

Alcoholic Beverages

TITLE 8: ALCOHOLIC BEVERAGES

Chapter

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- 2. BEER**
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CHAPTER 1: CONSUMPTION OF ALCOHOLIC BEVERAGES ON PREMISES

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Cross-reference:

Alcohol, see Title 11, Chapter 2

Businesses and peddlers, see Title 9

§ 8-101 SUBJECT TO CERTAIN STATUTES AND REGULATIONS.

(1) The general provisions of state law relating to alcoholic beverages as contained in T.C.A. Title 57, as it may be amended from time to time, and hereby adopted as part of this title and are fully incorporated in this title by reference.

(2) The various rules and regulations promulgated from time to time by the state's Alcoholic Beverage Commission and Department of Revenue regarding the sale of alcoholic beverages are hereby adopted as a part of this title and are fully incorporated herein by reference.

(3) It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the town, except as provided by T.C.A. Title 57, and by rules and regulations promulgated thereunder, and as provided in this title.

(4) T.C.A. Title 57, Chapter 4, inclusive, as it may be amended from time to time, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by said code when such sales are conducted within the corporate limits of the town. It is the intent of the Town Council that T.C.A. Title 57, Chapter 4, shall be effective in the town, the same as if said code

sections were copied herein verbatim. (2007 Code, § 8-101) (Ord. 02-53, passed 1-2003) Penalty, see § 8-109

§ 8-102 TERMS DEFINED.

The definitions set forth in T.C.A. § 57-4-102, as the same may be amended from time to time, are incorporated herein as if copied verbatim in their entirety.

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(2007 Code, § 8-102) (Ord. 02-53, passed 1-2003)

§ 8-103 REGULATIONS AND PROHIBITED PRACTICES.

It shall be unlawful for any person, firm, or corporation holding a license to sell alcoholic beverages for consumption on the premises to violate the rules, regulations, and prohibited practices set forth in T.C.A. §§ 57-4-201 through 57-4-204, as such sections may be amended from time to time, which code sections are incorporated herein as if copied verbatim in their entirety.

(2007 Code, § 8-103) (Ord. 02-53, passed 1-2003) Penalty, see § 8-109

§ 8-104 REVOCATION OF BEER PERMIT REPORTED TO ABC.

When any person, firm, or corporation holds both a license to sell alcoholic beverages for consumption on the premises and a beer permit, should the beer permit be revoked or suspended, the Beer Board is hereby directed to send a notice of the suspension or revocation to the Alcoholic Beverage Commission pursuant to T.C.A. § 57-4-202(b). In addition, when the Beer Board is considering the suspension of any such licensee's beer permit, consideration shall also be given to suspending the licensee's license for the sale of alcoholic beverages for consumption on the premises as provided in T.C.A. § 57-4-202. The Beer Board shall have the authority to suspend the license for the sale of alcoholic beverages for consumption on the premises of any such person, firm, or corporation as authorized by T.C.A. § 57-4-202 for the same period of time as such licensee's beer permit may be suspended. Should the Beer Board suspend the license for the sale of alcoholic beverages for consumption on the premises of any such licensee, the Beer Board is hereby directed to send a notice of the suspension of said license to the Alcoholic Beverage Commission.

(2007 Code, § 8-104) (Ord. 02-53, passed 1-2003)

§ 8-105 PROHIBITED SEXUAL OR PORNOGRAPHIC CONDUCT.

T.C.A. § 57-4-204, as the same may be amended from time to time, is incorporated herein as if copied verbatim in its entirety. The town's Police Department is hereby authorized and directed to conduct investigations into alleged violations of said code section. The town's Police Department shall report any such violations to the Alcoholic Beverage Commission as authorized by T.C.A. § 57-4-204(e).

(2007 Code, § 8-105) (Ord. 02-53, passed 1-2003)

Cross-reference:

Adult-oriented establishments, see Title 9, Chapter 5

§ 8-106 PRIVILEGE TAXES.

(1) Privilege taxes for the sales of alcoholic beverages for consumption on premises shall be in accordance with T.C.A. Title 57, Chapter 4, and as restated in the fee schedule adopted with the annual budget.

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(2) The foregoing taxes shall be payable on the date the license is issued by the Alcoholic Beverage Commission and the foregoing taxes shall be prorated from said date of issuance until the next following October 1, at which time a full year's taxes shall then be due and immediately payable.

(3) Should the licensee also hold a beer permit issued by the town, a failure to pay taxes under this section shall constitute grounds for suspension or revocation of the beer permit.
(2007 Code, § 8-106) (Ord. 02-53, passed 1-2003)

§ 8-107 SALES TO MINORS PROHIBITED.

No holder of a license for the sale of alcoholic beverages for consumption on the premises or any other person shall sell, furnish, dispose of, or give any alcoholic beverage to any person under the minimum age provided by state law, T.C.A. § 57-4-203, as the same may be amended from time to time. No such licensee or any employee thereof shall sell, furnish, dispose of, or give any beer or malt beverage to any person under the minimum age provided by state law, T.C.A. § 57-4-203, as the same may be amended from time to time.

(2007 Code, § 8-107) (Ord. 02-53, passed 1-2003) Penalty, see § 8-109

§ 8-108 PROHIBITED ACTS BY STATE LAW.

It shall be unlawful for any person to violate T.C.A. § 57-4-203, as the same may be amended from time to time, which is incorporated herein as if copied verbatim in its entirety.

(2007 Code, § 8-108) (Ord. 02-53, passed 1-2003) Penalty, see § 8-109

§ 8-109 VIOLATIONS; PENALTY.

Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Upon conviction of any person under this chapter, the Town Court Clerk shall immediately certify said conviction directly to the state's Alcoholic Beverage Commission. Each day a violation is allowed to continue shall constitute a separate offense.

(2007 Code, § 8-109) (Ord. 02-53, passed 1-2003)

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CHAPTER 2: BEER

Section

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§ 8-201 BEER BOARD ESTABLISHED.

There is hereby established a Beer Board for the town. (2007 Code, § 8-201) (Ord. 03-03, passed 2-2003)

§ 8-202 POWERS.

The Beer Board shall have the power to, and is hereby directed to, regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the corporate limits of the town in accordance with the provisions of this chapter. The Beer Board is authorized to make and establish reasonable bylaws, rules,

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and regulations as may be necessary for their own government and for the full and complete execution of their powers and duties. The Beer Board is hereby vested with all authority to issue, deny, revoke, and suspend permits for the sale of beer, as provided by the laws of the state and in accordance with the rules and procedures set forth in this chapter. The Beer Board shall operate in accordance with the provisions of this chapter in accordance with such other rules and procedures as may be promulgated by said Board. (2007 Code, § 8-202) (Ord. 03-03, passed 2-2003)

§ 8-203 MEMBERS.

The Beer Board shall be composed of five members who shall be residents of the town and who shall be appointed by a majority vote of the Town Council. All members of the Beer Board shall serve without compensation.

(2007 Code, § 8-203) (Ord. 03-03, passed 2-2003)

§ 8-204 TERMS.

