

SUPPLEMENTAL ADOPTING ORDINANCE  
ORDINANCE NO. \_\_\_\_\_

***An Ordinance Supplementing and Amending the 2021 Memphis  
Municipal Code of Ordinances of the City of Memphis,  
Tennessee relative to Animals and Horse Drawn Carriages;  
Providing for the Repeal of Certain Ordinances Not  
Included herein; and Providing when such Amendments to the  
Code and this Ordinance Shall Become Effective***

WHEREAS, the Council of the City of Memphis, as the City's legislative body, has the full power and authority under the Charter of the City to codify, revise and collect in the form of a code of ordinances of a general nature, and in doing so has the full power, to amend, alter, repeal or modify any ordinance of a general nature other than contract ordinances to conform such ordinances to the legislative intent of the Council before inclusion in said code;

WHEREAS, on February 15, 2022 the Council adopted a new Code of Ordinances, consisting of Titles 1 through 15, each inclusive, and the errata thereto, as the "2021 Code of Ordinances, City of Memphis, Tennessee" (the "2021 Code").

WHEREAS, due to the volume of ordinances to be considered and codified and the need to provide clear guidance to the City and its citizens, the City Attorney and the Council's Attorney the City Attorney and the Council's Attorney have only presented for codification two (2) Titles, namely "Title 1-General Provisions" and "Title 4-Pension and Retirement System.

WHEREAS, the Council has delegated to the City Attorney and the Council's Attorney the responsibility of making a thorough review of new and amending ordinances

adopted by the Council since September 1, 1985 for the purpose of producing for adoption by the City Council a new Official Code of Ordinances that accurately reflects the state of law of the City as of the date(s) of adoption by the City Council.

WHEREAS, the City Attorney and the Council's Attorney have been authorized and directed to periodically provide for adoption by the Council of supplementary codification ordinances to supplement the codification approved in Ordinance No. 5669.

WHEREAS, the Council desires to supplement the 2021 Code by adopting and codifying Title 7—Alcoholic Beverages.

*Be It Ordained by the Council of the City of Memphis That*

*Section 1.* A Supplement to the 2021 Code of Ordinances, consisting of Title 7, and the errata thereto, is hereby adopted and enacted. Title 7 as proposed for adoption are attached hereto and incorporated herein by reference.

*Section 2.* Upon adoption of this Supplemental Ordinance the titles and chapters of the 2021 Code so approved hereby shall supersede and replace all then existing general and permanent ordinances of the City to the extent included in such codified titles and chapters or to the extent such ordinances are inconsistent with the provisions of the titles and chapters so codified.

*Section 3.* All provisions of the Titles and Chapters of this Supplement to the 2021 Code adopted and codified

by this ordinance shall be in full force and effect from and after this ordinance becomes effective, and all conflicting codes, provisions, chapters, sections, paragraphs and sentences of ordinances of a general and permanent nature in existence or enacted on final passage on or before the effective date of this ordinance, and not included in the 2021 Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this Ordinance.

*Section 5.* The codification of any ordinances pursuant to the Adopting Ordinance and this Supplemental Adopting Ordinance are required by the City's Charter to be recorded in a well-bound book kept by the City Comptroller.

*Section 6.* Any such codified ordinances as maintained by the City Comptroller may be relied on by the City or any person and may be read in evidence in any court of this State, unless there is a bona fide dispute as to the meaning of any such ordinance being consistent with the Council's intent. In any such case, the City Attorney shall present such ordinance(s) to the Council for a determination of the consistency of the ordinance(s) with the Council's intent as appearing in the record of its proceedings and for any further action that the Council deems appropriate in accordance with its authority under City Charter § 361.

*Section 7.* Three (3) copies of the 2021 Code, as supplemented hereby, shall be kept on file in the

office of the comptroller preserved in loose-leaf form, or in such other form as the comptroller may consider most expedient. The comptroller is also authorized to contract with a nationally recognized legal code publication company for the official publication of the 2021 Code and supplements as approved by the Council. The comptroller is also authorized to contract with a nationally recognized legal code publication company for the unofficial republication of the 2021 Code and supplements as approved by the Council in electronic format.

*Section 8.* It shall be the express duty of the comptroller or someone authorized by him or her to insert in such copies and in their designated places all amendments or ordinances which the council has specifically codified and approved, from time to time, to be to made a part of the 2021 Code when the same have been printed or reprinted in page form, and to extract from such copies all provisions which may be from time to time repealed by the Council. Such copies shall be available for inspection in accordance with law by all persons desiring to examine the same.

*Section 9.* The provisions the 2021 Code as approved by the Council or any copy thereof which purports to be published and maintained, in written or electronic form, by authority of the City of Memphis shall be

conclusively held to be evidence of the law of the City of Memphis from and after the times of their passage, with respect to any subject or provisions contained therein, and no person shall be permitted to impeach any such code provision on the ground that it was not duly and regularly passed in accordance with the laws existing at the time of its passage. Any prior uncodified republications of ordinances of the City with respect to any subject or provisions contained in the 2021 Code shall not be read and accepted in evidence from and after the adoption of the Adopting Ordinance and any Supplemental Adopting Ordinances.

Section 10. The provisions the 2021 Code as approved by the Council, or any copy thereof which purports to be published by authority of the City of Memphis, may be read and accepted in evidence in any court in this State without further proof of its passage.

*Section 11.* Chapter 4 of the 1985 City Code is hereby expressly repealed and replaced. All other ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

*Section 12.* Severability. The provisions of this Ordinance are hereby declared to be severable. If any of the sections, amendments, provisions, sentences, clauses, phrases, or parts hereof are held

unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 13. Effective Date. The provisions of this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

SPONSOR:  
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J. FORD CANALE  
CHAIRMAN

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# Title 7 ALCOHOLIC BEVERAGES<sup>1</sup>

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## **CHAPTER 7-1. ALCOHOLIC BEVERAGES GENERALLY**

### **Sec. 7-1-1. Alcoholic beverage and zoning districts defined.**

"Alcoholic beverage" or "beverage," as used in this title, means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patent medicine, or beer where the latter contains an alcoholic content of five percent by weight or less.

All zoning districts referenced in this title shall include those zoning districts reflected on the City of Memphis and Shelby County Zoning District Map, as well as the areas in approved planned developments that are designated for those zoning districts or their preceding equivalent zoning districts according to the Memphis and Shelby County Unified Development Code.

(Code 1967, § 5-1; Code 1985, § 4-1; Ord. No. 3507, § 1, 11-5-1985; Ord. No. 5459, § 4, 7-17-2012)

### **Sec. 7-1-2. Manufacture and sale legalized—Compliance with state law and chapter.**

It shall be lawful to engage in the business of manufacturing, selling, storing, transporting, and distributing alcoholic beverages within the corporate limits of the city. The manufacture, sale, receipt, possession, storage, transportation, distribution, or in any manner dealing in alcoholic beverages within the corporate limits of the city shall be regulated in accordance with the provisions of T.C.A. title 57, the rules and regulations adopted by the Commissioner of Revenue of the state, and in accordance with the provisions of this title.

