

Finance & Administration Committee Meeting
March 17, 2020
4:00 p.m.

- 1. Pension Discussion**
- 2. Training Requirements for Employees of Beer Permit Holders**

- 1. Considerations in putting in place an optional program to permit current participants in the City's Legacy Defined Benefit Plan to transfer to the City's TCRS Hybrid Plan**
 - a. Effect of the Blackwell court decision and Tenn. Code Ann. 9-3-506 on rights of current participants in the City's Legacy Defined Benefit Plan**
 - b. Discussion of Actuarial Determined Contribution by City to Legacy Defined Benefit Plan vs. TCRS Hybrid Plan**
- 2. A summary of the comparison of benefits between the legacy defined benefit plan and the DB portion of the TCRS hybrid plan, updated for the overtime pay conversation**
- 3. A discussion of the third party administrator (TPA) and investment contracts and costs at TCRS (In lieu of giving legacy DB participants the right to transfer to the TCRS hybrid plan the City could transfer the plan assets to be invested by TCRS with the TCRS investment policy and investment managers and engage TCRS to provide third party administration services.)**
 - a. A comparison of TCRS TPA costs to Regions contract**
 - b. Description of actuarial services that would have to be retained by the City (TCRS will not accept calculating benefits under the legacy DB Plan**

Chapter 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceeding to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. Definitions
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Classes of permits.
- 8-211. Limitation upon issuance of beer permits.
- 8-212. Conditions.
- 8-213. Minimum mandatory training requirements.
- 8-214. Legal hours of sale.
- 8-215. Suspension and revocation of beer permits.
- 8-216. Civil penalty on lieu of suspension.
- 8-217. Effect of board action.
- 8-218. Brown Bagging and /or BYOB.

8-201. **Beer Board established.** There is hereby established a Beer Board to be composed of the Board of Mayor and Aldermen. The Mayor shall be the chairman of the Beer Board and shall be entitled to vote on all matters coming before the Beer Board. (Ord. #1514, May 2003)

8-202. **Meetings of the Beer Board.** All meetings of the Beer Board shall be open to the public. The Board shall hold regular meetings in City Hall at such times as it shall prescribe. When there is business to come before the Beer Board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The Board may adjourn a meeting at any time to another time and place. (Ord. #1514, May 2003)

¹Municipal code references

Alcohol: title 11, chapter 1.

Tax provisions: title 5.

8-203. **Record of Beer Board proceedings to be kept.** The Recorder/Treasurer shall make a record of the proceedings of all meetings of the Beer Board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the Board members present and absent; the names of the members introducing and seconding motions and resolutions, etc. before the Board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the Beer Board. (Ord. #1514, May 2003)

8-204. **Requirements for Beer Board quorum and action.** The attendance of at least a majority of the members of the Beer Board shall be required to constitute a quorum for the purpose of transacting business. Matters before the Board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #1514, May 2003)

8-205. **Powers and duties of the Beer Board.**¹ The Beer Board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the City of Covington in accordance with the provisions of this chapter. (Ord. #1514, May 2003)

8-206. **Definitions.** For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed by this section:

(1) "Agent" means any person who is a partner, member or otherwise involved in the permittee's business, any employee of the permittee, or the spouse, parent(s), step-parent(s), grandparent(s), sibling(s), step-sibling(s), child(ren), step-child(ren), or grandchild(ren) of the permittee.

(2) "Beer" means and includes all beers, ales, and other malt liquors or any other beverages having an alcohol content of not more than five percent (5%) by weight.

(3) "Business" shall be defined as it is in Tennessee Code Annotated § 67-4-704 in the term "business" means any activity engaged in by a person, individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number or caused to be engaged in by a person, individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number with the object of gain, benefit or advantage, whether direct or indirect. For purposes of this section the term "business" shall also be defined as any person, individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number that holds a valid business license.

(4) "BYOB" means "bring your own bottle" but also mean a person bringing their own beer or other alcoholic beverage into a business or any place for consumption.

