

Ordinance No. 1009

AN ORDINANCE TO AMEND TITLE 8, ALCOHOLIC BEVERAGES, CHAPTER 2, BEER.

Whereas, State law related to the brewing, packaging, selling and consumption of beer, wine and liquor by non-profit organizations, municipalities and businesses at public events and festivals has changed; and

Whereas, Title 8, Chapter 2 is outdated and fails to regulate different methods, times and places that beer is brewed, packaged and sold, which have come into being since its passage and most recent amendment; and

Whereas, regulation of the provision, sale and consumption of beer within the City is necessary for the safety and welfare of the citizens of the City of Sweetwater; now,

Therefore, Be It Ordained by the Mayor and Board of Commissioners of the City of Sweetwater, Tennessee, that:

SECTION ONE: Title 8, Chapter 2 of the Sweetwater Municipal Code is hereby deleted *in toto* and replaced by the Chapter attached to this Amendment and incorporated herein by reference as fully and completely as if set forth verbatim.

SECTION TWO: **Effective Date.** This ordinance shall take effect from and after its passage, the welfare of the City requiring it.

Passed on First Reading: _____
Passed on Second Reading: _____

DOYLE LOWE, Mayor

ATTEST: _____
JESSICA MORGAN
City Recorder

CHAPTER 2

BEER.¹

8-200. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

Beer. Beer, ale or other malt beverages, or any other beverage having an alcoholic content of not more than eight percent by weight, except wine as defined in *Tenn. Code Ann.* §57-3-101; provided, however, that no more than 49 percent (40%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (If the statutory definition of "beer" in *Tenn. Code Ann.* §57-5-101 changes, the statutory definition shall govern.)

Caterer permit. A permit issued for the retail sale of beer by a caterer who operates a permanent catering hall on an exclusive basis, has a complete and adequate commercial kitchen facility, and is licensed as a caterer by the Tennessee Department of Health, unless the catering hall is licensed as a restaurant. The caterer must provide food at any catered event.

Convenience store. A store that maintains an inventory of basic food items such as luncheon meats, snack items, milk products, bread products, and canned goods.

Craft beer enterprise. A craft beer business whose primary business is the retail sale of craft beer for consumption on the premises and/or off the premises. Said craft beer establishment shall have a seating capacity of at least twenty (20) people.

¹ The provisions of this chapter regarding beer also apply to wine and intoxicating liquors when the TABC has issued a special occasion license. For provisions related to wholesale beer tax see Title 5, Chapter 3.

Craft beer. Beer manufactured by breweries with an annual production of 6,000,000 barrels or less.

Drug store. A business whose primary business is the sale of prescription drugs and associated items.

Full Line Grocery Store. A store that maintains an inventory of staple food items, including fresh meats, vegetables, produce, and fruits.

Festival Permit. A permit issued for retail sale of beer for consumption in the Downtown Festival District during an officially sanctioned celebration.

Growler. A refillable rigid glass, plastic, aluminum or stainless steel container with a flip-top or screw-on lid that is no larger than 2 liters (0.5283 gallons) into which craft beer or microbrewery beer is pre-filled, filled or refilled for off-premises consumption.

Limited service restaurant permit. A permit issued for the retail sale of beer for consumption on the premises of a restaurant that has gross revenue food sales of less than 50 percent of its total revenues. The limited service restaurant shall have a seating capacity of at least forty (40) people at tables and shall have a menu of prepared food available to patrons.

Microbrewery. A small brewery and/or restaurant engaged in the manufacture of beer or alcoholic content of not more than eight percent by weight, and which sells the aforesaid beer for consumption on the premises and/or off the premises, provided that the aggregate sales shall not exceed 25,000 barrels of beer annually. Said micro brewery shall have a seating capacity of at least forty (40) people.

Nonprofit club/organization. A corporation which has been recognized as exempt from federal taxes under Section 501(c) of the Internal Revenue Code for two consecutive calendar years, is organized and in good standing under the laws of the State of Tennessee, and is not for profit, but is solely for the promotion of

some common object of fellowship, recreation and other nonprofit purposes other than the sale and consumption of beverages containing alcohol.

Off-premises Permit. A permit issued for the retail sale of beer for consumption off the premises of the permittee.

On-premises Permit. A permit issued for the retail sale of beer for consumption on the premises of the permittee.

On- and off-premises Permit. A permit issued for the retail sale of beer for consumption on and off the premises of the permittee in which the business is a microbrewery as defined in this chapter.

Package Liquor Stores. Liquor stores that are licensed by the Tennessee Alcoholic Beverage Commission ("TABC") and authorized by the TABC to also sell beer.

