

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

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CHAPTER 1**INTOXICATING LIQUORS****SECTION**

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¹State law reference

Tennessee Code Annotated, title 57.

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

(1) "Alcoholic beverage." Alcoholic beverage means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, and wine capable of being consumed by a human being other than medicine or beer defined pursuant to *Tennessee Code Annotated*, § 57-5-101. Alcoholic beverage also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content. Products or beverages including beer, containing less than one-half percent (1/2%) alcohol by volume, other than wine as defined in this section, shall not be considered alcoholic beverage and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.

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

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

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

(5) "Certificate of compliance." The certificate required in Tennessee Code Annotated, § 57-3-208, or § 57-3-213 as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(6) "City." The city is the City of Jellico, Tennessee.

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

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

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

(10) "License fee." The annual fee a licensee is required by this chapter to pay

prior to the time of the issuance or renewal of a local liquor store privilege license. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, only one (1) license fee is required.

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

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

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

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

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

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

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

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

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

(20) "Wine." Wine means the produce of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climactic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. (Ord. #11-19-2020, Dec. 2020)

8-102. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57. (Ord. #11-19-2020, Dec. 2020)

8-103. Application for certificate. Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store or business for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.
- (10) No retailer's license shall be issued to a person who is an elected official of the City of Jellico or a person who has held an elected office with the City of Jellico within two (2) years of the date of application.
- (11) The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.
- (12) Each application shall be accompanied by a non-refundable three hundred dollar (\$300.00) application and investigation fee. Each application shall further be accompanied by a non-refundable background check fee of twenty-nine dollars (\$29.00) for each person/owner designated in said application. The original application shall be accompanied by two (2) copies of said original application. (Ord. #11-19-2020, Dec. 2020)

8-104. Applicant to agree to comply with laws. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws, ordinances of the City of Jellico, and rules and regulations of

the Tennessee Alcoholic Beverage Commission of the state for sale of alcoholic beverages. (Ord. #11-19-2020, Dec. 2020)

8-105. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (Ord. #11-19-2020, Dec. 2020)

8-106. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed. The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (Ord. #11-19-2020, Dec. 2020)

8-107. Residency requirement. The applicant for a certificate of compliance shall have been a bona fide resident of Campbell County, Tennessee for not less than one (1) year at the time his application is filed. If the applicant is a partnership or a corporation, if the applicant is a corporation the corporation must have an established a bona fide business in Campbell County, Tennessee that has been in operation not less than one (1) year at the time the application is filed. (Ord. #11-19-2020, Dec. 2020)

8-108. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (Ord. #11-19-2020, Dec. 2020)

8-109. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the City of Jellico. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (Ord. #11-19-2020, Dec. 2020)

8-110. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for commercial purposes. (Ord. #11-19-2020, Dec. 2020)

8-111. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (Ord. #11-19-2020, Dec. 2020)

8-112. Limitation on number of retailers. No more than two (2) retail licenses for the sale of alcoholic beverages will be issued under this chapter for package stores and no more than ten (10) retail licenses for alcoholic beverages to be sold for consumption on the premises of the retail seller will be issued. (Ord. #11-19-2020, Dec. 2020)

8-113. Inspection fee. (1) The City of Jellico hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

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

(3) **Reports.** The city recorder shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensee's 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 city manager, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the city council, be cause for revocation of such local liquor store privilege license. Each such action may be taken by giving written notice thereof to the licensee, no hearing with respect to such an offense being required. If a licensee has his or her license revoked,

suspended or otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay or have paid on his or her behalf the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Jellico, Tennessee. It is the intent of the Board of Mayor and Alderman of the City of Jellico that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the City of Jellico, the same as if said code sections were copied herein verbatim. (Ord. #11-19-2020, Dec. 2020)

8-114. Privilege tax on retail sale of alcoholic beverages for consumption on the 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, title 57, chapter 4, section 301 to be paid to the City of Jellico annually upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Jellico of alcoholic beverages for consumption on the premises where sold. (Ord. #11-19-2020, Dec. 2020)

8-115. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Jellico for on premises consumption, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of the ordinances of the City of Jellico, qualify to receive a beer permit from the city upon compliance of all Jellico beer permit requirements. (Ord. #11-19-2020, Dec. 2020)

8-116. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (Ord. #11-19-2020, Dec. 2020)

8-117. Licensee responsible for officers and agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (Ord. #11-19-2020, Dec. 2020)

8-118. Consumption of alcoholic beverages on premises. Facilities or businesses with specific statutory authority to sell intoxicating liquor to be consumed on the premises or within the boundaries of such location shall be authorized to sell or serve alcoholic beverages on the premises of such facility as permitted by Tennessee Code Annotated, § 57-4-102. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the code when such sales are conducted within the corporate limits of the City of Jellico, Tennessee. It is the intent of the board of mayor and aldermen that the Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the City of Jellico, Tennessee, the same as if the code sections were copied herein verbatim. (Ord. #11-19-2020, Dec. 2020)

