

ORDINANCE NO. 07-149

**AN ORDINANCE TO REPLACE ORDINANCE NO. 94-1,
ORDINANCE NO. 00-60, AND ORDINANCE NO. 05-127 IN ITS
ENTIRETY AND TO REGULATE THE SALE OF BEER FOR
ON AND OFF PREMISE CONSUMPTION AND AMEND
CHAPTER 1 OF TITLE 8 OF THE MUNICIPAL CODE OF
THE TOWN OF UNICOI, TENNESSEE**

WHEREAS, The a majority of the voting citizens of the Town of Unicoi, Tennessee did pass by referendum the sale of Intoxicating Liquors for on premise consumption in the last general election pursuant to Tennessee Code Annotated Title 57; and

WHEREAS, The Board of Mayor and Aldermen has a legitimate public interest in preventing incidents of public intoxication, driving under the influence of intoxicating beverages and fights and other disturbances of the public peace and order that result from sale and consumption of beer; and

WHEREAS, The Board of Mayor and Aldermen have a legitimate public interest in the orderly regulation of such business and the Municipal Code of the Town of Unicoi must be amended to achieve that interest; now therefore

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF UNICOI, TENNESSEE, AS FOLLOWS:

SECTION 1. THAT Chapter 1 is repealed from Title 8 of the Unicoi Municipal Code and replaced with the following:

TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER 1

BEER¹

SECTION

- 8-101. Beer board.
- 8-102. Authorization of beer businesses.
- 8-103. Locations of beer businesses.
- 8-104. Hours and days of sale, etc., regulated.
- 8-105. Public consumption of beer prohibited.
- 8-106. Beer permits.
- 8-107. Permits for retail sale; types designated.

¹ State Law Reference: For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S. W. 2d 104 (1982).

- 8-108. Restrictions upon issuance of on-premises beer permits.
- 8-109. Restrictions on financial interests of beer permit holders.
- 8-110. Restrictions upon issuance of off-premises beer permits.
- 8-111. Selling or otherwise dispensing beer to persons in motor vehicles prohibited.
- 8-112. Restrictions pertaining to underage persons.
- 8-113. Restrictions pertaining to intoxicated persons.
- 8-114. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited.
- 8-115. Suspension or revocation of beer permits.
- 8-116. Civil penalty in lieu of suspension.
- 8-117. Inspection of beer businesses.
- 8-118. Violations and fines.
- 8-119. Prior permit holders.
- 8-120. Information to be kept on file with Town Recorder.
- 8-121. Severability.

8-101. Beer board. There is hereby created a board, to be known as the Town of Unicoi Beer Board, which shall be composed of the members of the Board of Mayor and Aldermen of the Town of Unicoi, whose duty it shall be to regulate, supervise, and control the issuance, suspension, and revocation of permits to sell, store, distribute, dispense, serve, and/or manufacture beer and other beverages of like alcoholic content not in excess of five (5) per centum by weight in the Town of Unicoi. The Mayor shall be the Chairman and the Town Recorder shall be the Secretary of said Board. A majority of the Board shall constitute a quorum for any purpose. Matters before the Board will be decided by a majority present if a quorum is constituted.

The Secretary of the Board shall keep a record of all the proceedings of the Board, which shall be a public record and shall contain at least the following:

- (1) The date of each meeting.
- (2) The names of the Board members present and absent.
- (3) The names of the members introducing and seconding motions and resolutions, etc., before the Board.
- (4) A copy of each such motion or resolution presented.
- (5) The vote of each member thereon.
- (6) The provisions of each beer permit issued by the Board.

The Recorder shall further keep on file in his or her office all original applications and a duplicate of each permit issued. The Board shall be empowered to employ a court reporter or person of equivalent ability whenever necessary in any hearing before it. The power, right, and authority are hereby conferred upon said Board to arrange for and prescribe the details and form of the necessary applications, permits, and other matters incident to carrying out the provisions of this chapter.

