

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. IN GENERAL.
2. INTOXICATING LIQUORS.
3. BEER.

CHAPTER 1**IN GENERAL****SECTION**

- 8-101. Privilege taxes for sale of alcoholic beverages at retail.
- 8-102. Prohibition against permitting any alcoholic beverages in public places where minors are present.

8-101. Privilege taxes for sale of alcoholic beverages at retail.

There is hereby levied against all retail establishments selling at retail in this state alcoholic beverages for consumption on the premises a privilege tax pursuant to the provisions of Tennessee Code Annotated, § 57-4-301, the provisions of which are incorporated herein by reference as though same were fully set forth herein, the privilege taxes provided for therein being levied at the same amounts by the City of Tullahoma. This section shall apply to private clubs as well as hotels and motels and all other types of establishments and/or facilities enumerated in said statute. (1988 Code, § 2-101)

¹Charter references: §§ 10(13) and 28.

Municipal code reference

Prohibiting public consumption, etc., of alcoholic beverages:
§§ 11-101.

State law reference

Tennessee Code Annotated, title 57.

8-102. Prohibition against permitting any alcoholic beverages in public places where minors are present.¹ (1) It shall be unlawful for any owner, operator, and/or lessee of any type of business establishment open to the public to permit and/or allow the consumption of alcoholic beverages on the premises of such establishment and/or to permit and/or allow persons to bring thereto alcoholic beverages in open containers of any type whatsoever if/and when minors are upon said premises, except as is hereinafter provided.

(2) Excepted from the provisions of this section shall be those business establishments which are primarily operated as restaurants and have beer permits, or are operated as restaurants, as restaurants are hereinafter defined in conjunction with other legitimate business enterprises such as bowling alleys, etc. For the purpose of this section, "restaurant" is defined as follows: Any establishment, place or location, whether permanent, temporary, seasonal or itinerant, where the public is offered to be regularly served, and/or is served, food, including, but not limited to, foods and vegetables and/or beverages not in an original package or container, which establishment, etc., has on its premises facilities for the preparation of said food products so served, i.e., contains adequate and sanitary kitchen and dining room equipment usually incidental to food service operations and a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests and which establishment is engaged in the sale and service of food of the type described above. The term "restaurant" shall not include grocery stores which may, incidentally, make infrequent sales of food for consumption on the premises, or any establishment where food is dispensed only through vending machines, or where pre-prepared foods are only warmed and/or sold to customers. These exceptions apply only to establishments with beer permits.

(3) Further excepted from the provisions of this section shall be private clubs and/or organizations; provided, however, that minors shall not be allowed in portions of the premises occupied by any private club or organization devoted exclusively to the sale and consumption of alcoholic beverages of every kind and character, including beer and/or alcoholic beverages as are defined in this chapter.

(4) The provisions of this section shall be subject to the general penalty provisions of the Code of Ordinances of the City of Tullahoma, Tennessee. (1988 Code, § 2-104)

¹Municipal code references

Prohibiting public consumption, etc., of alcoholic beverages: § 11-101.
Visible open containers on streets, etc., prohibited: § 8-223.

CHAPTER 2

INTOXICATING LIQUORS

SECTION

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8-201. Definitions. Whenever used in this chapter, unless the context requires otherwise, the following terms shall have the respective meanings ascribed to them:

- (1) "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, beer, or wine, where the latter two (2) contain an alcoholic content of five (5) percent by weight, or less.
- (2) "Federal license." Shall "not" mean tax receipt or permit.
- (3) "Gallon or gallons." A wine gallon or wine gallons, of one hundred and twenty-eight (128) ounces.

- (4) "License." The license issued herein.
- (5) "Licensee." Any person to whom such license has been issued.
- (6) "Manufacture." Distilling, rectifying or operating a winery.
- (7) "Manufacturer." A distiller, vintner, and rectifier.
- (8) "Pint." One-eighth (1/8) of a wine gallon.
- (9) "Quart." One-fourth (1/4) of a wine gallon.
- (10) "Retail sale or sale at retail." A sale to a consumer or to any person for any purpose other than for resale.
- (11) "Retailer." Any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.
- (12) "Wholesale sale or sale at wholesale." A sale to any person for purposes of resale.
- (13) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101 through 57-3-110.
- (14) "Wine." The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one (21) per cent by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominately produced, or an artificial or imitation wine. (1988 Code, § 2-201)

8-202. Chapter not applicable 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, etc., or tax upon beer or other liquids with an alcoholic content of five (5) per cent or less. (1988 Code, § 2-202)

8-203. Adoption of state law. The general provisions in the state law relating to intoxicating liquors as contained in Tennessee Code Annotated, title 57, are hereby adopted as a part of this chapter and incorporated herein fully by reference. (1988 Code, § 2-203)

8-204. Adoption of state regulations. The various regulations promulgated from time to time by the alcoholic beverage commission and department of revenue of the state regarding the sale of alcoholic beverages as herein defined are hereby adopted as a part of this chapter and incorporated herein fully by reference. (1988 Code, § 2-204)

8-205. Compliance with state law and regulations. 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 this municipality except as provided by Tennessee Code Annotated, title 57, and by rules and regulations promulgated thereunder, as provided in this chapter and as provided by the rules of the alcoholic beverage commission of the state. (1988 Code, § 2-205)

