

**TITLE 8**

**ALCOHOLIC BEVERAGES**<sup>1</sup>

**CHAPTER**

1. LIQUOR STORES.
2. BEER.

**CHAPTER 1**

**LIQUOR STORES**

**SECTION**

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**8-101. Definitions.** Whenever used in this title, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, and wine capable of being consumed by a human being other than medicine or beer where the latter

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

contains an alcohol content of five percent (5%) by weight or less. Alcoholic beverages also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content. Products or beverages, including beer, containing less than one-half percent (1/2%) alcohol by volume, other than wine as defined in this section, shall not be considered alcoholic beverage and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.

(2) "Applicant" means a person applying for a liquor store privilege license or a certificate of compliance, as the context provides.

(3) "Applicant group" means more than one (1) person joining together to apply for a local liquor store privilege license or certificate of compliance, as the context provides, to operate a single liquor store pursuant to the same application.

(4) "Application" means the form or forms or other information an applicant or applicant group is required to file with the city in order to attempt to obtain a local liquor store privilege license or certificate of compliance, as the context provides.

(5) "Certificate of compliance" means the certificate required in Tennessee Code Annotated, § 57-3-208, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(6) "City" means the City of Sweetwater, Tennessee.

(7) "Co-licensees" means persons who together hold a single liquor store privilege license for a single liquor store.

(8) "Federal statutes" means the statutes of the United States now in effect or as they may hereafter be changed.

(9) "Inspection fee" means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross purchase price of all alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, such inspection fee shall be the same as if the local liquor store privilege license were held by a single licensee.

(10) "License fee" means the annual fee a licensee is required by this chapter to pay prior to the time of the issuance of a local liquor store privilege license or certificate of compliance. In the event co-licensees holding a local liquor store privilege license for a single liquor store, only one (1) license fee is required.

(11) "Licensee" means the holder or holders of a local liquor store privilege license. In the event of co-licensees, each person who receives a certificate of compliance and liquor store privilege license shall be a licensee subject to rules and regulations herein.

(12) "Liquor store" means the building or part of a building where a licensee conducts any of the business authorized by the local liquor store privilege license and state liquor license held by such licensee.

(13) "Local liquor store privilege license" means a local liquor store privilege license issued under the provisions of this chapter for the purpose of authorizing the holder or holders thereof to engage in the business of selling alcoholic beverages at retail in the city at a liquor store. Such a local liquor store privilege license will only be granted to a person or persons who has or have a valid state liquor retailer's license. One (1) local liquor store privilege license is necessary for each liquor store to be operated in the city.

(14) "Manufactured building" means a structure, transportable in one (1) or more sections, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation.

(15) "Person" means any natural person as well as any corporation, limited liability company, partnership, firm or association or any other legal entity recognized by the laws of the State of Tennessee.

(16) "Retail sale" and "sale at retail" means the sale to a consumer or to any person for any purpose other than for resale.

(17) "State law, rules and regulations" means all applicable laws, rules and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may hereafter be changed including, without limitation, the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(18) "State liquor retailer's license" means a license issued by the Alcoholic Beverage Commission of the State of Tennessee pursuant to Tennessee Code Annotated, § 57-3-201, et seq. permitting its holder to sell alcoholic beverages at retail in Tennessee.

(19) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(20) "Wine" means the product of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. (1982 Code, § 2-101, as replaced by Ord. #872, July 2011)

**8-102. Selling and distribution generally.** It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages within the corporate limits of the city except as provided by Tennessee Code Annotated, title 57 and by the rules and regulations promulgated thereunder and as provided under this title. (as added by Ord. #872, July 2011)

**8-103. Licenses required for sale of alcoholic beverages at retail.**

It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store provided that such sales are made in strict compliance with all federal statutes, all state laws, rules and regulations, and all provisions of this chapter and provided that such licensee has a valid and duly issued state liquor retailer's license and a valid and duly issued local liquor store privilege license from the city permitting him or her to sell alcoholic beverages at retail. Transfer of ownership or possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited. (as added by Ord. #872, July 2011)

**8-104. Licensee responsible for officers and agents.**

Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #872, July 2011)