The Board shall meet upon call of the Chairman of the Board to transact such business as may properly come before it. The Board may adjourn a meeting at any time to another time and place. All meetings of the Board shall be open to the public.

The Board shall perform such other duties and have such other power and authority provided by statute and this chapter.

8-102. Authorization of beer businesses. Pursuant to Tennessee Code Annotated, Section 57-5-202, et seq., it shall be lawful in the Town of Unicoi to transport, store, sell, distribute, possess, receive, or manufacture beer of alcoholic content of not more than five per centum (5%) by weight, and/or any other beverage of like alcoholic content, subject to the provisions of this chapter and the privilege taxes provided in this Code. Provided, however, it shall be unlawful for any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit to sell, store, dispense, serve, distribute, and/or manufacture any of the said beverages regulated by this chapter within the Town of Unicoi without having first obtained a duly issued permit and license to do so in the manner prescribed in this chapter. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors, including "wine coolers", having alcoholic content of not more than five per centum (5%) by weight.

All permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his or her permit. It shall likewise be unlawful for the permit holder not to comply with any and all express restrictions or conditions which may be written into his or her permit by the Town of Unicoi Beer Board.

8-103. Locations of beer businesses. No beer permit shall be granted for any location where there may be, in the opinion of the Town of Unicoi Beer Board, an adverse effect in consideration of the type and character of the neighborhood, the population density of the neighborhood, the proximity of places of public gathering, the likelihood of such business causing congestion of traffic or would otherwise interfere with public health, safety and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer, or the consumption of beer within three hundred (300) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point of the property line upon which sits the building from which the beer will be manufactured, stored, or sold, or consumed to the nearest point on the property line of the hospital, school, church or other place of public gathering.

8-104. Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content not exceeding five per centum (5%) by weight within the corporate limits of Unicoi, Tennessee between the hours of three o'clock (3:00) a.m., and eight o'clock (8 :00) a.m. on weekdays, or between the hours of three o'clock (3:00) a.m. and 12:00 noon on Sundays; or on election days before and while the polls are lawfully open. No such beverages shall be consumed or opened for consumption on or about any premises where beer or other beverages with an alcoholic content not exceeding five per centum (5%) of weight is sold within the corporate limits of Unicoi, Tennessee in either bottle, glass or other container after three-fifteen o'clock (3:15) a.m.

8-105. Public consumption of beer prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, alley, boulevard, bridge, nor upon the grounds of any cemetery or school, whether public or private, nor upon any park or public grounds nor upon the grounds belonging to any church nor upon vacant lots within two hundred (200) feet of any public street, highway, avenue, or other public place; provided, however, that the foregoing does not prohibit personal use, outside of public view of the beverages regulated on the private property of the user and/or his non-commercial guests, and it shall further be lawful for beverages regulated by this chapter to be consumed at special events and festivals as otherwise permitted herein at whatever such locations the special events and/or festival is permitted.

8-106. Beer permits.

(1) No permit shall be issued except upon application in writing of the owner or owners of the business made to the Town of Unicoi Beer Board, which application shall be sworn to by the applicants. Each applicant must be a person of good moral character and certify that he or she has read and is familiar with the provisions of this chapter. All applications shall be made upon a regular form provided for that purpose, and shall be filed with the Secretary of the Board. In no event shall a permit be issued without the written approval of the application therefore by a majority of the Board.

Special event and festival permits, which are temporary permits, extending for no more than a three (3) day period may be obtained upon proper application to the Board as further set forth herein. Special Events and Festivals shall be defined as business, social, charitable, fraternal or other gatherings or events of a temporary nature not to extend in excess of three (3) twenty-four (24) hour days.

Prior to consideration of an application, except for Special Event and Festival Permits, the Town of Unicoi shall collect an applicant fee of two hundred fifty dollars (\$250.00) in the form of a cashier's check payable to the Town of Unicoi in accordance with Tennessee Code Annotated, Section 57-5-204. Prior to consideration of an application for a Special Event or Festival Permit, the Town of Unicoi shall collect and applicant fee of one hundred dollars (\$100.00) in the form of a cashier's check payable to the Town of Unicoi in accordance with Tennessee Code Annotated, Section 57-5-204.