The terms of the members of the Beer Board shall be staggered to provide for continuity and experience on the Board. The terms of the Board shall be four years each. Members of the Board may be removed by the Town Council for neglect of duty, conflict of interest, malfeasance in office, violation of the ethics ordinance, or other just cause, or for unexcused absence from more than three consecutive meetings or more than five non-consecutive meetings during the member's term of appointment. It is the duty of the town staff representative to advise the Town Manager when removal is recommended or necessary based on the provisions herein. The decision of the Town Council will be final with no appeal. Board members who are unable to attend regular meetings are expected to tender their resignation. Any vacancy shall be filled by the Town Council for the remainder of the unexpired term.

(2007 Code, § 8-204) (Ord. 03-03, passed 2-2003) Each member appointed in 2024 or thereafter shall hold his or her seat for a period of three years from the date of appointment. Members may not serve more than two (2) consecutive terms on the board; however; in the instance a suitable applicant is not presented to the Town Council, the legislative body shall have the discretion to reappoint an incumbent member.

§ 8-205 ADMINISTRATION.

To facilitate its deliberations, the Beer Board shall be assisted by the Town Manager, and/or employees designated by the Town Manager.

(2007 Code, § 8-205) (Ord. 03-03, passed 2-2003)

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§ 8-206 OFFICERS.

The Beer Board shall annually elect a chairperson from among its membership to preside over its deliberations. Likewise, the Beer Board shall annually elect a vice-chairperson from among its membership to preside over the Beer Board's deliberations in the absence of the chairperson. The Town Manager, or another employee designated by the Town Manager, shall be the ex-officio Secretary of the Beer Board. (2007 Code, § 8-206) (Ord. 03-03, passed 2-2003)

§ 8-207 MEETINGS.

The Beer Board shall hold regular meetings at such place and time as it shall prescribe. When there is business to come before the Beer Board, a special meeting may be called by the chairperson provided he or she gives reasonable notice to all members. The Beer Board may adjourn a meeting at any time to another time and place. All meetings shall be open to the public. (2007 Code, § 8-207) (Ord. 03-03, passed 2-2003)

§ 8-208 RECORD OF PROCEEDINGS TO BE KEPT.

The Secretary 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 before the Board; a copy of each motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the Board. (2007 Code, § 8-208) (Ord. 03-03, passed 2-2003)

§ 8-209 REQUIREMENTS FOR BEER BOARD QUORUM AND ACTION.

The attendance of at least a majority of the members of the 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. (2007 Code, § 8-209) (Ord. 03-03, passed 2-2003)

§ 8-210 "BEER" DEFINED.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BEER. As used in this chapter, shall be defined in accordance with T.C.A. § 57-5-101 as beer, ale, or other malt beverages, or any other beverages having an alcoholic content of not more than 8% by weight, except wine as defined in T.C.A. § 57-3-101(a)(20); provided, however, that no more than 49%

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of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

(2007 Code, § 8-210) (Ord. 03-03, passed 2-2003)

§ 8-211 BEER BUSINESS LAWFUL BUT SUBJECT TO REGULATION.

It shall hereafter be lawful to transport, store, sell, distribute, possess, receive, and/or manufacture beer within the corporate limits of the town, subject to all regulations, limitations, and restrictions provided by T.C.A. Title 57, Chapter 5, or other laws of the state and subject to the rules, regulations, limitations, and restrictions subsequently provided herein.

(2007 Code, § 8-211) (Ord. 03-03, passed 2-2003)

§ 8-212 PERMIT REQUIRED FOR ENGAGING IN BEER BUSINESS.

It shall be unlawful for any person, firm, corporation, including a municipal corporation or any subdivision thereof, joint-stock company, syndicate, or association 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 Board shall prescribe and/or furnish and shall be accompanied by a nonrefundable application fee as set forth in T.C.A. § 57-5-104(a). Said fee shall be in the form of a cashier's check payable to the town. Each applicant must be a person of good moral character and he or she must certify that he or she has read and is familiar with the provisions of this chapter.

(2007 Code, § 8-212) (Ord. 03-03, passed 2-2003) Penalty, see § 8-226

§ 8-213 BEER PERMITS SHALL BE RESTRICTIVE.

(1) 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. Beer permits for the retail sale of beer may be further restricted by the Beer Board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by such holder's permit. It shall likewise be unlawful for any such beer permit holder not to comply with any and all express restrictions or conditions which may be written into such holder's permit by the Beer Board. A permit for both on- and off-premises sales may be issued to an applicant at the same location, if approved by the Beer Board. Permits shall at all times be subject to all of the limitations and restrictions for each type of permit, and, in the event of a violation at the location, both permits at the same location may be considered for suspension or revocation. Any person or entity holding a permit for both on-premises consumption and off-premises consumption, as well as any person or entity holding a permit effective for more than one restaurant or business within the same building, shall be notified of the change in the ordinance by the Town Clerk within ten days after the effective date of the ordinance comprising this section and affected permittees must obtain new permits in accordance with the revised beer ordinance within 120 days.

(2007 Code, § 8-213) (Ord. 17-05, passed 3-2017) Penalty, see § 8-226

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(2) Special event permits. (a) The beer board is authorized to issue special event permits to bona fide charitable, nonprofit or political organizations for special events.

(b) The special event permit shall not be issued for longer than one 48-hour period unless otherwise specified, subject to the limitations on the hours of sale imposed by law. The application for the special event permit shall state whether the applicant is a charitable, nonprofit or political organization, include documents showing evidence of the type of organization, and state the location of the premises upon which alcoholic beverages shall be served and the purpose for the request of the license.

(c) For purposes of this section:

(1) Bona fide charitable or nonprofit organization means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

(2) Bona fide political organization means any political campaign committee as defined in T.C.A. § 2-10-101(a) or any political party as defined in T.C.A. § 2-13-101.

(d) No charitable, nonprofit or political organization possessing a special event permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.

(e) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the Town of Smyrna will result in a denial of a special event beer permit for the sale of beer for a period of one year.

(Ord. No. 15-08, passed 06 - 2015)

(3) Retailer special events permit.

(a) A retailer's special events permit shall be issued to any person engaged in the sale of beer for consumption by the purchaser upon the premises of the seller for a specified period of time, and in conjunction with certain types of activities, including but not limited to festivals, fairs, and similar public or private social events.

(b) No retailer special event permit may be issued under the provisions of ordinance codified in this section which does not comply with the minimum distances and other requirements as otherwise required. (Ord. No. 15-08, passed 06 - 2015)

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§ 8-214 PERMITS FOR CERTAIN PREMISES PROHIBITED.

(1) No permit shall be issued to sell beer or other beverage coming within the provisions of this chapter in violation of any provision of state law, or where such sale will cause congestion of traffic or will interfere with schools, churches, or other places of public gathering, or will otherwise interfere with the public health, safety, or morals. In no event will an off-premises permit be issued authorizing the manufacture, storage, or sale of beer within 250 feet of any school, church, funeral home, hospital, licensed day care facility, or other place of public gathering. In no event will an on-premises permit be issued authorizing the manufacture, storage, or sale of beer within 500 feet of any school, church, funeral home, hospital, licensed day care facility, or other place of public gathering. For purposes of this section, distances shall be measured in a straight line from the closest point of the applicant's building to the closest point of the building of the school, church, funeral home, hospital, licensed day care facility, or other place of public gathering; provided, however, that if the applicant leases space in a shopping center or strip mall, the distance shall be measured in a straight line from the closest point of the nearest interior wall of the applicant's leased space to the closest point of the building of the school, church, funeral home, hospital, licensed day care facility, or other place of public gathering. The judgment of the Beer Board on such matters shall be final except as same is subject to court review.