Permit. The permit required or issued pursuant to this chapter, and "permittee" thus means any person, firm, or corporation to whom such permit has been issued pursuant to this chapter.

Restaurant. Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least 40 people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. Said restaurant should serve at least one meal per day at least four days per week, with the exception of holidays, vacations and periods of redecorating. The serving of such meals shall be the principal business conducted (revenue sales from food must exceed 50 percent, except where the restaurant is located in a hotel or motel which provides at least 30 rooms or suites for guests, in which case, the restaurant business may be secondary to the hotel or motel business). In no case shall beer be sold at times other than when meals are being served.

Special Occasion Permit. A permit issued for the retail sale of beer by a bona fide charitable or non-profit organization, or a bona fide political organization for a 24-hour period. The charitable/nonprofit organization must have been in existence for at least two consecutive calendar years and must expend at least 60 percent of its gross revenue for religious, educational or charitable purposes. The political organization must be either a political campaign committee as defined in *Tenn. Code Ann.* §2-10-102(a) or a political party as defined in *Tenn. Code Ann.* §2-13-101. Said permits cannot be issued more than 12 times in a calendar year to the same organization. These permits may be issued for private property and limited areas approved by the Beer Board on application by application basis.

Temporary Permit. A permit that may be issued by the City Recorder or their designee, to allow the continued sale of beer at a location which presently has a valid permit. Said permit may be issued in order to allow a new application to be administratively processed and considered by the beer board. The applicant for said permit shall meet all requirements set forth in these ordinances, and the temporary permit shall not be issued for more than 30 days. The City Recorder or their designee, shall be entitled to immediately revoke said temporary permit upon discovering any violation of this chapter. (Ord. No. 1009, Nov. 2022.)

8-201. Beer Business Lawful But Subject to Regulation.² The transportation, storage, sale, distribution, possession, and/or manufacture of beer, ale or other malt beverages, or any other beverage having an alcoholic content of not more than eight percent by weight, except wine as defined in *Tenn. Code Ann.* §57-3-101, shall be lawful within the corporate limits of Sweetwater, Tennessee, but subject to the regulations hereinafter set out and provided. (1982 Code §2-201; Ord. No. 1009, Nov. 2022.)

8-202. Beer Board. (a) Board Established. There is hereby established a Beer Board to be composed of the members of the City Commission. The mayor shall be the chairperson. All members of the beer board shall serve without compensation. (1982 Code §2-202; Ord. No. 1009, Nov. 2022.)

² State Law reference — For a leading case on a municipality's authority to regulate beer, *see Watkins v. Naifeh*, 635 S.W.2d 104 (Tenn. 1982); and *Wood v. Decatur Cty. Tenn.*, 2014 Tenn. App. LEXIS 510 (Tenn.Ct.App. Aug. 25, 2014).

(b) *Meetings of the Beer Board.* All meetings of the beer board shall be open to the public. The board, when there is business to conduct, shall hold regular meetings in the City hall immediately prior to or following regular City Commission meetings. Special meetings may be called by the chairman provided he gives a reasonable notice thereof to each member.

Special meetings may also be called by a majority of the board members, who also shall give reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1982 Code §2-202; Ord. No. 1009, Nov. 2022.)

(c) *Record of Proceedings To Be Kept.* The City 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. (1982 Code §202; Ord. No. 1009, Nov. 2022.)

(d) *Requirements for Quorum and Action.* The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the 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. Applicants for beer permits shall appear in person before the board will consider their application. (1982 Code §202; Ord. No. 1009, Nov. 2022.)

(e) *Beer Board Powers and Duties.* The beer board shall have the power, and it is hereby directed to, regulate the giving away, selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. The beer board shall have the power to deny, suspend or revoke any beer permit issued under the provisions of this chapter when the applicant's

representations fail to qualify for a permit, the applicant is guilty of making a false statement or misrepresentation in their application or of violating any of the provisions of this chapter. (1982 Code §202; Ord. No. 1009, Nov. 2022.)

8-203. *Permit and Conditions Required for Engaging in Beer Business.*

Subject to *Tenn. Code Ann.* §57-5-103, it shall be unlawful for any person to give away, sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board.

(a) *Application.* The beer board shall adopt by resolution the application form for a beer permit. Each application shall be furnished pursuant to *Tenn. Code Ann.* §57-5-103, and shall be accompanied by a non-refundable application fee of \$250.00, for every beer permit type, except that a Special Occasion permit fee shall be \$50.00 plus any other requisite fees pertaining to the acquisition of the permit. Said fee shall be in cash or equivalent payable to the City of Sweetwater. The applicant shall fully and truthfully complete each portion of the application. (1982 Code, § 2-207;)

(b) *Character.* No permit will be issued by the City unless the applicant is a person of good moral character, and he must certify that he has read and is familiar with the provisions of this chapter.