(2) Each beer licensee must show in its application and by affidavit later filed as to all subsequent hires that all of the laws with reference to a person serving alcoholic beverages under the permit have been complied with.

(3) All applications for any permits required hereunder shall be verified by oath or affidavit and shall establish the following:

(a) That neither the applicant nor any person or persons employed by him or her in such distribution or sale has been convicted of any violation of the statutes of the State of Tennessee prohibiting the possession, sale, manufacture, or transportation of intoxicating liquors or any other crime involving moral turpitude in the past ten (10) years.

(b) That no sale shall be made to persons under twenty-one (21) years of age, nor shall underage persons be employed directly in the sale or distribution of such beverages.

(c) That no minor shall be allowed to loiter about the applicant's premises.

(d) That no sale shall be made to persons intoxicated or who are insane or otherwise mentally incapacitated.

(e) That the applicant is of good character and has a sufficient legal interest in a suitable location as to entitle the applicant to conduct the sale of beer at such place of business.

(f) That, in the place of business where such beverages will be sold or distributed, no loud, unusual or obnoxious noises shall be allowed, and the applicant shall conduct such place of business otherwise in an orderly, peaceful, and lawful manner.

(g) That no sale or distribution of such beverages shall be made at a place where such sale or distribution will cause congestion of traffic or interference of schools, churches, or other places of public gathering, or will otherwise interfere with public health, safety and morals.

(h) That, in the place of business where such beverages will be sold or distributed, the consumption of any beverages with an alcoholic content of more than five per cent (5%) by weight shall not be allowed, except in places that hold valid licenses for the sale of alcoholic beverages by the drink, as issued by the Alcoholic Beverage Commission of the State of Tennessee.

(i) That, in the place of business where such beverages are sold for consumption on premises, proper sanitary facilities for both sexes shall be provided.

(j) That the person so applying will conduct the business in person, or if he or she is acting as agent for any other person, firm, corporation or association, the name or names of the owners of such business, together with their addresses and the nature of the firm, corporation or association for whom the applicant is acting.

(4) Permits, other than temporary permits for special events or festivals as otherwise set forth herein, shall be issued for an indefinite period of time except that the Town of Unicoi Beer Board may issue a permit for a shorter or probationary period if, in its discretion, it deems such action proper and reasonable under the circumstances.

(5) There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1995, and on each successive January 1, to the Town of Unicoi, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date, all as provided in Tennessee Code Annotated, Section 57-5-104. A penalty of ten dollars (\$10.00) will be assessed

on the second working day following January 1st, and on each successive working day until the privilege tax is paid.

(6) No permit now in force or hereafter issued shall be good or valid except at the location described in the application upon which it is based; nor shall any such permit be transferable.

(7) The applicant or a representative may be required to appear in person before the Board and subject himself or herself to examination upon any and all questions appertaining to his or her qualifications under this chapter and amendments thereto.

(8) No permit may be granted hereunder to any establishment when any person, firm or corporation having at least a five percent (5%) ownership in the establishment has been convicted within ten (10) years prior to the application for a permit hereunder of a violation of the laws governing the sale or manufacture of alcoholic beverages or of any felony, or has had a beer permit revoked or suspended within the past ten (10) years.

(9) Every permit and license issued pursuant to this chapter shall be displayed in a conspicuous place framed under glass and placed so it can be easily read in the place of business named and described in the permit.

(10) No permit or license shall be issued pursuant to this chapter unless the applicant establishes to the satisfaction of the Beer Board that he or she has obtained all permits and paid all required fees and privilege taxes, and has met all other requirements of the laws of the State of Tennessee and the United States. No permit or license shall be granted unless or until the party desiring the same shall have filed with the Town Recorder a copy of the bond provided for in Tennessee Code Annotated, Sections 57-5-101, et. seq.

