

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

1. INTOXICATING LIQUORS: ON-PREMISES CONSUMPTION.
2. INTOXICATING LIQUORS: RETAIL PACKAGE STORES.
3. BEER.

CHAPTER 1**INTOXICATING LIQUORS: ON-PREMISES CONSUMPTION****SECTION**

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8-101. Subject to certain statutes and regulations. (1) The general provisions of the state law relating to intoxicating liquors, as contained in Tennessee Code Annotated, §§ 57-4-101, et seq., are hereby adopted as part of this chapter and by reference are fully incorporated in this chapter.

(2) Various rules and regulations promulgated from time to time by the Tennessee Alcoholic Beverage Commission and Department of Revenue regarding the sale of intoxicating liquors for consumption on premises are hereby adopted as a part of this chapter and by reference are fully incorporated herein.

(3) It shall be unlawful to sell wine and other alcoholic beverages as defined in Tennessee Code Annotated, § 57-4-102, to be consumed on the premises on any hotel, commercial passenger boat company, restaurant, commercial airlines, passenger trains, premiere type tourist resort or club, convention center, historic performing arts center, permanently constructed facility within an urban park center, any historic interpretive center, community theater, historic mansion house site, any restaurant in the terminal building of a commercial air carrier airport, any zoological institution, any museum, within

¹State law reference

Tennessee Code Annotated, title 57.

the corporate limits of the town, except as provided by Tennessee Code Annotated, title 57, and by the rules and regulations promulgated thereunder, and as provided in this chapter. (1980 Code, § 2-101, as replaced by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-102. Terms defined. The definitions set forth in Tennessee Code Annotated, § 57-4-102, the definitions set forth in regulations promulgated by the alcoholic beverage commission. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-103. Intoxicating liquors for consumption on premises. (1) No such business shall be located adjacent to a church or place of public gathering, or within one hundred feet (100') of a public school, measured by the length of a straight line drawn from the closest points of the church or school building and the front door of the building proposed for the sale of intoxicating liquors for consumption on the premises.

(2) For the purposes of this section, the terms "church" and "church building" shall not include any church building or building used for church purposes which is located on privately owned real property. "School" shall mean any primary or secondary public or private school building which is used exclusively for school purposes, and shall not include a vocational school or university. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-104. Regulations and prohibited practices. It shall be unlawful for any person, firm or corporation holding a license to sell intoxicating liquors for consumption on the premises to violate the rules, regulations, and prohibited practices set forth in Tennessee Code Annotated, §§ 57-4-201 and 57-4-203, which code sections are incorporated herein as if copied verbatim in their entirety. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-105. Revocation of beer permit reported to alcoholic beverage commission. When any person, firm, or corporation holds both a license to sell intoxicating liquors for consumption on the premises and a beer permit, should the beer permit be revoked or suspended, the city recorder is hereby directed to send a certified copy of the revocation to the alcoholic beverage commission pursuant to Tennessee Code Annotated, § 57-4-202(b). In addition, when the person, beer board, or board of mayor and aldermen is considering the suspension or revocation of such beer permit, consideration shall also be given to suspending the licensee's license for the sale of intoxicating liquors for consumption on the premises as provided in Tennessee Code Annotated, § 57-4-202. Said person, beer board, or board of mayor and aldermen shall have the authority to suspend the liquor license of any such person, firm, or corporation as authorized by Tennessee Code Annotated, § 57-4-202. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-106. Prohibited sexual or pornographic conduct. Tennessee Code Annotated, § 57-4-204, is incorporated herein as if copied verbatim in its entirety. The Monterey Police Department is hereby authorized and directed to investigate and police the places of business holding a license to sell intoxicating liquors for consumption on premises and shall report violations to the alcoholic beverage commission as authorized by Tennessee Code Annotated, § 57-4-204(e), the board of mayor and aldermen having voted to authorize such investigations at its meeting on first Monday of month. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-107. Privilege taxes. (1) Pursuant to Tennessee Code Annotated, § 57-4-301(b)(2), the town hereby levies the following taxes for the privilege of selling intoxicating liquors for consumption on the premises, which taxes shall be for municipal purposes to be paid annually to-wit:

