

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

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

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8-101. Definitions. (1) "Alcoholic beverage." (a) Means and includes:

(i) Any and all intoxicating liquor, beer, light alcoholic content beverage, wine, and high alcoholic content beer, as hereinafter defined and, to the extent not included within such definitions;

(ii) Any alcohol, spirits, liquor, wine, beer, ale, malt beverages, high alcohol content beer, and every liquid containing alcohol, spirits, liquor, wine, beer, ale, malt beverages, high alcohol content beer capable of being consumed by a human being; and

¹State law reference

Tennessee Code Annotated, title 57.

(iii) Any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol, regardless of alcohol content.

(b) But does not mean and include:

(i) Products or beverages containing less than one-half of one percent (.5%) alcohol by volume, other than wine as defined in this § 8-101; and

(ii) Patent medicine as defined in *Tennessee Code Annotated*, § 57-5101(b).

(2) "Beer" means an alcoholic beverage having an alcoholic content of not more than eight percent (8%) by weight and made by the alcoholic fermentation of an infusion or decoction or combination of both in potable brewing water of malted grains with hops or their parts or their products; provided, however, that not more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol but not including wine as defined below.

(3) "Beer permit" means the tangible approval of the beer board allowing a business to sell and/or serve beer.

(4) "Certificate of compliance" means the certificate required by *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.

(5) (a) "Church" means a building or property where a congregation meets for religious worship services.

(b) "Church property" shall be defined as any real property parcel whereupon the primary worship building or structure has been erected to conduct regularly scheduled religious worship services.

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

(7) "Event stadium" means a controlled spectator facility designed primarily for sporting, recreational, and/or entertainment use, whether indoor, open air, or amphitheater in design, and may contain space and facilities for exhibitions, retail sales, retail food dispensing, and restaurants.

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

(9) "High alcohol content beer," herein after referred to as "HACB," means beer having an alcoholic content of more than eight percent (8%) by weight and not more than twenty percent (20%) by weight and is brewed, regulated, distributed or sold pursuant to chapter 3 of this title; provided, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.

(10) "Inspection fee" means the monthly fee a licensee is required by this title to pay, the amount of which is determined by a percentage of the gross sales of a licensee at a retail food store.

(11) "Intoxicating liquor" or "intoxicating drinks," as defined in this chapter, means and includes alcohol, spirits, liquors, wines and every liquid or solid, patented or not, containing alcohol, spirits, liquor or wine, and capable of being consumed by human beings; but nothing in this chapter shall be construed or defined as including or relating to the manufacture of beer as defined in § 57-5-101(b) (see *Tennessee Code Annotated*, § 57-2-101).

(12) "License fee" means the annual fee a licensee is required by this chapter to pay prior to the time of the issuance or renewal of a retail food store wine license.

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

(14) "Light alcoholic content beverage," herein after referred to as "LACB," means any alcoholic beverage, not including beer and wine, whose alcohol content is not more than eight percent (8%) by weight.

(15) "Manufacturer" means anyone who manufactures any alcoholic beverage and, without limiting the foregoing, includes a brewer, brewer of high alcohol content beer, distiller, vintner and rectifier.

(16) "Minor" means anyone under the age of eighteen (18) years; provided, however, this provision shall not be construed as prohibiting any person eighteen (18) years of age or older from selling, transporting, possessing, or dispensing alcoholic beverages, wine, HACB, or beer, in the course of his employment, as authorized by *Tennessee Code Annotated*, § 57-4-203 (b)(3).

(17) "Permittee" means the holder of a beer permit.

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

(19) "Retail food store" means an establishment that is open to the public that derives at least twenty percent (20%) of its sales taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in § 67-6-288(a) and has retail floor space of at least one thousand two hundred square feet (1,200 sq. ft.).

(20) "Retail food store wine license" means a license issued under the provisions of chapter 4 of this title for the purpose of authorizing the holder or holders thereof to engage in the business of selling wine at retail in the city at a retail food store. Such retail food store wine license will only be granted to a person or persons who has or have a valid retail food store wine license issued by the TABC.

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

(22) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license or permit is required under the provisions of this chapter.

(23) (a) "School" means an institution where regular classes and specialized classes are conducted under the supervision of a teacher or instructor and taught to persons enrolled in grades pre-kindergarten through the 12th grade.

(b) "School property" means any parcel or parcels of real property, whether contiguous or not, where regularly scheduled educational activities including athletic events are conducted for students enrolled in grades pre-kindergarten through the 12th grade.

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

(25) "Tavern" means a business establishment whose primary business is or is to be the sale of beer or high alcoholic content beer to be consumed on the premises.

(26) "Vehicle" means a machine that has the means of transporting or carrying an object across a distance including, but not limited to, automobiles, trucks, motorcycles, and four wheelers.

(27) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license or permit is required under the provision of this chapter.

(28) "Wine" means 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 climatic, saccharine and seasonal conditions, and includes champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) 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 predominantly produced or an artificial or imitation wine. For the purposes of chapter 6 of title 8 only, the alcoholic content of "wine" shall not exceed eighteen percent (18%) by volume, and "wine" shall not include alcohol derived from wine that has had substantial changes to the wine due to the addition of flavorings and additives.

(29) "Underaged" means anyone over the age of eighteen (18) but under the age of twenty-one (21) years; provided, however, this provision shall not be construed as prohibiting any person eighteen (18) years of age or older from selling, transporting, possessing, or dispensing alcoholic beverages, wine, HACB, or beer, in the course of his employment, as authorized by *Tennessee Code Annotated*, § 57-4-203(b)(3).