8-206. Applications; certificates of good moral character. Every applicant for a license shall submit in duplicate to the board of mayor and aldermen a copy of his application to the alcoholic beverage commission, along with a copy of any supplemental or additional forms required by said commission, and shall request a certificate signed by a majority of the board of mayor and aldermen certifying that the applicants, who are to be in actual charge of said business, and/or are owners of same, are of good moral character and are personally known to a majority of the board of mayor and aldermen, and if a corporation, that the executive officers, all directors, all stockholders and those in control are of good moral character and personally known to a majority of the board of mayor and aldermen, or that the board of mayor and aldermen has made careful investigation of the applicant's general character and from such investigation it is found to be good, and that in the opinion of the majority of the board of mayor and aldermen the applicant will refrain from a violation of the applicable statutes of the state governing sale of intoxicating liquors. A majority of the board of mayor and aldermen may request any applicants hereunder to appear personally before the board and to furnish any additional information desired by the board. (1988 Code, § 2-206)

8-207. License for retail package business authorized and required; filing application; issuance; fees. (1) For the retail sale of alcoholic beverages a license may be issued as herein provided. It shall be unlawful for anyone to sell alcoholic beverages within the corporate limits of the city without said retail license as provided herein, and a violation of the provisions of this section shall be treated under the general penalty provisions for this code.

(2) Any person desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the board of mayor and aldermen for a retailer's license. The application shall be in writing on forms prescribed and furnished by the board of mayor and aldermen.

(3) Subject to the issuance of a retail license by the alcoholic beverage commission of the state, a majority of the board of mayor and aldermen may issue such retailer's license. Such retailer's license shall not be issued unless and until the applicant therefor shall pay to the city recorder a license fee to two hundred fifty dollars (\$250.00); and no license shall be issued except to individuals or partnerships or corporations, said individuals, or the members and/or stockholders of which partnership or corporation have been, for at least two (2) years, citizens of the city. (1988 Code, § 2-207)

8-208. Location restrictions on retailers. No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the board of mayor and aldermen, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be in too close proximity of a church, school, or public institution, or otherwise inimical to the public interest, considering guide lines for distance as is set out herein. A retailer's license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the board of mayor and aldermen, unless the new location is approved in writing by the board of mayor and aldermen. No retail stores shall be located in any area other than those zoned as "business" and/or "industrial" by the city planning commission. No retail stores shall be in closer proximity to any school (public or private), any community center, any church or religious building, any public library, any hospital, any funeral parlor, or any public recreation area, than three hundred (300) feet measured from the major entrance of said retail store to the major entrance of said aforementioned institutions or facilities by way of the closest route between same over public streets, and not crossing any property lines. No retail store shall be located on either side of the same block as are located the major entrances of any other of the aforementioned institutions and facilities. A majority of the board of mayor and aldermen shall determine, in all cases, whether or not the location at which a license for a retail store is to be granted or is sought, is acceptable under this section. It may consider any relevant facts in regard thereto brought to its attention and may waive any requirements as set out herein, but only in cases of unusual hardship or circumstances. (1988 Code, § 2-208)

8-209. Limitation of number of retail licenses granted. Not more than one license shall be issued for each four thousand (4,000) persons or fraction thereof within the corporate limits of the city, according to the last federal or official supplementary census. (1988 Code, § 2-209)

8-210. Bonds of retailers. Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in the state. Bonds of retailers shall be not less than one thousand dollars (\$1,000). Said bonds shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal, or any taxes or fees due from him to the city. (1988 Code, § 2-210)

8-211. Restrictions on license holders and their employees.

(1) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter. In addition to all other penalties, a violation of this section shall authorize and require the

revocation of the license, the fee for which was paid by another, and also the revocation of the license, if any, of the person so paying for the license of another.

(2) No retailer's license shall be issued to a person who is a holder of a 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.

(3) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however, 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; and in the case of any such conviction occurring after a license has been issued and received, the license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(4) No license shall under any condition 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 the state or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors 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, or as they existed or may exist thereafter.

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

(6) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed hereunder, unless his interest in said 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 shall be fully disclosed to the board of mayor and aldermen and approved by a majority of the board. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the

issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

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

(8) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in such retailer's place of business to engage in the storage, sale, or distribution of alcoholic beverages.

(9) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment in infamy has been removed by a court of competent jurisdiction.

(10) 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.

(11) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a license shall be a violation of this chapter. (1988 Code, § 2-211)

8-212. License to be displayed. Persons granted a license to carry on the business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license. (1988 Code, § 2-212)

8-213. Transfer of licenses prohibited; term of licenses; use of agents. The holder of a license may not sell, assign, or transfer such license to any other person, and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. In any case where a licensee is an individual and the individual dies or becomes incapacitated during the term of the license, upon proper application to the board of mayor and aldermen and upon compliance with all regulations hereunder and all applicable laws of the state or regulations of the alcoholic beverage commission of the state, the widow or duly qualified and appointed

personal representative or guardian or conservator of said licensee may be issued a license for said retail establishment for the duration of the term of the original licensee's license. If a partnership, the surviving partner may do likewise, having said license issued to him as an individual. (1988 Code, § 2-213)

8-214. 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.

If the premises are owned by a person not the licensee, the board may, in its discretion, waive the provision of the preceding paragraph or reduce the time within which no new license may be granted with respect to the same premises. (1988 Code, § 2-214)

8-215. Expiration and renewal of licenses. Licenses issued under this chapter shall expire at the end of the anniversary year one year after the license has been applied for and granted and the license fee paid; and subject to the provisions of this chapter may be renewed on each anniversary year thereafter by payment of the licensing fee set out in § 8-207. (1988 Code, § 2-215)

8-216. Federal license, effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state and city 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. (1988 Code, § 2-216)

8-217. Inspection fee. There is hereby levied upon every liquor retailer, as defined in Tennessee Code Annotated, § 57-3-101, within the corporate limits of the city, an inspection fee of eight (8) per cent, said fee to be collected by the wholesaler as provided by general law. All fees subject to collection by authority of general law and under this chapter shall be levied and collected in the same manner as specified in the general law. (1988 Code, § 2-217)

8-218. Regulations for purchase and sale of intoxicating liquors.