(5) "Caterer" means a business engaged in offering food and beverage service for a fee at various locations, which (a) operates a permanent catering hall on an exclusive basis; (b) has a complete and

adequate commercial kitchen facility; and (c) is licensed as a caterer by the Tennessee Department of Health.

(6) "Church" means a building or property where a congregation regularly meets at least one day per week for religious worship.

(7) "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption.

(8) "Beer Board" means that administrative body organized and empowered under the authority of Tennessee Code Annotated, Title 57, Chapter 5.

(9) "Minor" with respect to purchasing, consuming or possessing beer means any person who has not attained the age of twenty-one (21) years.

(10) "Moral Turpitude" includes but is not limited to the crimes of premeditated homicide, all sex related crimes, selling of any schedule and/or controlled substances illegally, fraud, and theft. For purposes of this definition, identification of Schedule substances are as defined by Tennessee Code Annotated sections 39-17-406, 39-17-410, 39-17-412, 39-17-414, 39-17-416 respectively.

(11) "Park" means a piece of property either owned or maintained by the City of Covington where persons regularly gather for recreational purposes or as spectators.

(12) "Permit" means any permit issued pursuant to this Title.

(13) "Permittee" means any person to whom any permit has been issued pursuant to this title.

(14) "Premises" means any building, portion of a building, or property that I utilized for a particular enterprise.

(15) "Resident" means any person who at present is living within the City of Covington corporate limits with the intent that his permanent home shall be within such city.

(16) "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsibly Vendor Act of 2006," Tennessee Code Annotated § 57-5-606, et seq.

(17) "Retailer" means any person licensed by the Beer Board who sells beer for consumption and not for resale.

(18) "Off-Premises permit" means a permit issued by the Beer Board to a retailer engaged in the sale of beer which is not to be consumed by the purchaser upon the premises of such permittee.

(19) "On-Premises permit" means a permit issued by the Beer Board to a retailer engaged in the sale of beer which is to be consumed by the purchaser only upon the premises of such permittee.

(20) "School" means any institution, including kindergarten, where regular classes are conducted under the supervision of a teacher, or instructor, including schools or colleges where specialized subjects are taught to students of all ages. Such term shall include vocational, medical, law, art, cosmetology, and other institutions where similar subjects are taught; provided however, mortuary colleges shall not be included in such term.

(21) "Sell" means and includes taking or receiving an order for, keeping or exposing for sale, delivering for value, keeping for intent to sell and trafficking in beer.

(22) "Valid Identification" means (a) a valid driver's license issued by the State of Tennessee or any other state of the United States, (b) United States Active Military identification, (c) a valid passport, (d) valid identification card showing a recent photograph issued by any agency of the state or country for the purpose of identification. (Ord. #1514, May 2003 and Ord. #1165, April 2015)

8-207. **Permit required for engaging in beer business.**² It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the Beer Board. The application shall be made on such form as the Beer Board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (Ord. #1514, May 2003)

8-208. **Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100), pursuant to Tennessee Code Annotated § 57-5-104(b)(1).

(1) Any person, firm, corporation, joint stock company, syndicate or association engage in the sale, distribution, storage or manufacture of beer shall remit to tax each successive January 1 to the City of Covington, Tennessee.

(2) The Beer Board shall mail written notice to each permit holder of the payment date of the annual privilege tax at least thirty (30) days prior to January 1st of each year. Notice shall be mailed to the address specified by the permit holder on its permit application. If a permit holder does not pay the tax by January 31st or within thirty days after written notice of the tax was mailed, whichever is later, then the Beer Board shall notify the permit holder by certified mail that the tax payment is past due. If the permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the permit may be suspended, revoked or the permit holder may be given a civil penalty subject to the procedures set forth in Tennessee Code Annotated § 57-5-108 and sections 8-214, 8-215, and 8-216 of this title.

(3) The City of Covington may use the tax funds for any public purpose.