**8-105. Location of liquor store.**

It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the city unless at a location approved by board of commissioners. All such stores shall be located within a commercial district as appears on the official zoning map. Moreover, in no event shall such store be located within one hundred feet (100') of any hospital, school, church, Engleman Park or the city recreation center. With respect to establishing the proximity of any hospital, school or church from the location of a proposed liquor store, the distance of one hundred feet (100') is to be measured along a straight line from the nearest point on the hospital building, school building, or church building to the front door of the proposed liquor store. With respect to establishing the proximity of Engleman Park or the city recreation center from the location of a proposed liquor store, the distance of one hundred feet (100') is to be measured from the nearest point on the property line of said park to the front door of the proposed liquor store. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety or morals. (as added by Ord. #872, July 2011)

**8-106. Limitations on buildings containing liquor store.**

All liquor stores shall be a permanent type of construction in a material and design approved by the board of commissioners. No liquor store shall be located in a manufactured or other movable or prefabricated type of building. All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The liquor store display area shall be at least one thousand two hundred (1,200) square feet. Full, free and unobstructed vision shall be afforded to and from the street, public highway or parking lot to the interior of the liquor

store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use, building and safety regulations, as adopted within the Sweetwater Municipal Code, unless specifically stated otherwise herein. (as added by Ord. #872, July 2011)

**8-107. Restrictions generally.** (1) Certain devices and non-employee seating forbidden. No pinball machines, arcade gaming devices, including video games, jukeboxes 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.

(2) Time and days of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on any Sunday. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before eight o'clock in the morning (8:00 A.M.) Or after eleven o'clock at night (11:00 P.M.). No liquor store shall be open for business on Thanksgiving, Christmas, New Year's Day, Labor Day or the Fourth of July.

(3) Selling or furnishing to person(s) below the age of twenty-one (21) years, etc. It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to a person below the age of twenty-one (21) years or to a person visibly intoxicated. It shall be unlawful for such person to enter or remain in a liquor store (except that employees with appropriate employee permits issued pursuant to state law who are age eighteen (18) years and older are permitted in a liquor store for the purpose of engaging in paid employment only) or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a person below the age of twenty-one (21) years to misrepresent his or her age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee.

(4) Consumption on premises of liquor store. It shall be unlawful for any licensee to sell any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person who is not an employee of the liquor store to consume any alcoholic beverage in the liquor store or in the immediate vicinity of the liquor store. Any consumption of an alcoholic beverage by an employee shall be limited solely to the circumstances permitted and set forth in the Rules of the Tennessee Alcoholic Beverage Commission and any applicable federal law.

(5) Advertising. There shall be no advertising signs of any kind whatsoever outside the building containing a liquor store either for the liquor store or to advertise any matter pertaining to alcoholic beverages sold at liquor stores except as set forth herein. There may be placed on the front of a liquor store, but not extending therefrom over twelve inches (12"), a sign setting out the name of the liquor store. Such sign shall not exceed twenty (20) square feet in dimension. No such sign shall contain letters of neon or tube lighting so as to produce lighting within letters the letters themselves though signs lit by back

lighting are permitted. No reader board or changeable copy signs shall be permitted. One (1) freestanding sign shall be allowed on the premises. No off-premises signs related to a liquor store shall be allowed within the city. No banner or temporary or permanent sign or other material shall be placed on or inside a liquor store so that it obstructs free and clear vision of the interior of the liquor store from outside of the liquor store. The foregoing notwithstanding, one (1) banner advertising the grand opening of the liquor store shall be permitted for up to two (2) weeks when a liquor store is first opened for business provided a sign permit for such banner is obtained from the city.

(6) Off-premises business. All retail sales of alcoholic beverages shall be confined to the premises of the liquor store. No curb service is permitted, nor shall drive-in window service be permitted. No licensee shall employ any canvasser, agent, solicitor or other representative for the purpose of receiving an order from a customer for any alcoholic beverages at the residence or place of business of such consumer nor shall any licensee receive or accept any such order which shall have been solicited and received at the residence or place of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from a licensed retailer at the licensed premises. (as added by Ord. #872, July 2011)

**8-108. Fees.** (1) Amounts generally. There is hereby levied on each licensee an inspection fee of five percent (5%) on the gross purchase price of any alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. Payment of all such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part.

(3) Reports. The city recorder shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by such licensee making purchase from such wholesaler or other source. Such wholesaler shall timely complete and return the forms and the required information and inspection fees within the time specified therein.