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

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell alcoholic beverages to anyone other than a licensed retailer, or a licensed wholesaler, provided that such alcoholic beverages sold by one wholesaler to another

wholesaler shall be transported by common carrier or by vehicle owned or leased and operated by either the consignor wholesaler or the consignee wholesaler.

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

(4) No retail store shall be located except on the ground floor and it shall have one main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail store is located on the corner of two (2) public streets such retail store may maintain a door opening on each of the public streets. Any nonpublic outside doors to said retail stores shall be kept locked from the inside at all times, except when being used for loading or unloading of stock or supplies. Provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public; and provided further, that every retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances; and provided further, when the location of a retail liquor store is authorized to be located or operated within an established shopping center or shopping mall, and said liquor store cannot and does not have a main entrance or door opening onto a public street, but said main entrance or door would open or front on a shopping center parking area. Under such conditions and circumstances, the board in its discretion may approve the issuance of a liquor license to cover said location within the shopping center or shopping mall, irrespective of the fact that said main entrance or door does not or would not open onto a public street. All outside doors to the premises wherein a retail store is located shall be adequately lighted at all times during darkness.

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

(6) No alcoholic beverages shall be sold for consumption on the premises of the seller, except as provided in §§ 8-101, 8-102, and 8-103.

(7) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee and curbside service is not permitted.

(8) To the fullest extent consistent with the nature 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.

(9) No form of entertainment, including pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.

(10) No advertising by a licensee on signs, billboards or posters is permitted within the corporate limits of the city, except that signs either lighted or unlighted, or advertisements of any character, may be erected on the

premises whereupon is located the licensee's retail establishment, or may be attached to the building wherein said retail operations are conducted, or may be painted upon the windows of the building or the outside walls of the building wherein said retail establishment is located provided, however, that said signs shall not in any way interfere with the vision of vehicles traveling upon the streets upon which said retail establishments are located or constitute, in any other manner, a hazard or public nuisance. Provided, further, that any such advertisements or signs or posters erected shall comply with the state alcoholic beverage commission's local option liquor rules and regulations, §§ 1:40, 1:50, 2:40, 2:50, 5, 6, 7, 8 and any other applicable regulations and, as well, shall comply with and not violate any of the laws of the state regulating said advertising and erection of signs, billboards and/or posters. (1988 Code, § 2-218)

8-219. Retailers not to solicit orders or make deliveries off their premises. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This section shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises. (1988 Code, § 2-219)

8-220. Regulation of retailers. (1) No retailer shall directly or indirectly operate more than one place of business for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) 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 beverages to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend, or give away any alcoholic beverages to a person under twenty-one (21) years of age. It shall be the responsibility of the retailer, or his agents or employees, of ascertaining the age of any persons hereunder and, in the absence of false representations by any person under the age of twenty-one (21) years, reasonably relied upon by said retailer, his agent or employees, and any selling, lending, or giving away to persons under twenty-one (21) years of age shall be a violation of this section.

(4) (a) Sale for consumption on licensed premises. No licensee shall permit alcoholic beverages to be consumed on the licensed premises between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday and between the hours of 3:00 A.M. and 10:00 A.M. on Sunday.

(b) Sale for consumption off premises. Package sales. Hours of sale as prescribed by the State of Tennessee in Tennessee Code Annotated, § 57-3-406(e) and (f) and/or regulations of the Tennessee Alcoholic Beverage Commission as established from time to time shall apply.

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

(6) 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.

(7) No persons under the age of eighteen (18) years shall be permitted upon the premises of a retail store, and signs to that effect shall be posted in a conspicuous place by said retailer in said premises.

(8) Licensees are at all times responsible for the conduct of their business and are at all times directly responsible for any act or conduct of any employee or agent which is in violation of the Tennessee Code Annotated or rules of the alcoholic beverage commission of the state or of this code, whether or not the licensee be present at any such time. Any unlawful, unauthorized or prohibited act on the part of an agent or employee shall be construed as the act of the employer-licensee and the employer-licensee shall be proceeded against as though he were present and had an active part in such unlawful, unauthorized or prohibited act and as if having been at the employer's direction and with his knowledge. (1988 Code, § 2-220, as amended by Ord. #1454, Feb. 2016)

8-221. Failure to pay license or inspection fee, etc. Whenever any person licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (1988 Code, § 2-221)

8-222. City recorder and/or board of mayor and aldermen may examine premises, books, papers, etc., of dealers. The city recorder and/or board of mayor and aldermen is authorized to examine the premises, books, papers, and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. 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 and/or the refusal to issue a license. (1988 Code, § 2-222)

8-223. Visible open containers on streets, etc., prohibited.¹ Visible possession of alcoholic beverage in an unsealed container upon any public street or within any governmental building shall be a violation of this section. (1988 Code, § 2-223)

8-224. Possession, etc., by minor. (1) It shall be unlawful for any person under the age of twenty-one (21) years to purchase or to attempt to purchase any alcoholic beverages as defined herein; or, except as authorized by state law, to enter a retail liquor establishment within the city; or for any person to purchase any such beverages for a person under twenty-one (21) years of age.

(2) It shall be unlawful for any person under the age of twenty-one (21) years to have in his or her possession, any alcoholic beverages as defined herein for any purpose except in connection with his or her employment as authorized by state law.

