

ORDINANCE NO. 1035

AN ORDINANCE TO AMEND TITLE 8 OF THE ATHENS MUNICIPAL CODE, ENTITLED 'ALCOHOLIC BEVERAGES', BY RENUMBERING THE EXISTING CHAPTER 2, ENTITLED 'BEER', AS CHAPTER 3 AND ADDING A NEW CHAPTER 2, ENTITLED 'LIQUOR STORES'.

BE IT ORDAINED BY THE CITY OF ATHENS, TENNESSEE, AS FOLLOWS:

SECTION 1: Chapter 2 of Title 8 of the Athens Municipal Code is hereby replaced by the following:

CHAPTER 2

LIQUOR STORES

SECTION

- 8-201. Definitions.
- 8-202. Selling and Distributing Generally.
- 8-203. Licenses Required for Sale of Alcoholic Beverages at Retail.
- 8-204. Licensee Responsible for Officers and Agents.
- 8-205. Location of Liquor Store.
- 8-206. Requirements for Building Containing Liquor Store.
- 8-207. Restrictions Generally.
- 8-208. Fees.
- 8-209. Records Kept by Licensee.
- 8-210. Inspections Generally.
- 8-211. Enforcement—Violations—Penalties
- 8-212. Certificate of Compliance.
- 8-213. Application for Certificate of Compliance and Local Liquor Store Privilege License
- 8-214. State Required Certificate of Compliance.
- 8-215. Restrictions upon Issuance.
- 8-216. Consideration of Applications for Certificate of Compliance
- 8-217. License from City to Operate Liquor Store.
- 8-218. Restrictions on Local Liquor Store Privilege Licenses.
- 8-219. Qualifications for and Restriction upon Licensees and Employees.
- 8-220. Nature of License; Suspension or revocation.
- 8-221. Effect.

8-201. Definitions. Whenever used in this Chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(a) **Alcoholic Beverage** means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, and wine capable of being consumed by a human being other than medicine or beer where the latter contains an alcohol content of five percent (5%) by weight or less. Alcoholic beverages also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content. Products or beverages, including beer, containing less than one-half percent (½%) alcohol by volume, other than wine as defined in this section, shall not be considered alcoholic beverage and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.

(b) **Applicant** means a person applying for a local liquor store privilege license or a certificate of compliance, as the context provides.

(c) **Applicant Group** means more than one (1) person joining together to apply for a local liquor store privilege license or certificate of compliance, as the context provides, to operate a single liquor store pursuant to the same application.

(d) **Application** means the form or forms or other information an applicant or applicant group is required to file with the city in order to attempt to obtain a local liquor store privilege license or certificate of compliance, as the context provides.

(e) **Certificate of Compliance** means the certificate required in Tenn. Code Ann. §57-3-208, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(f) **City** means the City of Athens, Tennessee.

(g) **Co-licensees** means persons who together hold a single liquor store privilege license for a single liquor store.

(h) **Federal Statutes** means the statutes of the United States now in effect or as they may hereafter be changed or amended.

(i) **Inspection Fee** means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross purchase price of all alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, such inspection fee shall be the same as if the local liquor store privilege license were held by a single licensee.

(j) **License Fee** means the annual fee a licensee is required by this chapter to pay prior to the time of the issuance or renewal of a local liquor store privilege license. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, only one (1) license fee is required.

(k) **Licensee** means the holder or holders of a local liquor store privilege license. In the event of co-licensees, each person who receives a certificate of compliance and liquor store privilege license shall be a licensee subject to rules and regulations herein.

(l) **Liquor Store** means the building or part of a building where a licensee conducts any of the business authorized by the local liquor store privilege license and state liquor license held by such licensee.

(m) **Local Liquor Store Privilege License** means a local liquor store privilege license issued under the provisions of this chapter for the purpose of authorizing the holder or holders thereof to engage in the business of selling alcoholic beverages at retail in the city at a liquor store. Such a local liquor store privilege license will only be granted to a person or persons who has or have a valid state liquor retailer's license. One (1) local liquor store privilege license is necessary for each liquor store to be operated in the city.