(11) The holder of a permit issued pursuant to this chapter desiring to voluntarily surrender the permit shall tender said permit to the Town of Unicoi Beer Board. The Board shall take such action upon the offer to surrender as it may determine necessary and advisable under the circumstances, and it shall have the absolute authority to refuse to accept the surrender of any permit.

(12) A majority of the full Board shall consider all applications filed under this chapter and grant or refuse the license according to its best judgment under all of the facts and circumstances, and the action of the majority of the full Board in granting or refusing a license shall be final, except as same is subject to review by law.

In the consideration of the applications, the Beer Board shall take into consideration the type and character of the neighborhood; the population density in the area; present and future traffic conditions in the location and in the neighborhood; the proximity of schools, parks and playgrounds; the proximity of churches or other religious establishments; any problems of law enforcement in the area; and other such factors as are brought to the attention of the Board which will affect the public health and welfare.

(13) Any person, firm or corporation holding a permit under this chapter who proposes to transfer the business operated under the permit to any other person, firm or corporation with the intention or the expectation that the buyer will engage in the business of selling beer at the

same location shall be required to notify the Beer Board of such intention to transfer the business.

The Board shall be furnished with the name of the proposed buyer, who shall be required to make application for a permit to the Board. Such application shall conform to the requirements for other applications for permits as set out in this chapter.

In the event a proposed buyer acquires the business operated under this permit, and such transfer is to become final upon condition that the buyer obtains a regular beer permit, the buyer may obtain a temporary permit from the Town Recorder upon the determination of the Town Recorder that the buyer is about to comply with this chapter. Such temporary permit shall be valid only until the first meeting of the Beer Board is held after the issuance of said temporary permit and in no event shall such temporary permit be valid more than twenty-one (21) days from the date of issuance. The holder of a temporary permit shall be subject to all restrictions and penalties provided for regular permit holders by this chapter. Temporary permits shall not be issued except for premises for which the beer permit has been issued to another owner or operator at the time application is made for such temporary permit.

(14) In the event a holder of a permit shall cease to operate his business for which said permit was issued, the permit shall become invalid and void at twelve o' clock (12:00) midnight of the date on which the holder ceases to operate the business. Said licensee shall, within five (5) days thereafter, surrender said permit to the Town Recorder.

Renewal of a permit upon the expiration of same shall be done likewise in accordance with the provisions of this chapter.

8-107. Permits for retail sale; types designated. Permits for the retail sale of beer shall be of two (2) types:

(1) On-premise permits. On-premise permits shall be issued for the consumption of beer on the premises in accordance with the provisions of this chapter. There shall be no limitation on the number of beer permits issued for on premises consumption.

On-premise permits shall include Special Event and Festival permits, which are temporary permits, extending for no more than a three (3) day period.

(2) Off-premise permits. Off-premise permits shall be issued for the sale of beer only for consumption off the business premises in accordance with the provisions of this chapter.

Both On-premise and Off-premise permits may be held and the permits may be for an indeterminate time or temporary as set forth in the permit or permits.

8-108. Restrictions upon issuance of on-premises beer permits. Permits for the on-premise sale of beer shall be issued according to the following limitations:

(1) Any applicant for an on-premise beer permit must first obtain, and show satisfactory proof to the Board that he or she has obtained a license to serve mixed beverages pursuant to Chapter 2 of this Code and the provisions of the Tennessee Code Annotated referenced therein.

(2) Additionally, with respect to any applicant who applies under the auspices of being a "restaurant" under Chapter 2 of this Code and the provisions of the Tennessee Code Annotated referenced therein, said applicant's annual sales of alcoholic beverages as defined in this chapter shall not exceed fifteen (15%) percent of total taxable sales. In the application of this section, "total taxable sales" shall be defined as those food and non-alcoholic beverage sales subject to state and local sales taxes. It shall be a violation of this section if the alcoholic beverage sales exceed the fifteen (15%) percent limit in two (2) consecutive months or three (3) months in any calendar year.