(30) "TABC" means the Tennessee Alcoholic Beverage Commission.

(31) The following terms shall have the same definition as stated in *Tennessee Code Annotated*, § 57-4-102:

- (a) Club;
- (b) Convention center;
- (c) Hotel; and
- (d) Restaurant. (Ord. #O-1903, March 2019)

8-102. Sale or furnish to minors and/or underaged persons prohibited. It shall be unlawful for any person to knowingly sell, furnish, give, or allow to be sold any alcoholic beverages to a minor and/or an underaged person at any time or to allow such persons to drink alcoholic beverage in the building or on the premises where such alcoholic beverages are being sold. (Ord. #O-1903, March 2019)

8-103. Identification required prior to the sale of alcoholic beverages. Any person selling alcoholic beverages within the corporate limits of the City of Blaine shall be required to have produced to him or her a valid government issued photo identification showing that the age of the prospective purchaser of the alcoholic beverage is twenty-one (21) years of age or older. Persons fifty (50) years of age or greater shall not be required to show a photo identification but instead shall be allowed to purchase alcoholic beverages based on an otherwise facially valid government issued identification. In either case, the identification provided shall be a document issued by a state or federal governmental agency. If the identification required herein is not produced by the prospective purchaser, the alcoholic beverages shall not be sold. Notwithstanding the above, any permittee or licensee allowing on premises consumption of alcoholic beverages in the city shall be permitted to serve alcoholic beverages to a person for on premises consumption without seeing such identification if, in the discretion of a manager on the premises, a person wishing to purchase such beverages is, beyond a reasonable doubt, twenty-one (21) years of age or older. (Ord. #O-1903, March 2019)

8-104. Sale to intoxicated persons prohibited. It shall be unlawful to sell alcoholic beverages or permit the same to be sold to any person in an intoxicated condition. (Ord. #O-1903, March 2019)

8-105. Duties and prohibited activities of permittee and licensees. It shall be unlawful for any person operating a place of business regulated by this title to allow any persons under the influence of intoxicants, including alcoholic beverages, upon the premises, and it shall be the affirmative duty of any such operator to notify the police department of any person upon the premises in an intoxicated condition. (Ord. #O-1903, March 2019)

8-106. Employment of minors prohibited. It shall be unlawful for the operator to use minors in the sale, transport, possession or dispensing of alcoholic beverages, wine or beer, except as provided in § 8-101 herein. (Ord. #O-1903, March 2019)

8-107. Loitering of minors or underaged persons prohibited. It shall be unlawful for any permit or license holder, business operator, or their employees and agents, to allow or permit any minor and/or underaged person to loaf or loiter in any place where alcoholic beverages are sold or offered for sale for consumption on the premises. Violation of this section is punishable in the City of Blaine Municipal Court and may subject a permit holder to beer board penalties. (Ord. #O-1903, March 2019)

8-108. Signs required. (1) Any establishment within the corporate limits of the city which sells or gives away alcoholic beverages shall prominently display on the premises a sign:

(a) Not less than six inches (6") high and ten inches (10") wide reading: "A Minor or Underaged Person attempting to purchase Alcoholic Beverages will be prosecuted to the fullest extent of the law," and

(b) Such establishment shall further prominently display a sign not less than six inches (6") high and ten inches (10") wide reading: "State law, and Blaine Municipal Code § 8-103, requires the production of a valid governmental issued photo ID prior to the purchase of alcoholic beverages."

(2) Signs required under this part shall be the responsibility of each permittee or licensee. Signs must be posted within ninety (90) days of the final passage of this section. It will be a violation of this section to fail to post such signs.

(3) Any sign in place pursuant to subsection (1)(a) of this section prior to November 1, 2017, does not need to be replaced unless or until the sign falls into disrepair or is further or otherwise required to be replaced. Notwithstanding the foregoing signage, the prohibited sale to a minor or underaged person shall apply. All signs newly placed or replaced after November 1, 2017 shall contain the wording set forth in subsection (1).

(4) A violation of this section is punishable in the City of Blaine Municipal Court and may subject a permit holder to beer board penalties. (Ord. #O-1903, March 2019)

8-109. Manufacturing, selling and distributing generally. It shall be unlawful for any person to engage in the business of manufacturing, selling, or distributing any alcoholic beverage within the corporate limits of the city except as provided by all applicable laws, rules and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may

hereinafter be changed including, without limitation, the local option liquor rules and regulations of the TABC. (Ord. #O-1903, March 2019)

8-110. Exceptions. To the extent that buying or selling of beer, intoxicating liquors, HACB, LACB, or wine is prohibited, except as authorized pursuant to *Tennessee Code Annotated* as set forth in § 8-109 herein, said prohibitions shall not make it unlawful:

(1) To buy, sell, possess, transport or manufacture beer or HACB as permitted in *Tennessee Code Annotated*, §§ 57-5-101, *et seq.*, or any other provisions and this chapter relating to such beverages are fully and strictly complied with.

(2) To possess or manufacture beer or wine as permitted in *Tennessee Code Annotated*, § 39-17-708, for personal consumption by members and guests of a household, provided all provisions and conditions of said sections relating to such beverages are fully and strictly complied with.

(3) For any priest or minister of any religious denomination or sect to receive and possess wines for sacramental purposes.

