permit holder surrenders his license to sell beer, said surrender will become effective when formal action of the beer board is taken. Provided, however, the surrender of a permit or license shall not operate to prevent the beer board from revoking the permit or license for violation of this chapter or applicable state law occurring before such surrender.

Where a permit or license is revoked, no new license or permit shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date the revocation becomes final, unless the revocation is the result of a violation of § 8-213(13). If the revocation was the result of a violation of § 8-213(13) and the new license or permit request is from the permit or license holder whose permit or license was revoked, no new license or permit shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of ninety (90) days from the date the revocation becomes final. If the revocation was the result of a violation of § 8-213(13) and the new license or permit request is from a new owner of the same premises affected by the revocation of a permit or license, a new license or permit may be issued to the new owner without regard to the prior permit or license revocation, if the new owner is otherwise entitled to a license or permit. The applicant for a new license or permit shall not be considered a new owner if the applicant is a corporation, limited liability company or any other form of business in which the principal owner or owners also owned the corporation, limited liability company or other form of business whose permit or license was revoked the result of a violation of § 8-213(13).

No new permit shall be granted at any location where a case is pending in court for an infraction of the beer laws of the State of Tennessee or the City of Athens. (1972 Code, § 2-213, as replaced by Ord. #873, Jan. 2001, and

amended by Ord. #917, April 2004, replaced by Ord. #963, Nov. 2007, and amended by Ord. #980, Nov. 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. (Ord. #784, Nov. 1993, as replaced by Ord. #873, Jan. 2001, and replaced and renumbered by Ord. #963, Nov. 2007)

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 an 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. #963, Nov. 2007)

8-218. Violations. Except as provided in 8-217, 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. #963, Nov. 2007)

8-219. Possession or consumption of alcoholic beverages, wine, and/or beer on certain property prohibited. It shall be unlawful for any person to possess an opened container of any alcoholic beverage, wine and/or beer or to consume any alcoholic beverage, wine and/or beer on the premises of any retail beer sales outlet which does not have an on-premises permit; and it shall be unlawful, except at the conference center at the Athens Regional Park and any restricted area outside and near the conference center designated for the consumption of beer sold by a licensed caterer selling beer for a function at the conference center, to possess an opened container of any alcoholic beverage, wine and/or beer or to consume any alcoholic beverage, wine and/or beer on any public street, sidewalk, playground, park, school property or public parking lot within the municipal limits of the City of Athens. It shall also be unlawful to possess an opened container of any alcoholic beverage, wine and/or beer or to consume any alcoholic beverage, wine and/or beer on any privately owned parking lot held open by the owners for use by the public where twenty (20) or more vehicles may be parked (1972 Code, § 2-214, as replaced by Ord. #873, Jan. 2001, and Ord. #889, Jan. 2002, and replaced and renumbered Ord. #963, Nov. 2007)

8-220. Sign, advertisement and display restrictions. (1) No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one (1) sign, advertisement or display which makes reference to the fact that the establishment sells beers but does not use brand names, pictures, numbers, prices or diagrams relating to beer.

(2) Notwithstanding the above, for restaurant beer permit holders, there shall be no sign, advertisement or display which indicates that beer may be purchased at the premises, erected or maintained on the exterior of the premises or interior of the premises visible from the exterior.

(a) Beer and its containers located at or upon a bar or table within the premises shall not violate this prohibition provided the bar is located no closer than twenty feet (20') from any window facing a public street.

(b) Beer and its containers located at or upon any table or booth within the premises being consumed or having been consumed by customers shall not violate this provision.

(c) Beer and its containers within a lawful restaurant outdoor dining area as defined in § 8-211(3)(a) being consumed or having been consumed by customers shall not violate this provision. This exception shall not permit a bar or beer keg or other type of beer dispensing equipment or machine to be located in the outdoor dining area. This exception shall not permit the storage of beer bottles or cans for ultimate sale to customers in any area of the outdoor dining area. (as added by Ord. #834, Sept. 1996, replaced by Ord. #873, Jan. 2001, and Ord. #908,

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April 2003, replaced and renumbered Ord. #963, Nov. 2007, and replaced by Ord. #980, Nov. 2009)