8-119. Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Jellico shall remit annually to the city recorder the appropriate tax described in § 8-103. Such payments shall be remitted within thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #11-19-2020, Dec. 2020)

8-120. Location of liquor store. It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the city unless at a location approved by city council. Retail liquor store shall be located within a commercial zone as appears on the official zoning map of the City of Jellico on the date of application. Such liquor store shall not be located within three hundred feet (300') of any church or school or one hundred feet (100') of any residential structure as measured along a straight line from the nearest property line of any such establishment to the front door of the liquor store. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety or morals. (Ord. #11-19-2020, Dec. 2020)

8-121. Limitations on building containing liquor store. All liquor stores shall be a permanent type of construction in a material and design approved by the city planning commission. No liquor store shall be located in a manufactured or other movable or prefabricated type of building. All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system on the inside of the

premises. The minimum square footage of the liquor store display area shall be one thousand (1,000) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway to the interior of the liquor store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, as adopted within the City of Jellico Code, unless specifically stated otherwise herein. (Ord. #11-19-2020, Dec. 2020)

8-122. Inspections generally. The 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 record of any liquor store at any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee. (Ord. #11-19-2020, Dec. 2020)

8-123. Violations and penalty. (1) Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with petition that all licenses be revoked, pursuant to the provisions of Tennessee Code Annotated, title 57, chapter 3, and the rules and regulations of said commission; and,

(2) Any violation of the provisions of this chapter, in addition to the penalty provided for in subsection (1) above, the certificate of compliance and authority to operate a business for the sale of alcoholic beverages may be revoked according to the provision of applicable state law, rules or regulations of the Tennessee Alcoholic Beverage Commission; and

(3) Any violation of the provisions of this chapter may constitute grounds for the refusal of the renewal of any certificate of compliance issued by the City of Jellico. (Ord. #11-19-2020, Dec. 2020)

CHAPTER 2

BEER

SECTION

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- 8-214. Civil penalty in lieu of revocation or suspension.
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- 8-216. Violations and penalty.

8-201. Beer board established. (1) There is hereby established a beer board to regulate and supervise the sale, distribution, manufacture and storage of beer within the territorial boundaries of the municipality in accordance with the provisions and conditions of this chapter.

(2) The beer board shall be composed of the mayor and four (4) other members who are residents of the municipality and who shall be appointed by the mayor. Appointees to the beer board may or may not be members of the municipal legislative body. Appointment to the beer board shall be for a term of two (2) years and all members shall serve without compensation. The chairman shall be annually elected by the board from among its members.

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date

of each meeting; names of the board members present and absent; 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.

8-204. 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. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board.¹ The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

8-207. Permit required for engaging in beer business.² It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Jellico. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax.³ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference
Tennessee Code Annotated, § 57-5-103.

³State law reference
Tennessee Code Annotated, § 57-5-104(b).

manufacture of beer shall remit the tax each successive January 1 to the City of Jellico, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise 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 his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.¹

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to ten (10). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

8-211. 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, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit

¹State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under Tennessee Code Annotated, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated, § 57-5-301(a) a local offense.

be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period.

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

1. Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹
2. Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday.²
3. Allow any person under twenty-one (21) years of age to loiter in or about his place of business.³
4. Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
5. Allow drunk persons to loiter about his premises.
6. Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.
7. Fail to provide and maintain separate sanitary toilet facilities for men and women.

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the

¹State law reference

Tennessee Code Annotated, § 1-3-113(a).

²State law reference

Tennessee Code Annotated, § 57-5-106(a), for cities with liquor by the drink, the Alcoholic Beverage Commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under Tennessee Compilation Rules and Regulations § 0100-01-.03(2).

³State law reference

Tennessee Code Annotated, § 57-5-106(a).

provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-214. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each 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 offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before

¹State law reference

Tennessee Code Annotated, § 57-5-108(2).

the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

8-215. Loss of clerk's certification for sale to minor.¹ If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

8-216. Violations and penalty. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹State law reference

Tennessee Code Annotated, § 57-5-607.

CHAPTER 3

MISCELLANEOUS OFFENSES

SECTION

8-301. Violations by and relating to persons under the age of 21 years.

8-302. Consumption or open container in motor vehicle.

8-303. Consumption or open container in public places.

8-304. Public intoxication.

8-301. Violations by and relating to persons under the age of 21 years. (1) It shall be unlawful within the territorial boundaries of the municipality for any person under the age of twenty-one (21) years to:

(a) Possess, transport, or consume any alcoholic beverage as defined by Tennessee Code Annotated § 57-5-101;

(b) Purchase or attempt to purchase any alcoholic beverage as defined by section Tennessee Code Annotated § 57-5-101; or

(c) Knowingly make a false statement or exhibit false identification to the effect that he or she is twenty-one (21) years of age or older to any person engaged in the sale of alcoholic beverages for the purpose of purchasing or obtaining the same.

(2) It shall be unlawful within the territorial boundaries of the municipality for any person over the age of twenty-one (21) years to purchase any alcoholic beverage as defined by Tennessee Code Annotated § 57-5-101 for or at the request of a person under the age of twenty-one (21) years.