(3) Such person found guilty of violating any of the provisions of subsections (1) and (2) under the procedure for ascertaining other criminal violations in the city, shall, upon conviction, be fined not less than twenty-five dollars (\$25.00), nor more than fifty dollars (\$50.00). Provided, further, that any person under the age of eighteen (18) years who is arrested and charged with violating any of the provisions of subsections (1) and (2), said violations shall come within the jurisdiction of and be referred to the juvenile court of the county, and said juvenile court shall be requested to hear and dispose of the matter as in any other case coming before the juvenile court as may be authorized under the general statutes of the state relating to juvenile courts or any provision or special act applicable to the county.

(4) Any citizen who has reason to believe that a violation, as hereinbefore defined, has occurred, may appear before the city judge and make a complaint upon oath as provided in § 1-103, and the procedure for trying said violation shall be as provided in said section. It shall especially be a duty imposed upon retail liquor licensees, their agents and employees, to report any violations of subsections (1) and (2) herein to the proper authorities and to cooperate with said authorities to the fullest extent. (1988 Code, § 2-224)

8-225. Violations. Any violation of the terms of this chapter shall, except as otherwise provided herein, be treated, procedurally, as are all other violations of any ordinance of the city, as provided in title 3 and title 6, and shall be punishable as provided in § 1-107. In addition, in cases where a violation has been found to have been committed by a retail licensee, his agents or employees,

¹Municipal code references

Prohibiting public consumption, etc., of alcoholic beverages: § 11-101.
Prohibition against permitting any alcoholic beverages in public places where minors are present: § 8-102.

the board of mayor and aldermen, upon the investigation by such board, or any portion thereof, to whom investigatory powers are delegated, and upon proper notice being given to said violator in order to provide him with an opportunity to be heard on such matters, shall conduct a hearing. For the purpose of this section five (5) days' notice to said retailer shall be deemed proper notice. Upon completion of said hearing a transcript thereof shall be certified by the city judge and forwarded to the alcoholic beverage commission of the state with recommendations of the board as to disposition. (1988 Code, § 2-225)

CHAPTER 3

BEER

SECTION

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- 8-330. Beer wholesalers, etc., to deal only with licensed retailers.
- 8-331. Penalty for violation of chapter.
- 8-332. Employees liable for violations of chapter.

8-301. Beer business lawful but subject to regulation. It shall be lawful to transport, store, sell, distribute, possess, receive or manufacture beer of alcoholic content of not more than such weight, volume or alcoholic content as is allowed by the statutory laws of the State of Tennessee, or any other

beverages of like alcoholic content, within the corporate limits of the City of Tullahoma. However, said activities shall be subject to all of the regulations, limitations and restrictions hereinafter provided, and subject to the rules and regulations established by the board of mayor and aldermen and approved by the beer board of the City of Tullahoma, Tennessee. (1988 Code, § 2-301, as replaced by Ord. #1440, Sept. 2013)

8-302. Terms defined. (1) Beer shall mean beer, ale, or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101.

(2) Person shall mean any private individual, partnership, joint venture, corporation, and any other business entity or association.

(3) Premises shall mean on the property owned, leased, or controlled by the permittee and so connected with the beer business in which the permittee 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 well-defined 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. A permit shall be valid for all decks, patios and other well-defined outdoor serving areas that are contiguous to the exterior of the building in which the business is located, that are operated by the business and only for a business operating under the name identified in the permit.

(4) Applicant shall mean the person on whose behalf an application for beer permit is filed.

(5) The pronouns he, him and his shall refer to persons of the female as well as the male gender, as applicable.

(6) Storage shall mean the storing or possessing of beer or other alcoholic beverages for the purpose of resale by the permit holder. The practice by a private club of maintaining on its premises beer or other alcoholic beverages that have been brought there by a patron shall not constitute unlawful storing of alcohol in violation of any section of this code chapter.

(7) Private club shall mean an association that:

(a) Has members who pay regular dues for the privilege of membership, whether the club is organized or operated for profit or nonprofit purposes;

(b) Owns, hires, or leases a building or space therein for the exclusive use of its members and their invited guests, when accompanied by a member, and not otherwise open to the general public;

(c) Requires that a written application for membership be filed at least one (1) week before the applicant is admitted to membership;

(d) Keeps a current roster of members that shows the date each member filed an application for membership, the date each member was

admitted to membership, the dates on which each member has paid membership fees, and the amount of membership fee paid on each date;

(e) Makes the roster of members available for inspection, during the hours the club is open, by members of the Tullahoma Police Department or any city official designated by the beer board or board of mayor and aldermen; and

(f) Applies for, receives, and holds a valid beer permit.

(8) Certified clerk shall mean a clerk who has successfully satisfied the training requirements contained in this part, and who has received certification from a responsible vendor training program.

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

(10) Commission shall mean the Tennessee Alcoholic Beverage Commission.

(11) Responsible vendor shall mean a vendor that has received certification from the commission pursuant to Tennessee Code Annotated, § 57-5-601 et seq.

(12) Responsible vendor training program shall mean a training program related to the responsible sale of beer for off-premises consumption which has met all the statutory and regulatory requirements set forth in Tennessee Code Annotated, § 57-5-601 et seq.