(4) For druggists to receive and possess alcohol and other intoxicating liquors and such preparation as may be sold by druggists for the special purposes and in the manner as now or hereafter provided by law.

(5) For the manufacturers of the following to receive and possess alcohol and other intoxicating liquor for use in the manufacturing process:

(a) Such medicines that conform to the provisions of the Pure Food and Drugs Act of the State of Tennessee;

(b) Flavoring extracts;

(c) Perfumery and toilet articles;

(d) Thermostatic devices or temperature regulators.

(6) For bona fide hospitals to receive and possess alcohol and other intoxicating liquor for the use of bona fide patients of such hospitals.

(7) For bona fide educational institutions to receive and possess alcohol and other intoxicating liquor for scientific and therapeutic purposes.

(8) For any common or other carrier to ship or transport alcohol and other intoxicating liquor for any of the purposes listed in subsections (2) through (6) above. (Ord. #O-1903, March 2019)

8-111. Hours of sale. (1) Except as stated otherwise herein, hotels, clubs, zoological institutions, public aquariums, museums, motels, convention centers, restaurants, community theaters, theater, historic interpretive centers, sports authority facilities, and urban park centers, licensed as provided herein to sell alcoholic beverages, as defined in this title, may not sell, give away, or otherwise dispense alcoholic beverages between the hours of three o'clock A.M. (3:00 A.M.) and eight o'clock A.M. (8:00 A.M.) on weekdays and Saturdays, or between the hours of three o'clock A.M. (3:00 A.M.) and twelve o'clock (12:00) noon on Sundays.

(2) Wine in retail food stores. Retail food store wine licensees shall only be allowed to sell, give away, or otherwise dispense wine between the hours of 8:00 A.M. and 11:00 P.M. on weekdays and Saturdays. A retail food store wine licensee shall only be allowed to sell, give away, or otherwise dispense wine between the hours of 10:00 A.M. and 11:00 P.M. on Sunday. No retail food store wine licensee shall sell, give away, or otherwise dispense, wine on the following holidays: Christmas, Thanksgiving, and Easter.

(c) Beer. Except as stated otherwise in (1) herein, the sale, giving away, or dispensing of beer shall only be allowed between the hours of 6:00 A.M. and midnight Monday through Saturday, and between the hours of 10:00 A.M. and midnight on Sunday.

8-112. Violations and penalty. Wherever in this title an act is prohibited or is made or declared to be unlawful, the violation of such provision shall be punishable by a civil penalty not to exceed a fifty dollar (\$50.00) fine, in addition to any administrative and/or court costs and fees, unless such violation and penalty stated therein is contrary to this provision, in which case the penalty provided therein shall control. This penalty may be in addition to any other penalty provided therein.

CHAPTER 2

SALES OF BEER AND LIGHT ALCOHOLIC CONTENT BEVERAGES

SECTION

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- 8-216. Beer board procedures and hearings.
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8-201. Beer. For the purposes of this chapter, the term "beer" shall include LACB. The retail sale of beer and LACB shall be regulated by this chapter. (Ord. #O-1903, March 2019)

8-202. Beer lawful. In conformity with *Tennessee Code Annotated*, § 57-5-101, *et seq.* it shall be lawful to transport, store, sell, distribute, possess, receive, and/or manufacture beer, subject to the privilege taxes and regulations hereinafter set out. No manufacturer or wholesaler of beer or their agent or agents shall be permitted to make any loan or furnish any fixtures of any kind or have any interest, direct or indirect, in the business of any retailer of such beverage, or in the premises occupied by such retailer; provided, however, such manufacturer or wholesaler may operate as a retailer at the manufacturer's location or a site contiguous thereto for sales of not more than twenty-five thousand (25,000) barrels of beer annually for consumption on or off the premises under the provisions of this chapter as long as the requirements of this chapter concerning the licensing of such retail establishments are met; or a manufacturer may qualify for and hold a license under the provisions of this

chapter as a "restaurant." Such a manufacturer, however, operating as a retailer pursuant to this chapter, may not sell its beer directly to retailers that are located in a county other than the county in which the manufacturer is located. (Ord. #O-1903, March 2019)

8-203. Beer board; monitoring and enforcement. (1) There is hereby created a beer board which shall be composed of the mayor and board of aldermen, whose duty in this regard shall be to regulate and supervise the issuance of permits to manufacture, distribute, and/or sell beverages regulated by this chapter to the persons and in the manner hereinafter provided. The board shall provide such other duties and have such other powers and authority as herein provided in this chapter.

(2) If the beer board determines that a sale to a minor or underage person occurred by an off-premises beer permit holder then the beer board shall report the clerk's name to the TABC as required by state law. In such case, the certification of the clerk making the sale shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Adopted from *Tennessee Code Annotated*, § 57-5-607.) (Ord. #O-1903, March 2019)

8-204. Beer permits. Before any person shall be authorized to sell, distribute, manufacture or store beverages regulated by this chapter, the person shall make application to the beer board upon a form prescribed by it for a permit and shall pay to the municipality such fees for licenses as are provided in § 8-205. In the case of a wholesaler, as defined in *Tennessee Code Annotated*, § 57-6-102, a permit shall not be required unless the wholesaler operates a warehouse in the City of Blaine. No permit shall be approved by the beer board and no license shall be issued by the recorder, except upon the following terms and conditions, and only to such persons as possess the qualifications hereinafter provided:

(1) No applicant shall be issued a permit unless the applicant has been a citizen or lawful resident of the United States for not less than one (1) year immediately preceding the date upon which the application is made to the beer board.

