

City Commission

AGENDA SUMMARY

APPROVED - DISAPPROVED
BY CITY COMMISSION

DATE: June 2, 2022

[Signature]



SUBJECT: Ordinance 4809-22: Third Reading
An Ordinance to amend Title 8, Chapters 1, 2 and 3, of the Code of the City of Johnson City, Tennessee (Legal Department)

MEETING: City Commission - Jun 02 2022

DEPARTMENT: Legal

STAFF CONTACT: Sunny Sandos, City Attorney

SUMMARY:

This ordinance is to revise the Code of the City of Johnson City to define the beer board as the legislative authority to regulate and supervise the issuance of beer license; to require applicant appearance during consideration of beer license application to allow a temporary business beer license, to designate all non-profit organizations qualified to apply for a temporary occasion beer license, and to allow dispensing equipment by amending Title 8, Chapters 1, 2 and 3, of the Code of the City of Johnson City, Tennessee.

STAFF RECOMMENDATION:

Staff has reviewed the Ordinance and recommends Commission Consideration.

SUPPORTING DOCUMENTS:

[#4809-22 Ordinance to revise Title 8 beer board, applicant appearance, temporary business beer license, and dispensing equipment](#)

ORDINANCE NO. 4809-22

AN ORDINANCE TO REVISE THE CODE OF THE CITY OF JOHNSON CITY TO DEFINE THE BEER BOARD AS THE LEGISLATIVE AUTHORITY TO REGULATE AND SUPERVISE THE ISSUANCE OF BEER LICENSE; TO REQUIRE APPLICANT APPEARANCE DURING CONSIDERATION OF BEER LICENSE APPLICATION; TO ALLOW A TEMPORARY BUSINESS BEER LICENSE; TO DESIGNATE ALL NON-PROFIT ORGANIZATIONS QUALIFIED TO APPLY FOR A TEMPORARY OCCASION BEER LICENSE; AND TO ALLOW DISPENSING EQUIPMENT BY AMENDING TITLE 8, CHAPTERS 1, 2 AND 3, OF THE CODE OF THE CITY OF JOHNSON CITY, TENNESSEE, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith.

BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

SECTION I. That Title 8, Chapters 1, 2 and 3, of the City of Johnson City Code is hereby amended to add the following:

The original Section 8-101(5)-(26) reads as follows:

8-101. Definitions.

(5) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either personally or by an agent.

(6) "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale.

(7) "Certificate of compliance." The certificate mentioned in Tennessee Code Annotated, § 57-3-208, as the same may be amended, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(8) "Clubs; lodges." Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee and which are organized and exist for purposes other than the sale of beverages under such license.

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

(10) "Inspection fee." The monthly fee a licensee is required to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(11) "License." A license issued under the provisions of this Title for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(12) "License fee." The annual fee a licensee is required by this Title to pay at or prior to the time of the issuance of a license.

(13) "Licensee." The holder of a license.

(14) "Liquor store." The building or the part of a building where a licensee conducts any of the business authorized by the license held by such licensee.

(15) "Manufacture" means and includes brewing high alcohol content beer, distilling, rectifying and operating a winery.

(16) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier.

(17) "Minor." Any person who has not attained eighteen (18) years of age; except that where used in Title 8 with respect to purchasing, consuming or possessing alcoholic beverages, wine or beer, "minor" means any person who has not attained twenty-one (21) years of age. This shall not be construed as prohibiting any person eighteen (18) years of age or older from selling, transporting, possessing or dispensing alcoholic beverages, wine or beer in the course of employment pursuant to valid server permit.

(18) "Restaurant" shall mean any 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, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least twenty-five (25) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted.

(19) "Retail sale" or "sale at retail." A sale to a consumer or to any person for any purpose other than for resale.

(20) "State alcoholic beverage commission." The Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including the provisions of Tennessee Code Annotated, §§ 57-1-101 through 57-1-209.

(21) "State liquor retailer's license." A license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, §§ 57-3-101 through 57-3-412) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

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

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

(24) "Wholesale sale" or "sale at wholesale." A sale to any person for purposes of resale.

(25) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §57-3-101 through 57-3-412.

(26) "Wine." This definition shall be the same as provided in Tennessee Code Annotated, §57-3-101, as the same may be amended.

The new Section 8-101(5)-(27), as amended, is substituted as follows:

8-101. Definitions.