(2) No permit shall be suspended, revoked, or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed, or manufactured at that location during any continuous six-month period after January 1, 1993.

(3) No permit shall be issued to sell any beverage coming within the provisions of this chapter for consumption on the premises where the primary or principal business carried on is the sale of groceries, drugs, candies, soda, fountain drinks, merchandise, or commodities, other than the serving of meals and lunches; provided, nothing in this section shall prevent sale or consumption in dining rooms and lunch rooms of stores where such rooms are separate and distinct from other departments.

(4) Notwithstanding anything herein to the contrary, the distance requirements contained in subsection (1) above shall not apply with respect to any school, church, funeral home, hospital, licensed day care facility, or other place of public gathering that is located in a shopping center or strip mall.

(5) Notwithstanding anything herein to the contrary, the 500-foot minimum distance requirement for on-premises permits contained in subsection (1) above shall not apply when the facility or permit applicant is located in the Historic District of the town's zoning ordinance. Within the Historic District, in no event will an on-premises or an off-premises permit be issued authorizing the manufacture, storage, or sale of beer within 100 feet of any school, church, funeral home, hospital, licensed day care facility, or other place of public gathering.

(6) Any permit holder possessing a valid permit to sell beer on the effective date of the ordinance comprising this chapter may continue to possess such permit after the effective date of this chapter, notwithstanding the fact that such permit holder's location does not comply with the distance regulations set forth in this section, provided, that such permit remains in compliance with the other provisions of

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this chapter. In accordance with § 8-217 of this chapter, any such permit shall expire on termination of the business, change in ownership, relocation of the business, or change of the business's name. Any new applicant for permit related to the same location must comply with the distance regulations set forth in this section.

(2007 Code, § 8-214) (Ord. 04-40, passed 11-2004; Ord. 09-20, passed 6-2009; Ord. 12-15, passed 11-2012; Ord. 15-20, passed 10-2015)

§ 8-215 APPLICATION AND ISSUANCE OR REFUSAL OF PERMIT.

(1) Before any permit is issued by the Beer Board, the applicant therefor shall file with the Secretary a sworn application in writing establishing the following facts which are hereby made conditions of any permit issued and any misstatement of fact shall be sufficient for cause for the revocation of such permit.

(a) The applicant shall be a citizen of the United States or a legal resident alien, or if a firm, syndicate, association, or other business entity, the members thereof holding an interest greater than 49% shall be citizens or legal resident aliens of the United States, and no applicant shall be less than 21 years of age. The applicant shall designate the location of the premises where the business will be conducted and shall name the owner or owners (including members, shareholders, officers, and/or managers) of the premises.

(b) No person shall be employed in the storage, sale, or manufacture of such beverage except citizens of the United States or legal resident aliens.

(c) The applicant shall not engage in the sale of such beverages except at the place or places for which the Beer Board has issued a permit or permits to said applicant.

(d) No sale of such beverage shall be made except in accordance with the following conditions.

(i) If the application is for a permit to sell for consumption on the premises, said applicant will make no sale except where meals or lunches are regularly served at tables or counters under a regular permit.

(ii) If the application is for a permit to sell at hotels, sales for consumption on the premises will be made only at tables and to persons in guest rooms.

(iii) If the application is for a permit in a club or lodge, such applicant must be a regularly incorporated club or lodge operating under a charter and bylaws in which the officers are elected by the regular membership. Members of said organization must pay a substantial membership or initiation fee. The purpose of organization and existence of said club shall be for purposes other than the sale of beverages covered by this chapter.

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(iv) If the application is for a permit to sell not for consumption on the premises, no sale will be made for consumption on the premises. Furthermore, no consumption shall be allowed on the premises. No such beverage will be kept for sale on said premises except in the original packages or containers.

(e) No sale shall be made to persons under 21 years of age.

(f) Neither the applicant, nor any person employed by him or her in the sale, storage, or distribution of beer, nor any person, firm, corporation, joint-stock company, syndicate, or association having at least 5% ownership interest in the applicant:

(i) Has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages;

(ii) Any crime involving moral turpitude;

(iii) Any conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last five years; or

(iv) Having more than one conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last ten years. If an applicant has a disqualifying criminal cause pending against him or her at the time of application for a beer permit, then the Board may require that the applicant report to the Town Clerk within 30 days of resolution of the pending criminal matter, the final outcome of the matter, which outcome or resolution may cause the applicant's beer permit to be placed on the Beer Board agenda for consideration of suspension or revocation in accordance with § 8-223. Failure to timely report in accordance with this provision shall be considered by the Board in its deliberations.

(g) The applicant shall conduct the business in person for himself or herself. If the applicant is acting as agent, the application shall state the person for whom the applicant intends to act.

(h) The applicant shall comply with the bylaws and rules of procedure of the town's Beer Board. The applicant shall not purchase beer except from manufacturers or distributors licensed to manufacture or distribute such beverage in this state. No manufacturer or distributor shall sell beer for resale except to those who have been licensed by the Beer Board.

(2) The Beer Board shall consider each application filed and grant or refuse the permit according to its best judgment of the facts and circumstances. Revocation of a beer permit at one location shall not be the sole disqualifying factor in considering the issuance of beer permits at other locations. The action of the Beer Board in granting or refusing a permit shall be final except as same is subject to court review.

(3) Any applicant making a false statement in the application shall forfeit such applicant's permit and shall not be eligible to receive any permit for a period of ten years.

(2007 Code, § 8-215) (Ord. 03-03, passed 2-2003; Ord. 09-20, passed 6-2009).

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§ 8-216 FILING, INVESTIGATION OF, AND ACTION ON APPLICATIONS.

Applications for permits shall be filed with the Secretary, who shall make an investigation. The Police Department and the codes enforcement and inspection division shall assist in the investigation. Upon completion of said investigation, the Secretary shall submit the application to the Beer Board at its next meeting. The Beer Board shall consider the application and shall endorse its action thereon. If approved, the Secretary shall issue a permit.

(2007 Code, § 8-216) (Ord. 03-03, passed 2-2003)

§ 8-217 PERMITS NOT TRANSFERABLE.

(1) A permit shall be valid only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change of ownership will occur when control of at least 50% of the stock of the corporation is transferred to a new owner. In addition, a permit shall be valid only for a business operating under the name identified in the permit application.

(2) Except as provided in § 8-213, a permit is valid only for a single location and cannot be transferred to another location. A permit shall be valid for all decks, patios, and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business; provided, however, that if a deck or patio is added subsequent to the initial permitting process, it must comply with all applicable distance requirements in this code.