(Code 1967, § 5-2; Code 1985, § 4-2)

### **Sec. 7-1-3. Certificate of good moral character required of applicants for state license.**

- A. Each applicant for the certificate of good moral character required prior to the issuance or renewal of a state alcoholic beverage license shall make application to the alcohol commission created by section 2-82-1 on forms to be approved by the mayor. Such applications shall be transmitted by the alcohol commission to the mayor for his or her approval or disapproval.
- B. The mayor shall have authority to prepare, in accordance with state law, and have printed a form of certificate to be issued in certifying to the Commissioner of Revenue of the state the good moral character of applicants for such certificate.

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C. No such certificate of good moral character will be issued in any case where the location of the proposed retail liquor store has been disapproved by the mayor.

(Code 1967, § 5-7; Code 1985, § 4-3; Ord. No. 117, § 1, 2-20-1968)

State law reference(s)—Certificates of moral character, T.C.A. §§ 57-3-208, 57-4-201.

**Sec. 7-1-4. Area within which retail sale permitted.**

It shall be lawful to sell at retail any alcoholic beverages within the corporate limits of the city, provided the retail liquor store is located in compliance with section 7-1-5.

(Code 1985, § 4-4; Ord. No. 188, §§ 1, 2, 6-11-1968; Ord. No. 286, § 1, 9-17-1968)

**Sec. 7-1-5. Manufacture and sale near churches, schools or other public or private institutions or residential areas.**

A. No alcoholic beverages shall be manufactured, distilled, rectified, sold or stored on any premises located within one thousand five hundred (1,500) feet (as measured along the center line of the street or streets as defined further herein and applying to retail liquor stores located on either side of such street or streets) from any church (defined as property owned and used by a church having regular attendance at its meetings and whose property is exempt from taxation by the property assessor); school (defined as duly accredited public, private, or parochial school for grades one through twelve (12), or any other division of such grades); park (defined as public park upon which children usually play); library (defined as tax supported public library) or any other retail liquor store, or within a five hundred (500) foot radius in any other direction from any such church, school, park, library, or any other retail liquor store or in any area in violation of the zoning ordinances.

B. The one thousand five hundred (1,500) feet limitation shall be measured from a point in the center line of the public or private street (private street being defined to be a private passageway for vehicles in a multi-establishment commercial area of at least two (2) acres in size) on which the liquor store fronts, such point being directly opposite the center of the threshold of the wall of the liquor store if the threshold faces the street and if not, then at the midpoint of the liquor store building; thence along the center line of the street and the center line of intersecting street or streets to a point in the center line of the street opposite the nearest point to the property line of such church, school, park, library, or other liquor store which faces the public or private street. Such five hundred (500) foot restriction shall be measured from the center of the threshold of the store to the nearest point in the property line of such church, school, park, library, or other liquor store, it being the intent that no part of the property of such church, school, park, library, or other liquor store shall be within a radius of five hundred (500) feet from the point in the

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center of the threshold of the liquor store. The measurements set forth herein shall apply only to liquor store locations after September 17, 1986. For clarification as to location and continuous use for liquor stores receiving a permit before September 17, 1968, such business may continue as long as:

- (1) The store remains at the same location;
- (2) It is a continuing business without any intervening use; and
- (3) Any transfer of ownership to subsequent or succeeding owners occurs within a one-day period (twenty-four (24) hours) without the depletion of inventories.

C. At any time a license is surrendered, all prior existing rights are nullified. In addition to the above set forth restrictions on location due to measurement to such school, church, park or library, or any other liquor store, no liquor store may be located where any part of any residential property zoned R-15, R-10, R-8, R-6, RU-1, or RU-2 shall be within a radius of 200 feet from the point in the center of the threshold of the wall of the liquor store if the threshold faces the street and if not, then at the midpoint of the liquor store building. Liquor stores having received permits before September 17, 1968 shall be allowed to remain so long as they otherwise meet the ordinances. The subsequent location of a church, school, park or library nearer to the liquor store than the prescribed distance shall not of itself cause the removal of the liquor store so long as the liquor store remains at the same location. Likewise, should any real property be already zoned or which is rezoned R-15, R-10, R-8, R-6, RU-1, or RU-2 within the radius of such 200 feet above described, such zoning or rezoning shall not of itself cause the removal of the liquor store as long as the liquor store remains in the same location.

D. The foregoing provisions of this section shall not apply to the relocation of any retail dealer who is compelled to relocate as the direct result of the actions of a governmental body or agency thereof, and such dealer can relocate his or her business within a radius of 1,500 feet as measured from the center of the front door of his or her business, provided the new location is approved by the alcohol commission subject to appeal to the council.

E. Upon a clear showing by a liquor dealer, whose property has been taken through governmental action so that it is impossible to relocate the store within the 1,500 feet prescribed distance, such liquor dealer shall be allowed to relocate within the prohibited distance from parks, playgrounds, churches, schools or libraries if such location is approved by the city council after a hearing and recommendation by the alcohol commission.

F. The location restriction (as defined in subsection A of this section) shall not apply to a qualified "retail food store wine license" applicant, that as of December 31, 2015, holds any off-premises beer permit, or upon application

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for a retail food store wine license, qualifies for any off-premises beer sales permit under chapter 7-8, article 2.

(Code 1967, § 5-9; Code 1985, § 4-5; Ord. No. 188, § 3, 6-11-1968; Res. of 8-6-1968; Ord. No. 286, § 1, 9-17-1968; Ord. No. 649, § 1, 2-3-1970; Ord. No. 694, § 1, 5-12-1970; Ord. No. 836, § 1, 12-22-1970; Ord. No. 1683, § 1, 4-10-1973; Ord. No. 3606, § 1, 9-23-1986; Ord. No. 5615, § 2, 5-3-2016; Ord. No. 5459, § 5, 7-17-2012)

State law reference(s)—Location restrictions authorized, T.C.A. § 57-3-208.

**Sec. 7-1-6. Relocation of liquor stores.**

Owners of retail liquor licenses issued for a specific location shall not be allowed to relocate their liquor stores until at least 24 months have passed since the granting of the original license at that location, unless the location is lost through condemnation, loss of lease or unanticipated hardship.

(Code 1967, § 5-11; Code 1985, § 4-6)

**Sec. 7-1-7. Limitation on number of retail outlets.**

In no event shall the number of retail liquor stores, premises or outlets for the sale of alcoholic beverages exceed 177.

(Code 1967, § 5-10; Code 1985, § 4-6.1; Ord. No. 127, § 1, 5-8-1951; Ord. No. 96, § 1, 12-19-1980)

State law reference(s)—Numerical limitation on licenses authorized, T.C.A. § 57-3-208.

