

October 22, 2002

Mr. Mitch Moore
City Manager
P.O. Box 849
Athens, TN 37371-0849

Dear Mitch:

In response to your recent inquiry regarding the potential for a private golf course in the City of Athens to request a beer permit, I have researched both the Athens Municipal Code and municipal codes of other cities in Tennessee that have established golf courses as a beer permit classification. As I understand the issue, the golf course could be requesting an on-premise beer permit with the intent of premises being defined as the golf course itself. Clearly the current provisions in the Athens Municipal Code do not provide for such a classification. The City's Code has on premise classifications for restaurants, grocery (food stores), and taverns, and off premise classifications for package beer stores, and wholesaler/distribution. The City also has a special on premise classification for caterers that allow the caterer to operate from a permanent site (catering hall) or from mobile sites, i.e. catered functions. As stated, none of these would include a golf course.

In researching the municipal codes of other Tennessee cities as prepared by MTAS, we found three cities that have special classifications for golf courses. I have enclosed excerpts from each city, and the first is Hendersonville, which includes a special classification for golf courses. It is found in Section 8-223 (7) of the Hendersonville Municipal Code and reads as follows:

Golf course: A recreational facility developed for the primary sport of golf, not to be less than 18 holes, managed and regularly maintained by the operator of the facility and located on a minimum of one hundred and twenty-five (125) contiguous acres. To qualify as a "golf course" hereunder, receipts from the sales of alcoholic beverages, including liquor, wine, and beer or ale, shall not exceed 40% of the total gross receipts in any consecutive two-month period for the business establishment.

This may be a little overly restrictive, but it nevertheless classifies and provides for beer permits

for golf courses.

The second city is the City of Adamsville, which in Section 8-209 of its Municipal Code, includes golf course in the definition for on premise consumption. However, it should be noted that all on-premise consumption permits have to be primarily (51% or more) engaged in the business of serving meals and this would also apply to the golf course. Adamsville even limits consumption to within the building for which the permit is issued, but provides the following exception:

“For the purposes of this chapter, the term “on premises consumption” shall mean consumption within the building for which the license is issued, **except if the license is held by the proprietor of a golf course, on premises shall mean within the building and/or on the course.** However, no consumption shall be permitted on any parking lot.

The third city is the City of Lewisburg which addresses the issue from several different angles. In Section 8-201 (2) of the Lewisburg Municipal Code it provides a definition for golf course, which reads:

(2) “Golf Course” shall mean a public eighteen (18) hole golf course with clubhouse, pro shop and restaurant permitted to sell beer to be consumed on the premises.

In Section 8-201 (4) it expands the definition of “Premises” to include a golf course, with the following language:

(4) “Premises” shall be the interior of a building or structure including contiguous interior spaces which are not separated by a permanent solid wall from other portions of the building or structure under the same roof, and where applicable shall include the parking area adjacent to and servicing the premises **and where applicable shall include a golf course.**

Lewisburg, in Section 8-209 (3) (a)(1) of its Municipal Code, also limits on-premises permits to establishments whose principal business is serving meals, but provides the following exception:

(a)(1) Meals must be prepared and served at the premises and such premises must have adequate equipment to prepare and serve meals at least two (2) time per day, six (6) days per week, and **unless a motel, hotel, golf course, or bowling alley (minimum of twelve (12) lanes), the serving of meals shall be the principal business conducted on the premises.**

Within subsection (d) and (k) of Section 8-209 the city provides additional restrictions with the following:

(d) Beer must be served in containers other than bottles and cans except for a golf course.

(k) Where consumption is permitted on a golf course beer will be purchased either in cans at the restaurant or from the beverage cart.

Clearly these three cities have provided for on-premise consumption for golf course operations with the “golf course” being included in the definition of on premise or on premise classification. The only remaining question is just how does Athens draft its provision, assuming it wants to permit golf courses to be licensed to sell beer.

One additional point the City needs to consider in making its decision is the distance requirements from a church, school or place of public gathering. In Section 8-211 of the Athens Municipal Code, the minimum distance for on premise consumption is three hundred (300) feet. In reviewing the municipal codes of Adamsville, Hendersonville and Lewisburg, only Hendersonville has distance regulations. Both Adamsville and Lewisburg have zero distance requirements. Hendersonville’s distance requirement is established in Section 8-222 of the Hendersonville Municipal Code (2) at one hundred fifty feet (150) for on premises consumption. This 150 feet is measured from “facility to facility”, which the City interprets as the golf course. In addition to the distance requirements in Section 8-222 (2), the City imposes the following:

Any newly constructed facility desiring a permit for on-premises consumption of beer that has a common property line with an existing church or schools shall provide screening along that property line as required in the Combined Zoning Ordinance of the City of Hendersonville. A strip of land a minimum of twenty (20) feet shall be provided for screening. Not part of the twenty (20) feet shall be used for drives, accessory off-street parking, accessory off-street loading, storage or processing of any kind.

As noted distance is not a consideration in Adamsville or Lewisburg, but it is a limitation in Hendersonville, just as it is in Athens. Apparently Hendersonville applies the 150 foot distance requirement to all on premise permits and also requires a screening provision for new facilities that have a common lot line with a church or school.

This distance issue truly poses a problem for Athens and its current code provisions. Some possible solutions would include:

1. Lowering the distance requirements for all on premise permits to some number between 0 and the current 300 feet,
2. Establishing a new distance classification that would apply only to golf courses with the facility being the building for the church or school, but being the course for the golf course,

3. Using options 1 or 2 but adding a screening provision similar to the one in Hendersonville,
4. Selecting option 2 and possibly 3, and further requiring all beverages be served or “held” in special containers provided by the course
5. Define the course as being something less than 18 holes specifically permit by permit, excluding those holes that violate existing or new distance requirements. Enforcement of this option might be impossible.

In conclusion, the municipal code can be modified to include “golf courses” in the definition of establishments eligible for on premise permits and also include the actual course in the definition of premises. Also, the City’s distance regulations can be modified to meet immediate and future needs, however, both issues and especially the latter will have to be structured to what is both politically and socially acceptable for the City of Athens.

For your discussion references, I have enclosed the code provisions discussed above. If you have further questions or if I can be of further service, please let me know.

Sincerely,

M. Michael Tallent
Assistant Director

Enclosure