

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. [REPEALED.]
2. BEER.
3. LIQUOR STORES.

CHAPTER 1

[REPEALED]

(as repealed by Ord. #10-169-0, March 2011)

¹State law reference
Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
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8-201. Beer board established. There is hereby established a beer board to be composed of the city council. The mayor shall be the chairman of the beer board. (1988 Code, § 2-201)

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 reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1988 Code, § 2-202)

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

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).

of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1988 Code, § 2-203)

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. (1988 Code, § 2-204)

8-205. Powers and duties of the beer board. 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 city in accordance with the provisions of this chapter. (1988 Code, § 2-205)

8-206. "Beer" defined. 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 five percent (5%) by weight. (1988 Code, § 2-206)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall 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 and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Madisonville. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #94-1, Feb. 1994)

8-208. 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 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 shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1988 Code, § 2-208)

8-209. Classes of consumption permits. Permits issued by the beer board shall consist of three classes:

(1) Class 1 On Premises Permit. A Class 1 On Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) Be primarily a restaurant or an eating place; and
- (b) Be able to seat a minimum of thirty people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) Have all seating on the interior of the building under a permanent roof.

In addition, the monthly beer sales of any establishment which holds a Class 1 On Premises Permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two consecutive months or for any three months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked.

(2) Golf course. There shall be no limitation on the number of beer permits issued to golf courses. Beer may be sold for consumption on the premises only with the premises defined as any clubhouse, pro shop, restaurant, or the playing course itself. No consumption shall be permitted in or on the parking lot.

A golf course is defined as a recreational facility developed for the primary sport of golf, not to be less than nine (9) holes, managed and regularly maintained by the operator of the facility and located on a minimum of fifty (50) contiguous acres. To qualify as a golf course hereunder, receipts from the sales of beer shall not exceed thirty percent (30%) of the total gross receipts for two (2) consecutive months or for any three (3) months in any calendar year for the business establishment.

Any beer consumed on the premises of the golf course, whether within any building or on the playing course itself, must be purchased at the golf course from the operator thereof.

As previously stated herein, any beer on the premises of the permit holder must be sold by the permit holder and consumed on the premises. Beer may be consumed within any building on the premises or the playing course itself. The minimum distance requirement from certain buildings as provided elsewhere herein shall be applicable to a golf course permit holder with the distance measured as required from the nearest corner of any building on the premises where beer may be consumed and the nearest corner of the building from which there must be a minimum distance. In the event the permit holder has a common property line with the owner of any building from which there must be a minimum distance, the permit holder shall provide a fence along that property line with a height not less than six feet (6') and visible space between boards not less than one and one-quarter inch (1 1/4"). A planted natural tree buffer or the

use of elevated mounds shall serve as an acceptable substitute for the fence. A buffer strip shall be defined as: "A greenbelt planted strip thirty feet (30') in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than fifteen feet (15') apart and not less than two (2) rows of shrubs or hedges, spaced not more than five feet (5') apart within the row and which grow to a height of five feet (5') or more after one (1) full growing season and which shrubs will eventually grow to not less than ten feet (10')."

In the event any part of the playing course is within three hundred feet (300') from the nearest corner of a building from which there must be a minimum distance as provided elsewhere herein, that part of the playing course must have along or near its property line the same fencing, planted buffer strip, or elevated mounds as required above for that length of the playing course within three hundred feet (300') of the nearest corner of the building of concern.

(3) Class 2 On Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On Premises Permit.

(4) Class 3 Off Premises Permit. A Class 3 Off Premises Permit shall be issued for the consumption of beer only off the premises. To qualify for a Class 3 Off Premises Permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Be a grocery store or a convenience type market; and

(b) In either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline.

In addition, the monthly beer sales of any establishment which holds an off premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any establishment which for two (2) consecutive months or for three (3) months in any calendar year has beer sales exceeding twenty-five percent (25%) of its gross sales, shall have its beer permit revoked. (1988 Code, § 2-209, modified, as amended by Ord. #08-133-0, June 2008)

8-210. Limitation on number of permits. There shall be no limit on the number of Class 1 On Premises Permits and Class 3 Off Premises Permits. There shall be no more than three Class 2 On Premises Permits issued and outstanding at any time. (1988 Code, § 2-210)

8-211. Liability insurance required. Prior to granting either a Class 1 or Class 2, On Premises Beer Permit, the owner of the establishment must file with the city recorder, evidence of liquor and beer liability insurance with a limit of liability to be set pursuant to board administrative policy.