(4) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time required by this chapter shall, at the sole discretion of the city recorder, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the board of commissioners, be cause for revocation of such local liquor store privilege license. Each such action may be taken by giving written notice thereof to the licensee, no hearing with

respect to such an offense being required. If a licensee has his or her license revoked, suspended or otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal, the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay or have paid on his or her behalf the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee.

(5) Use of fees. All funds derived from inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this title, including particularly the payment and compensation of officers, employees, and other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this title are observed. The board of commissioners finds and declares that the amount of these inspection fees is reasonable, and that the funds expected to be derived from these inspection fees will be reasonably required for such purposes. (as added by Ord. #872, July 2011, and amended by Ord. #880, May 2012)

**8-109. Records kept by licensee.** (1) Required records. In addition to any records specified in the state rules and regulations, each licensee shall keep on file, at such licensee's liquor store, the following records:

- (a) The original invoices of all alcoholic beverages bought by the licensee;
- (b) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;
- (c) A current daily record of the gross sales by such licensee with evidence of cash register receipts for each day's sales; and
- (d) An accurate record of all alcoholic beverages lost, damaged, or disposed of other than by sale and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved and the name of the person or persons receiving the same.

(2) Duration. All such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part. (as added by Ord. #872, July 2011)

**8-110. Inspections generally.** The city recorder, the city finance director, the chief of police or the authorized representative or agents of any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege

license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee. (as added by Ord. #872, July 2011)

**8-111. Enforcement, violations and penalties.** Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify such conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with a petition that all licenses be revoked, pursuant to Tennessee Code Annotated, § 57-3-101, et seq., and the rules and regulations of said commission. (as added by Ord. #872, July 2011)

**8-112. Certificate of compliance.** As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, board of commissioners may authorize the issuance of certificates of compliance by the city according to the terms contained herein. (as added by Ord. #872, July 2011)

**8-113. Application.** (1) Filing and content. An applicant or applicant group for a liquor store shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the board of commissioners or city recorder may require:

(a) The name and street address of each person to have an interest, direct or indirect, in the liquor store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information on the application provided by the city;

(b) The name of the liquor store proposed;

(c) The address of the liquor store proposed and its zoning designation;

(d) The statement that an individual applicant or at least one (1) member of an applicant group resides within and has resided within the urban growth boundaries of the City of Sweetwater for at least two (2) years immediately prior to the time the application is filed or, in the case of a partnership, corporation, or limited liability company, that at least fifty-one percent (51%) of the shares or interests in such entity be owned by a natural person(s) who resides and has resided within the urban growth boundaries of the City of Sweetwater for at least two (2) years prior to the time the application is filed;

(e) A statement that the persons receiving the requested license to the best of their knowledge if awarded the certificate of compliance could comply with all the requirements for obtaining the required licenses under state law and the provisions of this chapter for the operation of a liquor store in the city; and

(f) The agreement of each applicant or each member of an applicant group, as appropriate, to comply with all applicable laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages and the agreement of each applicant or each member of an applicant group as to the validity and the reasonableness of the regulations, inspection fees, and taxes provided in this title with reference to the sale of alcoholic beverages.

(2) Further determination. The application form shall be accompanied by a copy of each questionnaire form and other material to be filled out by the applicant or each member of the applicant group with the Tennessee Alcoholic Beverage Commission in connection with the same application and shall be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one inch equals twenty feet (1" = 20') giving the following information:

(a) The shape, size and location of the lot upon which the liquor store is to be operated under the license;

(b) The shape, size, height and location of all buildings whether they are to be erected, altered, moved or existing upon the lot;

(c) The off-street parking space and off-street loading and unloading space to be provided, including the vehicular access to be provided from these areas to a public street; and

(d) The identification of every parcel of land within one hundred feet (100') of the lot upon which the liquor store is to be operated indicating the ownership thereof and the location of any structures thereon and the use being made of every such parcel.

(3) Signature(s). The application form shall be signed and verified by each person to have any interest in the liquor store either as an owner, partner, stockholder or otherwise.