(13) TABC shall mean the Tennessee Alcoholic Beverage Commission. (1988 Code, § 2-302, as replaced by Ord. #1440, Sept. 2013)

8-303. Beer board established. There is hereby established a beer board to be composed of the members of the governing body of the City of Tullahoma. The mayor shall serve as chairman of said board. (1988 Code, § 2-303, as replaced by Ord. #1440, Sept. 2013)

8-304. Meetings of the board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings on the second and fourth Monday of each month at city hall to consider all business before the board. The time of the meetings shall be announced to the public. A special meeting of the beer board may be called by its chairman, provided reasonable notice to each board member is given. (1988 Code, § 2-304, as replaced by Ord. #1440, Sept. 2013)

8-305. Record of beer board proceedings to be kept. The city recorder shall be ex officio secretary of the beer board and make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. The recorder shall also

maintain an up-to-date list of the names and addresses of all beer permit holders. (1988 Code, § 2-305, as replaced by Ord. #1440, Sept. 2013)

8-306. Reporting to state authorities. (1) The beer board secretary shall report to the commission the names of the permittee and the name of the employee who are found to be in violation of selling alcohol to a minor within fifteen (15) days from the date of the finding.

(2) The beer board secretary shall file the annual report with the State of Tennessee as required in Tennessee Code Annotated, § 57-5-605. (1988 Code, § 2-306, as replaced by Ord. #1440, Sept. 2013)

8-307. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. (1988 Code, § 2-307, as replaced by Ord. #1440, Sept. 2013)

8-308. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to establish regulations governing the selling, storing for sale, distributing for sale, giving away, and manufacturing of beer within this municipality in accordance with the provisions of this chapter, and to issue permits related thereto. (1988 Code, § 2-308, as replaced by Ord. #1440, Sept. 2013)

8-309. Permit required for engaging in beer business and fees assessed. (1) Permit required. No person shall engage in the storing, selling, distribution, or manufacturing of beer, or other beverages of like alcoholic content, within the corporate limits of the City of Tullahoma until that person shall receive a permit to do so from the Beer Board of the City of Tullahoma. The types of permits that may be issued by the beer board include:

(a) A retailer's "off-premises" permit shall be issued to any person engaged in the sale of beer for consumption and not for resale where the beer sold is not to be consumed by the purchaser upon or near the premises of the seller;

(b) A retailer's "on-premises" permit shall be issued to any person engaged in the sale of beer where the beer is to be consumed by the purchaser or his guest upon the premises of the seller; and

(c) A "special event" permit.

(d) A "manufacturer's or distributor's" permit shall be issued to any firm engaged in the manufacture or distribution of beer.

A single permit for both on- and off-premises sales may be issued to an applicant. Permits shall at all times be subject to all of the limitations and restrictions provided under this code and state law and the applicant shall certify that he has read and is familiar with the provisions of this chapter.

(2) Fee. All applications for the issuance of a beer permit shall be accompanied by an application fee in the amount of two hundred fifty dollars (\$250.00) and an owner/manager background check fee of fifty dollars (\$50.00), for use in offsetting the expenses of processing the application and investigating the applicant. No portion of the fee shall be refunded to the applicant notwithstanding whether the application is approved, however, the board may waive the fee for special event applications.

(3) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate, or association.

(4) A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however, 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. (1988 Code, § 2-309, as replaced by Ord. #1440, Sept. 2013)

8-310. Applications for retail permits. Each applicant for a beer permit shall be required to complete a formal, written application in a form approved by the beer board. Each application must explicitly and affirmatively state all of the following:

(1) The location of the premises at which the business shall be conducted.

(2) The owner or owners of such premises.

(3) Names and addresses of all persons, as defined in this chapter, with at least a five percent (5%) ownership interest in the applicant's business.

(4) (a) If the applicant is a partnership, a joint venture, or a corporation, the private individual who signs the application shall indicate, in words, that the signature is a valid, binding legal signature "on behalf of" the business entity. By such signature, the partnership, the joint venture, or the corporation agrees to be bound by all regulations under this chapter and to be liable for any violations thereof. Where it deems it to be appropriate, the beer board may require the applicant to furnish as a condition of approval a certified copy of a resolution approved by the managing body of the business entity authorizing the individual signing the application on behalf of the business entity to obligate the entity.

(b) If the applicant will operate the business through a manager, the name and the address of the manager will be indicated. Any time the applicant/licensee changes managers, it shall notify the beer board in writing within thirty (30) days of the change and shall supply the name and address of the new manager. If applicant is a corporation, it shall indicate whether it is authorized to do business within the State of Tennessee.

(5) That the applicant will 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 such applicant.

(6) That no sale of such beverages will be made except in accordance with the permit granted.

(7) That 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 and that no consumption will be allowed on the premises thereof.

(8) That no sales will be made to persons under twenty-one (21) years of age.

(9) That the applicant understands it must secure a certificate or a statement from the health department or health officer that the premises which the application covers meet the requirements of § 8-323.

(10) The application shall be submitted to the city recorder at least fifteen (15) days prior to the beer board meeting at which it is to be considered. The recorder shall notify each member of the beer board of such application prior to the next regularly scheduled meeting.

(11) Applications shall at all times be kept on file by the city recorder and shall be open to inspection of the general public within the limits of federal, state and local law, and any person, firm, corporation or association knowingly making any false statement in the application shall forfeit his permit or right to a permit and shall not be eligible to receive any permit for a period of one (1) year thereafter.

(12) No applicant for a beer permit for on- or off-premises consumption shall be issued a permit unless the city recorder has obtained approval of the premises from the building inspector and chief of the fire department, and a background report from the chief of police recommending approval.

(13) The identity of the person, if different from the applicant, to receive tax notices and other communications from the beer board.

(14) Any other relevant information as may be required beer board. (1988 Code, § 2-310, as replaced by Ord. #1260, Feb. 2003, and Ord. #1440, Sept. 2013)

8-311. Special event permits. (1) The beer board is authorized to issue special event permits to bona fide charitable, nonprofit or political organizations for special events.

