

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. PRIVILEGE TAX AND ALCOHOLIC BEVERAGES.
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CHAPTER 1

INTOXICATING LIQUORS

SECTION

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8-101. Definitions. The following definitions are applicable to this chapter:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, wine, and high alcohol content beer an capable of being consumed by a human being, other than patent medicine or beer, as defined in Tennessee Code Annotated, § 57-5-101(b), as the same may be amended, supplemented or replaced.

(2) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, as further defined by Tennessee Code

¹Municipal code reference

Drinking beer, etc., on streets, etc.: § 11-101.

Minors in beer places: § 11-102.

State law reference

Tennessee Code Annotated, title 57.

Annotated, §§ 57-3-101 and 57-3-802, as the same may be amended, supplemented or replaced. (1985 Code, § 2-101, as amended by Ord. #02-05, Aug. 2002, and replaced by Ord. #19-02, March 2019 *Ch13_10-13-20*)

8-102. State law incorporated by reference; alcoholic beverages subject to regulation. (1) Pursuant to Tennessee Code Annotated, title 57, subsequent amendments, and a referendum held pursuant thereto in City of Lewisburg, Tennessee on August 3, 1972 this chapter is enacted.

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

(3) The various rules and regulations promulgated from time to time by the Tennessee Alcoholic Beverage Commission and the Department of Revenue of the State of Tennessee regarding the sale of alcoholic beverages herein defined are hereby adopted as part of this chapter.

(4) It shall be unlawful to engage in the business of selling, storing, transporting, or disturbing or to purchase or possess alcoholic beverages within the corporate limits of the City of Lewisburg, Tennessee, except in accordance with the provision of Tennessee Code Annotated, title 57 and as provided in this chapter.

(5) It shall be unlawful to make or allow any sale of liquor to be consumed on premise between the hours of 3:00 A.M. and 6:00 A.M. each and every day of the week including Sunday and, in addition, between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. (1985 Code, § 2-102, as amended and renumbered by Ord. #19-02, March 2019 *Ch13_10-13-20*)

8-103. Deleted. (1985 Code, § 2-103, as renumbered by Ord. #19-02, March 2019 *Ch13_10-13-20*, and deleted by Ord. #21-06, July 2021 *Ch14_03-08-22*)

8-104. Deleted. (1985 Code, § 2-104, as renumbered by Ord. #19-02, March 2019 *Ch13_10-13-20*, and deleted by Ord. #21-06, July 2021 *Ch14_03-08-22*)

8-105. Certificate of moral character. Every applicant for a retail business license to sell alcoholic beverages in sealed packages for off premise consumption pursuant to Tennessee Code Annotated, § 57-3-204 or for a renewal of said license pursuant to Tennessee Code Annotated, § 57-3-213 shall make an application to city council, on forms provided by the city, for a certificate of moral character stating:

(1) That the applicant or applicants who are to be in actual charge of said business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the

executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application; and further, that in the official's opinion the applicant will not violate any of the provisions of this chapter.

(2) That the applicant or applicants have secured a location for said business which complies with all restrictions of any local law, ordinance or resolution, duly adopted by the local authorities as to location within the city and that the applicant or applicants meet all residency requirements, if any, established by such local authority; and

(3) That the applicant or applicants have complied with all local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

A nonrefundable five hundred dollar (\$500) investigation fee shall accompany each application for a certificate of moral character whether the application relates to the acquisition of an initial retail business license or to its renewal.

Every application for a certificate of moral character shall be referred to the city manager for investigation and to the city attorney for review, each of whom shall submit his findings to the city council within thirty (30) days of the date each application was filed. (1985 Code, § 2-105, modified, as replaced by Ord. #12-10, Nov. 2012, and amended by Ord. #17-05, July 2017, and Ord. #18-10, Oct. 2018, and renumbered by Ord. #19-02, March 2019 *Ch13_10-13-20*)

8-106. Location and size restrictions on retail businesses.¹

(1) No certificate shall be granted to the operators of a retail store for the sale of alcoholic beverages except on premises zoned "central business," "intermediate business," or "industrial" within the provisions of the zoning ordinance of the City of Lewisburg. No certificate shall be issued for the operation of any such retail store to be located in closer proximity to any school, public or private, or any church, than two hundred fifty feet (250') measured from the retail store the aforesaid institutions or facilities by way of the shortest distance and straight line between same. Within the "central business" district, restaurants and food service establishments meeting the criteria in § 8-209(3)(a)(i) may be located within fifty feet (50') of the aforesaid institutions.