8-109. Restrictions on financial interests of beer permit holders. No brewer, wholesaler, or manufacturer of any of the beverages regulated by this chapter, nor any agent or agents of such brewer, wholesaler, or manufacturer shall be permitted to make any loan of money or furnish any fixtures of any kind or have any interest either directly or indirectly in the business of any retailer of such beverages, or in the premises occupied by any such retailer. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall, while so doing, convey or grant or contract to convey or grant any interest in the business located at the place named in said permit, or any interest in the premises or any property therein, to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall incur or contract any indebtedness or financial obligation to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter, except for the purchase of said beverages. No permit or license shall be granted under this chapter to any applicant who, at the time of making application, is indebted or financially obligated to any such brewer, wholesaler, or manufacturer, except for the purchase of said beverages in the case of applicants seeking renewal of permits.

8-110. Restrictions upon issuance of off-premises beer permits. Permits for the off-premise sale of beer shall be issued according to the following classes and limitations:

(1) Off-premise where beer is sold at a grocery (food store). "Grocery" shall mean a business establishment whose primary business is the retail sale of food merchandise and household items. Beer shall not be sold for consumption on the premises of grocery stores. There shall be no limitation on the number of beer permits issued to grocery stores.

(2) Off-premise where beer is sold at a convenience store or market. "Convenience store or market" shall mean a business establishment whose business is the retail sale of gasoline and petroleum products and food merchandise, household supplies, and sundries. Beer shall not be sold for consumption on the premises of convenience stores or markets. There shall be no limitation on the number of beer permits issued to convenience stores or markets.

(3) Off-premise where beer is sold at a drug store. "Drug store" shall mean a business establishment whose primary business is the retail sale of pharmaceuticals, food merchandise, household items, and sundries. Beer shall not be sold for consumption on the premises of drug stores. There shall be no limitation on the number of beer permits issued to drugstores.

(4) Off-premise where beer is sold on the premises of a permitted manufacturer. "Permitted manufacturer" shall mean a business establishment which has been granted a manufacturing permit under this chapter. There shall be no limitation on the number of beer permits issued to manufacturing facilities. Retail sales of beer for off-premise consumption must

be labeled in accordance with the requirements of the Federal Bureau of Alcohol, Tobacco and Firearms and must meet all other State and local regulations regarding off-premise sales. Retail sales of beer for off-premise consumption by a microbrewery pursuant to an off premise permit must take place within the same premises where the product is manufactured. The requirements of Tennessee Code Section 75-5-101 as currently in effect are hereby adopted as if set out herein. Applications for permits under this section must be presented to the Planning Commission for a site plan approval prior to the Beer Board's consideration of the application.

8-111. Selling or otherwise dispensing beer to persons in motor vehicles prohibited.

The beverages regulated by this chapter shall not be sold, given away, served, or otherwise dispensed to persons in automobiles or other motor vehicles. This provision shall not apply to holders of off-premises permits as of January 1, 2007.

8-112. Restrictions pertaining to underage persons. Except as authorized by state laws, no sales, gifts, or distribution of such beverages shall be made or permitted to be made to persons under twenty-one (21) years of age (hereinafter referred to as "underage persons"); nor shall any minor be employed or used or permitted to be employed or used for or in the sale or distribution or other handling of such beverages where on-premise consumption of such beverages is permitted; nor shall any minor be permitted or allowed to drink beer or other beverages of like alcoholic content in any establishment or place of business or premises where a permit issued pursuant to this chapter is exercised. Every person to whom a permit is issued under this chapter shall require any and every employee as to whose majority there is any possible question or doubt to present and leave with him or her a copy of such employee's birth certificate. Underage persons shall not be permitted to loaf or loiter in any place where the beverages regulated by this chapter are sold. The burden of ascertaining the age of minor customers shall be upon the holder of the permit.