8-212. 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 commercial, but in no event shall the establishment be located within five hundred feet (500') of a hospital, church, school or any public park, measured in a straight line, from the nearest point on the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the building of any hospital, church or school, and the nearest point on property line of any public park. (as replaced by Ord. #10-168-0, March 2011)

8-213. 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 hospitals, churches or public parks or would otherwise interfere with public health, safety or morals. In no event will a permit be issued authorizing the manufacture or storage of beer or sale of beer within five hundred feet (500') of any hospital, school, church or other public park. The distances shall be measured in a straight line from the nearest point on the building in which the beer will be stored, sold or manufactured to the nearest point on the building of any hospital, school, or church, and the nearest point on the property line of a public park. (1988 Code, § 2-211, modified, as replaced by Ord. #10-168-0, March 2011)

8-214. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (1988 Code, § 2-212)

8-215. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

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

(2) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week or at any time on Sunday. All beer shall be consumed and removed from tables and counters prior to 12:15 A.M., and any beer sold after 12:00 midnight or sold prior to 12:00 midnight and remaining on the tables or counters unconsumed after 12:15 A.M. shall be deemed to have been sold after 12:00 midnight and in violation of this section.

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

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

(5) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.

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

(7) Allow drunk or disreputable persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(9) Employ any minor under 18 years of age in the sale, storage, distribution, or manufacture of beer.

(10) Allow dancing on his premises.

(11) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(12) Fail to provide and maintain separate sanitary toilet facilities for men and women, if beer is consumed on the premises.

In addition, it shall be unlawful for any Class 2 On Premises Permit holder to employ any person under the age of eighteen (18) on the premises in any capacity whatsoever. (1988 Code, § 2-213, modified, as amended by Ord. #10-168-0, March 2011, and Ord. #12-196-0, Aug. 2012)

8-216. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke any beer permit issued under the 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 suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (1988 Code, § 2-214)

8-217. Privilege tax.¹ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100) per year. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Madisonville Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #94-1, Feb. 1994, modified)

¹State law reference

Tennessee Code Annotated, § 57-5-104(b).

8-218. Civil penalty in lieu of suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Ord. #94-1, Feb. 1994)

¹State law reference
Tennessee Code Annotated, § 57-5-108(a)(2).

CHAPTER 3

LIQUOR STORES

SECTION

- 8-301. Definitions.
- 8-302. Selling and distribution generally.
- 8-303. Licenses required for sale of alcoholic beverages at retail.
- 8-304. Licensee responsible for officers and agents.
- 8-305. Location of liquor store.
- 8-306. Limitations on building containing liquor store.
- 8-307. Restrictions generally.
- 8-308. Fees.
- 8-309. Records kept by licensee.
- 8-310. Inspections generally.
- 8-311. Enforcement--violations--penalties.
- 8-312. Certificate of compliance.
- 8-313. Application.
- 8-314. Consideration.
- 8-315. Restrictions upon issuance.
- 8-316. License from city to operate liquor store.
- 8-317. Restrictions on local liquor retailer's licenses.
- 8-318. Restrictions upon licensees and employees.
- 8-319. Nature of license; suspension or revocation.
- 8-320. Effect.

8-301. 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 where the latter contains an alcohol content of five percent (5%) by weight or less. Alcoholic beverages also include 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, 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 Madisonville, Tennessee.

(7) "Co-licensees." Persons who together hold a single 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 liquor store privilege license shall be a licensee subject to 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 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 product of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. (as added by Ord. #10-169-0, March 2011)

8-302. Selling and distribution generally. It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages within the corporate limits of the city except as provided by Tennessee Code Annotated, title 57 and by the rules and regulations promulgated thereunder and as provided under this title. (as added by Ord. #10-169-0, March 2011)

8-303. Licenses required for sale of alcoholic beverages at retail. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store provided that such sales are made in strict compliance with all federal statutes, all state laws, rules and regulations, and all provisions of this chapter and provided that such licensee has a valid and duly issued state liquor retailer's license and a valid and duly issued local liquor store privilege license from the city permitting him or her to sell alcoholic beverages at retail. Transfer of ownership or possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited. (as added by Ord. #10-169-0, March 2011)

8-304. Licensee responsible for officers and agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a

co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #10-169-0, March 2011)