(n) **Manufactured building** means a structure or building substantially or wholly made at a manufacturing plant for installation or assembly at a building site, whether referred to as a mobile home, modular home, manufactured home, panelized home, prefab home, factory built home, or otherwise. A **manufactured building** includes any structure transportable in one or more sections built or placed on a permanent chassis designed to be used with or without a permanent foundation.

(o) **Person** means any natural person as well as any corporation, limited liability company, partnership, firm or association or any other legal entity recognized by the laws of the State of Tennessee.

(p) **Retail Sale and Sale at Retail** means the sale to a consumer or to any person for any purpose other than for resale.

(q) **State Law, Rules and Regulations** means all applicable laws, rules and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may hereafter be changed or amended including, without limitation, the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(r) **State Liquor Retailer's License** means a license issued by the Alcoholic Beverage Commission of the State of Tennessee pursuant to Tenn. Code Ann. §57-3-201 et seq. permitting its holder to sell alcoholic beverages at retail in Tennessee.

(s) **Wholesaler** means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(t) **Wine** means the product of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume.

8-202. Selling and Distribution Generally. It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages within the corporate limits of the city except as provided by Tenn. Code Ann. Title 57 and by the rules and regulations promulgated thereunder and as provided under this Chapter or any other Chapter of Title 8 of the Athens City Code.

8-203. Licenses Required For Sale of Alcoholic Beverages at Retail. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store provided that such sales are made in strict compliance with all federal statutes, all state laws, rules and regulations, and all provisions of this chapter and any other applicable chapter and Charter of the City of Athens, Tennessee, and provided that such licensee has a valid and duly issued state liquor retailer's license and a valid and duly issued local liquor store privilege license from the city permitting the licensee to sell alcoholic beverages at retail. Transfer of any ownership right or interest in a license is prohibited. Possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited.

8-204. Licensee Responsible For Officers and Agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this Chapter or any other Chapter of Title 8 of the Athens City Code, or any other Title or Chapter of the Athens City Code or Athens City Charter, or of any law or regulation of the State of Tennessee or the Federal Government concerning alcoholic beverages by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee.

8-205. Location of Liquor Store. It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the city unless at a location approved by City Council. All such stores shall only be located within a B-2 or B-3 business district. Moreover, in no event shall such store be located within five hundred feet (500') of any building used as a school or church. The minimum distance requirement from a church shall only be applicable provided a church service is held at the church premises at least on one day of each week. The minimum distance requirement from a school shall only relate to any public school operated by the City of Athens or McMinn County, Tennessee or a private school provided such school is licensed and accredited by the State of Tennessee to provide and is providing a kindergarten, elementary, or secondary education to students at the premises. The above minimum distance requirement from certain buildings shall be measured in a straight line between the nearest corner of the building proposed to sell alcoholic beverages and the nearest corner of the building from which there must be a minimum distance. The above minimum distance requirement from certain buildings shall not be applicable with respect to the building of a local liquor store privilege licensee located within the downtown business district which is defined as that area within the interior of the boundaries of Baxter Street, College Street, Hill Street, and Park Street. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety, or morals.

8-206. Requirements for Building Containing Liquor Store. No liquor store shall be located within a manufactured building as defined in this chapter. All liquor stores shall be located within a newly constructed building or within an existing building to be renovated or refurbished. The plans for any new building or for the renovation or refurbishing of an existing building must be approved by the Athens City Community Development Office and the Athens City Council. The front of the building must have a brick façade. All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The liquor store display area shall be at least one thousand eight hundred (1,800) square feet, except for stores in the downtown business district as defined in 8-205, which shall have a display area at least nine hundred (900) square feet. Full, free and unobstructed vision shall be afforded to and from the street, public highway or parking lot to the interior of the liquor store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. No liquor store shall be located except on the ground floor of the building, and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public. All liquor stores shall be subject to applicable zoning, land use, building and safety regulations, as adopted within the Athens Municipal Code, unless specifically stated otherwise herein.

8-207. Restrictions Generally.