(2) The special event permit shall not be issued for longer than one (1) forty-eight(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.

(3) For purposes of this section:

(a) 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.

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

(4) 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.

(5) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Tullahoma will result in a denial of a special event beer permit for the sale of beer for a period of one (1) year. (1988 Code, § 2-311, as replaced by Ord. #1353, Aug. 2007, and Ord. #1440, Sept. 2013)

8-312. Events not subject to permit; notice required. Any event which is catered and the caterer has a valid TABC license to serve alcohol is not required to obtain a special event permit. For the safety and welfare of the citizens of Tullahoma, the beer board requires prior notice of each event which is catered and not required to obtain a permit. Event coordinators shall furnish to the beer board a copy of the TABC catering liquor license or TABC special occasion license, as applicable, no later than five (5) days prior to the event. (1988 Code, § 2-312, as replaced by Ord. #1353, Aug. 2007, and Ord. #1440, Sept. 2013)

8-313. Consideration of permit application; restrictions upon granting permits; denial. (1) No permit shall be issued to sell any beverage coming within the provisions of this chapter:

(a) In violation of any provision of the state law or of this chapter.

(b) In violation of the Zoning Ordinance of the City of Tullahoma.

(c) When any requirement established in this chapter is not fully met.

(d) When any permit application fails to meet guidelines established by the beer board in its regulations for consideration and denial of any beer permit.

(2) The judgment of the beer board on such matters shall be final, except as same is subject to review at law, under Tennessee Code Annotated, § 57-5-108. (1988 Code, § 2-313, as replaced by Ord. #1440, Sept. 2013)

8-314. Beer permit shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. 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 the permit. It shall likewise be unlawful not to comply with any and all express restrictions or conditions which may be written into the permit by the beer board. (1988 Code, § 2-314, as replaced by Ord. #1440, Sept. 2013)

8-315. Permits not transferable; permitted locations for consumption. (1) A permit shall be valid only for the owner to whom the permit is issued, and under the name identified in the application and cannot be transferred. If the owner is a corporation, a change of ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.

(2) Except as provided in § 8-312, a permit is valid only for a single location and cannot be transferred to another location. Under an on-premises permit, consumption of beer off or outside the premises is strictly prohibited. A permit is valid for all decks, patios, and other outdoor serving areas contiguous to the exterior of the building in which the business is located and that are operated by and remain under the control of the business. (Ord. #1205, Aug. 1998, as replaced by Ord. #1440, Sept. 2013)

8-316. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder, together with all other permits, licenses, and stamps as required by law. (1988 Code, § 2-316, as replaced by Ord. #1440, Sept. 2013)

8-317. 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 annually on or before January 1 to the City of Tullahoma. The tax shall be remitted to the City Recorder of the City of Tullahoma. Failure to remit the tax by January 1 shall result in automatic revocation of the license. At the time a new permit is issued to any business that is 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 is due. The tax funds so collected may be used for any valid public purpose. (1988 Code, § 2-317, as replaced by Ord. #1440, Sept. 2013)

8-318. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (1988 Code, § 2-318, as replaced by Ord. #1440, Sept. 2013)

8-319. Issuance of permits to persons convicted of certain crimes prohibited. (1) No beer permit shall be issued to any person, firm, corporation, joint stock company, syndicate, or association, when any person having at least a five percent (5%) interest in the applicant business has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or of any felony, or of any crime involving moral turpitude, within the past ten (10) years. For purposes of this section, moral turpitude means an act of baseness, vileness, or depravity in private and social duties owed to someone or to society in general, contrary to accepted rule or right and duty between two (2) or more people.

(2) Further, a beer permit may be denied where an owner or manager has been convicted of Driving Under the Influence (DUI). Provided, however, that a manager with a DUI conviction may continue such employment if that person is also the holder of a valid server permit issued by the alcoholic beverage commission. (1988 Code, § 2-319, as replaced by Ord. #1353, Aug. 2007, and Ord. #1440, Sept. 2013)

8-320. Issuance of permits to hotels, clubs, etc. It shall be lawful for the beer board to issue a permit for the sale of any beverage coming within the provision of this chapter by hotels, motels, clubs, or lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit provided by this chapter. (1988 Code, § 2-320, as replaced by Ord. #1440, Sept. 2013)

8-321. Retail premises; restrictions as to visibility. 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 beer there sold or dispensed. (1988 Code, § 2-321, as replaced by Ord. #1440, Sept. 2013)

8-322. Hours of sale. (1) Sale for consumption on licensed premises. No licensee shall permit alcoholic or malt beverages to be consumed on the licensed premises between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 3:00 A.M. and 10 :00 A.M. on Sunday. Further all such establishments, excepting private clubs, shall remove all beer from tables by 3: 15 A.M., and thereafter shall close their doors to the public at 3:30 A.M. each day and require all patrons to vacate the premises at that time. Thereafter, no more than six (6) persons may remain on said premises for the purposes of cleanup, except that entertainers employed by the establishment may remain until 4:00 A.M.

(2) Sale for consumption off premises (package sales). No establishments holding a permit or license from the City of Tullahoma, Tennessee, to sell beer as is defined in this chapter shall sell beer between the

hours of 3:00 A.M. and 8:00 A.M., except on Sundays, during which time no beer shall be sold between the hours of 3:00 A.M. and 10:00 A.M. on Sundays. (1988 Code, § 2-322, as replaced by Ord. #1440, Sept. 2013, and Ord. #1455, Feb. 2016)

8-323. Inspection of premises covered by on-premises permits.