(c) *Public Notice.* At least ten days prior to being considered by the beer board, an announcement in a newspaper of general circulation must appear stating the name of the applicant, the type of permit desired, and the address of the premise at which the permit is desired.

(d) *Expired License.* A permit is void at midnight of the day a permit holder ceases business for which the permit was granted and must be surrendered to the City Recorder's office within five working days.

- (e) ***New Premises.*** If application is being made for an establishment that has not been constructed or is under construction, a complete site plan and floor plan must be submitted with the application. The plans must provide a description of the entire premises, including open and parking areas available to and for the use of the business. If construction is not commenced within six months or is not completed within 18 months from the date of approval of the beer permit; or if after completion of the construction, the facility differs materially from the submitted plans or violates any provisions of this chapter in effect at the time of approval of the permit, any permit issued for the facility becomes immediately void.
- (f) ***Permit Displayed.*** Each holder of a beer permit shall display and keep displayed said permit in a conspicuous place on the premises where they are authorized by that permit to conduct business. A permit is not transferable.
- (g) ***Permits Available.*** An applicant can apply for the following types of permits: caterer permit, limited service restaurant permit, restaurant permit, off-premises permit, on-premises permit, on- and off-premises permit, festival permit, special occasion permit, and a temporary permit. (See definitions of each in 8-201 above.)
- (h) ***Premises Subject to Inspection.*** The premises for which an applicant desires a beer permit shall be inspected by all necessary inspection officers of the City.
- (i) ***Single Location.*** A beer permit shall be valid for only a single location except as provided in subsection (12) below, and cannot be transferred to another location.
- (j) ***Multiple Businesses in Same Building.*** Where an owner operates two or more restaurants or other businesses within the same building, the owner may in their discretion operate some or all such businesses pursuant to the same permit.

- (k) **Notification of Change of Circumstance.** Upon receiving approval and a permit from the beer board, the permit holder shall immediately notify the City Recorder or their designee of any change in business ownership, management, relocation of the business, changes in the business' name, or termination of the business. Failure to notify the City within five days of any of these changes shall be grounds to cite the permit holder to the beer board to show cause why the permit should not be suspended or revoked.
- (l) **Notification of Change of Purpose.** After receiving a permit from the beer board, if the permit holder's business or purpose for the permit changes such that the current permit (see definitions for types of permits) no longer applies to the permitted business or purpose, the permit holder shall immediately notify the City Recorder or their designee. The permit holder will then be required to submit a new application for the proper type of beer permit for the business. During this revised application process, a temporary permit may be issued. *Wood v. Decatur Cty. Tenn.*, 2014 Tenn. App. LEXIS 510 (Tenn.Ct.App. Aug. 25, 2014.) (1982 Code §206; Ord. No. 1009, Nov. 2022.)

8-204. Privilege Tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 2023, and each successive January 1, to the City of Sweetwater, 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. #653, Nov. 1993; Ord. No. 1009, Nov. 2022)

8-205. Interference with Public Health, Safety, and Morals Prohibited. No permit or license authorizing the storage, sale, distribution or manufacturing of beer will be issued when such businesses would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering as specifically enumerated in 8-206, or would otherwise interfere with the public health, safety and morals. (1982 Code, §2-204, as replaced by Ord. #786, April 2006; Ord. No. 1009, Nov. 2022.)

8-206. Restriction as to Location of Beer Places.

- (a) **Minimum Distance.** In no event will a permit be issued authorizing the storage, sale or manufacture of beer for on-premise consumption within 300 feet, or 500 feet for an off-premise consumption/package sales, from a building used (i) as a church, provided a church service is held at the premises at least on one day of each week; (ii) as a public or private school, licensed and accredited by the State of Tennessee to provide and is providing a pre-kindergarten, kindergarten, elementary or secondary education to students at the building, except such designation shall not include home schools conducted at a residence; or, (iii) by the City of Sweetwater, Tennessee, or Monroe County, Tennessee, to operate city or county government.
- (b) **Measurement.** The distances herein set forth 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.
- (c) **Currently Approved Locations Excused.** The requirements set forth 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 unless there is a change in the nature of use following the surrender of an existing valid permit.
- (c) **Prohibited Locations.** In no event shall any permit, other than a special occasion permit or festival permit, be issued authorizing the storage, sale or manufacture of beer to a permit holder within one hundred feet of the following specifically enumerated public gathering places nor shall a temporary vendor permit be allowed in any city park, recreation complex or facility or any other public property other than public streets. (1982 Code, § 2-205, as replaced by Ord. #786, April 2006, and amended by Ord. #928, June 2015; Ord. No. 1009, Nov. 2022.)