**Sec. 7-1-8. Sale to certain persons prohibited—Drinking in or on premises of retail liquor stores prohibited—Penalty.**

- A. No retailer shall sell any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell to any person accompanied by a person who is drunk.
- B. No retailer shall sell any alcoholic beverages to a person known to be a minor and no person under the age of 21 years old is allowed in a retail liquor store unless accompanied by a parent, legal guardian or spouse.
- C. No retail liquor package store operator, licensee, or his or her employee shall consume any alcoholic beverage nor permit any alcoholic beverage to be consumed within the licensed premises at any time, nor shall any licensee, operator, or his or her employee engage in the sale of alcoholic beverages while under the influence of intoxicants or drugs.
- D. It is unlawful for any other person to consume alcoholic beverages while upon the premises of a retail liquor package store or any parking lot under control of

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the store. Retail liquor package store operators or licensees shall post a sign on painted wood or metal or on the glass show window with black lettering on white background, two feet by three feet in size, lettering not less than three inches in height, containing the following language:

"The consumption of alcoholic beverages upon these premises is prohibited by law."

These signs shall be posted in a conspicuous and readily visible place, and not less than one sign shall be posted within the sales area, and not less than one sign shall be posted within the parking area, if any.

(Code 1967, § 5-12(a)—(c); Code 1985, § 4-7; Ord. No. 1509, § 1, 11-14-1972; Ord. No. 5413, § 1, 9-20-2011)

State law reference(s)—Alcohol and underage persons, T.C.A. §§ 57-3-406, 57-3-412.

#### **Sec. 7-1-9. Hours of sale at retail.**

No retail liquor store or retail food store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of 8:00 a.m. and 11:00 p.m. Monday through Saturday and between 10:00 a.m. and 11:00 p.m. on Sunday.

(Code 1967, § 5-13; Code 1985, § 4-8; Ord. No. 5720, § 1(A.), 1-22-2019)

State law reference(s)—Hours of sale, T.C.A. § 57-3-406.

#### **Sec. 7-1-10. Inducement to purchase prohibited.**

No licensee under state law shall give away, sell, or in any manner whatsoever deal in premiums, tokens, or other articles by means of which inducements are held out to persons to purchase any alcoholic beverages.

(Code 1967, § 5-14; Code 1985, § 4-9)

#### **Sec. 7-1-11. Inspection of sales premises.**

The duly authorized representatives of the city shall have the right to inspect the premises of any business licensed for the sale of alcoholic beverages during the hours when such establishment is open for the conduct of business.

(Code 1967, § 5-16; Code 1985, § 4-10)

#### **Sec. 7-1-12. Possession or consumption in Liberty Bowl Memorial Stadium.**

- A. The possession or consumption of alcoholic beverages in Liberty Bowl Memorial Stadium shall be prohibited.
- B. The officials in charge at any event held in the Liberty Bowl Memorial Stadium shall be authorized by this section to eject, without refunding the admission

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price, if any, any person present who possesses or consumes any alcoholic beverage whatsoever.

- C. Appropriate signs shall be publicly and conspicuously posted in the Liberty Bowl Memorial stadium, notifying all patrons that "the possession or consumption of alcoholic beverages is prohibited by ordinance of the City of Memphis," citing this section of the code.
- D. Nothing in this section shall prevent the sale of beer and other light beverages with an alcoholic content of not more than five percent by weight as hereinafter regulated and set forth in section 7-84-20.

(Code 1967, § 5-17; Code 1985, § 4-11; Ord. No. 2071, § 1, 6-25-1974)

**Sec. 7-1-13. Time of appeal from alcohol commission to the city council.**

Notice of appeals from the action of the alcohol commission to the city council shall be filed in writing with the comptroller no later than ten days after the final decision of the alcohol commission. Otherwise, such decision shall be deemed and considered to be final.

(Code 1967, § 5-18; Code 1985, § 4-12; Ord. No. 279, § 1, 9-10-1968)

**Sec. 7-1-14. Investigations by city for violations under state law regarding sexual and pornographic conduct.**

All regularly employed, full-time employees of the police services division, when assigned by the director or his or her designee, shall have authority to conduct investigations into alleged violations of T.C.A. § 57-4-204, relating to prohibited sexual or pornographic conduct, and upon completion of their investigation shall report any such violation to the city alcohol commission for their appropriate action. The commission shall have the power to suspend or revoke such licenses, upon determining such violations exist, relating to establishments selling beer and malt beverages, and the commission shall recommend to the state alcoholic beverage commission its findings as they relate to establishments selling liquor by the drink for on-premises consumption.

(Code 1967, § 5-21; Code 1985, § 4-13; Ord. No. 3029, § 1, 7-8-1980)

**Sec. 7-1-15. Open containers and consumption of alcoholic beverages prohibited in certain public places.**

- A. It is unlawful for any person or persons, while in or on any streets, sidewalks, alleyways, parking areas, bus and trolley stops and shelters, or other open areas operated and controlled by the city within the central business improvement district, defined in sections 12-32-2 and 12-44-2, to consume any alcoholic beverage as defined in section 7-1-1, or to possess for the purpose of

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consumption any such alcoholic beverage, unless such beverage remains commercially sealed.

- B. Possession of any alcoholic beverage in an open container not permitted in subsection A of this section shall be prima facie evidence of having the beverage for the purpose of consumption.
- C. This section shall not apply to the following:
  - 1. Patrons of premises licensed for on-premises consumption while the patrons are in or upon such premises;
  - 2. Patrons of premises licensed for on-premises consumption where attendance may be controlled by the owner or lessee;
  - 3. Patrons of premises that have been granted a special event permit as set forth in section 7-8-21 of this Code;
  - 4. The Beale Street Historic District as set forth in section 7-8-23, and other such districts within the Central Business Improvement District as may hereafter be designated by state or local authorities.
- D. Subsection C of this section may include outdoor areas.

(Code 1985, § 4-14; Ord. No. 4828, § 1, 11-21-2000)

State law reference(s)—Open containers of alcohol in motor vehicles, T.C.A. § 55-10-416.

## **CHAPTER 7-2. BEER AND LIGHT ALCOHOLIC BEVERAGES<sup>2</sup>**

### ***GENERAL PROVISIONS***

#### **Sec. 7-2-1. Application of chapter.**

Except as otherwise specifically provided, the provisions of this chapter shall apply to beer with an alcoholic content of not more than five percent by weight and any other beverage of like alcoholic content.

(Code 1967, § 5-70; Code 1985, § 4-51)

#### **Sec. 7-2-2. Transportation and sale legalized—Compliance required.**

It is lawful to transport, store, sell, distribute, possess, receive or manufacture beverages mentioned in section 7-2-1 within the corporate limits of the city, subject to all of the regulations, limitations and restrictions provided by the laws of the state and this chapter, and subject to all of the laws of the state and this chapter,

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<sup>2</sup>State law reference(s)—Beer and alcoholic beverages containing less than five percent alcohol, T.C.A. § 57-5-101 et seq.; local regulatory ordinances, T.C.A. § 57-5-101 et seq.