(2) No beer shall be sold except at places where such sale will not cause congestion of traffic or interference with schools, churches or other places of public gathering, or otherwise interfere with public health, safety and morals.

(3) No beer shall be sold for consumption on premises within one hundred fifty feet (150') of any church or school as measured along a straight line from the nearest property line of any such church property or school property to the front door of the establishment selling beer.

(4) No sale shall be made to minors or underaged persons.

(5) No person having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years.

(6) No person employed by the applicant and involved with such distribution or sales has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years.

(7) No sale shall be made for on-premises consumption unless the application so states.

(8) No permit shall be issued unless the application shall contain the following information and agreements, to-wit:

(a) Name of the applicant.

(b) Name of applicant's business(es).

(c) Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this section.

(d) If beer will be sold at two (2) or more restaurants or other businesses pursuant to the same permit as provided by *Tennessee Code Annotated*, § 57-5-103(a)(4), a description of all such businesses.

(e) Persons having at least five percent (5%) ownership interest in the applicant.

(f) Identity and address of a representative to receive annual tax notices and any other communication from the municipality.

(g) That no person having at least a five percent (5%) ownership interest in the applicant or any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of any alcoholic beverages or any crime involving moral turpitude within the past ten (10) years.

(h) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premises consumption, or both of the foregoing. If a permittee for either off-premises consumption or on-premises consumption desires to change the method of sale, the permittee shall apply to the municipality for a new permit.

(i) A statement that if any false statement is made in any part of said application, the permit and/or license granted or issued to the applicant may be revoked by the board.

(j) Said application may contain any other information required and deemed by the beer board to be pertinent to the issuance of a permit and the enforcement of this chapter.

(k) A business with a beer permit must be in operation within one (1) year of the first date of issuance of the beer permit.

(9) All persons must comply with the fee provisions provided in § 8-205. (Ord. #O-1903, March 2019)

8-205. Permit fees and privilege tax. (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beverages regulated by this chapter without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be payable to the City of Blaine. Each applicant must be a person of good moral character and certify that he has read and is familiar with the applications of this chapter.

(2) There is hereby imposed on the business of selling, distributing, storing, giving away, or manufacturing beverages regulated by this chapter an annual privilege tax of one hundred dollars (\$100.00). Any person engaged in the sale, distribution, storage, gifting, or manufacture of beverage regulated by this chapter shall remit the tax on January 1 of each year to the city. If the permittee does not pay the tax by January 31, then the city shall send notice of the delinquency by certified mail. Once the notice is received, the permittee has ten (10) days to remit the tax. If it is not remitted within that period, the permit automatically becomes void. At the time a new permit is issued to any business subject to this tax, the permittee 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. #O-1903, March 2019)

8-206. Permits and licenses must be displayed and are not transferable. Each permittee or licensee shall display and keep displayed such permit and license in conspicuous places on the premises where he is licensed to conduct such business. Permits and licenses shall not be transferable. A separate permit and license shall be obtained for each location where any applicant is to manufacture, distribute or sell said legalized beverages. When a permittee shall discontinue business or ceases to be associated on a day-to-day basis with the business, then the permit terminates, and no refund of any licenses or fees of any nature will be made. Sales of alcoholic beverages shall immediately cease unless or until someone else is issued a permit. (Ord. #O-1903, March 2019)

8-207. Permits shall be restrictive. (1) It shall be unlawful for any person, and no permit shall be issued, to sell or distribute beverages regulated by this chapter except in premises which are located within areas in which commercial activity is permitted.

(2) It shall be unlawful for any person, and no permit shall be issued, to sell or distribute beverages regulated by this chapter for consumption upon the premises at the following places or on the following conditions; provided,

however, that the following prohibitions shall not apply to any person who has obtained a license for the sale of alcoholic beverages for consumption on the premises pursuant to *Tennessee Code Annotated*, §§ 57-4-101 , *et seq.*:

(a) To any person occupying any vehicle; except, however, when sold in package form.

(b) At any place except the places where meals or lunches are regularly served and regularly licensed therefore and then only to persons seated at tables or bars, except for taverns which are governed by § 8-213 herein.

(c) Except in premises which are located within areas in which commercial activity is permitted, and no permit will be issued therefor except for premises located therein. (Ord. #O-1903, March 2019)

8-208. Violations of ordinance; permit suspension or revocation; civil penalties. (1) In the event of the failure or refusal of any person holding a permit issued hereunder to comply with the requirements of this chapter, or in the event of his/her violation of any of the provisions of this chapter, it shall be the duty of the beer board to give said permittee at least twenty-four (24) hours' notice of a hearing before the board.

(2) The beer board has the authority to impose sanctions for violation of this title, including civil penalties, and including suspension or revocation, as further set forth herein.

(3) After a finding by the beer board for violation of the ordinance the beer board may impose a penalty, as follows:

(a) Assess the permit holder with a per-offense civil penalty a maximum of:

(i) One thousand five hundred dollars (\$1,500.00) for making or permitting to be made any sales to minors or underaged persons, or one thousand dollars (\$1,000.00) for any other offense.

(ii) Any civil penalty so assessed shall be paid within seven (7) calendar days at the city recorder's office. Any failure by the permit holder to promptly pay any civil penalty so assessed shall constitute a separate offense for which the permit holder may be subject to additional action by the beer board to include suspension or revocation of any existing permit as well as the assessment of additional civil penalties as provided in this part. Each day of late payment shall constitute a separate offense.