(a) **Certain devices and non-employee seating forbidden.** No pool tables, televisions for viewing by customers, pinball machines, arcade gaming devices, including video games, jukeboxes or similar devices shall be permitted in any liquor store. No seating facilities, other than for employees of the liquor store, shall be permitted in any liquor store.

(b) **Time and Days of Operation.** No liquor store shall sell or give away any alcoholic beverage between eleven o'clock p. m. (11:00 p.m.) on Saturday and eight o'clock a. m. (8:00 a.m.) on Monday of each week (no Sunday sales). No liquor store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock a. m. (8:00 a.m.) and eleven o'clock p. m. (11:00 p.m.) on Monday through Saturday. The store may not be open to the general public except during regular business hours. No liquor store shall be open for business on Thanksgiving Day, Christmas Day, New Year's Day, Labor Day, or the Fourth of July.

(c) **Selling or Furnishing to Person(s) Below the Age of Twenty-one (21) Years, etc.** It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to a person below the age of twenty-one (21) years, to a person visibly intoxicated, or to any person accompanied by a person who is visibly intoxicated. It shall be unlawful for any person under the age of twenty-one (21) years or a person who is visibly intoxicated to enter or remain in a liquor store or to loiter in the immediate vicinity of a liquor store. Employees with appropriate employee permits issued pursuant to state law who are age eighteen (18) years and older are permitted in a liquor store for the purpose of engaging in paid employment only. It shall be unlawful for a person below the age of twenty-one (21) years to misrepresent his or her age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee. Any person selling alcoholic beverages within the City shall be required to have produced to the person selling the alcoholic beverages a facially valid Government issued identification showing that the age of the prospective purchaser of the alcoholic beverage is 21 years of age or older. If such identification is not produced by the prospective purchaser, the alcoholic beverage shall not be sold. Such identification shall be required prior to the sale of alcoholic beverages, regardless of the apparent age of the prospective purchaser.

(d) **Consumption on Premises of Liquor Store.** It shall be unlawful for any licensee to sell any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person who is not an employee of the liquor store to consume any alcoholic beverage in the liquor store or in the immediate vicinity of the liquor store. Any consumption of an alcoholic beverage by an employee shall be limited solely to the circumstances permitted and set forth in the Rules of the Tennessee Alcoholic Beverage Commission and any applicable federal law.

(e) **Advertising.** There shall be no advertising signs of any kind whatsoever outside the building containing a liquor store, either for the liquor store or to advertise any matter pertaining to alcoholic beverages sold at liquor stores except as set forth herein. There may be placed on the front of a liquor store, but not extending therefrom over twelve inches (12"), a sign setting out the name of the liquor store. Such sign shall not exceed twenty (20) square feet in dimension. No such sign shall contain letters of neon or tube lighting so as to produce lighting within letters. No reader board or changeable copy signs shall be permitted. One (1) freestanding sign shall be allowed on the premises not to exceed one hundred forty four (144) square feet. No off-premises signs related to a liquor store shall be allowed within the city. No banner or temporary or permanent sign or other material shall be placed on or inside a liquor store so that it obstructs free and clear vision of the interior of the liquor store from outside of the liquor store. The foregoing notwithstanding, one banner advertising the grand opening of the liquor store shall be permitted for up to two (2) weeks when a liquor store is first opened for business provided a sign permit for such banner is obtained from the City. In addition, all liquor store signage shall be subject to applicable zoning, building, and safety regulations, as adopted within the Athens Municipal Code, unless specifically stated otherwise herein.

(f) **Off-Premises Business.** All retail sales of alcoholic beverages shall be confined to the premises of the liquor store. No curbside service is permitted, nor shall drive-in window service be permitted. A licensee shall not deliver or cause to be delivered any alcoholic beverage from the store premises to the residence or place of business of a consumer. No licensee shall employ any canvasser, agent, solicitor or other representative for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer nor shall any such licensee receive or accept any such order which shall have been solicited and received at the residence or place of business of such consumer. This paragraph shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises.

8-208. Fees.