8-207. Public Record. All applications shall be kept on file by the beer board in the office of the recorder and shall be available for inspection by the general public. (1982 Code, §2-207; Ord. No. 1009, Nov. 2022.)

8-208. Effect of False Statements in Application. Any application for a beer permit containing a false statement shall be denied. Any person making any false statement in their application, discovered after issuance of a beer permit, shall forfeit their beer permit. Any person making a false statement in their application shall not be eligible to apply for or receive another beer permit for a period of ten (10) years thereafter. The Beer Board may allow applications containing inadvertent misrepresentations to be withdrawn or amended prior to the beginning of the hearing on the application, but not thereafter. (1982 Code, § 2-208.)

8-209. 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 beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance or controlled substance analogue, 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 ownership interest in the business for which application is being made shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance or controlled substance analogue or any crime involving moral turpitude within the past ten years. (1982 Code §217(9); Ord. No. 1009, Nov. 2022.)

8-210. Action of Beer Board on Application for Permit. Upon the submission of a written application for a beer license to the City Recorder, submission of said application for approval by the City Recorder, Chief of Police, Codes Enforcement Officer and City Attorney, payment of all fees and privilege taxes, and posting a Five Hundred Dollar (\$500.00) bond conditioned upon their continuing to pay applicable privilege taxes and fines assessed for violations of this chapter, said application shall be carefully examined by the Beer Board and a

record of its action thereon shall be kept in writing as a part of its regular proceedings. Upon approval of said application by the Beer Board, and a permit shall be issued to the applicant, bearing the name of the chairman of the beer board and the date of issuance. The permit thus issued shall remain in full force and effect until its revocation by the beer board in the manner hereinafter prescribed. No permit shall be granted to any applicant who does not meet all the requirements of this chapter. (1982 Code, §2-209; Ord. No. 1009, Nov. 2022)

8-211. *Permit Not Transferable.* Beer Permits issued under the provisions of this code are not transferable to any other person or for any other premises than those described in the application therefor. (1982 Code, § 2-211)

8-212. *Beer Permits Restrictive.* All beer permits shall be restrictive as to the type of beer business authorized by them.

- (a) Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by their permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions that are written into their permit by the beer board.
- (b) No on-premises permit shall be issued for a premise other than a nonprofit club, restaurant, limited service restaurant, microbrewery or craft beer enterprise. No on-premise and off-premise permit shall be issued for a premise other than a microbrewery and/or craft beer enterprise. For purposes of this chapter, "on premise", and "on-and off-premise" shall include the interior of the business enclosed by permanent walls and covered by a permanent roof, as well as all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located, and in the case of a nonprofit club, a golf course that is a part of the establishment. An outdoor serving area shall be defined as a patio, deck, roof, courtyard or other outdoor area where the permitted establishment provides service to the outdoor serving area

that is (1) contiguous to the exterior of the building in which the business is located, (2) operated and controlled by the business, and (3) fenced or surrounded on all sides except for designated entrances and exits. The fencing or surrounding barrier need not be permanent, but must consist of a barrier not less than forty (40) inches above the surface and must be constructed of a substantial material without gaps or spaces that would allow ingress and egress of the premises except through designated entrances and exits. Examples of substantial material includes, but is not limited to, securely connected cattle gates, planters, decorative fencing or other decorative architectural or landscaping material. An outdoor serving area may not include all or any part of an area otherwise used by the business or by the public for parking.

- (c) No off-premise permit shall be issued for a premise other than full line grocery stores, drug stores, craft beer enterprises, micro breweries, package liquor stores or convenience stores.
- (d) Each holder of a beer permit shall continuously maintain in this City (1) a registered office which may be the same as the permitted place of business, and (2) a registered agent, who shall be an individual whose business office is identical with the registered office.
- (e) With the exception of a microbrewery and/or craft beer enterprise, no brewer, wholesaler or manufacturer of beer, nor any agent of such brewer, wholesaler or manufacturer, shall be permitted to make a loan of money or furnish any fixtures of any kind or have any interest either directly or indirectly in the business of any retailer of beer, or in the premises occupied by such retailer. No person holding and/or exercising a valid permit issued pursuant to this chapter shall while so doing convey or grant or contract to convey or grant any interest in the business located at the place named on the permit, or an interest in the premise or any property therein, to any brewer, wholesaler or manufacturer of beer regulated by this chapter. No person holding and/or exercising a valid permit issued pursuant to this chapter shall incur or contract any

indebtedness or financial obligation to any brewer, wholesaler or manufacturer of beer regulated by this chapter, except for the purchase of the beverages. No permit shall be granted under this chapter to any applicant who at the time of making application, is indebted or financially obligated to any such brewer, wholesaler or manufacturer, except for the purchase of the beverages. (1982 Code §20 ____; Ord. No. 1009, Nov. 2022.)