(4) Misrepresentation, concealment of fact and duty to amend. If any applicant, member of an applicant group, or licensee misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group, or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by the board of commissioners. Further, no sale, transfer or gift of any interest of any nature, either financial or otherwise, in a liquor store shall be made without first obtaining a replacement license from the city upon the approval of the board of commissioners.

(5) Investigation fee. Each application for a local liquor store privilege license shall be accompanied by a non-refundable five hundred dollar (\$500.00) investigation fee. Each request for a certificate of compliance shall be accompanied by a non-refundable one hundred dollar (\$100.00) investigation fee. One (1) investigation fee per applicant group is sufficient. (as added by Ord. #872, July 2011)

**8-114. Consideration.** In issuing certificates of compliance sufficient for licensing liquor stores in the city permitted by this chapter, the board of commissioners will consider all applications filed after publication, at applicant's expense, in a newspaper of general circulation in Monroe County, Tennessee, of the notice required by Tenn. Comp. R. & Regs. 0100-03-.09(10)-(11). The board of commissioners will select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and suitable circumstances for the lawful operation of a liquor store without regard to the time or order in which the applications are filed. Such persons and only such persons shall receive certificates of compliance issued by the city. Rejected applications expire upon rejection, but they will be kept by the city for reference in the event of later application by the same applicant. Applications can only be submitted to the city during the time frame the board of commissioners sets forth for receipt of such applications. Applications and all matters submitted with or as a part of such applications become at the time they are submitted the sole and exclusive property of the city and constitute public records open to public inspection. (as added by Ord. #872, July 2011)

**8-115. Restrictions upon issuance.** (1) Certificates of compliance. The board of commissioners shall not issue a certificate of compliance unless the applicant has complied with all the requirements of state liquor statutes, the Rules and Regulations of the Alcoholic Beverage Commission, Tenn. Comp. R. & Regs. 0100-03 and this chapter, and license approval by the Tennessee Alcoholic Beverage Commission is pending.

(2) No violations of chapter. No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provisions of this chapter.

(3) Prerequisites of issuance. The city recorder upon approval of the board of commissioners shall not sign any certificate of compliance for any applicant or applicant group until:

(a) Such application has been filed with the city recorder;

(b) The notice required by Tenn. Comp. R. & Regs. 0100-03-09(10)-11) has been published and the public hearing noticed therein has been conducted;

(c) The location stated in the certificate has been approved by the board of commissioners as a suitable location for the operation of a liquor store; and

(d) The application has been considered at a public meeting of the board of commissioners and approved by a vote of at least three (3) members thereof.

(4) Time periods for action. Any applicant or applicant group who has obtained a certificate of compliance as provided herein must open a liquor store in the city within six (6) months or, unless an extension is granted by board of commissioners, said certificate will be revoked by the passage of this amount of time and a certification thereof will be sent to the Alcoholic Beverage Commission of the State of Tennessee and the local liquor license issued pursuant to such application shall be considered canceled and revoked. (as added by Ord. #872, July 2011)

**8-116. License from city to operate liquor store.** After an applicant or applicant group receives a license from the State of Tennessee to operate a retail liquor store pursuant to Tennessee Code Annotated, §§ 57-3-101, et seq., he or she shall apply to the city recorder for a local liquor retailer's license to operate a retail liquor store pursuant to the following terms, conditions and restrictions. (as added by Ord. #872, July 2011)

**8-117. Restrictions on local liquor retailer's licenses.** (1) Number of licenses. There shall be no limit on the number of local liquor retailers' licenses for the sale of alcoholic beverages at liquor stores which may be issued under this chapter.

(2) Term renewal. Each license shall expire on December 31 of each year. A license shall be subject to renewal each year by compliance with all applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter.

(3) Display. A licensee shall display and post and keep displayed and posted his or her license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

(4) Transfer. A licensee or co-licensee shall not sell, assign or transfer his or her license or any interest therein to any other person. No license shall be transferred from one location to another location without the express permission of the board of commissioners.

(5) Fees. A license fee of five hundred dollars (\$500.00) is due at the time of application for a license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city recorder before any license shall be issued. (as added by Ord. #872, July 2011)

**8-118. Restrictions upon licensees and employees.** (1) Initial qualification. To be eligible to apply for or to receive a license, an applicant or

in the case of an applicant group, each member of the applicant group, must satisfy all of the requirements of the state statutes and of the state rules and regulations for the holder of a liquor retailer's license.