(iii) Any civil penalty imposed under this (a) is in addition to any permit suspension or revocation.

(b) May suspend the permit holder's permit for the following periods:

(i) For a first or second violation of the ordinance within one (1) year, the beer board may suspend a permit, depending on

the circumstances, including consideration of any aggravating factors.

(ii) For the following minimum periods, unless state or federal law requires a different suspension or revocation period:

(A) For a third violation of the ordinance within one (1) year of the first violation, a ten (10) day suspension;

(B) For a fourth violation of the ordinance within two (2) years of the first violation, a three (3) month suspension;

(C) For a fifth violation of the ordinance within two (2) years of the first violation, a six (6) month suspension.

(c) In lieu of a beer permit suspension, offer a permit holder the alternative of paying a per-offense civil penalty of a maximum of:

(i) Two thousand five hundred dollars (\$2,500.00) for making or permitting to be made any sales to minors or underaged persons, or

(ii) One thousand dollars (\$1,000.00) for any other offense.

(iii) The procedure for imposition of a civil penalty in lieu of a suspension of the permit shall be as follows:

(A) The beer board shall make a ruling and set a penalty of suspension.

(B) The board may then offer the alternative of allowing the permit holder the opportunity to pay a per-offense civil penalty as defined above.

(C) The permit holder will then have seven (7) days to pay a per-offense penalty as defined above. If the civil penalty is paid within that time, the suspension shall be deemed withdrawn.

(D) Payment of the civil penalty constitutes admission of the violation.

(E) If the civil penalty is not paid by the end of the regular business day on the seventh day, then the original recommended suspension shall be imposed and become effective on the eighth day.

(d) Revoke the beer permit, only when a permit holder has more than two (2) violations of this ordinance within a twelve (12) month period. It is a defense to the revocation of a permit, for sale of beer to a minor or underaged person, if the minor or underaged person purchasing the beer exhibited identification indicating the person's age to be twenty-one (21) or over, if the minor or underaged person reasonably appeared to presumably be of such age, and the minor or underaged person was unknown to the clerk making the sale. In such case, the permit may be suspended for a period not to exceed ten (10) days, or a

civil penalty up to one thousand five hundred (\$1,500.00) dollars may be imposed. (See *Tennessee Code Annotated*, § 57-5-105(b).)

(e) Consider the following aggravating factors warranting the imposition of a more serious penalty:

- (i) Sales to minors;
- (ii) Sales by different agents or employees of the permit holder;
- (iii) Sales on different dates by agents or employees of the permit holder;
- (iv) Sales by minors employed by the business;
- (v) Additional sales made after the ordinance violation citation but prior to a court disposition or beer board hearing;
- (vi) Failure to take appropriate disciplinary action against the employee or employees who made the sales;
- (vii) Repeated violations of other city ordinances against the peace or persons, laws related to nuisance, or state or federal laws.

(f) Responsible vendors. (i) A permit held by a responsible vendor, as that certification is determined by the TABC, may not be suspended or revoked by the beer board based on a clerk's illegal sale of beer to a minor or underaged person, for off-premises consumption, if:

(A) The clerk is properly certified and has attended annual meetings since the original certification; or

(B) Is within sixty-one (61) days of the date of hire at the time of the violation. In such case, however, the beer board may impose a civil penalty not to exceed one thousand (\$1,000.00) dollars for each offense of making or permitting to be made any sales to minors or underaged person or for any other offense. (See *Tennessee Code Annotated*, § 7-5-608(a).)

(ii) If the TABC revokes a responsible vendor's certification for the illegal sale to a minor or underaged person, the vendor shall be penalized for the violation by the board as if the vendor had not been certified. (See *Tennessee Code Annotated*, § 57-5-608(b).)

(g) Revocation, suspension or imposition of civil penalty may also be made whenever it shall satisfactorily appear that the premises of any person, firm or corporation holding a permit is being maintained and operated in such manner as to be detrimental to public health, safety or morals. In considering the suspension or revocation of such permit, the beer board shall consider repeated violations of any local ordinance or state law involving prohibited sexual contact on the premises of an adult oriented establishment.

(4) Violations of this title 8 which result in municipal or state court judgments, or which are reported to the city by the TABC, without a finding by the beer board, will nonetheless be considered as prior violations for determining the applicability of suspension or revocation of a beer permit, or other appropriate penalty. (Ord. #O-1903, March 2019)

8-209. Special event permits. (1) The beer board is hereby authorized and empowered to permit the retail sale or free distribution of beer for on premises consumption of beer at any public or private property within the city pursuant to a special event permit at such times and as part of such events and under such terms and conditions, rules and regulations as the Blaine Beer Board may establish which are not inconsistent with state laws regulating the sale of beer.

(2) Any person conducting a special event in the city in which beer is contemplated to be sold or given away other than within the premises of a permittee's establishment shall apply for a special event permit, at least forty-five (45) days in advance, in writing to the chairman of the beer board with a copy to the city recorder. The application required by this part shall include but not be limited to the following:

- (a) The applicant's name;
- (b) The date and time of event;
- (c) The address, and phone number of individual applicants, or the name, address, and phone number of a contact person for corporate applicants;
- (d) The specific location where beer is to be sold outside the premises of an establishment for which a beer permit previously has been issued;
- (e) The specific parameters of the event area;
- (f) The identity of any persons, establishments, or entities which are contemplated to participate in dispensing beer at locations other than their usual premises and the number of the current beer permit(s) for each applicant;
- (g) Any plans for proposed temporary closure of public rights-of-way;
- (h) Plans for security and policing the event;
- (i) The anticipated number of persons attending such event;
- (j) A certificate of insurance;
- (k) A signed statement allowing the beer board to run a background check on the police records of each individual applicant, if such applicants are not already in possession of a beer permit; and
- (l) Any other requirements deemed necessary by city staff.