(2) No retail liquor store shall be closer than one thousand five hundred feet (1,500') feet to another retail liquor store measured as set forth above.

(3) Any retail liquor store authorized by this chapter shall contain a minimum floor space of 1000 square feet. (1985 Code, § 2-106, as renumbered by Ord. #19-02, March 2019 *Ch13_10-13-20*)

¹State law reference

Tennessee Code Annotated, § 57-3-208(b)(2) and (c).

8-107. Limitation on number of retailers.¹ No more than four (4) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (1985 Code, § 2-107, as renumbered by Ord. #19-02, March 2019 *Ch13_10-13-20*)

8-108. Inspection fee.² The City of Lewisburg 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. (1985 Code, § 2-108, modified, as renumbered by Ord. #19-02, March 2019 *Ch13_10-13-20*)

8-109. Bonds required. All bonds required by this chapter shall be executed by a surety company, duly authorized to do business in Tennessee; bonds of retailers shall be two thousand five hundred dollars (\$2,500.00) conditioned that the principal thereof shall pay any fine which is assessed against such principal by any court of competent jurisdiction and/or taxes or inspection fees due from him to the City of Lewisburg.³ (1985 Code, § 2-109, as renumbered by Ord. #19-02, March 2019 *Ch13_10-13-20*)

8-110. Violations. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause for this municipal code. 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 a petition that all licenses be revoked, pursuant to the provisions of said commission. (as added by Ord. #19-02, March 2019 *Ch13_10-13-20*)

¹State law reference
Tennessee Code Annotated, § 57-3-208(c).

²State law reference
Tennessee Code Annotated, § 57-3-501 through 57-3-504.

³State law reference
Tennessee Code Annotated, § 57-3-209.

CHAPTER 2**BEER**¹**SECTION**

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8-201. Definitions. The following definitions are applicable to this chapter:

- (1) The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than

¹State law reference

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

such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee. (Tennessee Code Annotated, § 57-5-101)

(2) "Golf course" shall mean a public nine or eighteen (9 or 18) hole golf course.

(3) "Person" shall mean any citizen or legal alien of the United States, any partnership or association of persons all of whom are citizens or legal alien of the United States, and any corporation licensed to do business in the State of Tennessee.

(4) "Premises" shall be the interior of a building or structure including contiguous interior spaces which are not separated by a permanent solid wall from other portions of the building or structure under the same roof, and where applicable shall include the parking area adjacent to and servicing the premises and where applicable shall include a golf course.

(5) "High alcohol content beer" means an alcoholic beverage which is beer, ale or other malt beverage as further defined in Tennessee Code Annotated, § 57-3-101, that is brewed, regulated, distributed, or sold pursuant to Tennessee Code Annotated, title 57, chapter 3.

(6) "Licensee." A person, partnership or corporation who holds a beer permit issued by the City of Lewisburg.

(7) "Live performances" shall be deemed for the purpose of this chapter to mean any person who for consideration, monetary or otherwise, performs in person on a licensed premise as a singer, musician, dancer, comedian, or model.

(8) "Beer permit holder." Any person, partnership, or corporation who holds a permit from the City of Lewisburg for the sale of beer or other beverage of alcoholic content of not more than such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee. (Ord. #97-14, Sept. 1997, modified, as amended by Ord. #09-11, Dec. 2009, and by Ord. #19-02, March 2019 *Ch13_10-13-20*, and replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-202. Beer lawful but subject to regulation. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive or manufacture beer of alcoholic content of not more than such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee, and any other beverages of like alcoholic content, within the corporate limits of the City of Lewisburg, subject to all of the regulations hereinafter provided, and subject to the rules and regulations promulgated by public officials or boards. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-203. Beer board established. There is hereby a beer board ("board") to be composed of three (3) members appointed by the mayor, each of whom shall serve until his successor is appointed. The mayor shall serve as ex officio member of the board but shall have no vote except in the case of a tie. All members of the board shall be residents of the city and shall receive such