(5) "Beer Board." For the purpose of this Title, "beer board" means a board composed of the members of the Board of Commissioners of the City of Johnson City who shall have the duty to regulate and supervise the issuance of beer license to manufacture, store, distribute and sell beer as provided in Title 8. Board of Commissioners shall be synonymous with "beer board" unless otherwise stated or implied.

(6) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either personally or by an agent.

(7) "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale.

(8) "Certificate of compliance." The certificate mentioned in Tennessee Code Annotated, § 57-3-208, as the same may be amended, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

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(16) "Manufacture" means and includes brewing high alcohol content beer, distilling, rectifying and operating a winery.

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(18) "Minor." Any person who has not attained eighteen (18) years of age; except that where used in Title 8 with respect to purchasing, consuming or possessing alcoholic beverages, wine or beer, "minor" means any person who has not attained twenty-one (21) years of age. This shall not be construed as prohibiting any person eighteen (18) years of age or older from selling, transporting, possessing or dispensing alcoholic beverages, wine or beer in the course of employment pursuant to valid server permit.

(19) "Restaurant" shall mean any 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, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least twenty-five (25) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a

week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted.

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(22) "State liquor retailer's license." A license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, §§ 57-3-101 through 57-3-412) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

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(26) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §57-3-101 through 57-3-412.

(27) "Wine." This definition shall be the same as provided in Tennessee Code Annotated, §57-3-101, as the same may be amended.

The original Section 8-210 reads as follows:

8-210. License—application procedure. Accurate and complete applications meeting all requirements of the Title 8 of the Johnson City Municipal Code that are filed under this chapter shall be considered by the board of commissioners in an open, public meeting. The board of commissioners shall grant or refuse the license according to its best judgment and absolute discretion under all of the facts and circumstances then appearing to it. The action of said board of commissioners in granting or refusing a license shall be final and subject to judicial review as provided by the laws of the State of Tennessee.

The new Section 8-210(1), as amended, is substituted as follows:

8-210. License—application procedure.

(1) Accurate and complete applications meeting all requirements of the Title 8 of the Johnson City Municipal Code that are filed under this chapter shall be considered by the Beer Board of the City of Johnson City in an open, public meeting. The beer board shall grant or refuse the license according to its best judgment and absolute discretion under all of the facts and circumstances then appearing to it. The action of said beer board in granting or refusing a license shall be final and subject to judicial review as provided by the laws of the State of Tennessee. The

applicant shall appear in person before the beer board or may be represented by an attorney. Failure to do so will result in denial of application

The added Section 8-210(2) shall read as follows:

8-210. License— application procedure.

(2) In the event it becomes unduly burdensome and creates a financial hardship for an applicant to submit a complete application, meeting all requirements of Title 8 of the Johnson City Municipal Code, for timely consideration by the beer board, the beer board shall grant, in its discretion, a temporary business beer license, so long as the only incomplete application items are exclusively limited to the photographs and/or certificate of substantial completion as set forth in § 8-209(1)(b) and § 8-209(5). At the time of consideration of the temporary business beer license by the beer board, testimony shall be proffered during the open public meeting by the Director of Development Services, or his/her designee, providing sufficient proof of anticipated compliance from the Building Division of the City by the applicant. In no event shall a temporary business beer license be issued more than twice to a named owner/manager/supervisor of any business within a five (5) year period. A temporary business beer license shall be valid for a period of time not exceeding thirty (30) days. At the expiration of the temporary business beer license, the applicant shall immediately cease all sales, service, and storage of beer pursuant to this chapter if a complete application has not been considered and approved by the beer board, thus causing the issuance of a beer license (non-temporary and unabridged) pursuant to Title 8. Discretion to extend a temporary business beer license pursuant to this Section shall be only upon agreement of the City Attorney and Director of Development Services and said extension shall not exceed a period of ten (10) days.

The original Section 8-214(2) reads as follows:

8-214. Temporary Occasion Beer Licenses.

(2) For the purposes of this section, "bona fide charitable, non-profit organization" means any corporation or organization recognized as exempt from federal taxes under 26 U.S.C. section 501(c)(3)or(4).

The new Section 8-214(2), as amended, is substituted as follows:

8-214. Temporary Occasion Beer Licenses.

(2) For the purposes of this section, "bona fide charitable, non-profit organization" means any corporation or organization recognized as exempt from federal taxes under 26 U.S.C. section 501(c).