(3) Any person who shall violate any of the provisions of this section shall be guilty of a municipal offense, triable before the municipal court and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than fifty dollars(\$50.00) for each such violation.

(4) Any person who shall be found to have violated subsection (1)(a) of this section shall, without regard to the final disposition of such violation have the right to have the record of such violation destroyed after the passage of six (6) months from the date of the violation, without cost to such person, upon motion to the court.

(5) In the case of a person under the age of twenty-one (21) years but eighteen (18) years of age or older found to have violated subsection (1)(a) or subsection (1)(b) of this section, the court, within five (5) working days of the conviction shall prepare and send to the Tennessee Department of Safety, Driver Control Division, an order of denial of driving privileges for the offender.

(6) In the case of a person eighteen (18) years of age or older found to have violated subsection (1)(c) of this section, the offender, in addition to the fine imposed by subsection (3) of this section shall be punished by not more than thirty (30) days community service.

(7) In the case of a person twenty-one (21) years of age or older who shall be found to have violated subsection (2) of this section, the offender, in addition to the fine imposed by subsection (3) of this section shall be punished by not more than thirty (30) days community service.

(8) Nothing hereinabove contained shall be construed so as to prevent the prosecution of any conduct declared by this section to be a municipal offense which conduct would also constitute a violation of the criminal laws of the State of Tennessee, whether misdemeanor or felony, from being charged and prosecuted as a violation of the criminal laws of the State of Tennessee in the appropriate state court. (Ord. #08-2001, Nov. 2001)

8-302. Consumption or open container in motor vehicle.

(1) (a) It shall be unlawful for the operator, or any occupant or passenger of a motor vehicle as defined in Tennessee Code Annotated, § 55-8-101, to consume any alcoholic beverage or possess an open container of any alcoholic beverage while such motor vehicle is being operated upon any public highway, street, boulevard, road, alley or on the premises of any shopping center, trailer park, apartment complex, or any other premises generally frequented by the public at large within the territorial boundaries of the municipality.

(b) For the purposes of this section:

(i) "Open container" means any container containing an alcoholic beverage the contents of which are immediately capable of being consumed or the seal of which has been broken; and

(ii) A motor vehicle is in operation if its engine is operating, whether or not the motor vehicle is moving.

(2) Any person who shall violate any of the provisions of this section shall be guilty of a municipal offense, triable before the municipal court and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than fifty dollars (\$50.00) for each such violation.

(3) Nothing herein contained shall be construed so as to prevent any conduct declared by this section to be a municipal offense and which conduct would also constitute a violation of the criminal laws of the State of Tennessee from being charged and prosecuted as a violation of the criminal laws of the State of Tennessee in an appropriate state court. (Ord. #08-2001, Nov. 2001)

8-303. Consumption or open container in public places.

(1) (a) It shall be unlawful within the territorial boundaries of the municipality, for any person to consume any alcoholic beverage or possess an open container of any alcoholic beverage upon any public highway, street, boulevard, road, alley, or bridge; or upon the grounds of any cemetery, school, park, or playground; or upon the grounds of any church, shopping center or other premises generally frequented by the public at large; or upon any vacant lot located within two hundred feet (200') of any

such public highway, street, boulevard, road, alley, bridge, cemetery, school, park, playground, church, shopping center or other premises frequented by the public at large; or in any vacant or abandoned structure not owned by the person consuming such alcoholic beverage or possessing such open container.

(b) For purposes of this section "open container" means any container containing an alcoholic beverage the contents of which are immediately capable of being consumed or the seal of which has been broken;

(2) Any person who shall violate any of the provisions of this section shall be guilty of a municipal offense, triable before the municipal court and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than fifty dollars (\$50.00) for each such violation.

(3) Nothing herein contained shall be construed so as to prevent the prosecution of any conduct declared by this section to be a municipal offense which conduct would also constitute a violation of the criminal laws of the State of Tennessee from being charged and prosecuted as a violation of the criminal laws of the State of Tennessee in an appropriate state court. (Ord. #08-2001, Nov. 2001)

8-304. Public intoxication. (1) It shall be unlawful for any person to appear in a public place within the territorial boundaries of the municipality while under the influence of any alcoholic beverage or intoxicating substance to the degree that:

- (a) Such person may be endangered;
- (b) There is endangerment to other persons or property; or
- (c) Such person unreasonably annoys other people in the vicinity.

(2) Any person who shall violate any of the provisions of this section shall be guilty of a municipal offense, triable before the municipal court, and upon conviction shall be fined not less nor more than fifty dollars (\$50.00) for each such violation.

(3) Nothing herein contained shall be construed so as to prevent the prosecution of any conduct declared by this section to be a municipal offense which conduct would also constitute a violation of the criminal laws of the State of Tennessee from being charged and prosecuted as a violation of the criminal laws of the State of Tennessee in an appropriate state court. (Ord. #08-2001, Nov. 2001)