(3) A permit holder must return such holder's permit to the town within 15 days of termination of the business, change in ownership, relocation of the business, or change of the business's name; provided, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business, or change of the business's name.

(2007 Code, § 8-217) (Ord. 03-03, passed 2-2003)

§ 8-218 PERMITS MAY BE ISSUED TO HOTELS, CLUBS, AND LODGES.

A permit may be issued for the sale of any beverage coming within the provisions of this chapter in hotels, clubs, or lodges, subject to all the limitations and restrictions contained in T.C.A. Title 57, Chapter 5, and subject to the limitations and restrictions provided by this chapter.

(2007 Code, § 8-218) (Ord. 03-03, passed 2-2003)

§ 8-219 PERMIT TO BE POSTED.

The permit required by this chapter shall be posted in a conspicuous place on the premises by the permit holder, together with all other permits, licenses, and stamps as required by law.

(2007 Code, § 8-219) (Ord. 03-03, passed 2-2003)

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§ 8-220 PRIVILEGE TAX.

There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer an annual privilege tax as set forth in T.C.A. § 57-5-104(b)(1). 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 of each year to the town. 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. The town shall mail written notice to each permit holder of the payment date of the annual tax at least 30 days prior to January 1. 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 31 or within 30 days after the written notice of the tax is mailed, whichever is later, then the town shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten days after receiving notice of its delinquency by certified mail, then the Beer Board may suspend or revoke the permit or impose a civil penalty pursuant to § 8-223. (2007 Code, § 8-220) (Ord. 03-03, passed 2-2003)

§ 8-221 SALES AND CONSUMPTION PROHIBITED DURING CERTAIN HOURS.

No sale, disposition, use, or consumption of any beverage coming within the provisions of this chapter shall be made within the hours of 3:00 a.m. and 6:00 a.m. Nor shall any permit holder give away or otherwise dispense any beverage coming within the provisions of this chapter to any person during the hours prohibited in the immediately preceding sentence. (2007 Code, § 8-221) (Ord. 03-03, passed 2-2003)

§ 8-222 PROHIBITED CONDUCT OR ACTIVITIES BY BEER PERMIT HOLDERS.

It shall be unlawful for any beer permit holder to:

(1) Be convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, any crime involving moral turpitude or any conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last five years; or having more than one conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last ten years. If a permit holder shall become convicted of an aforementioned crime, then he or she shall have the duty to report said conviction to the Town Clerk within ten days of such conviction, which conviction may cause the permit holder's beer permit to be placed on the Beer Board agenda for consideration of suspension or revocation in accordance with § 8-223. Failure to timely report in accordance with this provision shall be considered by the Board in its deliberations;

(2) Employ any person convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, any crime involving moral turpitude, or any conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the

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last five years; or having more than one conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last ten years. If a permit holder shall employ any person who becomes convicted of an aforementioned crime, then he or she shall have the duty to report said conviction to the Town Clerk within ten days of such conviction, which conviction may cause the permit holder's beer permit to be placed on the Beer Board agenda for consideration of suspension or revocation in accordance with § 8-223. Failure to timely report in accordance with this provision shall be considered by the Board in its deliberations;

(3) Employ any minor under 18 years of age in the sale, storage, distribution, or manufacture of beer, except as permitted under state law;

(4) Make or allow any sale of beer to a person under 21 years of age;

(5) Allow gambling or gambling devices of any kind or description on the premises (other than as authorized by state law);

(6) Allow any person under 21 years of age to loiter in or about such permit holder's place of business;

(7) Make or allow any sale of beer to any intoxicated person;

(8) Allow any intoxicated, disorderly, or disreputable person or any person previously convicted for violation of the laws relating to beer or other alcoholic beverages to loiter in or about such permit holder's place of business;

(9) Allow any beverages of alcoholic content greater than 8% by weight to be brought into such permit holder's premises for consumption therein unless such permit holder also has a license to sell liquor by the drink;

(10) Distribute or sell beverages in bottles or other containers unless such containers shall bear a label or cap showing the name of the manufacturer thereof;

(11) Allow any loud, unusual, or obnoxious noises to emanate from such permit holder's premises;

(12) Allow such permit holder's place of business to become a public nuisance or a nuisance to law enforcing agencies of the town or county, or create a nuisance or materially contribute to creating or maintaining a public nuisance;

(13) Operate a disorderly place of business or permit or allow fighting or boisterous or disorderly conduct on the premises;

(14) Allow or engage in any criminal activity on the premises; or

(15) Take any steps or measures to obstruct full, free, and clear vision to and from the street and public

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highway to the interior of the store by way of blocking or covering large windows in the front and to the extent practical to the sides of the building. There shall be no signage permitted on store glass windows or doors or hanging from any object which would cause any obstruction of vision into the store from more than three feet from walking level to the ceiling of the store.

(2007 Code, § 8-222) (Ord. 04-40, passed 11-2004; Ord. 09-20, passed 6-2009) Penalty, see § 8-226

§ 8-223 SUSPENSION OR REVOCATION OF PERMIT; CIVIL PENALTY.

(1) The Beer Board shall have the power to revoke or suspend any permit for any violation of any provision of this chapter. Whenever it shall be brought to the attention of the Beer Board that any declaration of fact contained in the application is false, or that there has been any violation of any provision or state or federal law regulating the sale, storage, or transportation of alcoholic beverages or any statute of the state regulating beer or other alcoholic beverages, or that there has been any violation of any provision of this chapter, expressly including the prohibited acts herein, or that the limitations and conditions of the permit have been violated, or that the permit holder fails to file a report or pay any tax or license fee required, the Beer Board may revoke or suspend such permit. No permit shall be revoked or suspended until a public hearing is held by the Beer Board after reasonable notice is given to the public and to all known parties in interest. Revocation proceedings may be initiated by the Chief of Police or by any member of the Beer Board.

(2) (a) Notwithstanding any other provision herein, pursuant to T.C.A. § 57-5-608, the Beer Board shall not revoke or suspend the permit for off-premises sale of beer of a “responsible vendor” qualified under the requirements of T.C.A. § 57-5-606 for a clerk’s illegal sale of beer to a minor if the Clerk is properly certified and has attended annual meetings since the Clerk’s original certification and/or is otherwise in compliance with the state’s Responsible Vendor Act, unless the vendor’s status as a certified responsible vendor has been revoked by the Alcoholic Beverage Commission. The Beer Board may permanently revoke or suspend the beer permit of a responsible vendor when the permit holder has at least two violations for the sale of beer to a minor within a 12-month time period.

(b) If the responsible vendor’s certification has been revoked, the vendor shall be punished by the Beer Board as if the vendor were not certified as a responsible vendor.

(i) **CLERK** shall mean any person working in a capacity to sell beer directly to consumers for off-premises consumption.

(ii) **RESPONSIBLE VENDOR** shall mean 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 state’s Alcoholic Beverage Commission under the state’s Responsible Vendor Act of 2006, T.C.A. §§ 57-5-601 et seq.

(c) Pursuant to T.C.A. § 57-5-608, the Alcoholic Beverage Commission shall revoke a vendor’s status as a responsible vendor upon notification by the Beer Board that the Board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive 12-month period. The revocation shall be for three years.