(f) *Downtown Festival District.* Nothing in this Chapter 2 shall be construed to authorize sales, service or consumption of liquor, wine, beer or any other spirits on the streets and property of the City of Sweetwater, without a Special Occasion Permit.

(g) *Special Occasion Permit. (i) Beer.* Notwithstanding any other provisions of this article to the contrary, the beer board is hereby authorized and empowered in its discretion to permit the sale of beer for consumption on private property or public property designated by the Beer Board on an application by application basis at such times and under such terms, conditions, rules and regulations as the Beer Board may establish for the Special Occasion. **(ii) *Wine.*** In the event the TABC issues a special occasion license to a non-profit association described in *Tenn. Code Ann.* §57-4-102(m)(1) to conduct a wine festival as defined in *Tenn. Code Ann.* §57-4-102(34)(A), for participating wineries licensed under *Tenn. Code Ann.* §57-4-207(b) to serve complimentary samples as described *Tenn. Code Ann.* §57-4-102(m)(2) and to sell wine produced by the wineries for consumption off-premises pursuant to *Tenn. Code Ann.* §57-4-102(m)(3), in festival settings substantially similar to those authorized by this section, then such licensee, who wishes to sell wine for consumption within the Downtown Festival District, must comply with the requirements of this section, not preempted by TABC regulations, as they apply to the sale of beer.

(1) *Geographic Boundaries.* The Downtown Festival District created hereby shall include all of the Main Street District. A Map of the Downtown Festival District (Main Street District) shall be maintained in the City Recorder's Office.

(2) Festival District Beer Application. Any person or organization desiring to conduct an event in the Downtown Festival District, where beer will be sold and consumed on any part of the public streets, sidewalks, or public areas described above, shall complete and submit a complete Festival District Beer Application to the Office of the City Recorder on forms provided by that office no later than forty-five (45) days in advance of the proposed event. Any person or organization desiring to conduct an event under this section of the Code shall also have obtained a special events permit from the City prior to approval of a beer permit by the Beer Board. An applicant is not required to use the entire Downtown Festival District for their event in order to obtain a permit; the applicant shall indicate the specific area of the Downtown Festival District they wish to utilize on their site plan submitted with this application (“Permitted Area”). The proposed Permitted Area shall be consistent with the Festival site plan approved by the Main Street Board. Only one permittee may use the Permitted Area at a time.

(3) Festival Permit(s) Required. Any person or organization desiring to conduct an event under this section of the Code shall have obtained any and all permits required by Main Street prior to seeking approval from the beer board and shall comply with all terms and conditions set forth in the Special Events Guide throughout the entire festival.

(4) Festival District Beer Application. The application shall include, but not necessarily be limited to, the following information:

- (i)** Date and time of the event;
- (ii)** The identity of such person or organization that is requesting the special permit;
- (iii)** The site plan for the Festival Event Area, showing where any beer is to be sold and consumed;

- (iv) The specific vendor stall at which beer is to be distributed by the Permittee from a canopy, tent, trailer, food truck or similar facility;
- (v) Plans for proposed temporary closure of public rights-of-way, that have been approved by the Sweetwater Police Department prior to submission of a Festival District application;
- (vi) The length and periods of time for which such special permit is requested;
- (vii) Plans for necessary signage, security and policing of the event;
- (viii) A plan for server compliance, including procedure for carding individuals and preventing over-consumption of alcohol; and
- (ix) the anticipated number of persons attending the event.

(5) Beer Board Meeting Attendance Required. Upon receipt of the Festival District Permit Application as required herein, the proposed festival event shall be placed on the beer board's agenda at its next regularly scheduled meeting following receipt of the application. The applicant for the special permit shall attend or send a representative or representatives to the beer board meeting to address any questions or issues arising out of the proposed festival event application.

(6) Rules and regulations for Festival District Events are as follows:

- (i) **Dispensing Hours.** Notwithstanding any other laws governing the hours for the sale of beer, it shall be unlawful for any festival event permittee to sell, barter, give away or otherwise dispense beer under the provisions of this section until the festival begins and after one hour before the end of the festival.