(4) 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 payment date. (Ord. #1514, May 2003 and Ord. #1665, April 2015)

8-209. **Beer permits shall be restrictive.** All Beer 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 of phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the Beer Board. (Ord. #1514, May 2003)

8-210. **Classes of permits.** Permits issues by the beer board shall consist of five (5) types:

(1) **Manufacturing.** A manufacturer's permit to a manufacturer of beer for the manufacture, possession, storage, sale, giveaway, distribution, and transportation of the product of each manufacturer, not to be consumed by the producer upon or near the premises of such manufacturer.

(2) **Class 1 on premises permit.** A Class 1 on premises permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 on premise permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter.

(a) Must obtain and maintain a valid Food Establishment Permit from the State of Tennessee;

(b) Be able to seat a minimum of thirty (30), including children, in booths and at tables, in addition to any other seating it may have;

(c) Keep and maintain the premises in a clean and sanitary condition, and obtain the Tennessee Department of Health and Environment, Division of Food and General Sanitation, or its designee, or other proper state and local authority, all necessary permits as required for restaurants in the State of Tennessee;

(d) File with the City of Covington on a monthly basis a copy of the sales tax return due to the State of Tennessee; and

(e) Provide a state sales tax number and federal employee's identification number to the City of Covington.

(f) Provide to the Covington Police Department prior to commencement of employment, the name, address, date of birth, and copy of valid identification of each and every employee for the purposes of ascertaining whether said employee has a criminal record.

In addition, the monthly beer sales of any establishment that holds a Class 1 on premises permit shall not exceed forty (40%) of the gross sales of the establishment. Any such establishment that for two (2) consecutive months has beer sales exceeding forty percent (40%) of its gross sales, shall have its beer permit revoked. It shall be the responsibility of each applicant to provide the City of Covington appropriate distinctions of the amount of beer and food sold. Said information shall be provided to the City of Covington on a monthly basis on such forms and according to such procedures as the City of Covington may dictate. The city may, in its discretion, require each applicant to provide such additional information as the City of Covington deems necessary in order to make appropriate distinctions of the amount of beer and food sold. Failure to provide such information shall constitute a violation of this chapter and may result in a revocation or suspension of the permit.

(3) **Class 2 on premises permit.** Other establishments making application for a permit to sell or give away beer for consumption on the premises, which did not qualify, or do not wish to apply for a Class 1 on premises permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 on premises permit. To qualify for a Class 2 on premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Allow no one under the age of twenty-one (21) years to be in or about the premises where beer is being sold or given away;

(b) Require all customers to have valid identification on their person;

(c) Provide to the Covington Police Department prior to commencement of employment, the name, address, date of birth, and copy of valid identification of each and every employee for the purpose of ascertaining whether said employee has a criminal record;

(d) Provide and maintain separate sanitary toilet facilities for men and women, and keep and maintain the premises in a clean and sanitary condition;

(e) Allow no assaults, fighting, damaging of property and breaches of peace occurring on or in the premises where beer is sold or given away;

(f) Provide a state sales tax number and federal employee's identification number to the City of Covington;

(g) In the event food is served, shall obtain from the Tennessee Department of Health and Environment, Division of Food and General Sanitation, or its designee, or other state or local authority, all necessary permits as required for sale of food; and

(h) Have all seating in the interior of the building under a permanent roof. No beer shall be allowed outside the building for sale, giveaway, or consumption.

(4) **Off premises permit.** An Off Premises permit shall be issued for the consumption of beer only off the premises. To qualify for an Off Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Be a grocery store or a convenience type market;

(b) In either case, be primarily engaged in the sale of grocery and personal, home care and cleaning articles, but may also sell gasoline; and

(c) Provide a state sales tax number and federal employee's identification number to the City of Covington.

(d) An establishment that holds an Off Premises permit shall not allow the sale or giveaway of beer through any type of drive-through window.