compensation as is set from time to time by resolution of the city council. An annual organizational meeting of the board shall be held in July of each year and from its membership shall be elected a chairman and secretary (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-204. Meetings of the beer board. All meetings of the board shall be open to the public. The board shall hold regular meetings in the city administration building at such time as it shall prescribe. When there is business to come before the board a special meeting may be called either by the chairman or by a majority of the members. Notice of the annual, regular, or special meetings shall be given to each of the board, parties in interest and the general public. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-205. Record of beer board proceedings to be kept. The chairman shall see that a record of the proceedings of all meetings of the board is kept. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introduction 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 beer permit issued by the board. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-206. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the board shall be required to constitute a quorum of 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 "nap" vote. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-207. Powers and duties of the beer board. The board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing (micro-breweries) of beer within this municipality in accordance with the provisions of this chapter. (Note: Manufacturers such as micro-breweries shall be subject to all health department regulations regarding the handling of ingredients and products for human consumption and be registered as a "manufacturer" or "wholesale distributor" according to Tennessee Code Annotated, § 57-5-102). (Ord. #97-14, Sept. 1997, modified, as replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-208. Permit required for engaging in beer business. No person shall engage in the storing, selling, distributing, or manufacturing of beer of alcoholic content of not more than such weight, volume, or alcoholic content as

is allowed by the statutory laws of the State of Tennessee, or other beverages of like alcoholic content, within the corporate limits of the City of Lewisburg, until he shall receive a permit to do so from the beer board of the City of Lewisburg, which permit shall at all times be subject to all of the limitations and restrictions herein provided, and provided further that the applicant shall certify that he has read and is familiar with the provisions of this chapter (Ord. #97-14, Sept. 1997, modified, as replaced by Ord. #22-41, Jan. 2023 ***Ch15_06-28-23***)

8-209. Classes of permits. There shall be five (5) classes or kinds of permits used by the beer permit board as follows:

(1) **Manufacturers.** A manufacturer's permits to a manufacturer of beer, for the manufacture possession, storage, sale, distribution, and transportation of the product of the manufacturer which product may be consumed upon the premises of the manufacturer to the extent permitted by state law of general application.

(2) **Off-sale.** An "off-sale" permit to any person or legal organization engaged in the sale of beer where it is not to be consumed by the purchaser upon or near the premises of the seller.

(3) **On-sale.** An "on-sale" permit to any person or legal organization engaged in the sale of beer where it is to be consumed by the purchaser or his guests upon the premises of the seller and provided beer may also be sold in hotel rooms of regularly conducted hotels and in regularly incorporated clubs and lodges upon their obtaining the required permit.

(a) Anyone applying for or obtaining an on-sale permit may also sell beer to go so a patron may take beer with him purchased at such place after consuming beer. This will be known as a "joint permit and shall costs an additional two hundred fifty dollars (\$250.00) at the time the application is made, or at any subsequent time when it is sought to change the type of permit.

(b) No alcoholic beverage shall be consumed in the parking lot of any establishment possessing an on-sale permit, except that, with prior approval of the city's chief of police or his/her designee and the beer permit board, for special events no longer than three (3) consecutive calendar days, permittees may allow consumption of alcoholic beverages sold by the permittee within an area that is roped off or otherwise separated by a continuous fence or other type of barrier from the remaining portion of their parking lot, both ends of which terminate at the permittee's building, deck, porch, patio, and other such attached structure, and provided further, that such permittee provides for an adequate number of private security personnel, which may be employees of the permittee, identified by their clothing as security, to patrol the premises to prevent unlawful use or possession of alcoholic beverages and to enhance public safety.

(4) Special events permit. A "special events" permit is required to be issued to any nonprofit or bona fide political organization engaged in the sale of such beverages where they are to be consumed by the purchaser or his guests upon the premises of the seller. The special events permit will be issued for the fee of two hundred fifty dollars (\$250.00), after approval by the Lewisburg Police Department and the Lewisburg Beer Board. Prior notification must be made in writing thirty (30) days prior to the event with the organization holding the event and location where the event is to be held. Each permit will be issued for a specific date and a specific period of time. The specific period of time will not contradict any existing state or city ordinances. Nonprofit organizations may receive no more than four (4) special events permits during a calendar year.

(5) Caterer permit. A "catered" permit to any person or legal organization conducting a food and beverage catering business who or which has been previously issued a liquor by the drink certificate from the Tennessee Alcoholic Beverage Commission. The liquor by the drink certificate must be current and not expired or revoked at the time of application for the caterer permit. The caterer permit will be issued for the fee of two hundred fifty dollars (\$250.00), after approval by the Lewisburg Police Department and the Lewisburg Beer Board.