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(d) It is the duty of the permittee to advise the Beer Board of participation and provide proof thereof, in the responsible vendor program at the time of the hearing.

(e) Upon determination that a sale to a minor has been made by the Beer Board, the Beer Board shall report the sale to the Alcoholic Beverage Commission within 15 days of the determination of the sale. Additionally, if the Beer Board determines that a Clerk of an off-premises beer permit holder, certified under T.C.A. § 57-5-606, sold beer to a minor, the Beer Board shall report the name of the Clerk to the Alcoholic Beverage Commission within 15 days of determination of the sale. The certification of the Clerk shall be invalid, and the Clerk may not reapply for a new certificate for a period of one year from the date of the Beer Board's determination.

(3) (a) The Beer Board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor, or a permit holder that is a responsible vendor but who is non-compliant with the provisions and requirements of the state's Responsible Vendor Act, the alternative of paying a civil penalty not to exceed \$2,500 for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed \$1,000 for any other offense.

(b) The Beer Board may impose on a responsible vendor, as defined in division (2)(b) above, a civil penalty not to exceed \$1,000 for each offense of making or permitting to be made any sales to minors or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven 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. Payment of the civil penalty in lieu of suspension or revocation by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the town may impose.

(4) Where a permit has been revoked, no new permit may be issued to permit the sale of beer on the same premises until after the expiration of one year from the date the revocation becomes final and effective. The Beer Board, in its discretion, may determine that issuance of a license or permit before the expiration of one year from the date of the revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of intestate succession.

(2007 Code, § 8-223) (Ord. 03-03, passed 2-2003)

§ 8-224 SALES TO MINORS PROHIBITED; EMPLOYMENT OF EX-CONVICTS PROHIBITED.

A permit holder engaging in the business regulated hereunder or any employee thereof shall not make or permit to be made any sales to minors. Neither the person engaging in such business nor persons employed by that person shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture, and transportation of beer or any other alcoholic beverages, or any crime involving moral turpitude, or any conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last five years; or having more than one conviction for a crime

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violating a drug or alcohol law or a crime involving physical violence, within the last ten years.
(2007 Code, § 8-224) (Ord. 03-03, passed 2-2003; Ord. 09-20, passed 6-2009) Penalty, see § 8-226

§ 8-225 EMPLOYEES LIABLE FOR VIOLATIONS OF THIS CHAPTER.

Any employee of any permit holder who violates the provisions of this chapter or any provision of T.C.A. Title 57, Chapter 5, while so employed by such permit holder shall be guilty of a misdemeanor which shall be punishable by a fine of not to exceed the state authorized maximum, in addition to any suspension, revocation, or civil penalty in lieu thereof which may be imposed on the permit holder by the Beer Board pursuant to § 8-223.

(2007 Code, § 8-225) (Ord. 03-03, passed 2-2003)

§ 8-226 PENALTIES; VIOLATION.

Except as provided in § 8-223, any violation of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue, and each sale which violates the provisions of this chapter, shall constitute a separate offense.

(2007 Code, § 8-226) (Ord. 03-03, passed 2-2003; Ord. 09-20, 6-2009)

§ 8-227 CONTINUED EXISTENCE.

Notwithstanding anything herein to the contrary, the members of the Beer Board, as the Beer Board exists on the effective date of this chapter, shall continue to serve for the remainder of their respective terms, or until their earlier resignation or removal.

(2007 Code, § 8-227) (Ord. 03-03, passed 2-2003)

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CHAPTER 3: RETAIL SALES OF ALCOHOLIC BEVERAGES

Section

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Editor's note:

This chapter was modified in the 2017 update

§ 8-301 PACKAGED LIQUOR BOARD ESTABLISHED.

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There is hereby established a Packaged Liquor Board for the town.

§ 8-302 POWERS.

The Packaged Liquor Board shall have the power to and is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of retail sales of packaged liquor within the corporate limits of the town in accordance with the provisions of this chapter. The Packaged Liquor Board is authorized to make and establish reasonable bylaws, rules, and regulations as may be necessary for its own government and for the full and complete execution of its powers and duties. The Packaged Liquor Board is hereby vested with all authority to recommend to the Town Council the issuance or denial of a certificate of compliance for purposes of compliance with the rules and regulations of the state's Alcoholic Beverage Commission related to the issuance of a license to sell packaged liquor, Council, as provided by the laws of the State of Tennessee, and in accordance with the rules and procedures set forth in this chapter. The Packaged Liquor Board is hereby vested with authority to recommend to the town notices of violations of state and local law be forwarded to the state's Alcoholic Beverage Commission for further investigation and action. The Packaged Liquor Board shall operate in accordance with the provisions of this chapter in accordance with such other rules and procedures as may be promulgated by said Board.

§ 8-303 MEMBERS.

The Packaged Liquor Board shall be composed of five members who shall be residents of the town and who shall be appointed by a majority vote of the Town Council. All members of the Packaged Liquor Board shall serve without compensation.

§ 8-304 TERMS.

(1) The terms of the members of the Packaged Liquor Board shall be staggered to provide for continuity and experience on the Board. The terms of the Board shall be four years each. Each member appointed in 2024 or thereafter shall hold his or her seat for a period of three years from the date of appointment. Members may not serve more than two (2) consecutive terms on the board; however, in the instance a suitable applicant is not presented to the Town Council, the legislative body shall have the discretion to reappoint an incumbent member.

(2) Members of the Board may be removed by the Town Council for neglect of duty, conflict of interest, malfeasance in office, violation of the ethics ordinance, or other just cause, or for unexcused absence from more than three consecutive meetings or more than five non-consecutive meetings during the member's term of appointment. It is the duty of the town staff representative to advise the Town Manager when removal is recommended or necessary based on the provisions herein. The decision of the Town Council will be final with no appeal. Board members who are unable to attend regular meetings are expected to tender their resignation. Any vacancy shall be filled by the Town Council for the remainder of the unexpired term.

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§ 8-305 ADMINISTRATION.

To facilitate its deliberations, the Packaged Liquor Board shall be assisted by the Town Manager and/or employees designated by the Town Manager.

§ 8-306 OFFICERS.

The Packaged Liquor Board shall annually elect a chairperson from among its membership to preside over its deliberations. Likewise, the Packaged Liquor Board shall annually elect a vice-chairperson from among its membership to preside over the Board's deliberations in the absence of the chairperson. The Town Manager, or another employee designated by the Town Manager, shall be the ex-officio Secretary of the Packaged Liquor Board.

§ 8-307 MEETINGS.

The Packaged Liquor Board shall hold regular monthly meetings at 5:00 p.m. on the first Tuesday of each month at Town Hall. If the meeting date falls on a town holiday, an alternative meeting date will be determined by the Board. When there is business to come before the Packaged Liquor Board, a special meeting may be called by the chairperson provided he or she gives reasonable notice to all members. The Packaged Liquor Board may adjourn a meeting at any time to another time and place. All meetings shall be open to the public.

§ 8-308 RECORD OF PROCEEDINGS TO BE KEPT.