8-305. 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. All such stores shall be located within a commercial district as appears on the official zoning map. Moreover, in no event shall such store be located within five hundred feet (500') of any hospital, school, church, or public park. With respect to establishing the proximity of any hospital, school or church from the location of a proposed liquor store, the distance of five hundred feet (500') is to be measured along a straight line from the nearest point on the hospital building, school building, or church building to the front door of the proposed liquor store. With respect to establishing the proximity of any public park from the location of a proposed liquor store, the distance of five hundred feet (500') is to be measured from the nearest point on the property line of a public park to the front door of the proposed liquor store. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety or morals. (as added by Ord. #10-169-0, March 2011)

8-306. 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 council. 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 square footage of the liquor store display area shall be in the range of from one thousand eight hundred (1,800) square feet to two thousand two hundred (2,200) 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 safety regulations, as adopted within the City of Madisonville Municipal Code, unless specifically stated otherwise herein. (as added by Ord. #10-169-0, March 2011)

8-307. Restrictions generally. (1) Certain devices and non-employee seating forbidden. No pinball machines, arcade gaming devices, including video games, jukeboxes or similar devices shall be permitted in any liquor store. No seating facilities, other than for employees of the liquor store, shall be permitted in any liquor store.

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

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

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

(5) Advertising. There shall be no advertising signage of any kind whatsoever outside the building containing a liquor store either for the liquor store or to advertise any matter pertaining to alcoholic beverages sold at liquor stores except as set forth herein. There may be placed on the front of a liquor store, but not extending therefrom over twelve inches (12"), a sign setting out the name of the liquor store. Such sign shall not exceed sixty (60) square feet in dimension. No such sign shall contain letters of neon or tube lighting so as to produce lighting within letters the letters themselves though signs lit by back lighting are permitted. No reader board or changeable copy signs shall be permitted. No off-premises signs shall be allowed within the city. Regarding signage inside a liquor store, no banner or temporary or permanent signage or other material shall be placed so that it obstructs free and clear vision of the interior of the liquor store from outside of the liquor store.

(6) Off-premises business. All retail sales of alcoholic beverages shall be confined to the premises of the liquor store. No curb service is permitted, nor shall there be permitted drive-in windows. No licensee shall employ any canvasser, agent, solicitor, or other representative for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer nor shall any licensee receive or accept any such

order which shall have been solicited and received at the residence or place of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises. (as added by Ord. #10-169-0, March 2011, and amended by Ord. #11-180-0, Feb. 2012)

8-308. Fees. (1) Amounts generally. There is hereby levied on each licensee an inspection fee of eight percent (8%) on the gross purchase price of any alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source.

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

(3) Reports. The city recorder shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by such licensee making purchase from such wholesaler or other source. Such wholesaler shall timely complete and return the forms and the required information and inspection fees within the time specified 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 discretion of the city recorder, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the 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.

(5) Use of fees. All funds derived from inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this title, including particularly the payment and compensation of officers, employees, and other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this title are observed. The city council finds and declares that the amount of these inspection fees is reasonable,

and that the funds expected to be derived from these inspection fees will be reasonably required for such purposes. (as added by Ord. #10-169-0, March 2011)

8-309. Records kept by licensee. In addition to any records specified in the state rules and regulations, each licensee shall keep on file, at such licensee's liquor store, the following records:

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

All such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this section. (as added by Ord. #10-169-0, March 2011)

8-310. Inspections generally. The city recorder, the city finance director, the chief of police or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee. (as added by Ord. #10-169-0, March 2011)

8-311. Enforcement--violations--penalties. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify such conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with a petition that all licenses be revoked, pursuant to the provisions of Tennessee Code Annotated, chapter 3, title 57 and the rules and regulations of said commission. (as added by Ord. #10-169-0, March 2011)

8-312. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. (as added by Ord. #10-169-0, March 2011)

8-313. Application. (1) Filing--content. An applicant or applicant group for a liquor store shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the city council or city recorder may require:

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

(b) The name of the liquor store proposed;

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

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

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

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

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

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

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

(d) The identification of every parcel of land within two hundred feet (200') of the lot upon which the liquor store is to be operated indicating the ownership thereof and the location of any structures thereon and the use being made of every such parcel.

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

(4) Misrepresentation--concealment of fact--duty to amend. If any applicant, member of an applicant group, or licensee misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group, or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by city council.