The original Section 8-215(1) reads as follows:

8-215. Special Event Series Temporary Occasion Beer License.

(1) The beer board may grant special event series temporary occasion beer licenses to bona fide charitable, non-profit organizations, recognized as exempt from federal taxes under 26 U.S.C. section 501(c)(3)or(4), and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from

the Tennessee Alcoholic Beverage Commission and some portion of proceeds from the special event are for the benefit of a bona fide charitable, non-profit organization) for special event series involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any special event series for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Special event series temporary occasion beer licenses are allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, and King Commons, subject to the restrictions of this Title. No special event series temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the special event series occurs, unless such is allowed in conjunction with a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, and shall be issued for no more than ten (10) events within the special event series, subject to the limitations on the hours of sale imposed by law. Each event within the special event series shall be consistent in nature of the event, layout of the event, location of the event, and time of operation of the event. Any event included in the special event series that requires revision(s) or modifications(s) to the nature of the event, layout of the event, location of the event or time of operation of the event will at that time be excluded from the special event series and a temporary occasion beer license will be required for that event.

The new Section 8-215(1), as amended, is substituted as follows:

8-215. Special Event Series Temporary Occasion Beer License.

(1) The beer board may grant special event series temporary occasion beer licenses to bona fide charitable, non-profit organizations, recognized as exempt from federal taxes under 26 U.S.C. section 501(c), and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission and some portion of proceeds from the special event are for the benefit of a bona fide charitable, non-profit organization) for special event series involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any special event series for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Special event series temporary occasion beer licenses are allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, and King Commons, subject to the restrictions of this Title. No special event series temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the special event series occurs, unless such is allowed in conjunction with a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, and shall be issued for no more than ten (10) events within the special event series, subject to the limitations on the hours of sale imposed by law. Each event within the special event series shall be consistent in nature of the event, layout of the event, location of the event, and time of operation of the event. Any event included in the special event series that requires revision(s) or modifications(s) to the nature of the event, layout of the event, location of the event or time of operation of the event will at that time be excluded from the special event series and a temporary occasion beer license will be required for that event.

The added Section 8-228 shall read as follows:

8-228. Dispensing equipment.

(1) A licensee shall not allow on the licensed premises any dispensing equipment, whether or not operated by coin, currency or electronic payment, that dispenses any type of beer directly to a customer unless the licensee has obtained self-service approval from the beer board. Said approval shall only be issued in an open meeting of the beer board to a qualified licensee currently holding a Class 1 beer license for the identified premises, and shall be noted on the beer license. Licensee shall monitor the sale, service, and consumption of beer from the dispensing equipment to ensure compliance with all state and local laws and ordinances.

(2) Dispensing equipment authorized under the self-service approval must be affixed to a permanent location at an on-premises licensed establishment and shall have a clearly marked perimeter and shall only be accessible to customers wearing a microchip embedded wristband as further described in Subsection 4(a). Access to the inside of the dispensing equipment shall be restricted by a locking device which shall be locked during the hours that the business is open to the public, and may only be opened by an employee or agent of the licensee when the business is closed to the public. While customers will be allowed to dispense beer to themselves, only employees or agents of the licensee may turn on, turn off, or restart the equipment. Further, any software needed to operate the dispensing equipment shall be exclusively controlled by the licensee and shall be located in a permanent location inside the permitted premises.

(3) At least fifty percent (50%) of the licensee's gross revenue must be derived from food sales, as calculated during a twelve (12) month period.

(4) Upon receipt of self-serve approval, dispensing equipment shall only be permissible if all of the following conditions are met:

(a) After checking and verifying the customer's identification, the server shall securely place on the wrist a distinctive non-tamper wristband on individuals age of twenty-one (21) and above, and a microchip embedded wristband on individuals age of twenty-one (21) and above who intend to enter the clearly marked dispensing equipment perimeter as further described in Section (2).

(b) Before a customer orders a beer from a clerk, servant, agent, or employee of the licensee (hereinafter "server"), the server shall verify the customer's legal age as well as determine if the customer can otherwise be served an alcoholic beverage. Said server shall hold a valid server permit as described in § 8-219(2).

(c) Dispensing equipment will only dispense beer to customers wearing microchip embedded wristbands.