(6) With regard to any "on sale," "special event," beer permit application, or such beer permit issued, in connection with any event to be held or located at the in the downtown area or one block off the downtown area, the definition of "premises" (or permit "location") shall mean and include any closed and blocked off or barricade street contiguous to the downtown area or block off the are, as which has exclusive authority and jurisdiction pursuant to state law of general application to issue, suspend, revoke beer permits and to otherwise regulate the sale, distribution, manufacture, storage, and possession of beer, as defined in state law of general application, within the real property boundaries of the downtown area. It is the intent of this subsection that "beer trucks," "beer trailers," and "beer tents," owners, sellers, and distributions, that are located within any closed and blocked off or barricaded street contiguous to the downtown area, during an event being held in the downtown area, after having paid the application fee and being issued the appropriate permit, shall not be subject to having paid the application fee and being issued the appropriate permit, shall not be subject to revocation, suspension, or civil penalty, due to lawful consumers possessing, consuming, or carrying open containers of beer from the aforesaid beer trucks, trailers or tents, into the down town area. Any such application and/or issued permit shall specify the street name, and whether the permit is for a beer truck, trailer or tent, in addition to all other application and/or permit information otherwise required by state law of general application, this chapter of the city code, or by the beer board. (Ord. #97-14, Sept. 1997, as amended by Ord. #00-17, Feb. 2001, Ord. #02-01, May 2002, Ord. #02-05, Aug. 2002, Ord. #08-21, Jan. 2009, and Ord. #12-10, Nov. 2012, and replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-210. Restrictions upon granting permits. (1) No permit shall be issued to sell any beverage coming within the provisions of this section:

- (a) In violation of any provision of the state law.
- (b) In violation of the zoning ordinance of the City of Lewisburg.

(2) The judgment of the beer board on such matters shall be final except as same is subject to review at law under Tennessee Code Annotated § 57-5-105. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-211. Application for retail permit: requirements as to applicants: regulations to be followed and shown in the application.

(1) Each application for a beer permit shall reflect:

- (a) The name of the applicant.
- (b) The location of the premises at which the business shall be conducted.
- (c) The owner or owners of such premises.
- (d) The names and addresses of all other persons or firms who have any financial interest whatsoever in the beer business proposed to be established.
- (e) Whether the applicant will operate the business in person or by agent and if by agent, the name and address of such agent.
- (f) Type of permit requested.
- (g) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant.
- (h) That no sale of such beverages will be made except in accordance with the permit.
- (i) That if the application is for a permit to sell "not for consumption on the premises" that no sale will be made for consumption on the premises that no consumption will be allowed on the premises thereof.

(2) The applicant must secure a certificate of compliance or a statement from the health department or health officer that the premises which the application covers meet the requirements of the municipal code in regard to sanitary restroom facilities.

(3) The application shall be submitted to the city administrator at least thirty (30) days prior to the beer board meeting at which it is to be considered. The administrator shall, within five (5) days after receipt of an application, notify each member of the beer board of such application.

(4) No permit shall be issued by the beer board until the application therefore shall have been to and approved in writing by the Lewisburg Police Department.

(5) The City of Lewisburg, prior to its consideration of an application to engage in the sale of beer under this section for consumption for on or off

premises, shall collect an application fee of two hundred fifty dollars (\$250.00) for use in offsetting the expenses of investigating the applicant. Regardless of whether an application is approved or denied, any portion of the fee collected in excess of that actually used in investigation shall become the property of the City of Lewisburg at the end of each calendar year, to be used at the discretion of the governing body, and the city shall not require periodic renewal of beer permits or licenses in conformity with Tennessee Code Annotated § 57-5-103.

(6) Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00) according to Tennessee Code Annotated § 57-5-104. Any firm, person, corporation, joint stock companies, syndicate or association engaged in. The privilege tax is is waived for temporary permits.

(7) A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the building in which the business is located and that are owned and operated by the business. The distance should be measured from the edge of the patio, deck, or outside serving area. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023, *Ch15_06-28-23*)

8-212. 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. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit.

It is understood that any permit for the sale of on premises consumption has the right to sell beer for off premises consumption, but that any permit for the sale of beer for off premises consumption may not sell beer for on premises consumption. (Ord. #97-14, Sept. 1997, modified, as amended by Ord. #01-03, May 2001, Ord. #02-05, Aug. 2002, Ord. #16-08, June 2016, Ord. #16-14, Aug. 2016, and Ord. #19-02, March 2019 *Ch13_10-13-20*, and replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-213. Permits not transferable. Beer permits shall not be transferable from one (1) person to another from one (1) location to another. A new permit is required in the manner provided herein. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-214. Duration of permit. Permits issued under the provisions of this chapter shall be issued until revoked or suspended, by change of location, sale of business, or otherwise goes out of business at the same location.