8-113. Restrictions pertaining to intoxicated persons. None of the beverages regulated by this chapter shall be sold or given away or otherwise dispensed or served to any person in a drunken condition; nor shall any person in such condition be permitted or allowed to consume any such beverages upon or in any premises or place of business where such beverages are sold, dispensed, served, or distributed. No person holding a permit under and dealing in or handling the beverages regulated by this chapter shall permit or allow upon his or her premises or in his or her place of business any person who is under the influence of any intoxicant whatsoever. It shall be the duty of any person holding a permit under and dealing in and handling the beverages regulated by this chapter to promptly notify police officers when any person under the influence of any intoxicant whatsoever enters the premises or place of business of the person holding such permit.

No owner, co-owner, operator, proprietor, employee or servant of a place of business holding and/or exercising a permit issued pursuant to this chapter shall drink or be under the influence of any of the beverages regulated by this chapter or any other intoxicant while in or working at any such place of business or while upon any such premises.

8-114. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited. It shall be unlawful for any person, firm, co-partnership, corporation, syndicate, joint stock company, association or other group operating as a unit, who or which holds and/or exercises a distributor's or wholesaler's permit under this chapter, except those sales, gifts, deliveries or distributions pursuant to a special event or festival

provided for herein, to sell, give away, deliver, or distribute any of the beverages regulated by this chapter to any person, firm, co-partnership, corporation, syndicate, club, joint stock company, association, or other group operating as a unit, in the Town of Unicoi, who or which does not hold a valid retailer's permit issued pursuant to this chapter, or to permit or allow any agent or employee to do so. Provided, further, that it shall also be unlawful for any such distributor or wholesaler knowingly to sell, give away, deliver, or distribute such beverages to any such retailer who has violated or is violating any of the provisions of this chapter, or to permit or allow any agent or employee to do so.

8-115. Suspension or revocation of beer permits. The Town of Unicoi Beer Board is hereby empowered and directed, whenever from facts and evidence presented to it at a public hearing hereinafter provided for it is of the opinion that such action is justified in the public interest, to suspend or revoke any permit or license issued pursuant to this chapter to any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or group operating as a unit, who:

(1) Makes any material representation or false statement in the application upon which the permit is based or fails to keep and maintain as true any promise or fact set forth in said application.

(2) Violates any of the provisions of this chapter.

(3) Is convicted of any violation of the laws of the United States or of the State of Tennessee or of the ordinances of any city prohibiting the manufacture, sale, possession, storage or transportation of intoxicating liquors of alcoholic content of more than five per cent (5%) by weight.

(4) Knowingly permits or allows, or negligently fails to prevent, the violation of any of the aforesaid laws or ordinances against said intoxicating liquors upon any premises occupied or owned by or under the control of the licensee.

Upon any complaint being made to the said Board by a Board member, the Public Safety Director, or one or more reputable citizens that any of the acts above-mentioned in this section has been committed or any other provision of this chapter has been or is being violated by a person holding and/or exercising a permit issued pursuant to this chapter, or when said Board has knowledge of any such act or violation, the holder of said permit shall be notified in writing by the Secretary of the Board and afforded an opportunity for a hearing before the Board. Said notice shall be mailed at least five (5) days before the hearing to the address shown upon the application for a permit, shall state the nature of the complaint or violation, and shall direct the holder of said permit to appear before the Board at a time and place specified and show cause, if any he or she has, why the holder's permit should not be revoked. The hearing shall be broad in character, and evidence may be heard upon any facts or circumstances pertinent to or applicable to the violation charged. The reputation or character of the place and of the holder of the permit complained of shall be material and competent evidence for the consideration of the Board at such hearing.

Whenever complaint is made charging that false statements or misrepresentations have been made in any application for a permit under this chapter, the burden of proof shall be upon the holder of the permit to establish the truth of the statement charged to be false. Provided, that no formal complaint shall be necessary or required whenever the falsity of such statement or

representation, or the commission of any of the acts above-mentioned in this section, or the violation of any other provision of this chapter, may be made to appear by the records of any court of competent jurisdiction; and in such case, such records or duly certified copies thereof shall be conclusive evidence of the falsity or misrepresentation or of the commission of said act or of said violation.