(d) Licensee shall have at least one (1) server at each point of access into the clearly marked dispensing equipment perimeter to ensure that no customers enters, except those customers wearing a distinctive non-tamper wristband and a microchip embedded wristband.

(e) While the dispensing equipment is in operation, it is the licensee's obligation to have servers re-check customers' identifications, confirm customers are wearing microchip embedded wristband correctly, confirm customers are only pouring beer for themselves, and prohibit customers who may be intoxicated from obtaining any beer.

(f) Dispensing equipment shall not dispense more than twenty-eight (28) ounces of beer to a customer in a single order and no more than twelve (12) ounces of beer may be dispensed per serving.

(g) Dispensing equipment shall be located in a single common area which is open only to all legal drinking age customers.

(h) Customers using dispensing equipment who wish to purchase more than one (1) order in a two (2) hour period shall be required to show their identification again to the server before the microchip embedded wristband is reactivated to all the equipment to dispense more beer, at which

time the server shall assess the customer to determine if they are exhibiting any symptoms of being overserved prior to allowing them to place another order.

(i) Dispensing equipment may only operate on days and at times when the sale of alcoholic beverages is permitted by law.

(j) Licensee shall shut off the dispensing equipment immediately upon discovery any failure in the dispensing equipment or technology where the amount of beer served to customers is reset or is no longer limited an customers shall be prevented from receiving any beer until the dispensing equipment is repaired and properly functioning.

(k) Microchip embedded wristband must be removed from customers by the licensee's employee prior to the customer leaving the establishment for any reason.

(l) Server must disable the microchip embedded wristband of any customer exhibiting any signs of intoxication to prevent the customer from obtaining more beer.

(m) At the close of business each day, the licensee shall disable all microchip embedded wristbands which shall prevent them from being used to dispense beer at a future date without a customer first having gone through the above protocol. Further, any unconsumed orders of beer (or portion thereof) shall not be carried over to any subsequent day of operation.

SECTION II. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION III. BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its passage on third and final reading and publication as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING
ON THE FIRST READING 5/5/22

PASSED IN OPEN, PUBLIC MEETING
ON THE SECOND READING 5/19/22

PASSED IN OPEN, PUBLIC MEETING
ON THE THIRD READING 6/2/22

APPROVED AND SIGNED IN OPEN
MEETING ON THE 2 DAY OF
June, 2022.

FOLLOWING PASSAGE ON THIRD
READING.


JOSEPH C. WISE, MAYOR

ATTEST:

Janet Jennings
CITY RECORDER

APPROVED AS TO FORM:

Dwight K. Sanders
CITY ATTORNEY

City Commission

AGENDA SUMMARY

APPROVED - DISAPPROVED
BY CITY COMMISSION

DATE: 4 May 5, 2022

Cathy D. Ball



SUBJECT: Ordinance 4809-22: First Reading
An Ordinance to amend Title 8, Chapters 1, 2 and 3, of the Code of the City of Johnson City, Tennessee (Legal Department)

MEETING: City Commission - May 05 2022

DEPARTMENT: Legal

STAFF CONTACT: Sunny Sandos, City Attorney

Cathy D. Ball

SUMMARY:

This ordinance is to revise the Code of the City of Johnson City to define the beer board as the legislative authority to regulate and supervise the issuance of beer license; to require applicant appearance during consideration of beer license application to allow a temporary business beer license, to designate all non-profit organizations qualified to apply for a temporary occasion beer license, and to allow dispensing equipment by amending Title 8, Chapters 1, 2 and 3, of the Code of the City of Johnson City, Tennessee.

STAFF RECOMMENDATION:

Staff has reviewed the Ordinance and recommends Commission Consideration.

SUPPORTING DOCUMENTS:

[#4809-22 Ordinance to revise Title 8 beer board, applicant appearance, temporary business beer license, and dispensing equipment](#)

ORDINANCE NO. 4809-22

AN ORDINANCE TO REVISE THE CODE OF THE CITY OF JOHNSON CITY TO DEFINE THE BEER BOARD AS THE LEGISLATIVE AUTHORITY TO REGULATE AND SUPERVISE THE ISSUANCE OF BEER LICENSE; TO REQUIRE APPLICANT APPEARANCE DURING CONSIDERATION OF BEER LICENSE APPLICATION; TO ALLOW A TEMPORARY BUSINESS BEER LICENSE; TO DESIGNATE ALL NON-PROFIT ORGANIZATIONS QUALIFIED TO APPLY FOR A TEMPORARY OCCASION BEER LICENSE; AND TO ALLOW DISPENSING EQUIPMENT BY AMENDING TITLE 8, CHAPTERS 1, 2 AND 3, OF THE CODE OF THE CITY OF JOHNSON CITY, TENNESSEE, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

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(7) "Certificate of compliance." The certificate mentioned in Tennessee Code Annotated, § 57-3-208, as the same may be amended, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(8) "Clubs; lodges." Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee and which are organized and exist for purposes other than the sale of beverages under such license.