The Secretary shall make a record of the proceedings of all meetings of the Packaged Liquor 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 before the Board; a copy of each motion or resolution presented; the vote of each member thereon; and the applications and all submissions of each packaged liquor request for certificate of compliance.

§ 8-309 REQUIREMENTS FOR QUORUM AND ACTION.

The attendance of at least a majority of the members of the 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 and voting if a quorum is constituted, except that there must be a minimum of two positive votes for approval of a recommendation to the Town Council for the issuance of a certificate of compliance.

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§ 8-310 BOARD NOT EMPOWERED TO OBLIGATE TOWN OR INCUR LIABILITY.

Notwithstanding anything that may be herein contained or implied to the contrary, the Board shall not be empowered, without express authority of the Town Council, to obligate the town in any way or to expend or incur liability for any sum of money, except as may be provided for in the yearly budgets and appropriations adopted by the Town Council.

§ 8-311 SUBJECT TO LAW AND REGULATIONS.

It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of the town except in accordance with the provisions of T.C.A. Title 57, and the rules and regulations promulgated thereunder, and as provided in this chapter.

Penalty, see § 8-335

§ 8-312 TERMS DEFINED.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGE or **BEVERAGE**. Includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine, and capable of being consumed by a human being, other than patented medicine or beer, as defined in § 57-5-101(b). Notwithstanding any provision to the contrary in this title, except for beer as defined in § 57-5-101(b), **ALCOHOLIC BEVERAGE** or **BEVERAGE** also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol, regardless of alcohol content. Liquid products intended for beverage purposes containing alcohol that do not meet the definition of beer under § 57-5-101(b) shall also be **ALCOHOLIC BEVERAGES**. Notwithstanding the provisions of this section, products or beverages containing less than 0.5% alcohol by volume, other than wine as defined in this section, shall not be considered to be alcoholic beverages, and shall not be subject to regulation or taxation pursuant to T.C.A. Title 57, Chapters 1 through 6 and 9.

CURB SERVICE. All sales transacted outside of the building where the business is carried on. The intent of this provision being to ensure that the sale and purchase of alcoholic beverages is transacted in a face-to-face meeting between the salesperson and the customer, with the customer outside of a motor vehicle and under such circumstances that the salesperson has a reasonable opportunity to determine if the customer is then in an intoxicated condition or is a minor.

LICENSE. The license issued pursuant to T.C.A. Title 57, Chapter 3, and “licensee” means any person to whom such license has been issued.

MANUFACTURE. Includes distilling, rectifying, and operating a winery.

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MANUFACTURER. Includes a distiller, vintner, and rectifier.

PERSON. Any private individual, partnership, joint venture, corporation, or any other business entity or association.

PREMISES. On the property owned, leased, or controlled by the licensee and so connected with the liquor business in which the licensee is engaged as to form a component or integral part of it, including, but not limited to, the building and the parking areas surrounding it. **PREMISES** includes all decks, patios, and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business identified in the permit.

RETAIL SALE or **SALE AT RETAIL.** A sale to a consumer or to any person for any purpose other than for resale.

RETAILER. Any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

TOWN. The Town of Smyrna and any boards, commissions, or executive and legislative bodies authorized to act on its behalf.

WHOLESALE SALE or **SALE AT WHOLESALE.** A sale to any person for purposes of resale.

WHOLESALER. Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of T.C.A. Title 57.

§ 8-313 CERTIFICATE OF COMPLIANCE REQUIRED PRIOR TO ISSUANCE OF LICENSE; INVESTIGATION FEE; RENEWAL.

(1) For the retail sale of alcoholic beverages, a license shall be required. As a condition precedent to the issuance of a retail license by the Alcoholic Beverage Commission, an applicant for a license shall first obtain a certificate of compliance from the town, as provided for in T.C.A. § 57-3-208. The application for a certificate shall be in writing on forms prescribed and furnished by the Town Clerk. Applications must be submitted 14 days prior to the scheduled meeting of the Packaged Liquor Board. Applications submitted later than 14 days prior to the scheduled meeting of the Packaged Liquor Board will not be considered until the next regularly scheduled meeting of the Packaged Liquor Board. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership, LLC, or a corporation, the application shall be verified by the oath of each partner, the general manager of the LLC, or by the president of the corporation. The application shall identify the name and address of the owner of the property for which the certificate is sought, and shall be accompanied by evidence that the owner has agreed to allow the proposed retail store to be operated on the property upon issuance of a license.

(2) (a) Upon submission of a completed application, a review of the reports of the Police Chief and the Town Manager, the Packaged Liquor Board shall determine that all requirements contained in this chapter have been met. Thereafter, the applicant shall appear before the Packaged Liquor Board for a public hearing in which the applicant may seek a recommendation from the Board to the Town Council for the

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issuance of a certificate of compliance from the Council. In considering whether or not to grant the certificate of compliance, the Packaged Liquor Board shall consider the following.

(b) The Packaged Liquor Board shall conduct an analysis of the proposed liquor store site to determine its suitability; such analysis shall include, but shall not be limited to the following:

- (i) A land use survey of the surrounding development;
- (ii) Off-street parking and loading facilities;
- (iii) Proposed points of access and ease of ingress and egress;
- (iv) The lot, yard, and open space requirements; and
- (v) Whether a traffic hazard will be created.

(3) The Packaged Liquor Board shall make a recommendation to the Town Council. The certificate shall be granted or denied by the Town Council within 60 days after the application for the certificate is submitted to the Town Clerk and, if granted, shall be signed by the Mayor or a majority of the Town Council. A certificate of compliance shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the Alcoholic Beverage Commission within 60 days of the date of the certificate or the retail store for which a certificate was granted is not in operation within 12 months following the issuance of the license from the Alcoholic Beverage Commission. If a certificate becomes void, no new certificate may be issued to the same applicant unless a new application or reapplication is submitted and all applicable requirements of this chapter are met at the time the new application or reapplication is received.

(4) Each application shall be accompanied by a non-refundable application fee as set forth by the Town Council in the fee schedule adopted as part of the annual budget ordinance. Reapplications shall not have priority over the other applications being processed at the time of the reapplication.

(5) The Mayor shall be authorized to issue a certificate of compliance required in connection with the renewal of an existing license pursuant to T.C.A. § 57-3-213 without deliberation by the full Town Council. If the Mayor fails or refuses to issue a certificate required in connection with a license renewal, the license holder may request issuance of the certificate by a majority of the Town Council. The initial certificate of compliance issued in connection with the renewal of an existing license shall be valid for two years. The fee for such initial renewal shall be accompanied by an investigation fee as set forth in the fee schedule adopted as part of the annual budget ordinance. A new certificate of compliance shall be required by the licensee in connection with the renewal of an existing licensee every other year thereafter, which application for such new certificate of compliance shall be on the same forms as for an original application for a certificate of compliance and accompanied by an investigation fee in the same amount as that for an original application for a certificate of compliance.

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§ 8-314 APPLICANT TO AGREE TO COMPLY WITH LAWS.