(a) **Inspection Fee.** Pursuant to TCA Section 57-3-501, there is hereby levied on each licensee an inspection fee of eight percent (8%) on the wholesale price of any alcoholic beverages

acquired by the licensee from any wholesaler or any other source. In the event the population of McMinn County exceeds sixty thousand (60,000) according to any subsequent Federal Census, the inspection fee shall be reduced to five percent (5%) on the wholesale price of any alcoholic beverages acquired by the licensee from any wholesaler or any other source. In the event of any subsequent amendments of TCA Section 57-3-501, the inspection fee shall be the maximum allowed by Section 57-3-501.

(b) **Collection.** Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee from the licensee at the time the sale is made to the licensee, or at the time the retailer makes payment for the delivery of the alcoholic beverages. Licensee shall create and maintain all records specified in the State rules and regulations related to the purchase and sale of alcoholic beverages and preserve these records for a period of at least fifteen (15) months unless the City Manager gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part.

(c) **Reports.** The City Manager shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by such licensee making purchase from such wholesaler or other source. Each wholesaler making sales to licensees located within the City of Athens shall furnish the City a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within the City, the wholesale price of the alcoholic beverages sold to each licensee, the amount of tax due, and such other information as may be required by the City. The monthly report shall be furnished the City not later than the 20th of the month following which the sales were made. The inspection fees collected by the wholesaler from the licensee shall be paid to the City at the time the monthly report is made. Wholesalers collecting and remitting the inspection fee to the City shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the City. Failure to collect or timely report and/or pay the inspection fee collected shall result in a penalty of ten percent (10%) of the fee due the City which shall be payable to the City. The City shall have the authority to audit the records of wholesalers reporting to it in order to determine the accuracy of such reports. The City shall have the authority to audit the records of the licensee in order to determine the accuracy of such reports related to the inspection fees. Nothing herein shall relieve the licensee of the obligation of payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee for the licensee's liquor store is made to the City Recorder on or before the 20th day of each calendar month for the preceding month.

(d) **Failure to Pay Fees.** The failure of the wholesaler to pay the inspection fees and to make the required reports accurately and within the time required by this chapter may result in the suspension or revocation of the licensee's liquor store privilege license if it is determined by the City that the conduct of the licensee has resulted in the failure of the wholesaler to pay the inspection fees and to make the required reports.

(e) **Use of Fees.** All funds derived from inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this chapter, including particularly the payment and compensation of officers, employees, and other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed. The City Council finds and declares that the amount of these inspection fees is reasonable, and that the funds expected to be derived from these inspection fees will be reasonably required for such purposes.

8-209. Records Kept by Licensee.

(a) **Required Records.** In addition to any records specified in the state rules and regulations, each licensee shall keep on file, at such licensee's liquor store, the following records:

- (1) The original invoices of all alcoholic beverages bought by the licensee;
- (2) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;
- (3) A current daily record of the gross sales by such licensee with evidence of cash register receipts for each day's sales;

- (4) An accurate record of all alcoholic beverages lost, damaged, or disposed of other than by sale and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved and the name of the person or persons receiving the same.

(b) **Duration.** All such records shall be preserved for a period of at least fifteen (15) months unless the city manager gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part.

8-210. Inspections Generally. The city manager, the city finance director, the chief of police or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee.

8-211. Enforcement, Violations and Penalties. Any violation of the provisions of this chapter shall be punishable under the City's General Penalty clause and in the discretion of the City Council, by any combination of a fine of up to five hundred dollars (\$500.00) per violation, or temporary suspension or permanent revocation of the local liquor store privilege license where appropriate. Enforcement provisions are also applicable as found under State law. In addition to the above, the City Council may direct that the City Manager notify the Tennessee Alcoholic Beverage Commission of any violation of this chapter, together with a petition that the State liquor license be revoked, pursuant to Tenn. Code Ann. §57-3-101 et seq., and the rules and regulations of said commission.

8-212. Certificate of Compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, City Council may authorize the issuance of certificates of compliance by the city according to the terms contained herein.

8-213. Application for Certificate of Compliance and Local Liquor Store Privilege License.