(a)	Private club	\$ 300.00
(b)	Hotel and motel	\$ 1,000.00
(c)	Convention center	\$ 500.00
(d)	Premiere type tourist resort	\$ 1,500.00
(e)	Restaurant, according to seating capacity, on licensed premises:	
	(i) 50 through 74 seats	\$ 500.00
	(ii) 75 through 125 seats	\$ 600.00
	(iii) 126 through 175 seats	\$ 750.00
	(iv) 176 through 225 seats	\$ 800.00
	(v) 226 through 275 seats	\$ 900.00
	(vi) 276 seats and over	\$ 1,000.00
(f)	Historic Performing Arts Center	\$ 300.00
(g)	Urban park center	\$ 500.00
(h)	Commercial passenger boat company	\$ 750.00
(i)	Historic mansion house site	\$ 300.00
(j)	Historic interpretive center	\$ 300.00
(k)	Community theater	\$ 300.00
(l)	Zoological institution	\$ 300.00
(m)	Museum	\$ 300.00

The foregoing taxes shall be payable on the date the license is issued by the alcoholic beverage commission and the foregoing taxes shall be prorated from said date of issuance until the next following October 1, at which time, a full year's taxes shall then be due and immediately payable. If a restaurant is licensed by the commission to sell wine only, pursuant to Tennessee Code Annotated, § 57-4-101(n), the privilege tax imposed pursuant to this section shall be one-fifth (1/5) the amount specified in subsection (1)(e) above.

(2) When any licensee shall fail to pay the initial privilege tax or any annual taxes due each October 1, there shall be imposed a penalty in the amount of five percent (5%) for each month of delinquency or part thereof not

to exceed a total of twenty-five percent (25%); provided however each licensee shall have thirty (30) days from the due date before any penalty starts to accrue. Interest on the taxes shall accrue at the rate of twelve percent (12%) per annum until paid.

(3) All penalties imposed by this section and taxes provided by this section may be collected as other taxes payable to the town.

(4) Should the licensee also hold a beer permit issued by the town, a failure to pay taxes under this section shall constitute grounds for suspension or revocation of the beer permit. Repeated violations of this section will constitute grounds for permanent revocation of a beer permit. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-108. Violations; penalty. Any violation of the provisions of this chapter shall, upon conviction, be punishable as a misdemeanor. 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. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

CHAPTER 2

INTOXICATING LIQUORS: RETAIL PACKAGE STORES

SECTION

- 8-201. Definitions.
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- 8-203. Manufacture of alcoholic beverages prohibited.
- 8-204. Wholesalers.
- 8-205. Certificate of compliance a prerequisite for a retail permit.
- 8-206. Content of application for certificate of compliance.
- 8-207. Misrepresentation or concealment.
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8-201. Definitions. Whenever used in this chapter the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits or wine and capable of being consumed by a human being, other than patent medicine, beer or wine, where either of the latter has an alcoholic content of five percent (5%) by weight, or less.

(2) "Applicant" means the party applying for a certificate of good moral character or a license.

(3) "Application" means the form or forms an applicant is required to file in order to obtain a certificate of good moral character or license.

(4) "Bottle" means any container, vessel, bottle or other receptacle used for holding any alcoholic beverage. "Unsealed bottle" means a bottle with the original seal, cork, cap or other enclosing device either broken or removed, or on which the federal revenue strip stamp has been broken.

(5) "Board" means the board of mayor and aldermen.

(6) "Certificate of compliance" means the certificate provided for in Tennessee Code Annotated, title 57, chapter 3, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(7) "City" means the Town of Monterey, Tennessee.

(8) "City recorder" means the city recorder of the town.

(9) "Corporate limits" means the corporate limits of the town as the same now exist or may hereafter be changed.

(10) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either by himself or by his agent.

(11) "Distillery" means and includes any place or premises wherein any alcoholic beverage is manufactured for sale.

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

(13) "Inspection fee" means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(14) "License" means a license issued by the state under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the town.

(15) "Licensee" means the holder of a license.

(16) "Liquor store" means the building or the part of a building where a licensee conducts any of the business authorized by his license.