The applicant for a license or certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the town and rules and regulations of the state's Alcoholic Beverage Commission of the State for sale of alcoholic beverages.

§ 8-315 ACTION ON APPLICATION.

Every application for a certificate of compliance shall be referred to the Chief of Police for investigation and the Town Manager for review, each of whom shall submit his or her findings to the Packaged Liquor Board prior to the meeting at which the application is being considered.

§ 8-316 FULL AND ACCURATE DISCLOSURE REQUIRED.

(1) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensee, unless his or her interest in said business and the nature, extent, and character thereof shall appear on the application. If the interest is acquired after the issuance of a license, it shall be fully disclosed to the Town Council and approved by it. Where such interest is owned by such person on or before the application for any license or certificate, the burden shall be upon such person to see that this section is fully complied with, whether he or she signs or prepares the application, or whether the same is prepared by another. If said interest is acquired after the issuance of the license or certificate, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser. If any person shall violate the provisions of this division (1), he or she shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$50 per day for each violation.

(2) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license or certificate shall be a violation of this chapter. The town may refuse to issue a certificate, if, upon investigation, the town finds that the applicant for certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the business, or if the interest of the applicant in the operation of business is not truly stated in the application, or in case of any fraud or false swearing by the applicant touching any matter relating to the operation of the business. All data, written statements, affidavits, evidence, or other documents submitted in support of an application are a part of the application.

(3) If the provisions of this section are alleged to have been violated, the Town Council may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant or licensee to refute such allegations and/or show cause why the certificate should not be revoked. Penalty, see § 8-335

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§ 8-317 RESTRICTIONS AS TO LOCATION OF RETAILERS.

(1) There shall be a limit of five retail liquor stores allowed in the town.

(2) A certificate issued under this chapter shall be valid only for the premises proposed in the application, and any change of location of the business shall be cause for immediate revocation of the certificate. No certificate of compliance shall be issued for the operation of a retail store, where such store would be a prohibited use under the town's zoning ordinance, or where the proposed place of business is located within 500 feet of:

(a) A private residence which is in a residential zoning district. A **PRIVATE RESIDENCE** as used herein is defined as a house or dwelling where not more than two families reside, and shall not include an apartment house having facilities for housing more than two families nor a boarding or rooming house where there are five or more boarders or roomers;

(b) Any structure used as a church or other religious institution, school or college, hospital, day care, park, public library, or other place of public gathering. **SCHOOL** and **COLLEGE** as used herein shall not include private colleges or schools wherein only specialized subjects, such as music, art, cosmetology, computer skills, or vocational occupations are taught; or

(c) Another retail liquor store.

(3) For purposes of this section, distances shall be measured in a straight line from the closest point of the applicant's building to the closest point of the building of the school, church, funeral home, hospital, licensed day care facility, retail liquor store, or other place of public gathering; provided, however, that if the applicant leases space in a shopping center or strip mall, the distance shall be measured in a straight line from the closest point of the nearest interior wall of the applicant's leased space to the closest point of the building of the school, church, funeral home, hospital, licensed day care facility, retail liquor store, or other place of public gathering.

(4) (a) The restrictions set forth herein as to locations apply to conditions existing as of the time of the application for a certificate is filed.

(b) With respect to the distance restriction from another retail liquor store, if an application has been filed for a certificate of compliance, no other application for a proposed retail liquor store within 500 feet of the site proposed in the pending application shall be considered by the Packaged Liquor Board or the Town Council, until the first application has been denied, or if granted, has expired due to circumstances set out in § 8-313(3) and (5) or been revoked.

(5) Building, signage, and design review provisions.

(a) All liquor stores shall be a permanent type of construction in a material and design approved by the Town Council. All stores, including the entire building in which they are located within, shall strictly comply with or exceed the design review guidelines as adopted and in place in the town.

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(b) No liquor stores shall be located in a manufactured or other moveable or prefabricated type of building.

(c) All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system, monitored by an outside, central station, on the inside of the premises.

(d) The minimum square footage of the liquor store display area shall be 2,500 square feet.

(e) Stores shall abide by the town's sign ordinance provisions for wall signage. Such signage shall be static, and it shall not blink, move, be animated, or otherwise contain changeable copy.

(f) All liquor stores shall be subject to applicable zoning, land use, building, and life safety regulations, as adopted within the town code, unless specifically stated otherwise herein. The strictest and most specific provisions shall apply.

(Ord. 14-29, passed 9-2014; Ord. 17-33, passed 8-2017)

§ 8-318 PROOF OF NET WORTH BY APPLICANT; REQUIRED DOCUMENTS.

(1) An applicant for a certificate of compliance shall furnish evidence satisfactory to the town of his or her financial net worth in the net amount of \$100,000. Such proof shall be by the submission of a certified financial statement.

(2) In addition to the above, the following documents and information are required to be submitted as part of the application for a certificate of compliance:

(a) Business plan for proposed package liquor store;

(b) Current occupation or business and length of time engaged in such occupation and business;

(c) If employed, the name and address of your employer;

(d) If in business, the kind of business and location thereof;

(e) The amount of money invested or to be invested, and the source of funds to be used, and, if borrowed, the name of the person from whom borrowed, the name of the bank with which the applicant does business, and the name of any person who is aiding the venture financially, either by a loan or endorsement;

(f) The name of any person who will have an interest, direct or indirect, in the business of the applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail license;

(g) If the applicant is a partnership, LLC, or corporation, the name, age, and address of each

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partner or stockholder and his or her occupation, business, or employer;

(h) If you employ an outside person or company to keep your books, please state the name and address of such person or company. You must execute a waiver to allow access to your books;

(i) Furnish your Tennessee Sales Tax Registration number;

(j) If you are indebted to the State of Tennessee and/or any municipality for any tax, state the tax and the amount owed;

(k) Provide any and all federal taxpayer identification numbers and the names associated with such identification numbers; and

(l) For any business owned, provide the last two years tax returns.

(3) Information requested within the application must be provided. All incomplete applications shall be denied by the Packaged Liquor Board.

(4) The application required in this section shall be verified by the oath of the applicant, and if the applicant is a partnership, corporation, or LLC, it shall be verified by the oath of each partner or stockholder who holds at least 10% of shares.

§ 8-319 RESTRICTIONS ON LICENSE HOLDERS AND EMPLOYEES.

(1) No license or certificate of compliance shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, city, or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissions where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(2) No retailer shall be a person who has been convicted of a felony within ten years prior to the time he or she or the concern with which he or she is connected shall apply for a certificate of compliance. In the case of a partnership or corporation, no executive officer or anyone in control of the entity shall have been convicted of a felony within a ten-year period immediately preceding the date of the application. In the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation, or association with which he or she is connected shall immediately discharge him or her.

(3) No license or certificate shall under any condition be issued to any person who within ten years preceding application for such license or certificate shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer, or who has,

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during said period, been engaged in business, alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto.

(4) No retailer shall be a person who has been convicted for a crime violating a drug or alcohol law or a crime involving physical violence, within the last five years or who has more than one conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last ten years. In the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted individual be an individual licensee, and if not, the partnership, corporation, or association with which he or she is connected shall immediately discharge him or her.