(a) **Filing and Content.** An applicant or applicant group for a liquor store shall file with the city manager a completed written application on a form to be provided by the city manager which shall contain all of the following information and whatever additional information the City Council or city manager may require:

- (1) The name and street address of each person to have an interest, direct or indirect, in the liquor store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information on the application provided by the city;
- (2) The name of the liquor store proposed;
- (3) A statement that the applicant has secured a location for the liquor store business which complies with all of the restrictions and conditions within this chapter and that the liquor store business is not prohibited at this location because of some other City of Athens Ordinance or state law. As a part of this statement the applicant shall provide the address of the proposed liquor store and its zoning designation;
- (4) The statement that an individual applicant either resides within and has resided within the State of Tennessee and the urban growth boundaries of the City of Athens for at least two (2) years immediately prior to the time the application is filed or is a resident of McMinn County and has been so for at least two (2) years immediately prior to the time the application is filed and who owns at least a fifty percent (50%) interest in developable land in the City of Athens. The statement, if the applicant is an applicant group, whether a partnership, corporation, or limited liability company, that at least fifty-one percent (51%) of the ownership shares or interests in such partnership, corporation, or limited liability company are owned by a natural person who either

resides and has resided within the State of Tennessee and the urban growth boundaries of the City of Athens for at least two (2) years prior to the time the application is filed, or that at least fifty-one percent (51%) of the ownership shares or interests in such partnership, corporation, or limited liability company are owned by a natural person who resides within McMinn County and has been so for at least two (2) years immediately prior to the time the application is filed and who owns at least a fifty percent (50%) interest in developable land in the City of Athens;

- (5) A statement that the persons receiving the requested license to the best of their knowledge if awarded the certificate of compliance could comply with all the requirements for obtaining the required licenses under state law and the provisions of this chapter for the operation of a liquor store in the city; and
- (6) The agreement of each applicant or each member of an applicant group, as appropriate, to comply with all applicable laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages and the agreement of each applicant or each member of an applicant group as to the validity and the reasonableness of these regulations, inspection fees, and taxes provided in this title with reference to the sale of alcoholic beverages.

(b) **Further Documentation.** The application form shall be accompanied by a copy of each questionnaire form and other material to be filled out by the applicant or each member of the applicant group with the Tennessee Alcoholic Beverage Commission in connection with an Application for a state liquor retailer's license, and with respect to the store location and building thereon shall be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one inch equals twenty feet (1"=20') giving the following information:

- (1) The shape, size and location of the lot upon which the liquor store is to be operated under the license;
- (2) The shape, size, height and location of all buildings whether they are to be erected, altered, moved or existing upon the lot;
- (3) The off-street parking space and off-street loading and unloading space to be provided, including the vehicular access to be provided from these areas to a public street; and
- (4) The identification of every parcel of land within five hundred feet (500') of the lot upon which the liquor store is to be operated indicating the ownership thereof and the location of any structures thereon and the use being made of every such parcel.

(c) **Signature(s).** The application form shall be signed and verified by each person to have any interest in the liquor store either as an owner, partner, LLC member, stockholder or otherwise.

(d) **Misrepresentation, Concealment of Fact and Duty to Amend.** If any applicant, member of an applicant group, or licensee misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group, or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by City Council. Further, no sale, transfer or gift of any interest of any nature, either financial or otherwise, in a liquor store shall be made without first obtaining a replacement license from the city upon the approval of the City Council.

(e) **Fee.** Each application shall be accompanied by a non-refundable five hundred dollar (\$500.00) investigation fee. One (1) application fee per applicant group is sufficient.

8-214. State Required Certificate of Compliance. Pursuant to TCA Section 57-3-208, an applicant for a State liquor retailer's license, as a condition precedent to the issuance of such license, shall submit with the application to the State Alcoholic Beverage Commission a Certificate of Compliance containing the information as stated in TCA Section 57-3-208. In issuing any Certificate of Compliance, the City Council and City Manager will follow and comply with the guidelines and requirements as stated in TCA Section 57-3-208. The City Council will not consider any application

until publication, at applicant's expense, in a newspaper of general circulation in McMinn County, Tennessee, of the notice required by Tenn. Comp. R. & Regs. 0100-03-.09(10)-(11) has occurred.