(e) No beer shall be allowed outside the building of an Off Premises permit holder for sale, giveaway, or consumption. The permittee with an Off Premises beer permit shall not allow the consumption of beer anywhere on the premises of the permittee.

(5) **Temporary permits.** In addition to the permanent permits provided for in this section, the Beer Board shall have the authority to issue temporary permits to bona fide charitable, nonprofit or political organizations upon the same terms and conditions governing permanent permits, including limitations on the hours of sale. Temporary permits shall be issued as one (1) of two (2) types:

(a) **A Single Event Permit.** A single event permit shall be valid for a maximum period of 3 days, with the actual number of days to be determined by the Beer Board.

(b) **A Multiple Event Permit.** A multiple event permit may be issued for a fixed number of events during a calendar year, not to exceed six events per calendar year. The exact dates, time and location of

each individual event must be approved by the Beer Board at the time of the issuance of the permit. If exact dates are not known at the time of permit issuance, subsequent approval at a future Beer Board meeting must be obtained prior to the event.

(c) Temporary permits do not permit the seller to sell beer anywhere within the city limits of their choosing, but are specific to the location wherein the event is being held. If the seller is found to be selling beer anywhere other than the location where the event is being held that is specified on the permit it will be considered a violation of their permit.

(d) No organization possessing a temporary permit shall purchase, for sale or distribution, beer from any source not properly licensed provided by State law.

(e) Failure of a temporary permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Covington will result in a denial of a temporary permit for the sale of beer for a period of one year

(f) For purposes of this section:

(ii) Bona fide charitable or nonprofit organization means any entity which has been recognized as exempt from federal taxes under §501 (c) of the Internal Revenue Code (26 U.S.C. §501(c)) or any organization having been existence for at least two (2) consecutive years which expends at least sixty (60%) of its gross revenue exclusively for religious, education or charitable purposes;

(ii) Bona fide political organization means any political campaign committee as defined in Tennessee Code Annotated §2-10-102 or any political party as defined in Tennessee Code Annotated §2-13-101.

(g) The application for a temporary permit shall set forth the following information:

(i) The name, address, and telephone number of the chairperson of the charitable, nonprofit, or political organization seeking a temporary permit;

(ii) The name, address and telephone number of the person responsible for beer sales under the permit;

(iii) The date, time, and location when the event will be held;

(iv) If the event requested to be covered by the temporary permit will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the application; and

(v) The hours which beer sales will be conducted during the event.

(6) **Events not subject to permit; notice required.** Any event which is catered and the caterer has a valid Tennessee Alcoholic Beverage Commission (TABC) license to serve alcohol is not required to obtain a temporary permit. For the safety and welfare of the citizens of the City of Covington, the Beer Board requires prior notice of each event which is catered and not required to obtain a permit. Event coordinators shall furnish to the City of Covington Code Compliance Officer and the City of Covington Police Chief a copy of the firm submitted to the TABC no later than five (5) business days prior to the event. (Ord. #1514, May 2003 and Ord. #1665, April 2015)

8-211. Limitation upon issuance of beer permits. No Class 2 on premises permit shall be issued to an applicant whose location:

(1) Is within two hundred fifty feet (250') from any hospital, church, school, public park or public playground or other place of public gathering and would cause congestion of traffic or interfere with hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals of the citizens; and

(2) The distances shall be measured in a straight line from the nearest point of the building of the Class 2 beer permit applicant to the nearest point of the property line of the hospital, church, school, public park or public playground or other place of public gathering. In the event the Class 2 applicant's business location is located in a building which is partitioned into separate business facilities, such as in a strip center or mall, the distances shall be measured in a straight line from the nearest point of the portion of the partitioned building occupied by the Class 2 beer permit applicant to the nearest point of the property line of the hospital, church, school or other place of public gathering. (Ord, #1566, Jan. 2007)

8-212. Conditions. The following are conditions for issuance of a permit under this chapter:

(1) In case of a partnership, a partner shall be the applicant, and, in case of a corporation, any officer or the local manager of the proposed location shall be the applicant. The license shall be issued in the name of the partnership or the corporation, as the case may be. In the case of a corporation, where the local manager is the applicant, the corporation shall report any change in that position.

(2) The applicant shall designate the location of the premises where beer shall be sold or given away and shall name the owner of the premises as well as the lessee thereof.

(3) The applicant shall not sell or give away beer at any place except the premises designated in the petition, except that an applicant may have a permit for more than one (1) location within the City of Covington, so long as a separate permit is issued for each location by the beer board.

(4) The applicant shall make no sales or give away of beer except upon the terms and conditions of the permit issued.

(5) The applicant shall designate in the application whether his application is for beer to be sold or given away for consumption on the premises or consumption off the premises. The application shall not be made for both consumption on and off the premises designated in the application.

(6) No sale or give away of beer shall be made to persons under the age of twenty-one (21) years and no such person shall be allowed to loiter about the area where beer is being sold or given away; however, any person eighteen (18) years of age or older may transport, possess, sell or dispense beer in the course of such person's employment in Class 1 on premises establishments and off premises establishments.

(7) The applicant shall allow no gambling upon the premises, not allow any devices defined as gambling devices by state statute upon the premises designated for sale or giveaway of beer.

(8) Neither the applicant nor any person employed by him shall have been convicted of any violation of any liquor laws, any crime involving moral turpitude, or any felony within the last ten (10) years prior to filing the application.

(9) Neither the owner or any employee of the applicant shall drink intoxicating beverages during hours of operation.

(10) Only the person receiving the beer permit shall act as manager of any establishment granted the right to sell or give away beer within the City of Covington, however, the manager shall designate, in writing with a copy to the City of Covington, an alternative person who shall be in charge of the establishment when he is absent from the premises.

(11) No beer shall be sold or given away to drunk or disorderly persons.

(12) In all On Premises locations, there must be sufficient lighting for customers to adequately read a menu, if applicable, and for employees to properly inspect the age and identification card of customers without aid of additional illumination.

(13) The permittee shall maintain an orderly establishment and not be in violation of any health, building or fire department regulations or ordinances of the City of Covington.

(14) The Beer Board, Police Department, Fire Department, and City of Covington Code Compliance Department has the full power and authority to enter, inspect, and investigate any business operated pursuant to any permits issued by the Beer Board, and has full authority to call upon any member of the police and health departments for assistance in the enforcement of the State laws, City ordinances, and rules and regulations of the Beer Board pertaining to the sale or giveaway of beer.

(15) No beer may be sold or given away except at places where such sale or giveaway will not cause congestion of traffic or interference with hospitals, schools, churches or other places of public gathering, or otherwise interfere with public health, safety and morals. (Ord #1514, May 2003, modified and Ord. #1665, April 2015)

8-213. Minimum mandatory training requirements.

(1) No person holding a permit to sell beer in the City of Covington shall allow any employee to sell or serve beer unless that employee has attended and completed a program of alcoholic beverage sale or server instruction approved and certified by the Tennessee Alcoholic Beverage Commission.

(2) No employee of a person holding a beer permit to sell beer in the City of Covington shall be allowed to sell or serve beer unless that person has attended and completed a program of alcoholic sale or server instruction approved and certified by the Tennessee Alcoholic Beverage Commission.

(a) New employees of permit holders will have thirty (30) days to obtain proper certification from the date of hire.

(b) Certificate of training is transferable between alcohol outlets except for outlets that are certified Responsible Vendors by the Tennessee Alcoholic Beverage Commission.

(c) Employees holding a valid Tennessee Alcoholic Beverage Commission certification or license shall be exempt from the terms of this Ordinance.

(3) Employees of permit holders shall annually complete a program of alcoholic sale or server instruction approved and certified by the Tennessee Alcoholic Beverage Commission.

(4) Documentation demonstrating compliance with the terms of this Ordinance shall be maintained on premises and shall be available for inspection by proper authorities at all times.

(5) The City of Covington Beer Board may issue Show Cause Orders to any permit holders or employees to command their presence and answer charges before the Board upon information and belief received that a violation of this Ordinance has occurred.

(6) Failure to comply with annual training requirements will result in the suspension of a beer permit for up to ten (10) days, or in the alternative, the imposition of a monetary fine. Underage sales violation shall be punishable by permit suspension, revocation and/or monetary fines commensurate with the attached Exhibit 1.

(7) The City of Covington shall cause a copy of this Ordinance to be mailed to all beer permit holders within thirty (30) days of passage and all new applicants shall be provided a copy of the Ordinance at the time of application.

(8) If any provision of this Ordinance shall be invalidated by a court of law the remaining sections shall remain valid, effective and enforceable.

(9) This Ordinance shall take effect ninety (90) days from the date of passage of this Ordinance.

Exhibit 1

A permittee whose agent sells or distributes beer to a minor shall be guilty of an offense and shall be punished by the City of Covington Beer Board as follows:

(1) For a first offense:

(a) a permittee whose employee(s) has received certification from the Alcoholic Beverage Commission pursuant to the Tennessee Responsible Vendor Act of 2006 shall be fined not less than five hundred (\$500.00) dollars nor more than one thousand (\$1,000.00) dollars in lieu of suspension; or,

(b) a permittee whose employee(s) has not received certification from the Alcoholic Beverage Commission shall be fined not less than five hundred (\$500.00) dollars nor more than two thousand, five hundred (\$2,500.00) dollars in lieu of suspension.

(2) For a second offense:

(a) a permittee whose employee(s) has received certification from the Alcoholic Beverage Commission pursuant to the Tennessee Responsible Vendor Act of 2006 shall be fined one thousand (\$1,000.00) in lieu of suspension; or,

(b) a permittee whose employee(s) has not received certification from the Alcoholic Beverage Commission shall be fined not less than one thousand (1,000.00) dollars nor more than two thousand, five hundred (\$2,500.00) dollars in lieu of suspension.

(3) A permittee who is guilty of an offense shall not be considered a repeat or multiple offender and subject to the enhanced penalties described in this section if twenty-four (24) or more months have elapsed between the date of the present offense and the date of any preceding violations.

(4) All fines shall be paid within seven (7) calendar days of assessment or permit will be suspended on the 8th day.

8-214. **Legal hours of sale.** Except as otherwise provided by state law:

(1) It shall be unlawful for any off-premises permit holder to make or allow any sale or giveaway of beer between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 12:00 noon on Sunday.

(2) It shall be unlawful for any Class 1 permit holder to make or allow any sale or giveaway of beer between the hours of 2:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 2:00 A.M. on Sunday and 11:00 A.M. on Sunday.

(3) It shall be unlawful for any Class 2 permit holder to make or allow any sale or giveaway of beer between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 6:00 A.M. the following Monday.

(4) All Class 1 permit holders must have their place of business cleared of all customers by 2:00 A.M. and Class 2 permit holders must have their place of business cleared of all customers by 1:30 A.M.

(5) It shall be unlawful for any temporary permit holder to make or allow any sale or giveaway of beer between the hours of 12:00 A.M. and 12:00 P.M. (Ord. #1638, Nov. 2012 and Ord. #1665, April 2015)

8-215. **Suspension and revocation of beer permits.** "The Beer Board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement(s) or misrepresentation(s) on his application. The Beer Board shall also have the power to suspend or revoke any beer permit issued in accordance with the provisions of Tennessee Code Annotated § 57-5-108. No beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the Police Chief, Fire Chief, Building Official, or by any member of the Beer Board." (Ord. 1165, April 2015)

8-216. **Civil penalty on lieu of suspension.** "The Beer Board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty as follows:

(1) If the permit holder and the clerk that commit any offense, including making or permitting to be made any sales or giveaway of beer to a minor, have both complied with Tennessee Code Annotated § 57-5-606 then the civil penalty imposed is not to exceed one thousand dollars (\$1,000) for each offense.

(2) If the permit holder is not a "Responsible Vendor" or has failed to comply with Tennessee Code Annotated § 57-5-606 then a penalty not to exceed two thousand five hundred dollars (\$2,500) may be imposed for each offense of make or permitting to be made any sales or giveaway of beer to a minor, or a civil penalty not to exceed one thousand dollars (\$1,000) for any other offense or offenses.

(3) If a civil penalty is offered as an alternative to revocation or suspension, the permit holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be deemed withdrawn.

(4) In no event shall a permit holder be allowed to pay a civil penalty for a second offense of making or permitting to be made the sale or giveaway of beer to minors." (Ord. #1165, April 2015)

8-217. **Effect of board action.** The action of the Beer Board in all such hearings shall be final, subject only to review by the court. When a permit is revoked, no new permit shall be issued hereunder for the sale or giveaway of beer to the same permit holder or any agents of the permit holder at the same location as the Beer Board may determine until the expiration of one (1) year from the date said revocation becomes final. When a permit is suspended, no new permit shall be issued hereunder for the sale or giveaway of beer at the same location or to the same permit holder until the period of suspension is over. (Ord. #1514, May 2003 and Ord. 1665, April 2015)

8-218. **Brown Bagging and /or BYOB.** This section shall make the unregulated and unlicensed possession and consumption of beer and alcoholic beverages in a business in the City of Covington between the hours of 1:00 A.M. and 6:00 A.M. unlawful.

(1) Between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 12:00 noon on Sunday it is unlawful for any person to consume beer or an alcoholic beverage not lawfully sold by the business on the premises of any business open for business during these hours in the City.

(2) Between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 12:00 noon on Sunday it is unlawful for any person to possess an open container of beer or an alcoholic beverage not lawfully sold by the business on the premises of any business open for business during these hours in the City.

(3) Between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 12:00 noon on Sunday it is unlawful for any owner of a business open for business during these hours in the city to knowingly or intentionally permit any person to possess an open container of beer or an alcoholic beverage not lawfully sold by the business or to consume beer or an alcoholic beverage not lawfully sold by the business on the premises of said business. For the purposes of this section, notice to an agent or employee of a business shall constitute notice to the owner of the business.

(4) Between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 12:00 noon on Sunday the open display by any person on the premises of a business open for business during these hours of any open container of beer or an alcoholic beverage marked as if for resale and lawfully sold by the business, shall be evidence of a violation of subsection (3) above.

(5) Any owner of a business open between the hours of 1:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 1:00 A.M. on Sunday and 12:00 noon on Sunday, having notice, either actual or constructive, prior to 1:00 A.M. that beer and/or alcoholic beverages not lawfully sold by the business are being consumed on the premises shall at 1:00 A.M. or within a reasonable time thereafter give notice reasonably calculated to inform all persons on the premises that the consumption of beer or alcoholic beverages or the possession of an open container of beer or an alcoholic beverage on the premises is prohibited by this section. Failure of the owner of a business to give notice pursuant to this section, personally or through an agent or employee, shall be unlawful and shall constitute a separate

violation of this section. However, such failure shall not provide a defense to prosecution of any person under any other subsections herein.

(6) This section does not prohibit the sale of beer or alcoholic beverages by any business that possesses a valid beer permit or alcoholic beverage license during such hours authorized by the laws of the State and the Ordinances of the City, nor does this section prohibit any other conduct permitted under the laws of the State or the Ordinances of the City. This section does not prohibit the owner of a business who resides on the premises of the business from consuming beer or alcoholic beverages at any time on the premises or from possession of an open container of beer or alcoholic beverages at any time on the premises. This section does not prohibit the consumption of beer or alcoholic beverages by any person within the confines of the person's individual room in any hotel within the City.

(7) The provisions of this section are severable. If any provision of this section or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provisions or application. (Ord. #1665, April 2015)