(2) Public officers and employees. No license shall be issued to a person who is a holder of a public office either appointed or elected or who is a public employee either national, state, county or city. It shall be unlawful for any such person to have any interest in such liquor store either directly or indirectly, either proprietary or by means of a loan or participation in the profits of any such business. This prohibition shall not apply however to uncompensated, appointed members of boards or commissions who have no duties covering the regulation of alcoholic beverages or beer.

(3) Felons. No licensee shall be a person who has been convicted of a felony within ten (10) years prior to the time he or she or the legal entity with which he or she is connected shall receive a license; provided that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In case of such conviction occurring after a license has been issued and received, the license shall immediately be revoked if such convicted felon is an individual licensee and, if not, the partnership, corporation, limited liability company or association with which he or she is connected shall immediately discharge him or her and he or she shall have no further interest therein or else such license shall be immediately revoked.

(4) Employee felons. No licensee shall employ in the storage, sale, or distribution of alcoholic beverages any person who within ten (10) years prior to the date of his or her employment shall have been convicted of a felony. In the case that an employee is convicted of a felony while he or she is employed by a licensee at a liquor store, he or she shall be immediately discharged after his or her conviction provided that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(5) Liquor offenses. No license shall be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of this state or any state or of the United States regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer who has during such period been engaged in business, alone or with others, in violation of any such laws or rules and regulations.

(6) Disclosure of interest. It shall be unlawful for any person to have ownership in or participate in, either directly or indirectly, the profits of any liquor store unless his or her interest in such business and the nature, extent and character thereof shall appear on the application or if the interest is acquired after the issuance of a license unless it be fully disclosed to the city recorder and approved by him or her in a timely manner.

(7) Age. No licensee shall be a person under the age of twenty-one (21) years and it shall be unlawful for any licensee to employ any person under the age of eighteen (18) years for the physical storage, sale or distribution of alcoholic beverages or to permit any such person under such age in his or her place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) Interest in only one liquor store. A person shall have an interest, either direct or indirect, in no more than one (1) liquor store licensed under this title in the City of Sweetwater. (as added by Ord. #872, July 2011)

**8-119. Nature of license; suspension or revocation**. The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by the board of commissioners for any violation of this title by the licensee or by any person for whose acts the licensee is responsible. The licensee shall be given reasonable notice and an opportunity to be heard before the board of commissioners suspends or revokes a license for any violation unless provided otherwise specifically herein. If the licensee is convicted of a violation of this title by a final judgment in any court and the operation of the judgment is not suspended by an appeal, upon written notice to the licensee, the city recorder may immediately suspend the license for a period not to exceed sixty (60) days, and the board of commissioners may revoke the license on the basis of such conviction thereafter. A license shall be subject to revocation or suspension without a hearing whenever such action is expressly authorized by other provisions of this chapter stating the effect of specific violations. (as added by Ord. #872, July 2011)

**8-120. Effect**. The ordinance comprising this chapter shall take effect upon adoption, the public welfare requiring it. (as added by Ord. #872, July 2011)

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer business lawful but subject to regulation.
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- 8-215. Restrictions as to purchases by retailers.
- 8-216. Restrictions as to sales by distributors.
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- 8-219. Enforcement by policemen.
- 8-220. Complaints against licensees and hearings thereon.
- 8-221. Number of on and off premises retail beer licenses limited.

**8-201. Beer business lawful but subject to regulation.**<sup>2</sup> The transportation, storage, sale, distribution, possession, and/or manufacture of beer, and/or ale of an alcoholic content of not more than five percent (5%) by weight within the corporate limits of Sweetwater, Tennessee, shall be lawful but subject to the regulations hereinafter set out and provided. (1982 Code, § 2-201)

**8-202. Beer board.** For the purpose of regulating beer business within the city there is hereby created a beer board consisting of the mayor and board

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<sup>1</sup>Municipal code reference

Provisions for wholesale beer tax: title 5, chapter 3.