8-215. Restrictions upon Issuance.

(a) **Certificates of Compliance.** The City Council shall not issue a certificate of compliance unless the applicant has complied with all the requirements of State liquor statutes, the Rules & Regulations of the Alcoholic Beverage Commission, Tenn. Comp. R. & Regs. 0100-03 and this Chapter.

(b) **No Violations of Chapter.** No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provisions of this Chapter.

(c) **Prerequisites of Issuance.** The City Manager upon approval of City Council shall not sign any certificate of compliance for any applicant or applicant group until:

- (1) An application has been filed with the City Manager which complies with this chapter of the Athens City Code and a showing has been made that the applicant has met all the conditions for a certificate of compliance as stated in TCA Section 57-3-208;
- (2) The notice required by Tenn. Comp. R. & Regs. 0100-03-.09(10)-(11) has been published and the public hearing noticed therein has been conducted;
- (3) The location stated in the certificate has been approved by the City Council as a suitable location for the operation of a liquor store; and
- (4) The application has been considered at a public meeting of the City Council and approved by a vote of at least three (3) members thereof.

(d) **Time Periods for Action.** Any applicant or applicant group who has obtained a certificate of compliance as provided herein must open a liquor store in the city within six (6) months or, unless an extension is granted by City Council, said certificate will be revoked by the passage of this amount of time and a certification thereof will be sent to the Alcoholic Beverage Commission of the State of Tennessee and the Application for a local liquor store privilege license shall be considered canceled and revoked.

8-216. Consideration of Applications for Certificate of Compliance. In issuing certificates of compliance to enable the licensing of liquor stores in the City of Athens as presently permitted by this chapter, the City Council will consider all applications filed before a closing date to be fixed by City Council and select from such applications the applicants deemed by City Council in its sole discretion to have the qualifications required by law and this chapter and the most suitable circumstances for the lawful operation of a liquor store within the City of Athens without regard to the order of time in which the applications are filed. Applications can only be submitted to the City during the time frame the City Council has set for receipt of such applications. Applications and all matters submitted with or as a part of such applications at the time they are submitted are the sole and exclusive property of the City of Athens.

8-217. License from City to Operate Liquor Store. After an applicant or applicant group receives a license from the State of Tennessee Alcoholic Beverage Commission to operate a retail liquor store pursuant to TCA Section 57-3-101, et seq in the City of Athens, Tennessee, the applicant or applicant group shall apply to the City Manager for a local liquor store privilege license to operate a retail liquor store pursuant to the following terms, conditions, and restrictions.

8-218. Restrictions on Local Liquor Store Privilege Licenses.

(a) **Number of Licenses.** There shall be no limit on the number of local liquor store privilege licenses issued within the City of Athens, Tennessee.

(b) **Term Renewal.** Each license shall expire on December 31 of each year. A license shall be subject to renewal each year by compliance with all applicable Federal and Tennessee State statutes, rules and regulations and the provisions of this Chapter.

(c) **Display.** A licensee shall display and post and keep displayed and posted licensee's license in a conspicuous place in the licensee's liquor store at all times.

(d) **Transfer.** A licensee or co-licensee shall not sell, assign or transfer his or her license or any ownership interest therein. No license shall be transferred from one location to another location without the express permission of the City Council.

(e) **Fees.** A license fee of five hundred dollars (\$500.00) is due at the time of application for a local liquor store privilege license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city manager before any license shall be issued.

8-219. Qualifications for and Restrictions Upon Licensees and Employees.

(a) **Initial Qualification.** To be eligible to apply for or to receive a local liquor store privilege license, an applicant, or in the case of an applicant group, each member of the applicant group, must satisfy all of the requirements and conditions which must be shown and stated in the application submitted to the City Council to request a certificate of compliance with these requirements and conditions in 8-213 incorporated herein by reference and form a part of the qualifications which must be met by an applicant before receiving a local liquor store privilege license. In addition, before an applicant is eligible to receive a local liquor store privilege license, the applicant, or in the case of an applicant group, each member of the applicant group, must satisfy all of the other requirements of this chapter, the requirements of the Tennessee Alcoholic Beverage Commission, and all applicable Tennessee State statutes, rules and regulations for the holder of a liquor retailer's license.