(5) Fees. Each application shall be accompanied by a non-refundable five hundred dollar (\$500.00) investigation fee. One (1) application fee per applicant group is sufficient. (as added by Ord. #10-169-O, March 2011, and amended by Ord. # 16-249-), Dec. 2016 and Ord. #17-260-O, Oct. 2017)

8-314. Consideration. In issuing the initial certificates of compliance sufficient for the licensing of up to two (2) liquor stores in the city permitted by this chapter, the city council will consider all applications filed, before a closing date to be fixed by it and after publication of notices published in a newspaper of general circulation in Monroe County, Tennessee required by state law. City council will select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and the most suitable circumstances for the lawful operation of a liquor store without regard to the order of time in which the applications are filed. Such persons and only such persons shall receive the initial certificates of compliance issued by the city. If, thereafter, an additional license becomes available due to the cancellation, revocation or otherwise of a previously issued license, city council will select from all pending applications the applicant or applicant group deemed by it to have the qualifications required by law and the most suitable circumstances for the lawful operation of a liquor store after a closing date to be fixed by it upon public notice of the availability of such license. Such person or persons and only such person or persons will receive certificates of compliance issued by the city sufficient to allow the operation of the liquor store contemplated by the chosen application. Applications shall be retained by the city until such time as all liquor stores for which certificates of compliance have been issued by the city are opened for business. At that time, all pending applications which did not result in the granting of certificates of compliance after consideration by city council

will expire and be disposed of by the city. Applications can only be submitted to the city during the time frame the city council has set forth for receipt of such applications. Applications and all matters submitted with or as a part of such applications become at the time they are submitted the sole and exclusive property of the city and constitute public records open to public inspection. (as added by Ord. #10-169-0, March 2011)

8-315. Restrictions upon issuance. (1) Additional certificates of compliance. The city council shall not issue a certificate of compliance unless there is an available liquor store license for which no certificate of compliance has been issued and license approval by the Tennessee Alcoholic Beverage Commission is pending.

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

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

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

(b) The location stated in the certificate has been approved by the city council as a suitable location for the operation of a liquor store; and

(c) The application has been considered at a public meeting of the city council and approved by a vote of at least three (3) members thereof.

(4) Time periods for action. Any applicant or applicant group who has obtained a certificate of compliance as provided herein must, unless an extension is granted by city council, within six (6) months open a liquor store in the city or said certificate will be revoked by the passage of this amount of time and a certification thereof will be sent to the Alcoholic Beverage Commission of the State of Tennessee and the local liquor license issued pursuant to such application shall be considered canceled and revoked. (as added by Ord. #10-169-0, March 2011)

8-316. License from city to operate liquor store. After an applicant or applicant group receives a license from the State of Tennessee to operate a retail liquor store pursuant to Tennessee Code Annotated, § 57-3-101, et seq., he or she shall apply to the city recorder for a local liquor retailer's license to operate a retail liquor store pursuant to the following terms, conditions and restrictions. (as added by Ord. #10-169-0, March 2011)

8-317. Restrictions on local liquor retailer's licenses.

(1) Maximum number of licenses. No more than two (2) local liquor retailer's licenses for the sale of alcoholic beverages at liquor stores shall be

issued under this chapter representing no more than two (2) liquor stores in the city.

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

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

(4) Transfer. No license shall be transferred from one (1) location to another location without the express permission of the city council.

(5) Fees. A license fee of five hundred dollars (\$500.00) is due at the time of application for a license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city recorder before any license shall be issued. (as added by Ord. #10-169-0, March 2011, and amended by Ord. #17-260-O, Oct. 2017)

8-318. Restrictions upon licensees and employees. (1) Initial qualifications. To be eligible to apply for or to receive a license, an applicant or in the case of an applicant group, each member of the applicant group, must satisfy all of the requirements of the state statutes and of the state rules and regulations for the holder of a liquor retailer's license.

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

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

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

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

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

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

(8) Interest in only one liquor store. A person shall have an interest, either direct or indirect, in no more than one (1) liquor store licensed under this title in the City of Madisonville. (as added by Ord. #10-169-0, March 2011)

8-319. Nature of license; suspension or revocation. The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by city council for any violation of this title by the licensee or by any person for whose acts the licensee is responsible. The licensee shall be given reasonable notice and an opportunity to be heard before the city council suspends or revokes a license for any violation unless provided otherwise specifically herein. If the licensee is convicted of a violation of this title by a final judgment in any court and the operation of the judgment is not suspended by an appeal, upon written notice to the licensee, the city recorder may immediately suspend the license for a period not to exceed sixty (60) days, and the city council may revoke the license on the basis of such conviction thereafter. A license shall be subject to revocation or suspension without a hearing whenever

such action is expressly authorized by other provisions of this chapter stating the effect of specific violations. (as added by Ord. #10-169-0, March 2011)

8-320. Effect. The ordinance comprising this chapter shall take effect upon adoption, the public welfare requiring it. (as added by Ord. #10-169-0, March 2011)