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

(10) "Inspection fee." The monthly fee a licensee is required to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

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(16) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier.

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(17) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier.

(18) "Minor." Any person who has not attained eighteen (18) years of age; except that where used in Title 8 with respect to purchasing, consuming or possessing alcoholic beverages, wine or beer, "minor" means any person who has not attained twenty-one (21) years of age. This shall not be construed as prohibiting any person eighteen (18) years of age or older from selling, transporting, possessing or dispensing alcoholic beverages, wine or beer in the course of employment pursuant to valid server permit.

(19) "Restaurant" shall mean any 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, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least twenty-five (25) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a

week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted.

(20) "Retail sale" or "sale at retail." A sale to a consumer or to any person for any purpose other than for resale.

(21) "State alcoholic beverage commission." The Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including the provisions of Tennessee Code Annotated, §§ 57-1-101 through 57-1-209.

(22) "State liquor retailer's license." A license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, §§ 57-3-101 through 57-3-412) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

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

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

(25) "Wholesale sale" or "sale at wholesale." A sale to any person for purposes of resale.

(26) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §57-3-101 through 57-3-412.

(27) "Wine." This definition shall be the same as provided in Tennessee Code Annotated, §57-3-101, as the same may be amended.

The original Section 8-210 reads as follows:

8-210. License—application procedure. Accurate and complete applications meeting all requirements of the Title 8 of the Johnson City Municipal Code that are filed under this chapter shall be considered by the board of commissioners in an open, public meeting. The board of commissioners shall grant or refuse the license according to its best judgment and absolute discretion under all of the facts and circumstances then appearing to it. The action of said board of commissioners in granting or refusing a license shall be final and subject to judicial review as provided by the laws of the State of Tennessee.

The new Section 8-210(1), as amended, is substituted as follows:

8-210. License—application procedure.

(1) Accurate and complete applications meeting all requirements of the Title 8 of the Johnson City Municipal Code that are filed under this chapter shall be considered by the Beer Board of the City of Johnson City in an open, public meeting. The beer board shall grant or refuse the license according to its best judgment and absolute discretion under all of the facts and circumstances then appearing to it. The action of said beer board in granting or refusing a license shall be final and subject to judicial review as provided by the laws of the State of Tennessee. The applicant shall appear in person before the beer board or may be represented by an attorney. Failure to do so will result in denial of application

The added Section 8-210(2) shall read as follows:

8-210. License—application procedure.

(2) In the event it becomes unduly burdensome and creates a financial hardship for an applicant to submit a complete application, meeting all requirements of Title 8 of the Johnson City Municipal Code, for timely consideration by the beer board, the beer board shall grant, in its discretion, a temporary business beer license, so long as the only incomplete application items are exclusively limited to the photographs and/or certificate of substantial completion as set forth in § 8-209(1)(b) and § 8-209(5). At the time of consideration of the temporary business beer license by the beer board, testimony shall be proffered during the open public meeting by the Director of Development Services, or his/her designee, providing sufficient proof of anticipated compliance from the Building Division of the City by the applicant. In no event shall a temporary business beer license be issued to a business not more than once during the existence of the business and not more than once to a named owner/manager/supervisor of any business within a five (5) year period. A temporary business beer license shall be valid for a period of time not exceeding thirty (30) days. At the expiration of the temporary business beer license, the applicant shall immediately cease all sales, service, and storage of beer pursuant to this chapter if a complete application has not been considered and approved by the beer board, thus causing the issuance of a beer license (non-temporary and unabridged) pursuant to Title 8.

The original Section 8-214(2) reads as follows:

8-214. Temporary Occasion Beer Licenses.

(2) For the purposes of this section, "bona fide charitable, non-profit organization" means any corporation or organization recognized as exempt from federal taxes under 26 U.S.C. section 501(c)(3) or (4).