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and subject to the rules and regulations enacted by authorized public officials or boards.

(Code 1967, § 5-71; Code 1985, § 4-52)

**Sec. 7-2-3. Hours of sale.**

No retail liquor store or retail food store governed by this article shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of 7:00 a.m. to 3:00 a.m. Monday through Saturday and between 10:00 a.m. and 11:00 p.m. on Sunday.

(Code 1967, § 5-72; Code 1985, § 4-53; Ord. No. 636, § 1, 1-27-1970; Ord. No. 2411, § 1, 6-8-1976; Ord. No. 5720, § 1(B.), 1-22-2019)

**Sec. 7-2-4. Purchase by minors.**

- A. It is unlawful for any minor to purchase or attempt to purchase any beer or other beverage governed by this chapter and it is unlawful for any minor to possess any such beverage upon the premises of an on-premises licensee.
- B. It is unlawful for any minor to present or offer to any licensee, or his or her agent or employee, any written evidence of his or her age which is false, fraudulent or not actually his or her own, for the purpose of purchasing or attempting to purchase or otherwise procuring or attempting to procure any beverage governed by this chapter.
- C. Any minor who acts in violation of any one or more of the provisions of this section shall be guilty of a misdemeanor, and if 19 years of age, or more, shall upon conviction be subject to punishment as provided in section 1-24-1 of this Code; if 18 years of age, or less, he or she shall be taken before the juvenile court for appropriate disposition.

(Code 1967, § 5-73; Code 1985, § 4-54)

State law reference(s)—Alcohol and underage persons, T.C.A. §§ 57-3-406, 57-5-301.

**Sec. 7-2-5. Wholesale beer tax.**

Pursuant to the authority contained in T.C.A. § 57-6-103, there is imposed on the sale of beer at wholesale within the city a tax of 17 percent of the wholesale price.

(Code 1967, § 5-74; Code 1985, § 4-55)

***LICENSES TO STORE, SELL, DISTRIBUTE OR MANUFACTURE***



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**Sec. 7-2-6. Required.**

No person shall engage in the storing, selling, distributing or manufacturing of beer or any other beverage referred to in section 7-2-1 within the corporate limits of the city until he or she receives approval from the alcohol commission and purchases a license from the city treasurer, or his or her designee.

(Code 1967, § 5-80; Code 1985, § 4-66; Ord. No. 117, § 1, 2-20-1968; Ord. No. 4352, § 1, 8-15-1995)

**Sec. 7-8-7. Application—Generally.**

Each applicant for a license under this article shall file with the alcohol commission a sworn petition in writing, establishing the following facts, which are made conditions of any license issued thereunder, and the violation of any such statements of fact shall be sufficient cause for the revocation of such license:

- A. That the applicant will not engage in the sale of such beverages except at the place for which the alcohol commission has issued a license to such applicant;
- B. That no sale of such beverages will be made except in accordance with the license granted;
- C. That, if the license is to sell for consumption on the premises, the licensee will make no sale except where meals, consisting of no less than one meat and a vegetable, are prepared on premises with adequate kitchen facilities, as provided in chapter 9-52, and are regularly served at tables with a menu provided for selection by the customers;
- D. That, if the application is for a license to sell at hotels, sales for consumption on the premises will be made only where meals or lunches are served at tables to persons seated at tables, and to persons in guests' rooms;
- E. That, if the application is for a license for a club or lodge, such applicant is a regularly incorporated club or lodge operating under a charter and by-laws, in which the officers were elected by a regular membership which is composed of persons who must pay a substantial initiation fee, and whose purpose of organization and existence is other than the sale of beverages covered by this chapter;
- F. That, if the application is for a license to sell, not for consumption on the premises, that no sales will be made for consumption on the premises, no consumption will be allowed on the premises or on the sidewalks, streets or property within the immediate premises (building and parking lot) of any off-premises location selling beer, and that no such beverages will be kept for sale in such premises except in the original packages or containers;

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except that an off-premise licensee may offer complimentary samples of the products it sells for tastings to be held on the premises of the off-premise licensee. Such tastings shall be for sales, education and promotional purposes;

- G. That no sale shall be made to minors; and that applicant will not permit minors or disorderly or disreputable persons heretofore connected with the violation of the liquor laws to loiter around or frequent his or her place of business; that applicant will not allow gambling or gambling devices on his or her premises; provided that, the provisions of this section relative to the frequenting of his or her place of business shall not apply to minors 18 years of age, who are under contract to provide entertainment in the field of music or vocal entertainment. This exception is in effect only during the actual hours of the minors' employment. Such minors must have the written consent of their parents or guardian, sworn to before a notary public. The owner or operator shall keep the written consent on file at all times during the employment of such minor, and same shall be available for inspection by officers of the city police department. A duplicate of such written consent shall be forwarded to the director of police of the city. The provisions herein shall not apply to disorderly or disreputable persons;
- H. That neither the applicant nor any persons employed or to be employed by him or her in such distribution or sale of such beverage has been convicted of any violation of the law against prohibition, sale, manufacture or transportation of intoxicating liquor, or of any crime involving moral turpitude, within the past ten years;
- I. That the applicant will conduct the business in person, for himself or herself, or, if he or she is acting as agent, the applicant shall state the person, firm, corporation, syndicate, association or joint stock company for whom, and only for whom, the applicant intends to act;
- J. That the applicant or licensee providing musical entertainment in his or her business establishment, including but not limited to jukeboxes, live bands, with or without vocalists, and utilizing amplifiers, loudspeakers or other equipment for the reproduction or amplification of sound, shall not permit the noise, sound or vibration created, emitted or transmitted by such jukeboxes, bands, vocalists or sound equipment to be audible to persons on any public street, highway or upon any adjoining residential or commercial premises, to the extent that it is detrimental to the life or health of any individual or disturbs the public peace and welfare.

(Code 1967, § 5-81; Code 1985, § 4-67; Ord. No. 2080, § 1, 7-18-1967; Ord. No. 117, § 1, 2-20-1968; Ord. No. 346, § 1, 12-26-1968; Ord. No. 1848, §§ 1—3, 10-2-1973; Ord. No. 2694, § 1, 2-13-1979; Ord. No. 3248, §§ 1, 2, 11-9-1982; Ord. No. 5472, § 1, 11-20-2012)

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**Sec. 7-2-8. Application—Citizens' certificate to accompany.**

There shall be attached to each application for a license under this article a certificate signed by at least ten reputable citizens residing or doing business in the ward in which the petitioner seeks to do business, stating the residence or place of business of each person, and certifying the length of time that such persons have been acquainted with the petitioner, and if petitioner is a corporation or association, the length of time they have been acquainted with its officers or members, and that they have good reason to believe that all of the statements contained in the petition are true, and that they join in the prayer of the petitioner for the granting of the license prayed for.