(3) Upon receipt, the proposed application for a special event permit shall be placed on the beer board's agenda at its next regularly scheduled meeting following receipt of the notice. Applicants shall send a representative

or representatives to such beer board meeting to address any questions or issues arising out of the proposed special event.

(4) If such application for a special event permit is granted, the applicant shall pay a special event permit fee of two hundred fifty dollars (\$250.00).

(5) The special event permit shall state on its face the name of the proposed vendor(s) of beer, the respective permit number(s), and the specific location(s) and date(s) where such vendor(s) is permitted to sell beer under the special event permit. A copy of the special event permit and a copy of the vendor's regular beer permit (if applicable) must be displayed at each location where beer is sold by such vendor. (Ord. #O-1903, March 2019)

8-211. Inspection of beer business. The police officers of the City of Blaine shall have the right to inspect at any and all times the entire premises and property where or upon or in which the beverages regulated by this chapter are sold, stored, transported, or otherwise dispensed or distributed or handled, whether at retail or wholesale, in the city for any law violations. (Ord. #O-1903, March 2019)

8-212. Prima facie evidence of possession for sale. It shall be unlawful for any person to sell, offer to sell, or distribute any beverages regulated by this chapter without having obtained the permit and license provided for by this chapter, and possession of five (5) gallons or more of such beverages shall be prima facie evidence that such beverage was being stored or possessed for sale. (Ord. #O-1903, March 2019)

8-213. Taverns. It shall be lawful for beverages regulated by this chapter to be sold for consumption on-premises at a tavern where meals or lunches are not regularly served. There shall be a limit of one (1) tavern permit allowed for every one thousand (1,000) population or fraction thereof, according to the latest official census of the City of Blaine. (Ord. #O-1903, March 2019)

8-214. Restaurants and clubs. It shall be lawful to sell, store, possess, and/or distribute beverages regulated by this chapter for consumption on premises at a restaurant or club, provided that, the establishment obtains an appropriate permit and complies with the regulations set out in this chapter and in state law. In accordance with *Tennessee Code Annotated*, § 57-5-103(3)(B), a permit will allow restaurants and clubs to distribute beer in an outdoor serving area including, but not limited to, any deck, patio, courtyard, or exterior area provided that said area:

- (1) Must be contiguous to the building;
 - (2) Must be owned and operated by the business; and
 - (3) Must be fenced in by a barrier of at least forty inches (40") high.
- The barrier need not be permanent, but must be constructed of a sturdy

material and may only allow for gaps at designated entrances and exits. The boundaries of this outdoor serving area must remain ten feet (10') back from the property line, except that establishments within the "mixed-use district E-3" area may have outdoor serving areas up to the property line. Neither the outdoor serving area, nor the constructed barrier shall restrict or obstruct the visibility of traffic traveling on any adjacent roadway. If the outdoor serving area utilizes any part of a public space, such as a parking lot, the area designated for serving beer will no longer act in its capacity as a public space. No vehicles will be allowed in the portion of the parking lot where beer is being served as long as it is designated as a serving area, except for display or exhibit vehicles. (Ord. #O-1903, March 2019)

8-215. Hotels/motels. It shall be lawful to sell, store, possess, and/or distribute any beverages regulated by this chapter for consumption on premises at a hotel/motel, provided that the establishment obtains a beer permit and acts in accordance with all of the regulations laid out herein and in state law. Said beverages may be distributed in multiple areas within the hotel/motel including, but not limited to, guests' rooms, suites and banquet rooms. Such hotel/motel shall in all respects comply with the applicable provisions of *Tennessee Code Annotated*, § 57-5-107. (Ord. #O-1903, March 2019)

8-216. Event stadiums. It shall be lawful to sell, store, possess, and/or distribute any beverages regulated by this chapter for consumption on-premises at an event stadium or convention center, provided that a beer permit is obtained and the organization acts in accordance with all of the regulations laid out herein and in state law. In the case of a reoccurring event, such as a sporting event, the organization may obtain an on-premises license. In the case of an infrequent event, such as a concert, the organization may obtain a special event permit. Pursuant to *Tennessee Code Annotated*, § 57-4-203(i)(2), a bona fide convention group may distribute beer or other alcoholic beverages at no cost to the group's delegates without a permit. No convention center or event stadium shall sell or distribute beer without a beer permit or a special event permit. (Ord. #O-1903, March 2019)

8-217. Beer board procedures and hearings. (1) Proceedings by the beer board may be initiated in the following manner:

(a) Complaint from law enforcement, the TABC, court system, or alcohol related community outreach program(s), of non-compliance by a permit holder, or employee or agent of such, which constitutes a violation of title 8 of this code, based on either:

(i) A reasonable belief that a noncompliance offense has occurred and a reasonable belief that the named defendant is the permit holder; or

(ii) The conviction in any municipal, state or federal court of a beer or alcoholic beverage offense occurring on the premises where a city permit has been issued or upon the conviction in any court for a beer or alcoholic beverage or a felony by any person who holds a city beer permit.