The new Section 8-214(2), as amended, is substituted as follows:

8-214. Temporary Occasion Beer Licenses.

(2) For the purposes of this section, "bona fide charitable, non-profit organization" means any corporation or organization recognized as exempt from federal taxes under 26 U.S.C. section 501(c).

The original Section 8-215(1) reads as follows:

8-215. Special Event Series Temporary Occasion Beer License.

(1) The beer board may grant special event series temporary occasion beer licenses to bona fide charitable, non-profit organizations, recognized as exempt from federal taxes under 26 U.S.C. section 501(c)(3) or (4), and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission and some portion of proceeds from the special event are for the benefit of a bona fide charitable, non-profit organization) for special event series involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any special event series for which there is any charge, entrance fee, or request for donation, and upon

such terms and conditions as it shall in its sole discretion deem appropriate. Special event series temporary occasion beer licenses are allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, and King Commons, subject to the restrictions of this Title. No special event series temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the special event series occurs, unless such is allowed in conjunction with a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, and shall be issued for no more than ten (10) events within the special event series, subject to the limitations on the hours of sale imposed by law. Each event within the special event series shall be consistent in nature of the event, layout of the event, location of the event, and time of operation of the event. Any event included in the special event series that requires revision(s) or modifications(s) to the nature of the event, layout of the event, location of the event or time of operation of the event will at that time be excluded from the special event series and a temporary occasion beer license will be required for that event.

The new Section 8-215(1), as amended, is substituted as follows:

8-215. Special Event Series Temporary Occasion Beer License.

(1) The beer board may grant special event series temporary occasion beer licenses to bona fide charitable, non-profit organizations, recognized as exempt from federal taxes under 26 U.S.C. section 501(c), and businesses with an on- or off-premises beer license (as long as the on-premises beer licensee does not also hold an on-premises liquor-by-the-drink license from the Tennessee Alcoholic Beverage Commission and some portion of proceeds from the special event are for the benefit of a bona fide charitable, non-profit organization) for special event series involving the sale of beer for consumption, or the inclusion of beer for consumption, in conjunction with the sale of other products or food items, or serving beer in conjunction with any special event series for which there is any charge, entrance fee, or request for donation, and upon such terms and conditions as it shall in its sole discretion deem appropriate. Special event series temporary occasion beer licenses are allowed for Founders Park, The Pavilion at Founders Park, The Amphitheater at Founders Park, and King Commons, subject to the restrictions of this Title. No special event series temporary occasion beer licensee shall sell beer for consumption or allow taking beer off of the premises whereon the special event series occurs, unless such is allowed in conjunction with a special event/street festival. Such permits shall not be issued for longer than one (1) consecutive forty-eight (48) hour period, and shall be issued for no more than ten (10) events within the special event series, subject to the limitations on the hours of sale imposed by law. Each event within the special event series shall be consistent in nature of the event, layout of the event, location of the event, and time of operation of the event. Any event included in the special event series that requires revision(s) or modifications(s) to the nature of the event, layout of the event, location of the event or time of operation of the event will at that time be excluded from the special event series and a temporary occasion beer license will be required for that event.

The added Section 8-228 shall read as follows:

8-228. Dispensing equipment.

(1) A licensee shall not allow on the licensed premises any dispensing equipment, whether or not operated by coin, currency or electronic payment, that dispenses any type of beer directly to a customer unless the licensee has obtained self-service approval from the beer board. Said approval shall only be

issued in an open meeting of the beer board to a qualified licensee currently holding a Class 1 beer license for the identified premises, and shall be noted on the beer license. Licensee shall monitor the sale, service, and consumption of beer from the dispensing equipment to ensure compliance with all state and local laws and ordinances.

(2) Dispensing equipment authorized under the self-service approval must be affixed to a permanent location at an on-premises licensed establishment and shall have a clearly marked perimeter and shall only be accessible to customers wearing a microchip embedded wristband as further described in Subsection 4(a). Access to the inside of the dispensing equipment shall be restricted by a locking device which shall be locked during the hours that the business is open to the public, and may only be opened by an employee or agent of the licensee when the business is closed to the public. While customers will be allowed to dispense beer to themselves, only employees or agents of the licensee may turn on, turn off, or restart the equipment. Further, any software needed to operate the dispensing equipment shall be exclusively controlled by the licensee and shall be located in a permanent location inside the permitted premises.