- (ii) ***Consumer Liability.*** It shall be unlawful for any person to possess or consume alcoholic beverages on any public street, sidewalk, playground, school property, public park or recreational facility or public parking lot that is not a part of the permitted Festival Event Area.
- (iii) ***Container Requirements.*** Within the permitted Festival Event Area, it shall be unlawful for any person to possess or consume alcoholic beverages from any container in the Festival Event Area other than a non-glass container not exceeding a volume of 16 fluid ounces.
- (iv) ***Certified Alcohol Server.*** The Permittee shall ensure that alcohol is dispensed only by a certified alcohol server, who has completed a TABC certified alcohol awareness program and has a TABC Server Permit.
- (v) ***Wristbands Required.*** All patrons who are consuming beer or other alcoholic beverages at the Festival Event shall be provided with a customized wristband for the event. The permittee shall ensure that the only individuals provided with wristbands are individuals who are twenty-one years of age or older.
- (vi) ***Verification for Each Service.*** It shall be unlawful for the Festival Event permittee, or any of the permittee's servers, to provide any individual with beer or other alcoholic beverage within the Downtown Festival District without re-checking the individual's identification, and ensuring that the individual is wearing the wristband provided to the individual by the permittee.
- (vii) ***No Refills.*** It shall be unlawful for any person to re-use or to knowingly allow the re-use of an approved container for an alcoholic beverage and nothing in this section shall be construed to authorize the same.

- (viii) ***Unlawful Consumption.*** It shall be unlawful for any person to possess, dispense or consume any alcohol in the Downtown Festival District unless that alcohol was provided by the licensed permittee or festival approved vendor in an approved container.
- (ix) ***No Alcohol to Enter or Leave Premises.*** It shall be unlawful for an individual to enter or exit the Festival Event Area with any container holding any alcoholic beverage. Cups and cans must be emptied prior to entering or exiting the Festival Event Area.
- (x) ***Only Permittees Allowed.*** It shall be unlawful to use any recreational vehicle, tent, truck or other facility within the Festival Event Area for tailgating, serving, consuming or possessing alcoholic beverages except by licensed permittees from the licensed retail premises.
- (xi) ***Signs.*** Permittee(s) shall install temporary signs throughout the Festival Event Area, including but not limited to at every public intersection, designating where the Festival Event Area begins and ends, and advising patrons that beer and alcoholic beverages shall not be taken or consumed outside the Festival Event Area.
- (7) ***Open Container Law.*** Nothing in this section shall be construed to authorize any person to violate the open container law set forth in Section 8-218 of the Municipal Code of the City of Sweetwater.
- (8) ***Underage Drinking Unlawful.*** Nothing in this section shall be construed to authorize any person to violate the state and city laws against underage drinking.
- (9) ***Festival Intervals.*** There shall be a minimum of 24 hours between festivals or events.

8-213. Prohibited Conduct or Activities by Beer Permit Holders. It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer to:

- (a) **Servers.** Employ any server that does not possess a valid server permit issued by the State of Tennessee Alcoholic Beverage Commission. Said permit must be on the person of the server, or dispenser or upon the premises of the licensee at all times subject to inspection by the City's duly authorized agent.
- (b) **Crimes.** Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten years.
- (c) **Minors.** Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.
- (d) **Hours.** It shall be unlawful for any person to sell, furnish, or distribute beer within the city between the hours of 3:00 a.m. and 6:00 a.m. on Sunday. (If the statutory hours of operation set forth in *Tenn. Code Ann.* §57-5-301(b) changes, the statutory definition shall govern.) (1982 Code, §2-213, amended by Ord. #617, Oct. 1988, Ord. #662, Feb. 1994 and Ord. #*, 5-2-2022.)
- (e) **No Underage Drinking.** Make or allow any sale or distribution of beer to any person under the legal drinking age as mandated by state law. Pursuant to *Tenn. Code Ann.* §57-5-301(f), permit holders shall post signs on the premises informing customers of the permit holder's policy against selling beer to persons under the legal drinking age.

8-213. Prohibited Conduct or Activities by Beer Permit Holders. It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer to:

- (a) **Servers.** Employ any server that does not possess a valid server permit issued by the State of Tennessee Alcoholic Beverage Commission. Said permit must be on the person of the server, or dispenser or upon the premises of the licensee at all times subject to inspection by the City's duly authorized agent.
- (b) **Crimes.** Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten years.
- (c) **Minors.** Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.
- (d) **Hours.** It shall be unlawful for any person to sell, furnish, or distribute beer within the city between the hours of 3:00 a.m. and 6:00 a.m. on Sunday. (If the statutory hours of operation set forth in *Tenn. Code Ann.* §57-5-301(b) changes, the statutory definition shall govern.) (1982 Code, §2-213, amended by Ord. #617, Oct. 1988, Ord. #662, Feb. 1994 and Ord. No. 1009, Nov. 2022.)
- (e) **No Underage Drinking.** Make or allow any sale or distribution of beer to any person under the legal drinking age as mandated by state law. Pursuant to *Tenn. Code Ann.* §57-5-301(f), permit holders shall post signs on the premises informing customers of the permit holder's policy against selling beer to underage persons. The signs shall be not less than eight and one-half inches by five and one-half inches, and shall contain the following language: "IF YOU ARE NOT 21 AND ARE IN POSSESSION OF BEER, YOU COULD LOSE YOUR DRIVER LICENCE."
- (f) **No Drinking by Owner or Staff.** Allow an owner, co-owner, operator, proprietor, or employee to drink or be under the influence of any of the beverages regulated by this chapter while on the premises when the establishment is open to the public except an owner, co-owner, operator, proprietor, or employee of a micro-brewery as defined in Section 8-200 for the limited purpose of sampling and testing beer produced on premises.