(Code 1967, § 5-82; Code 1985, § 4-68)

**Sec. 7-2-9. Prohibited sexual or pornographic conduct.**

- A. In addition to the other duties imposed under this title, the city alcohol commission is authorized to enforce provisions of subsections B, C and D of this section, as same relates to selling beer and other beverages governed by this chapter; and upon violation of such subsections by any person, firm or corporation licensed under the provisions of this title, the commission shall revoke the privilege license of such violator.
- B. The following acts or conduct on licensed premises are deemed contrary to public policy, and therefore no license shall be held at any premises where such conduct or acts occur:
  - 1. To employ, use or allow any person in the sale or service of beer or other beverages governed by this chapter in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
  - 2. To employ, use or allow the services of any host, hostess or other person to mingle with the patrons while such host, hostess or other person is unclothed or in such attire, costume or clothing as described in subsection (B)(1) of this section;
  - 3. For any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person;
  - 4. For any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.
- C. Additional acts prohibited.

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1. Acts or conduct on licensed premises in violation of this subsection are deemed contrary to public policy, and therefore no license shall be held at any premises where such conduct or acts occur.
  2. Live entertainment is permitted on any licensed premises, except that:
    - a. No person shall perform acts of or acts which simulate:
      - i. Sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, fellatio, flagellation or any sexual acts which are prohibited by law;
      - ii. The touching, caressing or fondling of the breast, buttocks, anus or genitals; or
      - iii. The displaying of the pubic hair, anus, vulva or genitals.
    - b. Subject to the provisions of subsection (C)(2)(a) of this section, any entertainer who is employed in whole or in part, whether directly or as independent contractor or agent, by the licensee to dance at such licensee's premises shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least 12 inches from the nearest patron.
  3. No person shall use artificial devices or inanimate objects to depict any of the prohibited activities described above.
- D. The following acts or conduct on licensed premises are deemed contrary to public policy, and therefore no license shall be held at any premises where such conduct or acts occur:
1. Engaging in sexual activity or any sexual relations as a business or loitering at a licensed premises for the purpose of being hired to engage in sexual activity or any sexual relations;
  2. a. Soliciting or hiring another person with the intent that the other person engage in prostitution, defined as those activities described in subsection (D)(1) of this section, or
    - b. Soliciting a person to do those things described in subsection (C)(2)(a) of this section;
  3. Procuring a prostitute for a patron; or
  4. Soliciting, receiving, or agreeing to receive any benefit for engaging in any of the activities defined in subsections (D)(1) through (3) of this section.

(Code 1967, § 5-83; Code 1985, § 4-69; Ord. No. 3958, § 1(1), 5-8-1990)

#### **Sec. 7-2-10. Issuance or refusal generally.**

The alcohol commission shall consider all applications filed under this article and grant or refuse the license according to its best judgment under all of the facts

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and circumstances, and the action of the commission in granting or refusing a license shall be final, except as same is subject to review at law.

(Code 1967, § 5-85; Code 1985, § 4-70; Ord. No. 117, § 1, 2-20-1968)

**Sec. 7-2-11. General restrictions on issuance.**

A. No license shall be issued to sell any beverage coming within the provisions of this chapter:

1. In violation of any provision of state law;
2. In violation of the Unified Development Code;
3. Where such sale will cause congestion of traffic or interference with schools, churches or other places of public gathering, or otherwise interfere with public health, safety and morals, and the judgment of the alcohol commission on such matters shall be final, except as same is subject to review at law;
4. Unless it is necessary for the accommodation of the public that such place should be licensed, and the judgment of the alcohol commission on such matters shall be final except as same is subject to review at law; provided, however, that nothing herein contained shall prevent the issuance of a license for the sale of beer upon private property next and adjacent to regularly licensed and operated sandwich shops, eating houses or restaurants, or to prevent the sale of beer for consumption in automobiles or other vehicles parked upon such premises; provided that, such beverages shall be consumed while such automobiles are parked upon such premises, but no beer or such beverages shall be served or consumed while such automobiles are parked upon a public street, alley or other public place.

B. Where the sale shall be for on-premise, and food sales shall consist of less than 40 percent of gross sales, the business establishment shall be located no less than 500 feet (as measured along the center line of the street or streets as defined further herein) or not less than within a 250-foot radius in any other direction from the property line of any single-family or duplex residential property zoned R-15, R-10, R-8, R-6, R-3, or RU-1, any church (defined as property owned and used by a church having regular attendance at its meetings and whose property is exempt from taxation by the property assessor) or school (defined as fully accredited public, private, or parochial school for grades one through 12 or any other division of such grades). The 500 feet shall be measured from a point in the center line of the public or private street adjacent to the threshold (private street being defined to be a private passageway for vehicles in a multi-establishment commercial area of at least two acres in size) on which the beer establishment fronts, such point being directly opposite the center of the threshold of the wall of the establishment if the threshold faces the street and if not, then at the midpoint of the establishment building; thence

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along the intersecting street or streets to a point on the center line of the street opposite the nearest point to the property line of the residence, church or school. Such 250-foot restriction shall be measured from the center of the threshold of the store to the nearest point in the property line of such residence, church, or school, it being the intent of the restriction that no part of the property of such residence, church or school shall be within a radius of 250 feet from the point in the center of the threshold herein shall apply only to beer establishment locations after the effective date of this section. Further, T.C.A. § 57-5-103(5) states "a business can sell beer for both on-premises and off premises consumption at the same location pursuant to one (1) permit." Where the business establishment does not meet the distance requirements set above, percentage of food sales notwithstanding, sale of more than two 16-ounce sealed containers, for off-premise consumption, per customer is not permitted per this section. This section shall not prohibit the sale and transfer of the assets, goodwill, equipment and fixtures of any on-going business to a new owner to continue the operation of such business, however, such new owner must comply with all the provisions of this section.

- C. Where the sale shall be for off-premises consumption, the business establishment shall be located no less than 500 feet (as measured along the center line of the street or streets and such measurement is defined further herein by reference to subsection B above) or not less than within a 250-foot radius in any other direction from the property line of any residential property zoned R-E, R-15, R-10, R-8, R-6, R-3 or RU-1, any church (as defined in subsection B above) or school (as defined in subsection B above) except establishments located along interstate, U.S. and state highways. Said 500 feet and 250-foot radius restrictions shall be measured in the same manner as that set out in subsection B above with regard to on-premise sales. This location restriction is intended to and shall apply only to new beer establishment locations that make application for off-premises sales after the effective date of this subsection. This location restriction shall apply to any existing beer establishment location licensed for off-premises sales that ceases to sell, distribute or manufacture beer at that location during any continuous six-month period after the effective date of this subsection. The distance requirements of this paragraph do not apply to an establishment where less than ten percent of its gross sales consists of alcohol sales.
- D. The location restriction (as defined in subsection C of this section) shall not apply to a qualified "retail food store wine license" applicant, that as of December 31, 2015, holds any off-premises beer permit, or upon application for a retail food store wine license, qualifies for any off-premises beer sales permit under chapter 7-2, [article 2](#).