(5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises or any other person having a license hereunder or in the fixtures of any such person.

(6) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of 18 years. It shall be unlawful for any retailer to employ any person under 18 years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person in its place of business to engage in the storage, sale, or distribution of alcoholic beverages.

(8) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages any person who, within ten years prior to the date of his or her employment shall have been convicted of a felony. In case an employee should be convicted, he or she shall immediately be discharged.

(9) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages any person who, within five years prior to the date of his or her employment, shall have been convicted for a crime violating a drug or alcohol law or a crime involving physical violence or who has more than one conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last ten years. In case an employee should be convicted, he or she shall immediately be discharged.

(10) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages any person who, within ten years prior to the date of his or her employment, shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer, or who has, during said period, been engaged in business, alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto.

(11) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.

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§ 8-320 DISPLAY OF LICENSES.

Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in a conspicuous place in their premises, such license.

§ 8-321 TRANSFER OF LICENSES RESTRICTED.

The holder of a license may not sell, assign, or transfer such license to any other person, and the license shall be good and valid only for the calendar year in which the same was issued.

§ 8-322 ONLY ONE ESTABLISHMENT TO BE OPERATED BY RETAILER.

No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the town. The word “indirectly” as used in this section shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner’s interest, or otherwise.

§ 8-323 SALES FOR CONSUMPTION ON PREMISES.

No alcoholic beverages shall be sold for consumption on the premises of the seller. No devices which tend to cause persons to congregate shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. No form of entertainment, including pinball machines, music machines, or similar devices shall be permitted to operate upon any premises from which alcoholic beverages are sold.

§ 8-324 ENTRANCES.

Each retail establishment shall have only one main entrance, provided that when a store is located on the corner of two streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

§ 8-325 MUNICIPAL INSPECTION FEE.

(1) There is hereby levied upon every licensee under this chapter an inspection fee of 5% of the wholesale price paid by such licensee to a wholesaler for all alcoholic beverages sold and/or supplied by a wholesaler of alcoholic beverages to said licensee within the corporate limits of the town, said fee to be collected by the wholesaler as hereinafter provided.

(2) The inspection fee shall be collected by the wholesaler from the licensee following notice given

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the wholesaler by the Town Clerk of passage of this chapter. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the licensee makes payment for the delivery of the alcoholic beverages.

(3) Each wholesaler making sales to licensees located within the corporate limits of the town shall furnish the municipality a report monthly, which report shall contain a list of the alcoholic beverages sold to each licensee, the amount of the inspection fee due and such other information as may be required by the municipality. A monthly report shall be furnished to the municipality imposing the inspection fee not later than the twentieth of the month following the month in which the sales were made. The inspection fees collected by the wholesalers from the licensee or licensees located within the municipality shall be paid to the municipality at the time the monthly report is made. Wholesalers collecting and remitting the inspection fee to the municipality shall be entitled to reimbursement for this collection service a sum equal to 5% of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the municipality.

(4) The failure of the wholesaler to collect or timely report and/or pay the inspection fees collected shall result in a penalty in the amount of 10% of the inspection fee due the municipality, which shall be payable to the municipality. Any refusal to permit the examination of any of such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license or the refusal to issue a license.

(5) The inspection fee provided for herein shall be in lieu of all other gross receipt or inspection fees imposed upon wholesalers or licensees under this chapter on alcoholic beverages by the municipality.

(6) The Town Manager or his or her designee shall have the authority to audit the records of the wholesalers and/or licensees subject to the provisions of this chapter in order to determine the accuracy of the reports of the wholesalers and/or licensees.

§ 8-326 REGULATIONS FOR PURCHASE AND SALE OF INTOXICATING LIQUORS.

(1) It shall be unlawful for any person in this town to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverage to him or her.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where other business is carried on.

(4) No holder of a license for the sale of alcoholic beverages at retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverage on credit.

(5) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee and

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curb service is not permitted.

(6) To the fullest extent, consistent with the structure of the establishment, full, free, and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.

(7) Advertising by a licensee, and signs, displays, posters, and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the state's Alcoholic Beverage Commission and/or the sign provisions and restrictions of the underlying zoning district in which the licensee is located or the sign or advertising is proposed, or as otherwise specifically provided in this chapter.

Penalty, see § 8-335

§ 8-327 REGULATION OF RETAIL SALES.

(1) No retailer shall sell, lend, or give away any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell, lend, or give away such beverage to any person accompanied by a person who is drunk.

(2) No retailer shall sell, lend, or give away any alcoholic beverages to a person under 21 years of age.

(3) No retailer shall sell, lend, or give away any alcoholic beverages between 11:00 p.m. on Saturday and 8:00 a.m. Monday. No retailer shall sell, lend, or give away any alcoholic beverages except between the hours of 8:00 a.m. and 11:00 p.m. on Monday through Saturday. The store may not be open to the general public except during regular hours.

(4) No retailer shall sell, lend, or give away any alcoholic beverages on Christmas Day, Thanksgiving Day, Labor Day, New Year's Day, Easter, or the Fourth of July.

(5) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(6) Entertainment devices and seating forbidden. No form of entertainment, including pinball machines, music machines, or similar devices shall be permitted in any liquor store. No seating facilities, other than for employees of the liquor store, shall be permitted in any liquor store.

Penalty, see § 8-335

§ 8-328 INELIGIBILITY FOR BEER PERMIT HOLDERS.

No retailer shall hold, have any interest in, or be the owner of a business to which a beer permit from the town has been issued, revoked, or suspended. No retailer shall hold a license to sell beer and a license for retail sale of packaged liquor.

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§ 8-329 EFFECT OF FEDERAL LICENSE.

The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter.

§ 8-330 REVOCATION PROCEDURES.

Whenever the Town Council finds that a licensee has been, or is, in violation of the provisions of T.C.A. Title 57, Chapter 1, or the provisions of this chapter, it shall certify such violation to the Alcoholic Beverage Commission, in such form as the Commission requires, which shall have the responsibility for determining whether the offender's license shall be revoked.

§ 8-331 NEW LICENSE AFTER REVOCATION.

Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one year from the date said revocation becomes final and effective.

§ 8-332 MANUFACTURING PROHIBITED.

The manufacture of alcoholic beverages is prohibited within the corporate limits.

§ 8-333 VISIBLE POSSESSION OF UNSEALED CONTAINERS ON STREETS AND THE LIKE.

Visible possession of alcoholic beverages in unsealed containers upon any public street or within any governmental building or public park shall be a violation of this chapter.

Penalty, see § 8-335

§ 8-334 CHAPTER DOES NOT APPLY TO BEER.

No provision of this chapter shall be considered or construed as in any way modifying, changing, or restricting the rules and regulations governing the sale, storage, transportation, and the like, or tax upon beer or other liquids with an alcoholic content of 8% or less, as defined in T.C.A. § 57-5-101, more specifically Chapter 3 of this Title.

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§ 8-335 VIOLATIONS.

Any violation of the terms of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the Town Judge to immediately certify the conviction, whether on appeal or not, to the state's Alcoholic Beverage Commission.