<sup>2</sup>State law reference

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

of commissioners. The mayor shall serve as chairman of the beer board, shall preside at all its meetings, and shall see that a complete record is kept of all action taken by the beer board. A majority of the beer board shall constitute a quorum, and it shall act on the affirmative vote of a majority of the quorum present. The beer board shall meet at the call of its chairman when necessary and proper effectually to carry out its duties and the provisions of this chapter. (1982 Code, § 2-202)

**8-203. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101, and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Sweetwater. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #653, Sept. 1993)

**8-204. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Sweetwater, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #653, Sept. 1993)

**8-205. Interference with public health, safety, and morals prohibited.** No permit or license authorizing the storage, sale, distribution or manufacturing of beer will be issued when such businesses would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering as specifically enumerated in 8-206, or would otherwise interfere with the public health, safety and morals. (1982 Code, § 2-204, as replaced by Ord. #786, April 2006)

**8-206. Restriction as to location of beer places.** (1) In no event will a permit be issued authorizing the storage, sale or manufacture of beer to a permit holder within a minimum distance as listed below from any building

(a) Used as a church, provided a church service is held at the premises at least on one day of each week; or,

(b) Used as a school, provided the school is operated by a public school system of the City of Sweetwater, Tennessee, or Monroe County,

Tennessee, or is a private school and such school is licensed and accredited by the state of Tennessee to provide and is providing a pre-kindergarten, kindergarten, elementary or secondary education to students at the building, except such designation shall not include home schools conducted at a residence; or,

(c) Used by the City of Sweetwater, Tennessee, or Monroe County, Tennessee, to operate city or county government or the city or county public school system.

(i) On-premise consumption permit - 300 feet

(ii) Off-premise consumption/package sales - 500 feet

(iii) The distances herein set forth shall be measured in a straight line between the nearest corner of the building proposed to sell, store or manufacture beer and the nearest corner of the building from which there must be a minimum distance.

(iv) The requirements set forth above shall not affect those businesses which have valid permits on the date of the passage of this chapter and further would not affect said locations if they should change ownership in the future unless there is a change in the nature of use following the surrender of an existing valid permit.

(2) In no event will a permit be issued authorizing the storage, sale or manufacture of beer to a permit holder within one hundred feet of the following specifically enumerated public gathering places nor shall a temporary vendor permit be allowed in these places:

(a) Engleman Park

(b) Duck Park

(c) Hunt Commons

(d) Jones Park

(e) City Recreation Complex

The distances set forth herein shall be measured in a straight line between the nearest corner of the building proposed to sell, store or manufacture beer and the nearest boundary of the public gathering place from which there must be a minimum distance.

The requirements set forth above shall not affect those businesses which have valid permits on the date of the passage of this chapter and further would not affect said locations if they should change ownership in the future unless there is a change in the nature of use following the surrender of an existing valid permit. (1982 Code, § 2-205, as replaced by Ord. #786, April 2006)

**8-207. Applications to be public record.** All applications shall be kept on file by the beer board in the office of the recorder and shall be available for inspection by the general public. (1982 Code, § 2-207)

**8-208. Effect of false statements in application.** Any person making any false statement in his application shall forfeit his beer permit and shall not be eligible to receive another for a period of ten (10) years thereafter. (1982 Code, § 2-208)

**8-209. Action of beer board on issuance of permit.** Upon the filing of a written application for a beer license with the chairman of the beer board, said application shall be carefully examined by the beer board and a record of its action thereon shall be kept in writing as a part of its regular proceedings. Upon favorable action by the beer board, a permit shall be issued to the applicant, bearing the name of the chairman of the beer board and the date of issuance. The permit thus issued shall remain in full force and effect until its revocation by the beer board in the manner hereinafter prescribed. No permit shall be granted to any applicant who cannot meet all the requirements of § 8-206 of this chapter. (1982 Code, § 2-209)

**8-210. Beer permit and license--taxes--bond.** The beer permit issued by the beer board shall entitle the applicant to obtain from the city a license to sell, store, manufacture, and/or distribute beer and other beverages of like alcoholic content. However, no such license shall be issued until and unless the applicant shall have filed the permit with the recorder, paid all applicable privilege taxes, and posted a \$500.00 bond conditioned upon his continuing to pay applicable privilege taxes and fines assessed for violations of this chapter. (1982 Code, § 2-210)

**8-211. Permit and license not transferable.** The beer permit and license issued under the provisions of this code shall not be transferable to any other person or for any other premises than those described in the application therefor. (1982 Code, § 2-211)

**8-212. Revocation of beer permits.** The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof has not begun the sale of beer within one hundred eighty (180) days from the date of issue, from the location for which the permit was issued or is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

**8-213. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 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. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of suspension 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 city may impose.