Nothing herein shall prevent a non-resident owner from presenting an application and having the same considered, so long as there is a responsible

resident manager, and so long as the other provisions of the law are complied with.

It is the legislative intent of this section to provide that, and to comply with state law that new managers of chain-type restaurants or grocery stores are not required to have a new permit and a new inspection fee each time that a manager is replaced. The same rules would apply to a resident owner who employs a qualified and responsible resident manager, so long as the other provisions of the state law and this chapter are complied with. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 ***Ch15_06-28-23***)

8-215. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder, together with all other permits, licenses, and stamps as required by law. (Ord. #97-14, Sept. 1997, as replaced by Ord. #22-41, Jan. 2023 ***Ch15_06-28-23***)

8-216. Interfere with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals.

Prior to the issuance of such permit by the beer board any applicant for a beer permit under this section shall submit to an initial inspection by the city of the premises upon which the applicant is to operate in order to confirm compliance with all provisions of the Municipal Code of the City of Lewisburg, the current building code, and all ordinances of the City of Lewisburg. So long as a permit is to confirm continued compliance with such codes and ordinances. A violation thereof will subject the permit holder to review of permit with possible fine, citation or revocation of the beer permit by the beer board.

No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property nor in the window of the permit holder who is located on the public square of Lewisburg or within an area of one (1) block on all sides thereof.

A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the building in which the business is located and that are owned and operated by the business. The distance should be measured from the edge of the patio, deck, or outside serving area. (Ord. #97-14, Sept. 1997, modified, as replaced by Ord. #22-41, Jan. 2023 ***Ch15_06-28-23***)

8-217. Issuance of permits to persons convicted of certain crimes prohibited. (1) No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacturing, or transportation of intoxicating beverages or any crime involving moral turpitude within the past ten (10) years. It shall be the sole responsibility of the permit applicant to prove

to the satisfaction of the beer board that said applicant has not been convicted of the aforesaid offenses within the past ten (10) years.

(2) Permit holders who are convicted of any of the aforesaid offenses after having been issued a beer permit shall be obligated to report said conviction to the beer board. A hearing before the beer board shall be convened, at the beer board's discretion, to determine the effect such a conviction shall have on the status of the permit holder's permit. A conviction under this section shall constitute grounds for the immediate revocation of convicted permit holder's beer permit. (Tennessee Code Annotated, § 57-5-103 section (e)) Ord. #97-14, Sept. 1997, modified, as replaced by Ord. #22-41. Jan. 2023 *Ch15_06-28-2023*)

8-218. Issuance of permits to hotels, clubs, etc. It shall be lawful for the beer board to issue a permit for the sale of any beverage coming within the provisions of this chapter, so hotels, motels, clubs, and lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit provided by this chapter. (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-219. Minor, fraudulent evidence of age, etc. misdemeanor. It shall be unlawful for any minor to purchase, attempt to purchase, or to possess any such beverage covered under this chapter, or for anyone to purchase such beverage for a minor. It shall be unlawful for any minor present to offer to any permittee, his agent, or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase such beverages. Any minor who acts in violation of any one (1) or more of the provisions of this section shall be taken before the juvenile judge for appropriate disposition. (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-220. Investigation of applicant, agent, and/or employees. Applicants for retain permits under this section are subject to be investigated by municipal county, and state authorities. (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-221. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder, employee or any other person employed in the sale of beer to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating beverages, or any crime involving moral turpitude within the past ten (10) years unless such person is currently certified as a responsible vendor with the Tennessee Alcoholic Beverage Commission pursuant to the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Employ any minor under eighteen (18) years of age in the sale, service, or dispensing of beer at retail except in grocery stores where sales are made for off premise consumption.

(3) Make or allow any sale of beer between the hours of 3:00 A.M. and 6:00 A.M., during any day of the week or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday.

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

(5) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

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

(7) Serve, sell or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee unless the permit holder is property licensed to do so by the Tennessee Alcoholic Beverage Commission.

(8) Live performances - nudity prohibited. No live performances are permitted on licensed premises which involve the removal of clothing, garments or any other costumes. Such prohibition does not include the removal of headwear or footwear, sweater or similar outer garments. Incidental removal for purposes of this section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. The restriction applies to all licensed premises.