(Code 1967, § 5-86; Code 1985, § 4-71; Ord. No. 117, § 1, 2-20-1968; Ord. No. 3246, § 1, 11-9-1982; Ord. No. 5000, 5-20-2003; Ord. No. 5134, § 1, 2005; Ord. No. 5223, § 1,

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2007; Ord. No. 5343, 1-26-2010; Ord. No. 5615, § 3, 5-3-2016; Ord. No. 5459, §§ 6, 7, 7-17-2012).

**Sec. 7-2-12. Issuance to specialty or convenience stores, service or filling stations.**

A beer permit for off-premises consumption may be issued to any convenience store, grocery store, sundry store, service or filling station having a minimum inventory of \$2,000.00 in stock, not including equipment, fixtures or petroleum products, subject to the location restriction set out in section 7-2-11(C).

(Code 1967, § 5-87; Code 1985, § 4-72; Ord. No. 2410, § 1, 6-8-1976; Ord. No. 2507, § 1, 10-5-1976; Ord. No. 2694, § 2, 2-13-1979; Ord. No. 5000, 5-20-2003)

**Sec. 7-2-13. Issuance to hotels and clubs.**

It is lawful for the alcohol commission to issue licenses for the sale of any beverage coming within the provisions of this chapter in hotels, clubs or lodges, subject to all of the limitations and restrictions contained in the state law and the rules and regulations promulgated thereunder, and subject to all of the limitations and restrictions contained in the license and in this chapter.

(Code 1967, § 5-88; Code 1985, § 4-73; Ord. No. 117, § 1, 2-20-1968)

**Sec. 7-2-14. Display.**

The license required by this article shall be framed under glass and placed so that it is conspicuous and may be easily read at all times.

(Code 1985, § 4-74; Code 1967, § 5-89)

**Sec. 7-2-15. Licensee's employees.**

Before a person is employed to dispense beer, said person shall provide proof acceptable by the permits office of the City of Memphis that such person is not in violation of T.C.A. § 57-5-301.

(Code 1967, § 5-90; Code 1985, § 4-75; Ord. No. 3958, § 1(2), 5-8-1990; Ord. No. 4112, § 1, 6-16-1992; Ord. No. 5459, § 8, 7-17-2012)

**Sec. 7-2-16. Revocation.**

A. All licenses issued under this article shall be revocable in the discretion of the alcohol commission, and whenever it shall be brought to the attention of the alcohol commission that any declaration of fact contained in the application is false, or that there has been any violation thereof, or that the limitations and conditions of the license have been violated, or that the licensee permits minors to frequent or loiter around his or her place of business or permits gambling or

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gambling devices thereon, or permits drunken, disreputable or disorderly persons, or persons heretofore connected with the violation of liquor laws to make it a customary place of visitation or resort, or otherwise violates any of the provisions or restrictions of the state law or of this chapter, the alcohol commission shall revoke such license. Such revocation shall become final after five days, unless the licensee, within five days, demands a hearing before the alcohol commission, at which hearing the burden shall be upon the licensee to show that he or she has not violated the declaration of fact or statements contained in his or her application, or the limitations or restrictions upon his or her license, and that he or she has not violated the state law or the provisions of this chapter. The action of the alcohol commission at such hearing in arming or setting aside the revocation of such license shall be final, except as same is subject to review at law.

- B. Three violations of the provisions or restrictions of state law or city ordinances during a two-year period by any licensee shall result in the automatic revocation of the licensee's license in accordance with the rules and procedures otherwise established by this ordinance and state law.
- C. Any licensee whose license is revoked shall not be eligible to receive a license for three years from the date of revocation.
- D. No permit for off-premises consumption will be issued for any subsequent applicant for a location where a license has been revoked under this chapter for three years from the date of revocation.

(Code 1967, §5-92; Code 1985, § 4-76; Ord. No. 117, § 1, 2-20-1968; Ord. No. 2694, § 3,2-13-1979; Ord. No. 5223, § 2, 2007)

**Sec. 7-2-17. Records to be kept—List of licenses to be filed with collector of licenses and privileges and director of police.**

The secretary of the alcohol commission shall preserve a complete record of applications received and licenses granted and refused under this article and all protests and hearings held by the commission. Such secretary shall file with the collector of licenses and privileges and with the director of police a complete list of licenses issued by the commission, giving the name, place and nature of the license.

(Code 1967, § 5-93; Code 1985, § 4-77; Ord. No. 117, § 1, 2-20-1968)

**Sec. 7-2-18. Beer or alcoholic beverage sales in McCarver Stadium—Park commission's authority to permit.**

Notwithstanding any other provisions of this chapter to the contrary, the city park commission is authorized and empowered in its discretion to permit the sale of beer and alcoholic beverages for consumption on the premises in McCarver Stadium



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at such times and events and under such terms, conditions, rules and regulations as such commission may establish for that facility.

(Code 1967, § 5-94; Code 1985, § 4-78; Ord. No. 322, § 1, 11-12-1968; Ord. No. 3066, § 1, 10-14-1980)

**Sec. 7-2-19. Beer or alcoholic beverage sales in Coliseum—Board's authority to permit.**

Notwithstanding any other provisions of this chapter to the contrary, the Coliseum board is authorized and empowered in its discretion to permit the sale of beer and alcoholic beverages for consumption on the premises in the Coliseum at such times and events and under such terms, conditions, rules and regulations as such board may establish for that facility.

(Code 1967, § 5-95; Code 1985, § 4-79; Ord. No. 323, § 1, 11-19-1968; Ord. No. 3066, § 1(2), 10-14-1980)

**Sec. 7-2-20. Beer or alcoholic beverage sales in Liberty Bowl Memorial Stadium—Park commission's authority to permit.**

Notwithstanding any other provisions of this chapter to the contrary, the city park commission is authorized and empowered in its discretion to permit the sale of beer and alcoholic beverages for consumption on the premises in Liberty Bowl Memorial Stadium at such times and events and under such terms, conditions, rules and regulations as such commission may establish for that facility.

(Code 1967, § 5-97; Code 1985, § 4-80; Ord. No. 2071, § 1, 6-25-1974; Ord. No. 3066, § 1(3), 10-14-1980)

**Sec. 7-2-21. Permit for special event.**

A beer permit for a special event may be issued for a specific location for a period not to exceed 30 days, upon the following conditions:

- A. Application is made stating the dates and time permit will be used during the 30-day period;
- B. Application is made setting out the purpose upon forms supplied by the secretary of the alcohol commission, the application to be approved at any regular or special meeting of the alcohol commission;
- C. Approval is received from the city and county health department, the city building department, the city fire department, the police services division, the board of supervisors of public solicitation of funds, and/or any other affected governmental agencies;

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- D. Exemption has been granted by the city council of the conditions as set forth in section 12-84-20 of this Code;
  - E. The required business or other necessary licenses and permits have been issued for the event.