(1) Any person holding a permit under this chapter for sale for consumption on the premises shall keep and maintain the premises in a clean and sanitary condition. The city codes or health officer or any properly authorized person is hereby authorized to enter the premises at all reasonable hours for the making of such inspections as may be necessary. Permittee shall make all changes required by the city codes or health officer within five (5) days of written notice. Failure to comply will result in a citation that may result in a revocation of the beer permit and/or civil penalties.

(2) For the purpose of assuring compliance with § 8-322, if based on a police officer's observation of traffic or activity within the premises in apparent violation of § 8-322, the police officer shall be provided access to the premises by the permittee or manager. Failure to comply will be reported to the board and may result in a revocation of the beer permit and/or civil penalties. (1988 Code, § 2-323, as replaced by Ord. #1440, Sept. 2013)

8-324. Minors; fraudulent evidence of age, etc. It shall be unlawful for any person under twenty-one (21) years of age to purchase, or to have in his or her possession, beer, for any purpose, and it shall be unlawful for any such minor to transport beer for any purpose except the same be in the course of his employment. It shall further be unlawful for any person under twenty-one (21) years of age to present or offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase such beverages. Any person found guilty of violating the provisions of this subsection shall upon conviction be fined a maximum of fifty dollars (\$50.00) for each offense. Pursuant to Tennessee Code Annotated, § 57-5-301(d)(1)(B)(i), where a person younger than twenty-one (21) years of age but eighteen (18) years of age or older is convicted on the purchase or attempt to purchase or possession of beer, the city court shall prepare and send to the department of safety, driver control division, within five (5) working days of the conviction an order of denial of driving privileges for the offender. (1988 Code, § 2-324, as replaced by Ord. #1440, Sept. 2013)

8-325. Responsible vendor certification for off-premises sale. Permittees may voluntarily participate in the commission's responsible vendor training program for off-premise sale by complying with the Tennessee Responsible Vendor Act of 2006, set forth in Tennessee Code Annotated, § 57-5-601 et seq. and any rules set forth by the commission. By successfully participating in the program, the permittee shall receive a reduction in penalty

for the first offense sale to a minor. The board shall be limited to a civil penalty as specified in § 8-329, and suspension or revocation of the permit shall not be an option. It shall be the permittee's responsibility to provide the beer board staff with a copy of a valid certification within five days of a request by the beer board staff or of a notice of hearing.

Successful completion of the responsible vendor training program includes but is not limited to the following:

(1) Each clerk must successfully complete a responsible vendor training program within sixty-one (61) days of commencing employment.

(2) No clerk may sell beer for off-premises consumption unless the clerk successfully completes the responsible vendor training program and has been issued a certificate of completion.

(3) Each clerk who has successfully completed the responsible vendor training program shall be issued a badge by permittee and worn at all times while on duty.

(4) Permittee shall provide instruction approved by the commission to all employees including, but not limited to, the laws of the sale of beer for off-premises consumption, methods of recognizing and dealing with underage customers, and procedures for refusing to sell beer to underage customers and for dealing with intoxicated customers.

(5) Permittees shall require all clerks to attend at least one (1) annual meeting held by the commission regarding responsible vendor policies and procedures as set forth by the commission.

(6) Permittees shall maintain employment records and all responsible vendor training records of all clerks. (1988 Code, § 2-325, as replaced by Ord. #1353, Aug. 2007, and Ord. #1440, Sept. 2013)

8-326. Prohibited conduct or activities by beer permit holders.

It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years.

(2) Allow any person under twenty-one (21) years of age to have in his or her possession beer for any purpose except in the course of his or her employment.

(3) Violate the hours of sale provisions of § 8-322.

(4) Allow any loud, unusual or obnoxious noises to emanate from his premises.

(5) Make or allow any sale of beer to a person under twenty-one (21) years of age. The burden of ascertaining the age of customers shall be upon the owner or operator of such place of business.

(6) Make or allow any sale of beer to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person.

(7) Allow intoxicated persons to remain on his premises.

(8) Sell on his premises any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight without a permit from the TABC.

(9) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(10) Allow the place of business to become a public nuisance or a nuisance to law enforcing agencies of the City of Tullahoma, or create a nuisance or materially contribute to creating or maintaining a public nuisance.

(11) Allow any sale or delivery of beer for consumption on the premises except as provided in § 8-313(2) and for so long as permittee maintains control of the premises.

(12) Allow, if his permit is for off-premises consumption only, any dispensing or sale of beer in any milk jug, milk carton, or in any other container not originally sealed at and shipped from the factory. This provision is specifically intended to prohibit the open dispensing of any beer on draft or from any other open source on the premises of a permit holder who may sell only for off-premises consumption. This provision is further intended to prohibit the transfer of beer out of any container and into any other container, even though the second container may be sealed by capping, stapling, or otherwise. It is the intention of this provision that sales for off-premises consumption only must be sales of the original bottles, cans, or other original manufacturer's packaging methods.

(13) Fail to issue and require employees to wear name badge when certified as a responsible vendor.

(14) The owner and operator (permittee) shall be held strictly accountable for any actions of his employees which violate any of the above provisions. (as added by Ord. #1353, Aug. 2007, as replaced by Ord. #1440, Sept. 2013)

8-327. Investigation of applicants, agents, and/or employees; health card required. Applicants for a retail permit under this chapter and their agents or employees are subject to be investigated by any municipal, county or state authorities, including members of the beer board, and must submit such information and records as the board may require. In addition, all employees of retail beer permit holders must have a current health card before accepting employment as required by the state public health department for food handlers. (as added by Ord. #1440, Sept. 2013)

8-328. Suspension and revocation of beer permits. (1) All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by the board for the violation of any of the provisions of this chapter or of state law. Complaint, suspension or revocation proceedings may be initiated by the police chief, by any member of the beer board, or by any citizen. The board is vested with full and complete power to investigate charges

against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked. Complaints filed against any permit holder by any citizen for the purpose of suspending or revoking his permit shall be made in writing and filed with the secretary of the beer board.