Provided, further, that no person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit, whose permit and license are revoked by said Board shall be eligible to make application for or be granted another permit under this chapter for a period of ten (10) years from the date said revocation becomes final.

Provided, further, that when a permit and license are revoked by said Board pursuant to this chapter no new permit or license shall be issued for the same premises until the expiration of one (1) year from the date said revocation becomes final.

The Secretary shall notify the Town of Unicoi Beer Board of the revocation of any permit under this chapter.

8-116. Civil penalty in lieu of suspension. The Town of Unicoi Beer Board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense or making or permitting to be made any sales to underage persons or, a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

8-117. Inspection of beer businesses. The Unicoi County Sheriff's Department and/or police officers of the Town of Unicoi shall have the right to inspect at any and all times the entire premises and property where or upon or in which the beverages regulated by this chapter are sold, stored, transported, or otherwise dispensed or distributed or handled, whether at retail or wholesale, in the Town of Unicoi for any law violations.

8-118. Violations and fines. Each sale or distribution of beer in violation of the provisions of this chapter shall constitute a separate offense on the part of each and all persons, firms, corporations or other legal entity participating therein.

Any violation of the provisions of this chapter shall be a misdemeanor and shall be punishable under the general penalty clause of this Code.

8-119. Prior permit holders. Any person, firm, corporation, or legal entity heretofore issued a permit for the sale of beer by the Town of Unicoi, and conducting sales under such permit on the effective date of this chapter shall, in order to continue such sales, be required to apply for a permit for the sale of beer within the municipality under the provisions of this chapter at the regular renewal date of their present permit.

8-120. Information to be kept on file with Town Recorder – Each holder of a beer permit shall continuously maintain in this Town:

(1) A registered office which may be the same as the permitted place of business. Notice shall be provided to the Town Recorder of any change in the registered office.

(2) A registered agent, who shall be an individual who resides in Unicoi County and whose business office is identical with the registered office. Notice shall be provided to the Town Recorder of any change in the registered agent.

(3) All documentation on file with the Town Recorder required to be provided to, and on the forms provided by the Town Recorder to assure compliance with the provisions of this Chapter.

8-121. Severability. That the various paragraphs, clauses and subdivisions of this Chapter are intended and declared to be severable. In the event any of the provisions of this Chapter are adjudged to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance shall remain in effect.

SECTION 2. THAT this ordinance shall become effective immediately after its passage on second and final reading.

Voting by the Board, as follows, on February 12, 2007:


First Reading:

	<u>AYE</u>	<u>NAY</u>
Dwight Bennett	<input checked="" type="checkbox"/>	_____
Doug Hopson	<input checked="" type="checkbox"/>	_____
Ken Kisiel	<input checked="" type="checkbox"/>	_____
Mark Ramsey	<input checked="" type="checkbox"/>	_____
Mayor Johnny Lynch	<input checked="" type="checkbox"/>	_____

Voting by the Board, as follows, on March 19, 2007:

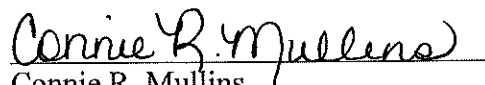
Second and Final Reading:

	<u>AYE</u>	<u>NAY</u>
Dwight Bennett	<input checked="" type="checkbox"/>	_____
Doug Hopson	<input checked="" type="checkbox"/>	_____
Ken Kisiel	<input checked="" type="checkbox"/>	_____
Mark Ramsey	_____	Absent _____
Mayor Johnny Lynch	<input checked="" type="checkbox"/>	_____



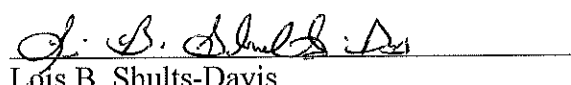
Johnny Lynch, Mayor

Attest:



Connie R. Mullins
Town Recorder

Approved As To Form:



Lois B. Shults-Davis
Town Attorney