(Code 1967, § 5-98; Code 1985, § 4-81; Ord. No. 2694, § 4, 2-13-1979; Ord. No. 3067, § 1, 10-21-1980)

**Sec. 7-2-22. Prohibited sexual or pornographic conduct—Penal provisions.**

In any location holding a valid license to store, sell, distribute or manufacture beer or any beverage with an alcoholic content of not more than five percent by weight and any other beverage of like alcoholic content, the following acts or conduct on licensed premises are deemed contrary to public policy and shall be subject to all penal provisions provided by law:

- A. Live entertainment is permitted on any licensed premises, except that:
  - 1. No person shall perform acts of or acts which simulate:
    - a. Sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, fellatio, flagellation or any sexual acts which are prohibited by law;
    - b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals; or
    - c. The displaying of the pubic hair, anus, vulva or genitals.
  - 2. Subject to the provisions of subsection A of this section, any entertainer who is employed in whole or in part, whether directly or as independent contractor or agent, by the licensee to dance at such licensee's premises shall perform only upon a stage at least 18 inches above the immediate floor level and the edge of the stage must be at least 12 inches from the nearest patron.
- B. No person shall use artificial devices or inanimate objects to depict any of the prohibited activities described in subsection A of this section.

(Code 1985, § 4-82; Ord. No. 4049, § 1, 7-2-1991)

**Sec. 7-2-23. Sales in the Beale Street Historic District.**

- A. Notwithstanding any other provisions of this chapter to the contrary, the alcohol commission is authorized and empowered in its discretion to permit the sale of beer and alcoholic beverages for consumption outside the clubs, but within the Beale Street Historic District at such times and events and under such terms, conditions, rules and regulations as such commission may establish for the district.

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- B. Outside bars cannot be more than ten feet from the business establishments which use these bars for beverage sales.
  - C. No beverages, alcoholic or nonalcoholic, will be permitted in glass or metal containers outside of the business establishments within the Beale Street Historic District.

(Code 1985, § 4-83; Ord. No. 4187, § 1, 6-22-1993)

**Sec. 7-2-24. Sales for off-premises consumption by beer manufacturers operating as restaurants.**

Notwithstanding any other provisions of this chapter, or any rule or regulation of the City of Memphis Alcohol Commission to the contrary, any manufacturer of beer operating as a restaurant and licensed to sell beer for consumption therein shall have the right to sell beer to go, provided that such beer is manufactured within the premises of the restaurant and is sold unopened and in the original container.

(Ord. No. 5276, § 1, 10-21-2008)

**Sec. 7-2-25. Caterer's permit.**

Notwithstanding any other provisions of this chapter, or any rule or regulation of the City of Memphis Alcohol Commission to the contrary, any brewery meeting the exemption requirements set forth in T.C.A. § 57-5-101(c)(1)(A) that does not also operate as a restaurant as defined in section 9-52-1 of this Code ("brewery"), shall be subject to the following provisions and restrictions:

- A. *Legislative intent.* The intent of this section is to recognize the distinction between breweries with tasting rooms and other establishments that sell alcoholic beverages, specifically that a brewery tasting room is an adjunct to the primary business of manufacture and sale to wholesale or retail establishments. It being the intent of this section to encourage the growth of local business and tourism while protecting the public welfare and morals.
- B. *Permit required.* Each brewery with a tasting room in which beer is to be manufactured and sold must apply for a beer permit through the City of Memphis Alcohol Commission in conformity with section 7-2-7 above. Such permit application shall make reference to the fact that the application is for a brewery with a tasting room. The permit application shall conform to all on-premises permit requirements if the brewery intends to allow the consumption of beer in its tasting room, but so long as the application is accompanied by a sworn petition indicating that the restrictions of subsection D of this section are met, then there shall be no requirement for a brewery with a tasting room to maintain kitchen facilities or serve food.

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- C. *On and off premises consumption allowed.* So long as the tasting room of the brewery conforms with the requirements of subsection D below, breweries with tasting rooms shall be authorized to sell beer manufactured on premises for on-premises consumption or off-premises consumption (off-premises consumption shall include beer sold to licensed wholesalers or retail establishments) so long as all beer sold for off-premises consumption is in the original, sealed container.
- D. *No food requirement—Restrictions.* No brewery with a tasting room shall be required to serve food, maintain kitchen facilities or conform to any requirement relating to the percentage of sales attributable to food so long as it:
1. Does not engage in the sale of any alcoholic beverage other than beer manufactured on premises;
  2. Does not derive more than 25 percent of its gross annual income from the sale of beer for consumption on premises;
  3. Does not open to the public for any period between the hours of 12:00 a.m. and 12:00 p.m.;
  4. Does offer water or other non-alcoholic beverages at no cost to its patrons;
  5. If located within a 500-foot radius or 250-foot radius of a church, *a school or certain enumerated residential zoning districts* as set forth in section 7-2-11(B) above, shall *not open to the public on Sundays before 12:00 p.m.* and shall close to the public each *Sunday* through Thursday no later than 10:00 p.m., this section being intended to prevent traffic congestion, to reduce noise and to protect the public welfare and morals of the community.

(Ord. No. 5490, § 1, 1-22-2013; Ord. No. 5459, § 9, 7-17-2012; Ord. No. 5823, § 3, 7-17-2012).

## CHAPTER 7-3. TAX ON RETAIL SALES OF ALCOHOL FOR ON-PREMISES CONSUMPTION

### Sec. 7-3-1. Definitions.

As used in this chapter:

*Club* means a nonprofit corporation organized and existing under the laws of the State of Tennessee, which has been in existence at least two years prior to the application for a license hereunder having at least 100 members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earning of which inures to the benefit of any shareholder or member and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests; provided that no member

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or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of spirituous liquors, wines, champagnes or malt beverages beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body of the general revenue of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The alcohol commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with this definition.

*Common carrier* includes any mode of transportation, by train, plane, ship, boat, or other vehicle operating under certificates of public convenience and necessity issued by the appropriate federal or state agency, with adequate facilities and equipment for serving passengers, on regular schedules, or charter trips, while moving through any county of the state, but not while any such common carrier is stopped in a county or municipality that has not legalized such sales.

*Hotel (motel)* means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least 75 at tables, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a restaurant on their premises and the holder of such franchise shall be included in the definition of hotel hereunder, and property contiguous to a hotel.

*Restaurant* means 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, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 75 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 meal per day shall be served at least five 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.