- (g) **No Minors Loitering.** Allow any person under the legal drinking age as mandated by state law to loiter in or about their place of business.
- (h) **No Drunk Customers.** Make or allow any sale of beer to any person who appears, or would reasonably appear to be under the influence of any intoxicant whatsoever.
- (i) **No Drunks Loitering.** Allow intoxicated person(s) to loiter about the premises.
- (j) **No Gambling.** Provide for or allow any gambling or games of chance involving exchange of money on the premises, excepting activities authorized pursuant to the Tennessee Education Lottery Implementation Law codified at *Tenn. Code Ann. §4-51-101 et seq.*
- (k) **Prohibited Conduct.** Knowingly or intentionally permit or allow any person to appear in the establishment or on the premises for which the permit was issued and to:
- (1) **No Sex Acts.** Publicly or openly perform acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any other sexual acts prohibited by law; or
 - (2) **No Intimate Touching.** Publicly or openly engage in the actual or simulated touching with the hand, facial area or mouth, or caressing, or fondling of the breasts, buttocks, anus or genitals; or
 - (3) **No Genital Display.** Publicly or openly engage in the actual or simulated display to public view of any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the display of the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

- (4) ***No Simulation.*** Publicly or openly wear or use any device or covering exposed to public view which simulates the display to public view of any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the display of the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or
- (5) ***Server Clothing.*** Employ, use or allow any person in the sale or service of food, beer or other alcoholic beverages while such person is publicly or openly unclothed or in such attire, costume or clothing as to expose to view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or
- (6) ***Host Clothing.*** Employ, use or allow the services of any host, hostess or other person to mingle with patrons while such hostess or other person is unclothed or in such attire, costume or clothing as to expose to view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or
- (7) ***Prohibited Devices.*** Publicly or openly permit any person to use artificial devices or any inanimate objects to depict any prohibited activities described above; or
- (8) ***Prohibited Conduct by Other Persons.*** For the owner of the property, or the owner of any business operated thereon, or any employee thereof to allow or permit any person to remain in or upon the premises who is exposing to public view any portion of the human male or female genitals, pubic area, buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

- (9) ***Prohibited Visual Presentations.*** Publicly or openly show films, videotapes, laser discs, CD ROMS, electronic reproductions or other visual reproductions that involve movement depiction of any of the following:
- (i) ***No Sex Acts.*** Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or
 - (ii) ***No Groping.*** Any person being touched, caressed, or fondled on the breasts, buttocks, anus or genitals; or
 - (iii) ***No Genitals Displayed.*** Scenes wherein the person displays the vulva, the anus or the genitals; or
 - (iv) ***Prohibited Animation.*** Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.
 - (l) ***Swimming Attire Allowed.*** Nothing contained in this section shall be construed to prohibit persons of either sex from engaging in swimming or related activities while clad in attire customarily worn in the community for such purpose;
 - (m) ***Broadcast Display Allowed.*** Nothing contained in this section shall be construed to prohibit the broadcast or display of any television program subject to regulation by the Federal Communications Commission of the United States on the permitted premises.
 - (n) ***Disorderly Conduct Prohibited.*** Operate a disorderly place or allow boisterous and/or disorderly conduct on the premises. Such prohibited disorderly conduct and operation of a disorderly place shall mean and include any conduct that may pose a threat to public health or safety and that may be deemed to create a public nuisance. (1982 Code §217; Ord. No. 1009, Nov. 2022.)

8-214. *Hotels, clubs, lodges, etc.* Nothing in this chapter shall prevent the sale and distribution of beer in hotel rooms of regularly conducted hotels and in regularly incorporated clubs and lodges when same are licensed by the beer board. (1982 Code, § 2-217; Ord. No. 1009, Nov. 2022.)

8-215. *Enforcement by Police.* City police officers are charged with the enforcement of this chapter. Violators shall be prosecuted in the city court and, if licensed, complaints shall be filed against them with the chairman of the beer board. This section shall not be construed so as to deny private individuals of their right to file written complaints against licensees with the City Recorder, Chief of Police or a member of the Beer Board as provided in the following section. (1982 Code, § 2-218; Ord. No. 1009, Nov. 2022.)