(b) Complaints hereunder shall be filed with the city recorder who shall serve as the clerk of the beer board. The city recorder shall then notify the offending permit holder by sending a copy of the complaint or notification and scheduling a hearing before the beer board no less than thirty (30) days nor more than sixty (60) days from receipt of the complaint or notification.

(c) Copies of the complaints or notification of noncompliance along with the notice of hearing containing the date, time and place for hearing and the alleged offending permit holder's right to counsel, shall be served on the alleged offending permit holder either by hand delivery by a city police officer to the manager on duty at the business address on the permit, or by service via certified mail, return receipt requested, to the permit holder at the address set forth in said permit holder's most recent application for a beer permit.

(2) A permit holder's failure to appear at the beer board hearing shall be deemed a default authorizing the beer board to make a finding of noncompliance and issuing such orders and imposing such sanctions as are appropriate for the alleged offense. However, at the time a default is entered, the beer board shall make a finding of fact pertaining to the offense, thereby constituting the record of the proceeding.

(3) Hearings of the beer board shall be conducted by the city mayor or his designee. Nonetheless, the mayor shall remain as a member of the beer board at all times regardless of the decision to designate a person to conduct the hearings.

(4) The standard of proof for the beer board to make a finding of a violation is by a preponderance of the evidence, or that all the evidence examined leads to the conclusion that it is more likely than not that the permit holder is guilty of noncompliance.

(5) The decision of the beer board will be made at the conclusion of the hearing or within forty-eight (48) hours of the hearing. A written report setting forth the facts relied upon in reaching the decision, the findings and the orders of the beer board shall be issued within fifteen (15) days of the hearing date. The report shall be maintained by the city recorder and a copy thereof sent to the permit holder and counsel therefore. The date of filing of the report with the city recorder shall constitute the final action of the beer board.

(6) In the event the beer board and permit holder reach an agreement as to the finding and outcome of the alleged noncompliance, a consent order may be issued and signed by the mayor and permit holder, or counsel therefore, in lieu of a report by the beer board.

(7) The city recorder has the authority to issue subpoenas for witness testimony. Subpoenas must be timely requested and may not serve as a reason for continuance of a hearing. Subpoenas may be served by a city police officer or other person authorized under state law to serve subpoenas.

(8) All tape recordings and evidence used at a beer board hearing shall be maintained by the city recorder until all appeal periods have passed and a final decision rendered. (Ord. #O-1903, March 2019)

8-218. Court action following beer board orders. (1) The exclusive method of review of the beer board orders are to the Blount County Circuit or Chancery Courts for review by statutory writ of certiorari, with a trial de novo as a substitute for appeal. Upon a grant of certiorari, the beer board shall be responsible for making, certifying and forwarding to the court a complete transcript of the proceeding in the cause.

(2) Appeals of court decrees pursuant to (1), after posting of a bond as required in other cases, shall be heard on transcript of the record. (Ord. #O-1903, March 2019)

CHAPTER 3

SALE FOR CONSUMPTION ON-PREMISES: WINE, BEER, HIGH ALCOHOL CONTENT BEER, AND INTOXICATING LIQUOR

SECTION

- 8-301. Sales of wine, beer, HACB, or intoxicating liquor for consumption on-premises.
- 8-302. Hotels/motels.
- 8-303. Privilege tax on retail sale of intoxicating liquors, HACB, or wine for consumption on-premises.
- 8-304. Annual privilege tax to be paid to the city recorder.

8-301. Sales of wine, beer, HACB, or intoxicating liquor for consumption on-premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of beer, intoxicating liquors, HACB, or wine for on-premises consumption which are regulated by the said code when such sales are conducted within the city. It is the intent of the board of aldermen that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the city, the same as if said code sections were copied herein verbatim. (Ord. #O-1903, March 2019)

8-302. Hotels/motels. Notwithstanding any other provision in this title, it shall be lawful to sell, store, possess, and/or distribute any beverages regulated by this chapter for consumption on-premises at a hotel/motel, provided that the establishment acts in accordance with state law.

Said beverages may be distributed in multiple areas within the hotel/motel including, but not limited to, guests' rooms, suites and banquet rooms. (Ord. #O-1903, March 2019)

8-303. Privilege tax on retail sale of intoxicating liquors, HACB, or wine for consumption on-premises. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, § 57-4-301, for the City of Blaine General Fund to be paid annually as provided in this chapter) upon any person engaging in the business of selling at retail in the city intoxicating liquors, HACB, or wine for consumption on the premises where sold. In the event, however, that pursuant to state law it is not permissible at the time this chapter is enacted to levy and collect the privilege tax because the county has already levied such a tax, then and in such event the authority is granted for the city to levy and collect such privilege tax when it becomes legally permissible for the city to do so, with collection of that tax to commence at the time that it becomes legally permissible for the city to collect said tax. (Ord. #O-1903, March 2019)

8-304. Annual privilege tax to be paid to the city recorder. Any person exercising the privilege of selling intoxicating liquor, HACB, or wine for consumption on the premises in the city shall remit annually to the city recorder the appropriate tax described in § 8-403 herein. Such payments shall be remitted on or before January 1 of each year. Any person failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #O-1903, March 2019)

CHAPTER 4

WINE SALES IN RETAIL FOOD STORES

SECTION

- 8-401. Certificate of compliance.
- 8-402. Certificate of compliance fee.
- 8-403. Issuance of certificate of compliance; appeal.
- 8-404. Regulation of sales.
- 8-405. Fees.
- 8-406. Records kept by licensee.
- 8-407. Inspections generally.
- 8-408. Enforcement.