(Code 1967, § 5-111; Code 1985, § 4-116; Ord. No. 604, § 1, 12-16-1969)

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**Sec. 7-3-2. Tax imposed—Amount—Term.**

A. There is levied and imposed a privilege tax to be paid to the collector of licenses and privileges of the city in the amounts and in accordance with the terms and conditions herein stated upon each person, firm, corporation, partnership or association who may be authorized to engage in the business of selling at retail alcoholic beverages for consumption on the premises within the city. The amount of privilege tax levied and imposed shall be as follows:

1. Private club ..... \$300.00
2. Hotel and motel ..... \$1,000.00
3. Restaurant, according to seating capacity, on licensed premises:

75—125 seats ..... \$600.00

126—175 seats ..... \$750.00

176—225 seats ..... \$800.00

226—275 seats ..... \$900.00

276 seats and over ..... \$1,000.00

B. The amount of privilege tax aforesaid shall be for the period of one year commencing January 1 of each year and expiring on December 31 of each year, and shall be paid upon receipt of a license from the state authorizing the business of selling at retail alcoholic beverages for consumption on the premises. The original payment of the privilege tax shall be prorated for the remaining quarters or portions thereof, of that calendar year. This tax shall be effective from and after January 1, 1970.

(Code 1967, § 5-110; Code 1985, § 4-117; Ord. No. 604, § 2, 12-16-1969)

**CHAPTER 7-4. INSPECTION FEES<sup>3</sup>**

**Sec. 7-4-1. Definitions.**

For the purposes of this chapter the following definitions shall apply:

*Alcoholic beverages* shall have the same meaning as ascribed by section 7-1-1.

*Retailer* means a person who sells alcoholic beverages for consumption and not for resale.

*Wholesaler* means a person who sells alcoholic beverages to retailers, and shall include distributors, distillers, or any person making sales to retailers.

(Code 1985, § 4-131; Ord. No. 3508, § 2, 11-5-1985)

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<sup>3</sup>State law reference(s)—Municipal inspection fees, T.C.A. § 57-3-501 et seq.

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**Sec. 7-4-2. Fee levied on retailers—Computation.**

- A. For the purpose of providing a means of regulating the liquor business in the city and pursuant to the authority granted the city by Chapter 87 of the Public Acts of the General Assembly of Tennessee for 1969, there is levied and imposed against retailers an inspection fee at the rate of five percent on all purchases of alcoholic beverages made by such retailers from wholesalers. The fee shall be measured by the wholesale price of the alcoholic beverage sold by the wholesaler and paid by the retailer to the wholesaler, and shall be five percent of such wholesale price.
- B. The fee levied by this chapter shall be added by the wholesaler to each invoice for alcoholic beverages sold to each retailer within the city and shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(Code 1985, § 4-132; Ord. No. 3508, § 1, 11-5-1985)

**Sec. 7-4-3. Wholesalers.**

- A. *Monthly reports; collection and remittance of fee.* Each wholesaler making sales to retailers within the city, shall furnish to the city treasurer a report monthly which report shall contain a list of alcoholic beverages sold to each retailer within the city, the wholesale price of the alcoholic beverages sold to each retailer, the amount of tax due, and such other information as shall be required by the city treasurer. The monthly report shall be furnished to the city treasurer not later than the 20th day of the month following which the sales were made, and the inspection fees collected by the wholesaler from the retailer shall be paid to the city treasurer at the time the monthly report is made.
- B. *Reimbursement.* Wholesalers collecting and remitting the above inspection fee to the city shall be entitled to reimbursement for this collection service, a sum equal to five percent of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the city treasurer.
- C. *Penalties.* Failure to collect or timely report and/or pay the inspection fee collected shall result in a penalty of ten percent of the fee due the city which shall be paid to the city treasurer.
- D. *Access to wholesalers' records.* The city treasurer and his or her authorized representative shall have access to the pertinent records and books of all wholesalers at reasonable times for the purpose of ascertaining and verifying the taxes due under the provisions of this chapter.

(Code 1985, § 4-133; Ord. No. 3508, § 3, 11-5-1985)

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**Sec. 7-4-4. Enforcement.**

The city treasurer is authorized and empowered to take any and all steps necessary to enforce the payment of any inspection fees due under the provision of this chapter.

(Code 1985, § 4-134; Ord. No. 3508, § 4, 11-5-1985)



**Resolution imposing a moratorium on the issuance of licenses or permits for the manufacture and sale of alcohol near churches, schools or other public or private institutions or residential areas within the City pursuant to Municode Section 7-4-5, subparagraph A for 180 days**

WHEREAS, Municode Section 7-7-5, subparagraph A was amended by Ordinance 5459, §5 on August 12, 2012;

WHEREAS, Municode is a republication of the 1985 Memphis Code of Ordinances and amendatory legislation through November 1, 2011 (the "Republication"). The Municipal Code Corporation has updated the Republication since November 1, 2011 in paper and electronic formats;

WHEREAS, the Municode Republication and updates have not been formally adopted as the official code of ordinances pursuant to the requirements of the City's Charter; as such the Municode Republication and updates are not the Official Code of Ordinances of the City;

WHEREAS, the amendments to Municode Section 7-7-5, subparagraph A were not intended to be substantive but only intended to conform residential zoning designations contained in Municode Section 7-7-5, subparagraph A to be consistent with changes in those alphabetical references in the Unified Development Code, but inadvertently deleted the previously existing preceding paragraph of Municode Section 7-7-5, subparagraph A relating to distance restrictions contemplated by the title of the ordinance;

WHEREAS, Ordinance 5459, §5 explicitly amended Municode Section 7-7-5, subparagraph A but did not also amend Section 4-5 of the Official 1985 City Code;

WHEREAS, due this scriviner's error Section 4-5 of the Official 1985 City Code remains unaffected by the amendment;

WHEREAS, Council is in the process of adopting a new official code of ordinances in which the foregoing inconsistency between the Republication and the 1985 Code will be corrected; and

WHEREAS, the Council desires to establish a moratorium on the issuance of licenses or permits for the manufacture and sale of alcohol near churches, schools or other public or private institutions or residential areas within the City pursuant to Municode Section 7-4-5, subparagraph A for 180 days so that the public will be on notice that it will not be allowed to rely on any perceived "loop-hole" in Municode Section 7-4-5, subparagraph A due to the

scrivener's error in Ordinance 5459, §5 during the moratorium or until the Council takes further action.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL does hereby impose a moratorium on the issuance of licenses or permits for the manufacture and sale of alcohol near churches, schools or other public or private institutions or residential areas within the City pursuant to Municode Section 7-4-5, subparagraph A for 180 days.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Memphis City Council does hereby declare that Section 4-5 of the Official 1985 City Code remain in full force and effect notwithstanding Ordinance 5459, §5 to the contrary until the City Council amends or repeals Section 4-5 of the Official 1985 City Code.

SPONSOR:  
Ford Canale

FRANK COLVETT, JR.  
CHAIRMAN

I hereby certify that the foregoing is a true copy  
and document was adopted, approved by the  
Council of the City of Memphis in regular  
session on

Date JUN 01 2021

Valerie C. Sipes  
Deputy Comptroller-Council Records