(9) Entertainment restricted. No entertainment on a licensed premise shall contain:

(a) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation of any sexual acts which are prohibited by law;

(b) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;

(c) The actual or simulated display of the pubic hair, anus, vulva or genitals; or the nipples of a female.

(10) Nudity prohibited. It shall be unlawful for any licensee, employee, agent of licensee patron or guest of licensee to:

(a) Appear with his or her genitals or pubic region less than completely covered by an opaque substance or material;

(b) Appear with his or her buttocks less than completely covered by an opaque substance or material; or

(c) Any female to appear with either or both of her breasts less than completely covered by an opaque substance or materials below the uppermost or highest part of the areola.

(11) Films and pictures restrictions. It shall be unlawful for any licensee, any employee, or agent to permit or allow the showing of film, still

pictures, electronic reproductions, or other visual reproductions, or other visual reproductions depicting:

(a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law:

(b) Any person being touched, caressed, or fondled on the breasts, buttocks, anus or genitals;

(c) Scenes wherein a person displays the vulva, anus, or genitals; or

(d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above in (a) through (c).

(12) License revoked or suspended. Any licensee violating these sections shall have its license revoked or suspended as provided by this chapter.

(13) Penalty. Any licensee, employee, agent, or person violating these sections shall be guilty of a misdemeanor and punished in accordance with the penalty clause of the Municipal Code of the City of Lewisburg.

(14) Fail to provide and maintain separate sanitary toilet facilities for men and women or at least two (2) separate single use, uni-sex or gender-neutral toilet facilities marked accordingly and prominently. (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-222. Suspension and revocation of beer permit. All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board of the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

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 certificate 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.

Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board is vested with full and complete power to

investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked.

Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated the provisions of the state beer act or nay of the provisions of this chapter, the board is authorized to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the Police Department of the City of Lewisburg. The notice shall be served upon the permittee at least five (5) days before the date of the hearing.

At the hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such a hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject to review by the courts as provided in the state beer act. (Tennessee Code Annotated § 57-5-105) (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-223. Employees liable for violations of chapter. Any employer of any permittee who violated the provisions of this chapter or any provision of the state beer act while so employed by such permittee shall be guilty of a misdemeanor. (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-224. 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. 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) dollars for any 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

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. (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-225. Loss of clerk's certification for sale to minor. 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 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. (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

8-226. Temporary permits. Temporary beer permits may be issued to any bona fide charitable or non-profit organization as defined by the United States Internal Revenue, an organization that has applied for non-profit status or bona fide political organization as defined by the United States Internal Revenue Code as may be amended from time to time, and recognized as such by the United States Internal Revenue Service, upon proper permit obtained from the city, may be permitted to sell or otherwise distribute beer, and event center at the request of an applicant upon the same terms and conditions governing permanent permits and in conjunction with any other lawfully required permit from the City of Lewisburg. Special event temporary permits shall be issued as single event permits as covered in § 8-209 of this code. It is further provided that any such non-profit organization does not share or otherwise provide any proceeds from any such sales to any other for-profit individual, business, organization, or entity.

If the events covered by a temporary permit will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the temporary permit application.

Notwithstanding, § 8-216 of the Lewisburg Municipal Code, the beer board is authorized to place any and all restrictions it deems necessary on temporary permits, including but not limited restricted hours of sale and limitations on the number of sale locations/stations or other time, place, manner restrictions as deemed proper in consideration of minimum traffic interruption, public safety, health, welfare, convenience, peace or order. The following provisions shall also apply to temporary permit holders:

- (a) A temporary permit is valid for forty-eight (48) consecutive hours and a temporary permit holder shall not have more than four (4) temporary permits in a year.

(b) A temporary permit holder shall be prohibited from making or allowing any sale of beer between the hours of 10:00 P.M. and 10:00 A.M any day of the week.

(c) Temporary permits may be issued to applicants who intend to operate in a place that is temporary in nature.

(d) A temporary permit holder shall not be subject to the annual privilege tax. There is hereby imposed an application fee of two hundred and fifty dollars (\$250.00) for applying for a temporary permit and all other provisions of § 8-210 governing the issuance of a permit shall apply.