(17) "Manufacturer" means and includes a distiller, vintner and rectifier of alcoholic beverage. "Manufacture" means and includes distilling, rectifying and operating any winery or any device for the production of alcoholic beverages.

(18) "Person" means and includes an individual, partner, associate or corporation.

(19) "Rectifier" means and includes any person who rectifies, purifies or refines any alcoholic beverage by any process other than as provided for on distillery premises, and also any person who, without rectifying, purifying or refining an alcoholic beverage, shall, by mixing an alcoholic beverage with any other material, thereby manufacture any imitation thereof, or who compounds an alcoholic beverage for sale under the name of: whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(20) "Retail sale" or "sale at retail" means a sale of alcoholic beverage to a consumer or to any person for any purpose other than for resale.

(21) "Sale or sell" means and includes the exchange or barter of alcoholic beverage, and also any delivery made otherwise than gratuitously of

alcoholic beverage; the soliciting or receiving of an order for alcoholic beverage; the keeping, offering or exposing alcoholic beverage for sale.

(22) "State Alcoholic Beverage Commission" means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including, without limitation, the provisions of Tennessee Code Annotated, title 57.

(23) "State rules and regulations" means all applicable 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 state.

(24) "State statutes" means the statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(25) "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery, either by himself or by his agent.

(26) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe, grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including also champagne sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit, or other product from which the same was predominantly produced or unless designated as an artificial or imitation wine.

(27) "Winery" means and includes any place or premises wherein wine is manufactured or brandies are distilled as the by-product of wine or where cordials are compounded.

(28) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(29) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 3.

Words importing the masculine gender shall include the feminine and neuter, and the singular shall include the plural. (1980 Code, § 2-201, as replaced by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-202. Dealers in alcoholic beverages subject to regulations. It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage within the corporate limits of the town or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the town, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-203. Manufacture of alcoholic beverages prohibited. It shall be unlawful for any person to manufacture any alcoholic beverage within the

corporate limits of the town. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-204. Wholesalers. Unless hereafter authorized by an ordinance of the town, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the town of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler, whose business is located outside the town and who holds a valid state license, and who has paid to the town all privilege taxes and fees applicable to such wholesale business, may sell, at wholesale, any alcoholic beverage to a licensee in the town and such licensee may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes, and by this chapter. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-205. Certificate of compliance a prerequisite for a retail permit. Certificate of compliance as required by Tennessee Code Annotated, § 57-3-208. shall be a prerequisite for a retail permit to sell alcoholic beverages in the Town of Monterey. To be eligible to apply for or to receive a certificate of compliance, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license.

If the applicant is either a partnership or a corporation, then each partner of the partnership and each stockholder, director and officer of the corporation meet the eligibility requirements set forth in this section. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-206. Content of application for certificate of compliance. Each applicant for a certificate of compliance shall file with the board a completed form of application, on a form to be provided by the board of mayor and aldermen, which shall contain the following information:

- (1) The name and street address of each person to have any interest, direct or indirect, in the licensee as owner, partner, or stockholder, director, officer or otherwise;
- (2) The name of the liquor store to be operated under the license;
- (3) The address of the liquor store to be operated under the license and zoning designation applicable to such location;
- (4) The agreement of each applicant to comply with the state statutes, federal statutes, this chapter and with the state rules and regulations with reference to the sale of alcoholic beverages;
- (5) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within one hundred twenty (120) days after the license is granted to such applicant. The application form shall be accompanied by a copy of each application, and each questionnaire form and other material to be filed by the

applicant with the State Alcoholic Beverage Commission in connection with this same application and shall also be accompanied by five (5) copies of a plan drawn to a scale of not less than one inch (1") equals twenty feet (20'), giving the following information:

(a) The shape, size, and location of the lot, including map and parcel number, 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 the 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) A certification that there is no church or place of public gathering adjacent to the proposed location and that there is no school located within one hundred feet (100') of the proposed location of the liquor store. The application form shall be signed and verified by each person to have any interest in the licensee, either as owner, partner, or stockholder, director, officer or otherwise. If, at any time, the applicable state statutes shall be changed so as to dispense with the requirements of a certificate of compliance, no original or renewal license shall be issued until an application in the same form has been filed with the board.