(3) At least fifty percent (50%) of the licensee's gross revenue must be derived from food sales, as calculated during a twelve (12) month period.

(4) Upon receipt of self-serve approval, dispensing equipment shall only be permissible if all of the following conditions are met:

(a) No one under the age of twenty-one (21) shall be allowed on the permitted premises after 9:00 p.m. Additionally, individuals between the ages of fourteen (14) and twenty (20) shall at all times wear a distinctive wristband that does not contain a microchip and its appearance is not similar to wristbands worn by members of the public that are of legal drinking age.

(b) After checking and verifying the customer's identification, the server shall securely place on the wrist the distinctive wristband as described in Subsection (4)(a) on individuals between the ages of fourteen (14) and twenty (20), a distinctive non-tamper wristband on individuals age of twenty-one (21) and above, and a microchip embedded wristband on individuals age of twenty-one (21) and above who intend to enter the clearly marked dispensing equipment perimeter as further described in Section (2).

(c) Before a customer orders a beer from a clerk, servant, agent, or employee of the licensee (hereinafter "server"), the server shall verify the customer's legal age as well as determine if the customer can otherwise be served an alcoholic beverage. Said server shall hold a valid server permit as described in § 8-219(2).

(d) Dispensing equipment will only dispense beer to customers wearing microchip embedded wristbands.

(e) For every twenty-five (25) members of the public on the premises at any given time, whether they are ordering beer or not, licensee shall have at least one (1) server present who shall stand within sightline of beer tap wall. If there are more than twenty-five (25) customers on the premises at any given time, licensee shall have one (1) server per every twenty-five (25) customers within ten (10) feet of the beer tap wall at all times (i.e. twenty-six (26) to fifty (50) customers on the premises requires licensee to have at least two (2) servers present who are standing with ten (10) feet of the beer tap wall; fifty-one (51) to seventy-five (75) costumers requires three (3) servers, etc.). Licensee shall not allow additional members of the public to enter the premises unless the licensee is staffed accordingly.

(f) While the dispensing equipment is in operation, it is the licensee's obligation to have certified serves re-check customers' identifications, confirm customers are wearing microchip embedded wristband correctly, confirm customers are only pouring beer for themselves, and prohibit customers who may be intoxicated from obtaining any beer.

(g) Dispensing equipment shall not dispense more than twenty-eight (28) ounces of beer to a customer in a single order and no more than twelve (12) ounces of beer may be dispensed per serving.

(h) Dispensing equipment shall be located in a single common area which is open to all legal drinking age customers.

(i) Customers using dispensing equipment who wish to purchase more than one (1) order in a two (2) hour period shall be required to show their identification again to the server before the microchip embedded wristband is reactivated to all the equipment to dispense more beer, at which time the server shall assess the customer to determine if they are exhibiting any symptoms of being overserved prior to allowing them to place another order.

(j) Dispensing equipment may only operate on days and at times when the sale of alcoholic beverages is permitted by law.

(k) Licensee shall shut off the dispensing equipment immediately upon discovery any failure in the dispensing equipment or technology where the amount of beer served to customers is reset or is no longer limited and customers shall be prevented from receiving any beer until the dispensing equipment is repaired and properly functioning.

(l) Microchip embedded wristband must be removed from customers by the licensee's employee prior to the customer leaving the establishment for any reason.

(m) Server must disable the microchip embedded wristband of any customer exhibiting any signs of intoxication to prevent the customer from obtaining more beer.

(n) At the close of business each day, the licensee shall disable all microchip embedded wristbands which shall prevent them from being used to dispense beer at a future date without a customer first having gone through the above protocol. Further, any unconsumed orders of beer (or portion thereof) shall not be carried over to any subsequent day of operation.

SECTION II. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION III. BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its passage on third and final reading and publication as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING
ON THE FIRST READING 5/5/22

PASSED IN OPEN, PUBLIC MEETING
ON THE SECOND READING _____

PASSED IN OPEN, PUBLIC MEETING
ON THE THIRD READING _____

APPROVED AND SIGNED IN OPEN
MEETING ON THE ____ DAY OF
_____, 2022.

FOLLOWING PASSAGE ON THIRD
READING.

JOSEPH C. WISE, MAYOR

ATTEST:

CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY