

Finance & Administration Committee Meeting
April 19, 2022
4:00 p.m.

1. Audit Discussion – Rick Tankersley
2. Beer Ordinance Discussion – City Attorney Witherington
3. 2022-23 Proposed Budget – Mayor Hanson

Tipton Arts Council, Inc.
113 West Pleasant Ave.
Covington, TN 38019

Date: 3-7-22

To: Covington City Beer Board

From: Jere Mason, Tipton Arts Council, Inc. Board Member

Re: Amendment to City Ordinance 1665

Background and Purpose of Requested Amendment

The Tipton Arts Council, Inc. is a non-profit organization in Covington, TN responsible for the operation and maintenance of the Ruffin Theater. The mission of the Tipton Arts Council, Inc. is to sponsor, encourage and create opportunities or participation and appreciation of the visual and performing arts while emphasizing our local community's interest and values.¹ The Tipton Arts Council, Inc. via the Ruffin Theater (hereinafter "Ruffin") showcases roughly 6-8 stage play/performance annually. In addition to stage plays the Ruffin also hosts musical events promoting both local and national talent, as well as other arts and entertainment events. Throughout the year the Ruffin is utilized on average two weekends a month for actual performances and more regularly for community events, auditions, practices, etc.

The Ruffin found itself in a dire financial state in 2020 due to COVID-19. In fact, the Ruffin nearly failed that year. If not for a "Save the Ruffin" Concert held on June 27, 2020, it is very likely the Ruffin would have shut down for good. This board was instrumental in making the "Save the Ruffin" event a success as it approved for the first time in the City's history a temporary beer sale permit for the Ruffin under the very Ordinance at issue.² Following the "Save the Ruffin" event, the Ruffin used additional temporary permits at other events to aid the financial recovery of the entity.

The Ruffin began selling beer at these events under Covington City Ordinance 1665(5)(a) and (b)³ (hereinafter "Ordinance"). Permits were not sought for all events, as some Ruffin events are "kid-friendly." However, the Ordinance Temporary Permit section as drafted has created an economic barrier to the Ruffin limited the entity's ability to benefit from beer sells at other events.

Under the current Ordinance, the Ruffin must purchase a permit at a cost of \$250 for each "event" where it intends to sell beer. This creates problems for the Ruffin. First, a Ruffin "event" might span up to three weekends with performances on Friday, Saturday, and at times, Sunday each weekend. If the Ordinance as drafted considers one performance a day an "event" this means that the Ruffin could be required to apply and pay for up to six "single event permits" at \$250 each. Alternatively, the Ruffin could apply and pay for one

¹ <https://www.tiptonartscouncil.org/general-9-1>

² See Appendix A

³ See Appendix B

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"Multiple Event Permit" at \$250, however this permit only allows for "six events per calendar year" which means that the Ruffin would not be able to apply for any other permits for any other events through the rest of the calendar year. This prevents the Ruffin from maximizing the financial benefit in providing patrons with beer sales at any other events through the year.

Amendment Solution #1

The main problem lies in the Ordinance lack of definition for the term "event." One solution for this issue is to amend the Ordinance to define an "event" for the purposes of the Temporary Permit section as follows:

"Event" means any performance of the arts to include performing art, literary art, folk art, visual art, design art, musical acts, or other performance deemed appropriate, held for consecutive performances up to three weeks in a row. Thus, one "event" may include several performances so long as said performances occur on consecutive weeks for a maximum of three weeks. It is not required that performances occur on every day of the week, but the performances that do occur through the covered three weeks must be of the same performance.

This amendment would enable the Ruffin to utilize the "Multiple Event Permit" allowing up to six events in a calendar year but covering multiple performances of the same event.

Amendment Solution #2

Another option to address this issue would be to amend the existing Multiple Event Permit to allow for two such permits a year per entity. This would also aid the Ruffin as it would increase the number of events covered under the permit. However, even if this amendment was accepted it is still recommended that the term "event" be defined as above. This would also allow for some flexibility in the Ruffin's preference of the definition of the term "event." If the Ordinance was amended to allow for two Multiple Event Permits a year the Ruffin's issue would still be addressed if the term "event" was defined as follows:

"Event" means any performance of the arts to include performing art, literary art, folk art, visual art, design art, musical acts, or other performance deemed appropriate, held for consecutive performances up to two weeks in a row. Thus, one "event" may include several performances so long as said performances occur on consecutive weeks for a maximum of two weeks. It is not required that performances occur on every day of the week, but the performances that do occur through the covered two weeks must be of the same performance.

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Ultimately, the Ruffin anticipates twelve (12) "events" through a calendar year where the Ruffin would wish to serve beer. Either of the above amendments should address the current financial hardship being experienced by the Ruffin due to the current reading of the Ordinance.

The Ruffin wishes to point out that this "hardship" is no fault of the City or Beer Board. In fact, the Beer Board's support through 2020 is largely responsible for the survival of the Ruffin through COVID-19. However, the issue at hand is a real one for the Ruffin. We hope the Beer Board will weigh this matter and vote to amend the Ordinance as recommended above.

Sincerely,

Jere Mason
Board Member
Tipton Arts Council, Inc.



Tipton Arts Council Policy / Procedure for June 27, 2020 "Save the Ruffin" Fundraising Event

Date: 6-9-20

To: City of Covington Beer Board
Honorable Mayor Justin Hanson
& others interested

From: Tipton Arts Council ("TAC")
President Lauren Raynor-McDaniel
Board Member/Event Coordinator Jere Mason

Re: TAC Policy / Procedure for June 27 event regarding COVID-19 & Beer service

Background

Unfortunately, the COVID-19 pandemic of 2020 has caused far reaching effects in our communities. Required closures of long-standing community landmarks, like the non-profit Tipton Arts Council that manages the historic Ruffin Theater, have caused economic hardship. Theaters, both film and the arts, across the nation are reporting huge economic loss from revenue loss due to cancelled events and performances.¹

Though the TAC receives funding from patrons, community organizations, and some government support, it is largely funded by revenue from its performances. During the COVID pandemic the TAC was forced to cancel its spring youth led production "Firebringer." Even now that some of the government restrictions have lightened to allow theaters like the Ruffin to reopen pandemic fears by parents of the youth in that production have pulled many children from the performance. Without revenue from "Firebringer" or previously scheduled follow-up events the TAC is currently unable to make its monthly overhead.

This situation has led board members to organize a large fundraising event set for June 27th, 2020. This event will begin at 1pm and continue throughout the evening. Early performances will be family friendly and feature many local Christian artists. Around 5pm the event will shift with a "Boy Band" cover performance parody. Around 6 pm, if our temporary beer license is approved, we will follow this plan and begin serving beer. The evening acts will perform more secular music. The event will conclude around midnight. The entire event will also comply with all state and local COVID-19 precautionary recommendations and requirements. All proceeds from the event will go to benefit the TAC and the Ruffin theater.

¹ Jacobs, Julia. "From Coughing Fits to Closings, Cultural World Girds for Coronavirus." *New York Times*, 12 Mar. 2020, www.nytimes.com/2020/03/06/arts/covid-19-movies-theaters-concerts-museums.html.

COVID-19 Procedures

The TAC will comply with all local and state regulations and recommendations related to COVID-19 safety including²:

1. Theater capacity will be limited to 50% maximum occupancy for the duration of this event;
2. Event patrons will be limited to seating in groups of four (4) with social distancing practices in place between sections;
3. Event patrons will be offered masks upon theater entry;
4. Event patrons will be screened upon theater entry for COVID-19 symptoms. A digital thermometer will be used to check all patron and participants' temperatures;
5. Event attendance will be monitored throughout event by staff to ensure social distancing practices and attendance number restrictions are being followed/complied with.

Beer Sales Procedures

The TAC understands the importance of proper beer sales practices in protecting the health and safety of the community. The TAC will comply with all state and local regulations and requirements governing the sale of beer/alcohol.³ Upon approval of a temporary beer permit for this event, the TAC will follow these additional procedures:

1. All beer sales will be completed by a TAC representative over the age of 21 and from the Ruffin concession stand;
2. With each beer sale the purchasers age will be confirmed via state issued ID to ensure purchaser is 21 years of age or older (purchaser will be given a special wrist band);
3. Beer sold will be purchased from a properly state licensed distributor;
4. All beer sales will track through a square system for proper revenue monitoring and sales tax collection;
5. All beer sold for this event will be consumed on the premise only;
6. All beer sales shall end at 11:30 pm on the night of the event;
7. A TAC board member will be on site and assigned to monitor beer consumption during the event to ensure that only valid beer purchasers consume alcohol.

Conclusion

The TAC thanks the Beer Board and City officials for consideration of our request for a temporary beer sales permit. The TAC believes with the addition of beer sales this event will be a positive for the community and an economic "lifesaver" for the TAC and the Ruffin.

Sincerely,

² Governor Bill Lee Executive Order 38, 2020, pp. 1-10.

³ Covington Municipal Code ref. Alcohol: title 11, chapter 1. Tax provisions: title 5.

Jere Mason
TAC Board Member /Event Coordinator

B

ORDINANCE NO. 1665

WHEREAS many of the ordinances under Title 8, Section 2 of the City of Covington Municipal Code are obsolete and in need of updating; and

WHEREAS, the Mayor and Board of Aldermen find that the health, safety and welfare of the citizens of the City of Covington is being compromised as a result of businesses that permit "brown bagging" and/or "BYOB" of beer and alcoholic beverages during the hours of 1:00 a.m. and 6:00 a.m.; and therefore:

BE IT ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF COVINGTON:

Section 1. Section 8-206 of the City of Covington Municipal Code titled "Beer defined" shall be deleted in its entirety and replaced with the following:

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 that 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 other 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, 39-17-408, 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 is utilized for a particular business 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 Responsible 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 a state or county for the purpose of identification.

Section 2. Section 8-208 of the City of Covington Municipal Code titled "Privilege tax" shall be deleted in its entirety and replaced with the following:

"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 engaged 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.

Section 3. Section 8-210 of the City of Covington Municipal Code titled "Classes of permits" shall be amended by changing the number of permits issued from four (4) to five (5) types, and by amending/adding the following language:

- (2)
 - (a) change the words "hotel restaurant license" to "Food Service Establishment Permit."
 - (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.
- (3)
 - (b) remove the word "card."
 - (c) include copy of valid identification after the words "date of birth."

(4)

(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.

(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, educational 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.

(h) 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 Enforcement Officer and the City of Covington Police Chief a copy of the form submitted to the TABC no later than five (5) business days prior to the event.

Section 4. Section 8-212 of the City of Covington Municipal Code titled "Conditions" shall be amended by adding the following language:

(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 Codes Division 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.

(17) The permittee shall not allow or engage in any criminal activity on the premises.

Section 8-212 of the City of Covington Municipal Code shall be further amended as follows:

"(15) The permittee with an off premises beer permit shall not allow the consumption of beer anywhere on the premises of the permittee" shall be moved to Section 8-210(4)(e).

Section 5. Section 8-213 of the City of Covington Municipal Code titled "Legal hours of sale" shall be amended by adding the following:

(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.

Section 6. Section 8-214 of the City of Covington Municipal Code titled "Suspension and Revocation of beer permits" shall be deleted in its entirety and replaced with the following:

"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."

Section 7. Section 8-215 of the City of Covington Municipal Code titled "Civil penalty in lieu of suspension" shall be deleted in its entirety and replaced with the following:

"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 making 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."

Section 8. Section 8-216 of the City of Covington Municipal Code titled "Effect of board action" shall be amended as follows:

The sentence "When a permit is revoked, no new permit shall be issued hereunder for the sale or giveaway of beer at the same location or to the same permit holder, as the Beer Board may determine until the expiration of one (1) year from the date of said revocation becomes final" shall be deleted and replaced with the following: "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."

Section 9. That the following shall be added to Title 8 of the City of Covington municipal code as section 217:

8-217. "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