8-401. Certificate of compliance. As a condition precedent to the issuance of a state retail food store wine license by the TABC, the mayor or a majority of the city board of aldermen may authorize the issuance of certificates of compliance by the city according to the terms contained herein. Any person or entity applying for a retail food store wine license 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 city council or city administrator may require:

(1) The name and address of the retail food store for which the retail food store wine license is being obtained, and a statement that the location of the retail food store complies with all zoning laws of the city and location requirements of the applicable statutes for selling wine in retail food stores; and

(2) A statement that the applicant or applicants have complied and will comply with this chapter and the applicable state laws and regulations on retail food store wine sales; and

(3) The following information concerning applicant background:

(a) If the applicant is an individual or partnership, the name and street address of each individual person who will be in charge of or in control of the business and a signed statement from each such person that he or she has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application with the TABC; or

(b) If the applicant is a corporation, the corporation may provide either:

(i) The name and street address of the executive officers of the corporation and a signed statement from each such officer that he or she has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application, or

(ii) The name and street address of each individual person who will be in charge of or in control of the business and a

signed statement from each such person that he or she has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application. (Ord. #O-1903, March 2019)

8-402. Certificate of compliance fee. The costs incurred by the city in connection with the process of issuing a certificate of compliance shall be charged directly to the applicant. (Ord. #O-1903, March 2019)

8-403. Issuance of certificate of compliance; appeal. A failure on the part of the issuing authority to grant or deny the applicant's request for the certificate of compliance within sixty (60) days of the written application shall be deemed a granting of the certificate. (Ord. #O-1903, March 2019)

8-404. Regulation of sales. (1) Hours of sales on weekdays and Saturdays. Retail food store wine licensees shall not sell, give away, or otherwise dispense wine, except between the hours of 8:00 A.M. and 11 :00 P.M. on weekdays and Saturdays.

(2) Sales on Sundays and holidays. No retail food store wine licensee shall sell, give away, or otherwise dispense wine except between the hours of 10:00 A.M. and 11:00 P .M. on Sunday. No retail food store wine licensee shall sell or give away wine on the following holidays: Christmas, Thanksgiving, and Easter.

(3) Sales to minors. No retail food store wine licensee shall sell or give away wine to a person under twenty-one (21) years of age, and it shall be unlawful for any such minor to purchase wine. Also, it shall be unlawful for any person to present false evidence that he has attained the age of twenty-one (21) years.

(4) Keeping an unsealed bottle or container. No retail food store wine licensee shall keep, or permit to be kept upon his premises, wine in any unsealed containers or bottles.

(5) Sales to persons intoxicated. No retail food store wine licensee shall sell or give away wine to any person who is intoxicated, nor shall any retail food store wine licensee sell or give away wine to any person accompanied by a person who is intoxicated.

(6) Wine tastings. No retail food store wine licensee shall conduct tastings of wine on the premises of the retail food store.

(7) Consumption on premises. No wine shall be sold for consumption, or consumed, on the premises of the retail food store. (Ord. #O-1903, March 2019)

8-405. Fees. (1) Amounts generally. There is hereby levied on each retail food store wine licensee an inspection fee of up to eight percent (8%), with the exact amount of such percentage to be determined from time to time by board

of aldermen, on 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 co-licensees holding a retail food store wine license for a single store, such inspection fee shall be the same as if the license were held by a single licensee.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sales is made to the licensee. Payment of the inspection fee by the collecting wholesaler or other source shall be made to the city recorder on or before the twentieth (20th) day of each calendar month for all collections in the preceding calendar month. Nothing herein shall relieve the licensee of the obligation of payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee for the licensee's store is made to the city recorder on or before the twentieth (20th) day of each calendar month for the preceding month. Wholesalers collecting and remitting the inspection fee to the city shall be entitled to reimbursement for this collection service in a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the city.

(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 purchases 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 above.

(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 direction of the mayor, be cause for suspension of the offending licensee's local retail food store wine license for as much as thirty (30) days and, at the sole discretion of the board of aldermen, be cause for revocation of such retail food store wine 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 aldermen 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. (Ord. #O-1903, March 2019)

8-406. Records kept by licensee. In addition to any records specified in the state rules and regulations, each licensee shall keep on file, at such licensee's retail food store, the following records:

- (1) The original invoices of all alcoholic beverages bought by the licensee;
- (2) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;
- (3) A current daily record of the gross sales by such licensee with evidence of cash register receipts for each day's sales; and
- (4) 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.

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 retail food store satisfies the requirements of this part. (Ord. #O-1903, March 2019)

8-407. Inspections generally. The city administrator, the city recorder, the city finance director, the chief of police or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers and records of any retail food store at any time the retail food store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such revocation shall be a violation of this chapter and shall constitute sufficient reason for revocation of the retail food store wine license of the offending licensee or for the refusal to renew the retail food store wine license of the offending licensee. (Ord. #O-1903, March 2019)

8-408. Enforcement. Any violation of the terms of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) per violation, temporary suspension, permanent revocation of the retail food store wine license, or any combination thereof at the discretion of the board of aldermen. Enforcement provisions are also applicable as found under state law. (Ord. #O-1903, March 2019, modified)