**8-214. Restrictions as to hours of sale.** It shall be unlawful for any person to sell, furnish, or distribute beer within the city outside the times allowed for the sale of alcoholic beverages by the Tennessee Alcoholic Beverage Commission. (1982 Code, § 2-213, as amended by Ord. #617, Oct. 1988 and Ord. #662, Feb. 1994, and replaced by Ord. #860, Jan. 2011)

**8-215. Restrictions as to purchases by retailers.** No beer retailer shall purchase beer from anyone except a distributor licensed by the city. (1982 Code, § 2-214)

**8-216. Restrictions as to sales by distributors.** No distributor of beer shall sell beer to anyone except to a licensed retail beer dealer, and dock sales from the premises of any beer distributor to any licensed retail beer dealer are hereby authorized and permitted. (1982 Code, § 2-215)

**8-217. Miscellaneous regulations.** It shall be unlawful for any person engaged in the business of storing, selling, manufacturing, or distributing beer within the city:

- (1) To make or permit any sales or distribution of beer to persons under the legal drinking age as mandated by state law;
- (2) To permit persons under the legal drinking age as mandated by state law to loiter on the premises;
- (3) To sell or distribute such beverage to persons intoxicated or under the influence of intoxicants;
- (4) To sell or distribute such beverage to persons who are feeble-minded, insane, or otherwise mentally incapacitated;
- (5) To employ any persons other than citizens of the United States;
- (6) To fail to provide proper sanitary facilities and visibility in front windows;
- (7) To sell or distribute beer at any place where pool or billiards are played unless the sale, distribution, or consumption of such beverage is made in the front of such room or place where a solid partition or wall separates the place from the pool or billiard parlor;
- (8) To allow or permit gambling on his premises;

(9) To employ any person who has been convicted of any violation of the city or state statutes prohibiting the possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude within the last ten (10) years;

(10) To allow any loud, unusual, or obnoxious noises on his premises or to allow his place of business to become disorderly.

(11) To allow nude dancing where beer is sold. (1982 Code, § 2-216, as amended by Ord. #653, Sept. 1993, Ord. #730, June 2001, modified, and amended by Ord. #860, Jan. 2011)

**8-218. Hotels, clubs, lodges, etc.** Nothing in this chapter shall prevent the sale and distribution of beer in hotel rooms of regularly conducted hotels and in regularly incorporated clubs and lodges when same are licensed by the beer board. (1982 Code, § 2-217)

**8-219. Enforcement by policemen.** City policemen shall be charged with the enforcement of this chapter. Violators shall be prosecuted in the city court and, if licensed, complaints shall be filed against them with the chairman of the beer board. This section shall not be construed so as to deny private individuals of their right to file written complaints against licensees as provided in the following section. (1982 Code, § 2-218)

**8-220. Complaints against licensees and hearings thereon.** Complaints brought for the purpose of suspending or revoking beer permits and licenses shall be made in writing and filed with the chairman of the beer board, who shall thereupon give or cause to be given written notice accompanied by a copy of such written complaint, to the licensee concerned. Said notice shall command the licensee to appear at a time and place designated in said notice before the beer board to show cause why his permit and license should not be suspended or revoked, such notice to be served either by certified mail or by a city police officer at least ten (10) days prior to the date of the hearing on the complaint. Upon the hearing the beer board shall publicly hear and determine the nature and merits of the complaint, and for this purpose the chairman is authorized to compel the attendance of witnesses by subpoena. (1982 Code, § 2-219, as amended by Ord. #860, Jan. 2011)

**8-221. Number of on and off premises retail beer licenses limited.** The mayor and board of commissioners has and hereby determines that it would now be to the best interest of the City of Sweetwater to limit the number of retail outlets for the sale of beer for consumption on premises within the City of Sweetwater to twenty-five (25) and to limit the number of retail outlets for the sale of beer for package sales or off premise consumption within the City of Sweetwater to twenty-five (25). (1982 Code, § 2-220, as amended by Ord. #577, Nov. 1985, and Ord. #860, Jan. 2011)