(2) When the board shall have reason to believe that any permit holder shall have violated the provisions of the state beer act or any of the provisions of this chapter, the board is authorized to notify the permittee of said violations and to cite said permittee, by written notice, to appear and show cause why the permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee at the address indicated by the permittee either by certified mail, return receipt requested or by a member of the police department of the City of Tullahoma. The notice shall be served upon the permittee at least five (5) days before the date of the hearing.

(3) The chairman of said board is authorized to compel the attendance of witnesses by subpoena issued by the clerk of the city court. At the hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit.

(4) The action of the board in all such hearings shall be final. When a permit has been revoked, no new permit shall be issued for the sale of beer at the same location until the expiration of either, one (1) year (three hundred sixty-five (365) days) from the date said revocation becomes final, or, ninety (90) days from the date ownership in the property where the establishment is located changes hands after the date the revocation becomes final. A change in ownership means outside the immediate family of the original individual owners, and further means that no original owner or his immediate family continues to have any interest in a partnership, corporation, or other business entity involved in successor ownership.

(5) Responsible vendor certification. Should permittee be certified as a responsible vendor, it is the permittee's responsibility to furnish to the beer board a copy of such certification at least five (5) days prior to the hearing. The beer board staff will check the certification. Upon proof of valid certification, the beer board shall only assess a civil penalty up to one thousand dollars (\$1,000.00), on a first offense sale to a minor. The beer board shall not have the option of suspension or revocation on a first offense sale to a minor.

(6) Should the beer board determine that a sale to a minor occurred by an off-premises beer permit holder certified under the responsible vendor act, the beer board shall notify the commission within fifteen (15) days of such finding of the name of the permit holder and the clerk. (as added by Ord. #1440, Sept. 2013)

8-329. Guidelines for discipline for violation; civil penalty in lieu of suspension.

(1) Responsible vendors. (a) First offense for sale to a minor: The beer board must offer a permit holder who is qualified as a responsible vendor a civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) per offense, or the maximum penalty allowed by state law for the first offense in a calendar year of making or permitting to be made any sales to minors.

(b) Second offense for sale to a minor: The beer board may issue an order of suspension of the beer permit for sixty (60) days for the second offense in a calendar year of making or permitting to be made any sales to minors or for any other second offense. The responsible vendor status will be revoked by the TABC.

(c) Third offense for sale to a minor: Upon the third offense in a calendar year of making or permitting to be made any sales to minors, the responsible vendor no longer has responsible vendor status and the beer board may, at its discretion, issue discipline with a permanent revocation and a ban on reapplying for one (1) year.

(d) First offense for other violation: The beer board may offer a civil penalty of up to one thousand dollars (\$1,000.00) per any other first time offense.

(e) Second offense for other violation: The beer board may issue an order of suspension of the beer permit for sixty (60) days for the second offense for any offense other than a sale to a minor while qualified as a responsible vendor.

(f) Third offense: The beer board may issue an order of permanent revocation and a ban on reapplying for a beer permit for one (1) year for the third offense for any offense other than the sale to a minor while qualified as a responsible vendor.

(g) 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.

(2) Nonresponsible vendors; all others. The imposition of penalties shall be within the sole discretion of the beer board. The guidelines are meant to insure fairness and consistency among persons charged with the same offense, but the beer board may depart from these guidelines whenever the evidence indicates that particular aggravating or mitigating circumstances exist. The beer board may also add conditions to any penalty including but not limited to probation or additional training of employees.

(a) First offense: The beer board may offer a permit holder who is not qualified as a responsible vendor the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for the first offense of making or permitting to be made any sales to minors

or, a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other first offense.

(b) Second offense: The beer board may issue an order of suspension of the beer permit for sixty (60) days for the second offense of making or permitting to be made any sales to minors or for any other second offense.

(c) Third offense: The beer board may issue an order of permanent revocation and a ban on reapplying for a beer permit for one (1) year for the third offense of making or permitting to be made any sales to minors or for any other third offense.

(d) 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. (as added by Ord. #1440, Sept. 2013)

8-330. Beer wholesalers, etc., to deal only with licensed retailers.

It shall be unlawful for any wholesaler, distributor or manufacturer of beer, or any salesman or representative thereof, to sell or deliver beer en route, or from delivery vehicles, to any persons other than the holders of valid retail beer permits. It shall be the duty of such wholesaler, distributor, or manufacturer, or such salesman or representative, to ascertain whether or not such purchaser is a holder of a valid beer permit. (as added by Ord. #1440, Sept. 2013)

8-331. Penalty for violation of chapter. Except as provided specifically elsewhere in this chapter, each day's violation of each or any provision of this chapter by any permit holder, or each sale made in violation of any provision of this chapter shall constitute a separate civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code of fifty dollars (\$50.00) per day per offense. (as added by Ord. #1440, Sept. 2013)

8-332. Employees liable for violations of chapter. Any employee of any permittee who violates the provisions of this chapter or any provision of the State Beer Act while so employed by such permittee shall be guilty of a misdemeanor which shall be punishable by a fine of fifty dollars (\$50.00) per day per offense. (as added by Ord. #1440, Sept. 2013)