(b) **Public Officers and Employees.** No license shall be issued to a person who is a holder of a public office either appointed or elected or who is a public employee either national, state, county or city. It shall be unlawful for any such person to have any interest in such liquor store either directly or indirectly, either proprietary or by means of a loan or participation in the profits of any such business. This prohibition shall not apply however to uncompensated, appointed members of boards or commissions who have no duties covering the regulation of alcoholic beverages or beer.

(c) **Felons.** No licensee shall be a person who has been convicted of a felony within ten (10) years prior to the time he or she or the legal entity with which he or she is connected shall receive a license; provided that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In case of such conviction occurring after a license has been issued and received, the license shall immediately be revoked if such convicted felon is an individual licensee and, if not, the partnership, corporation, limited liability company or association with which he or she is connected shall immediately discharge him or her and he or she shall have no further interest therein or else such license shall be immediately revoked.

(d) **Employee Felons.** No licensee shall employ in the storage, sale, or distribution of alcoholic beverages any person who within ten (10) years prior to the date of his or her employment shall have been convicted of a felony. In the case that an employee is convicted of a felony while he or she is employed by a licensee at a liquor store, he or she shall be immediately discharged after his or her conviction provided that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(e) **Liquor Offenses.** No license shall be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of this state or any state or of the United States regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling of alcoholic beverages or beer.

(f) **Disclosure of Interest.** It shall be unlawful for any person to have ownership in or participate in, either directly or indirectly, the profits of any liquor store unless his or her interest in such business and the nature, extent and character thereof shall appear on the application or if the interest is acquired after the issuance of a license unless it be fully disclosed to the city manager and approved by him or her in a timely manner.

(g) **Age.** No licensee shall be a person under the age of twenty-one (21) years and it shall be unlawful for any licensee to employ any person under the age of eighteen (18) years for the physical storage, sale or distribution of alcoholic beverages or to permit any such person under such age in his or

her place of business to engage in the storage, sale or distribution of alcoholic beverages.

(h) **Interest in Only One Liquor Store.** A person shall have an interest, either direct or indirect, in no more than one (1) liquor store licensed under this title in the City of Athens.

8-220. Nature of License; Suspension or Revocation. The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by City Council for any violation of this Chapter or any Chapter within Title 8 of the Athens City Code by the licensee or by any person for whose acts the licensee is responsible. The licensee shall be given reasonable notice and an opportunity to be heard before the City Council suspends or revokes a license for any violation unless provided otherwise specifically herein. If the licensee is convicted of a violation of any Chapter within Title 8 by a final judgment in any court and the operation of the judgment is not suspended by an appeal, upon written notice to the licensee, the city manager may immediately suspend the license for a period not to exceed sixty (60) days, and the City Council may revoke or suspend the license on the basis of such conviction thereafter. A license shall be subject to revocation or suspension without a hearing whenever such action is expressly authorized by other provisions of this Chapter stating the effect of specific violations.

8-221. Effect. This ordinance shall take effect upon adoption, the public welfare requiring it.

SECTION 2: The existing Chapter 2, "Beer", of Title 8, is renumbered as Chapter 3.

SECTION 3: Any Ordinance, Resolution, Motion or parts thereof in conflict herewith are hereby repealed and superseded. If any sentence, clause, phrase or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction, such holding will not affect any other portion of this Ordinance.

SECTION 4: **BE IT FURTHER ORDAINED,** that this Ordinance shall take effect upon final passage and as provided by law.

PASSED ON FIRST READING: February 17, 2015

PASSED ON SECOND READING: March 17, 2015

DATE OF PUBLIC HEARING: March 17, 2015



ANN S. DAVIS, Mayor



MITCHELL B. MOORE, City Manager

APPROVED AS TO FORM:



H. CHRIS TREW, City Attorney