(e) The application for a temporary beer permit shall set forth the following information:

(i) The name, address, and telephone number of the chairperson of the charitable or nonprofit organization seeking a temporary beer permit;

(ii) The name, address, and telephone number of the person responsible for beer sales under the permit;

(iii) The date and time when the event will be held;

(iv) The hours which beer sales will be conducted during the event; and

(v) The proposed location for beer sales.

(f) Applicants for a temporary beer permit must apply thirty (30) days prior to the event. (as added by Ord. #22-41, Jan. 2023 *Ch15_06-28-23*)

CHAPTER 3

PRIVILEGE TAX AND ALCOHOLIC BEVERAGES¹

SECTION

8-301. Tax levied.

8-302. Remittance to city treasurer.

8-301. Tax levied. The following taxes are levied and to be paid annually to wit:

1.	Private club	\$ 300.00
2.	Hotel and motel	1,000.00
3.	Convention center	500.00
4.	Premiere type tourist resort	1,500.00
5.	Restaurant, according to seating capacity, on licensed premises:	
a.	75-125 seats	600.00
b.	126-175 seats	750.00
c.	176-225 seats	800.00
d.	226-275 seats	900.00
e.	276 seats and over	1,000.00
6.	Historic performing arts center	300.00
7.	Urban park center	500.00
8.	Commercial passenger boat company	750.00
9.	Historic mansion house site	300.00
10.	Historic interpretive center	300.00
11.	Community theater	300.00
12.	Zoological institution	300.00
13.	Museum	300.00
14.	Establishment in a terminal building of a commercial air carrier airport	1,000.00
15.	Commercial airline travel club	500.00

(as added by Ord. #00-18, Feb. 2001)

8-302. Remittance to city treasurer. The tax hereby levied shall be remitted by all operators of establishments subject to this tax to the Treasurer of the City of Lewisburg, Tennessee. (as added by Ord. #00-18, Feb. 2001)

¹State law reference

Tennessee Code Annotated, § 57-4-301.

CHAPTER 4

USE AND SAME OF ALCOHOLIC BEVERAGE IN PARK

SECTION

- 8-401. Use or sale of alcoholic beverages in city parks; ejection.
8-402. Citation; city court adjudication; assessment of civil fine.
8-403. Use or sale of alcoholic beverages permitted in certain parks.
4-404. Use or sale of alcoholic beverages by the city department of parks and recreation and municipal golf courses.
8-405. Possession, use, sale, and distribution of alcoholic beverages by private individuals, organizations, or entities.

8-401. Use or sale of alcoholic beverages in city parks; ejection.

It shall be unlawful for any person, organization, association, or entity to possess, use, consume, sell, distribute, or otherwise provide any alcoholic beverage while upon, on, or inside the boundary of any city park or recreational center or facility, except may otherwise be provided in this chapter. Any person, organization, association, or entity in violation of this chapter, or other state laws of general application, or local ordinances, may be required to leave the premises by any employee of the city department of parks and recreation, or by any city employed security officer, and ejected and removed from the premises by any city law enforcement officer. It shall be unlawful, a trespass, and a violation of this section, for any person, organization, association, or entity to refuse to leave the premises upon request by any employee of the city department of parks and recreation, or by any city employed security officer, or city law enforcement officer. (as added by Ord. #22-39, Jan. 2023 *Ch15_06-28-23*)

8-402. Citation; city court adjudication; assessment of civil fine.

Any city law enforcement officer or city employed security officer, is hereby empowered to issue a citation to any person for any violation of any of the provisions of this chapter. Citations issued for violation of any of the provisions of this chapter shall be tried in the city court. The city court judge shall determine whether a violation has occurred and shall assess a civil monetary fine as penalty against any person convicted of violating any of the provisions of this chapter, said fine to be in an amount of one hundred dollars (\$100.00) for each violation. (as added by Ord. #22-39, Jan. 2023 *Ch15_06-28-23*)

8-403. Use or sale of alcoholic beverages permitted in certain parks. Notwithstanding the provisions of § 8-401 above, the possession, use, consumption, sale, distribution, or provision of alcoholic beverages shall be permitted at the following city public parks upon proper permit application and approval by the city, subject to the provisions and requirements and in manner

not otherwise inconsistent with state law of general application and other local ordinances and the provisions of this chapter, and further subject to rules, regulations and procedures pertaining to same as may be adopted from time to time by the city:

- (1) Rock Creek Park
- (2) Public Square Park
- (3) Lewisburg Recreation Center
- (4) Jones Park
- (5) Southside Adult Softball Fields. (as added by Ord. #22-39, Jan. 2023 *Ch15_06-28-23*)