8-216. *Grounds and Procedure for Suspension and Revocation of Beer Permits.*

- (a) ***Denial.*** The beer board is authorized to suspend or revoke a beer permit for any of the reasons which would disqualify an applicant in the first instance.
- (b) ***Suspension or Revocation.*** Subject to the provisions of the Tennessee Responsible Vendor Act, *Tenn. Code Ann.* §57-5-601 *et seq.*, all permits issued by the Beer Board under the provisions of this chapter shall be subject to suspension or revocation by the Board for the violation of any of the provisions of the state beer act, the failure to sell beer according to their permit within six (6) months of issuance, or any of the provisions of this chapter.
- (b) ***Authority of 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 their permit should not be revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

- (c) ***Complaints.*** Suspension or revocation proceedings may be initiated by the Chief of Police, the City Recorder, or by any member of the Beer Board. Complaints filed against any permit holder for the purpose of suspending or revoking beer permits shall be made in writing and filed with the board.
- (d) ***Notice to Appear; Contents, Service.*** When the board has reason to believe that any permit holder has violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of the violations and to cite the permittee by written notice to appear and show cause why his permit should not be suspended or revoked for the violations. The 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. The notice shall be served upon the permittee at least five (5) days before the date of the hearing.
- (e) ***Hearing.*** At the hearing, the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After the hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke the permit.
- (f) ***Civil Penalty in lieu of Suspension.*** Subject to the provisions of the "Tennessee Responsible Vendor Act of 2006," *Tenn. Code Ann.* §57-5-601 *et seq.*, the Beer Board may, at the time it imposes a suspension, revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$2,500.00 for each offense of making or permitting to be made any sales to persons under 21 years of age, or a civil penalty not to exceed \$1,000.00 for any other offense. The amount of the civil penalties shall be governed by *Tenn. Code Ann.* § 57-5-108 and if the amounts are modified, the Tennessee statute shall control. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven 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 of the violation charged by said permit holder and shall be paid to the exclusion of any other penalty that the city may impose. The violation admitted by payment of the civil penalty shall be held against said permit holder in the determination of any subsequent application, suspension or revocation.

(g) *Limitations on Civil Penalties.* Notwithstanding the foregoing, the beer board's authority to revoke or suspend beer permits or to impose civil penalties will be subject to the following limitations:

(1) *Clerk Sales to Minors.* The beer board may not revoke or suspend the permit of an off-premises permit holder for a clerk's illegal sale of beer to a minor if the permit holder and the clerk making the sale have complied with the requirements of state law to qualify as a responsible vendor, but may impose on the responsible vendor a civil penalty not to exceed \$1,000.00 for each offense of making or permitting to be made any sales to minors or for any other offense.

(2) *Underage Sales Over 18.* The beer board may not revoke a permit on the grounds the permit holder or any person working for the permit holder sells beer to a minor over the age of 18 years if such minor exhibits an identification, false or otherwise, indicating the minor's age to be 21 or over, the minor's appearance as to maturity is such that the minor's age might reasonably be presumed to be 21 or over and the minor's age is unknown to the person making the sale. Under such circumstances, the permit may be suspended for a period not to exceed ten days or a civil penalty up to \$1,500.00 may be imposed.

(3) Multiple Violations. The beer board may permanently revoke a beer permit only when the permit holder has at least two violations for underage sales within a 12-month period.

(g) Effect of Board Action. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the state beer act. 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 year from the date the revocation becomes final. However, the Board may, in its discretion, issue a new permit on the same premises before the expiration of the one-year period if the individual applying for the permit is not the original holder of the permit, is not related to the original holder within four degrees of consanguinity (1st cousin or closer) or the agent of the original holder of the permit. (1982 Code §§212, 213; Ord. No. 1009, Nov. 2022.)

8-217. Adoption of the Tennessee Responsible Vendor Act. There is hereby adopted and incorporated herein by reference the Tennessee Responsible Vendor Act, *Tenn. Code Ann.* §57-6-601 *et seq.* Any provisions of title 8, chapter 2 of the municipal code in conflict with the provisions of the Act are hereby repealed.

8-218. Open Beverage Containers Prohibited. It is unlawful for any person to possess open cans, bottles, or containers of beer in motor vehicles in the City or upon the public streets, sidewalks, or other public places in the City, not otherwise permitted by this chapter. There shall be rebuttable presumption that open containers of alcoholic beverages found in a motor vehicle, not within the physical possession of any individual, are in the possession of the driver of the vehicle. (Ord. No. 1009, Nov. 2022.)