4-404. Use or sale of alcoholic beverages by the city department of parks and recreation and municipal golf courses. The department of parks and recreation, and all city-owned municipal golf courses, shall have authority to sell, distribute or otherwise provide alcoholic beverages at the city parks or recreation facilities designed in § 8-403, subject to and in accordance with the provisions and requirements of state law or general application and other local ordinances. The department shall establish rules regulations and procedures governing same, to include the acquisition, storage, safekeeping, and inventory of stock, and accounting for the receipts and expenditures related to the sale, distribution, or provision of alcoholic beverages, and establishing prices for sales of same, which shall be subject to approval of the parks and recreation committee of the city council. The department of parks and recreation is authorized and empowered to take whatever steps or action is or may be required, to include obtaining any necessary licenses or permits, to carry out the provisions of this section. (as added by Ord. #22-39, Jan. 2023 *Ch15_06-28-23*)

8-405. Possession, use, sale, and distribution of alcoholic beverages by private individuals, organizations, or entities.

(1) Notwithstanding any other provision to the contrary in this chapter, the city shall have authority to permit private individuals, organizations or entities who have gone through the proper permitting and approval process to consume, distribute, sale or otherwise provide alcoholic beverages at the above-noted parks subject to and in accordance with the provisions, requirements, prohibitions, and restrictions of local, state, and federal law of general application and other local ordinances pertaining to same. The city shall establish rules regulations and procedures governing same which shall be subject to approval by the city.

(2) Individuals, organizations, or entities who desire to sell alcoholic beverages or otherwise charge a fee in any manner for the use or consumption of alcoholic beverages on said premises during the time they have rented or reserved city facilities same shall be required to use the services and alcoholic beverage stock of either the city department of parks and recreation, or the services and alcoholic beverage stock of a caterer or other vendor approved by

the department of parks and recreation who meet all requirements of state law and local ordinances, to include any necessary licenses and permits. The department shall establish rules, regulations and procedures governing same which shall be subject to approval of the parks and recreation committee and the city council. This shall not be required if the city does not have this in place or the city waives the requirement in writing.

(3) As an exception to subsection (2) above, any bona fide charitable or non-profit organization as defined by the United States Internal Revenue, an organization that has applied for non-profit status or bona fide political organization as defined by the United States Internal Revenue Code as may be amended from time to time, and recognized as such by the United States Internal Revenue Service, upon proper permit obtained from the city, may be permitted to sell or otherwise distribute beer, as defined by state law of general application and as may be amended from time to time, using their own stock and staff, subject to and in accordance with the provisions, requirements, prohibitions, and restrictions of state law of general application, and other local ordinances pertaining to same, and provided further that any such non-profit organization does not share or otherwise provide any proceeds from any such sales to any other for-profit individual, business, organization, or entity. No non-profit organization may be issue more than one (1) permit during any thirty (30) day period, and no more than four (4) permits during any calendar year. No permit granted by the city to one (1) non-profit organization may be used by any other non-profit organization or any other individual, business, organization, or entity. Approved permits may not exceed forty-eight (48) hours in duration and must be consecutive. The specific area where alcohol sales take place must be located within a demarcated area separated from patrons by a suitable barrier, and the area supervised by a responsible adult of at least twenty-one (21) years of age, to prevent unauthorized possession of any alcoholic beverages by underage individuals. The city shall establish rules, regulations and procedures governing same which shall be subject to approval of the city. Thirty (30) days' notice is required by the beer board for a temporary permit.

(4) Thirty (30) days' notice must be given to reserve any of the parks.

(5) Last call for alcohol must be made by 9:00 P.M. and all alcohol must be off the premises by 10:00 P.M.

(6) Wristbands are required for anyone being served alcohol and alcohol must remain in the designated area as marked by signage and/or fencing.

(7) Notwithstanding any other provision to the contrary in this chapter any private individuals may possess, use, or consume alcoholic beverages, and may distribute or otherwise provide alcoholic beverages, without charge, to others, subject to and in accordance with the provisions, requirements, prohibitions, and restrictions of state law of general application, and other local ordinances pertaining to same, while on or within the property line boundaries of any city-owned municipal golf course, or while on any and may possess

unopened containers of alcoholic beverages while ingressing, egressing, or otherwise through the golf course but they shall not be visible anywhere but the golf course. (as added by Ord. #22-39, Jan. 2023 *Ch15_06-28-23*)