There shall be a statement that each applicant has been a resident of Tennessee for at least two (2) years immediately prior to the time the application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Tennessee not less than two (2) years at the time the application is filed. There shall be a limit of two (2) licenses issued and outstanding in the town. Thereafter, one (1) permit for an additional five hundred (500) residential increase in population shall be allowed. The board shall develop a lottery system to select the initial two (2) license holders and any subsequent additional license holder.

The recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the board for consideration and action. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-207. Misrepresentation or concealment. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the board shall forthwith report such violation to the State Alcoholic Commission together with the request that the State Alcoholic Beverage Commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-208. Restrictions on issuance of certificate of compliance.

(1) No certificate of compliance shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(2) The board shall not sign any certificate of compliance for any applicant until:

(a) Such applicant's application has been filed with the board;

(b) The location stated in the application has been approved by the board as a suitable location for the operation of a liquor store;

(c) The application has been considered at a meeting of the board and approved by a majority vote of the entire board; and

(d) The applicant meets the requirements set forth at Tennessee Code Annotated, § 57-3-208. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-209. Investigation fee. Each application for a certificate of compliance filed with the city shall be accompanied by a one hundred dollar (\$100.00) fee payable to the town for investigating the applicant. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-210. Miscellaneous restrictions on licensees and their employees. (1) No certificate of compliance shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county; and it shall be unlawful for any such person to have any interest in the liquor retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(2) No certificate of compliance shall be issued to a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity with which he is connected files application therefor; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and provided further, that in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked if such convicted felon be an individual licensee, and if not, the partnership, corporation, or association with which he is connected shall immediately discharge him as an employee, and such convicted felon shall forthwith divest himself of all interest in the business of the licensee, either as a partner, officer, director, stockholder or otherwise.

No certificate of compliance shall be issued to any person, who, within ten (10) years preceding application therefor, shall have been convicted of any offense under the state statutes, state rules and regulations, the federal

statutes, this chapter or of the statutes of any other state of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling alcoholic beverage or who has, during said period, been engaged in business alone or with others in violation of any of the state statutes, state rules and regulations, the federal statutes or the laws, rules and regulations of any other state, county or city of the United States; and provided further, that in case of any such conviction occurring after a license has been issued and received, it shall be recommended that the said license shall be revoked.

(3) It shall be unlawful for any manufacturer or wholesaler to have any interest in the licensee's rental or revenues.

(4) It shall be unlawful for any person to have ownership in, or to be a partner in or a stockholder, director, or officer of, to participate either directly or indirectly, in the profits of, any business for which a license is granted hereunder, unless his interest in said business and the nature, extent, and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall have been fully disclosed in writing by supplement to the application filed with the board and approved in writing by the board before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether, he himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is required after the issuance of the license the burden of the required disclosure of the proposed acquisition of such interest be upon both the seller and purchaser.

(5) No licensee shall employ a person in the sale of alcoholic beverages who is not a citizen of the United States.

(6) No licensee shall employ in the storage, sale, or distribution of alcoholic beverages a person under the age of eighteen (18) years, and it shall be unlawful for any licensee to permit a minor in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

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

(8) It shall be unlawful for a licensee to advertise by signs, window displays, posters, or any other designs intended to advertise any alcoholic beverage within the corporate limits of the town, except by signs approved by the board not larger than four feet by eight feet (4' x 8') in designating the premises as "_____ Package Store." Only two (2) such signs, and no other, shall be permitted, one (1) free standing and one (1) attached to the building.

Nothing contained herein shall prohibit any manufacturer or wholesaler from advertising in news media.

(9) No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor, or representative for the purpose of receiving an order from a consumer for any alcoholic beverage at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

(10) All retail stores shall be confined to the premises of the licensee. No curb service shall be permitted nor shall there be permitted drive-in windows.

(11) No liquor store shall be located in the town on any premises above the ground floor. Each liquor store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, however, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as said lobby is open to the public.

(12) If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in or who is an officer or director in such corporate licensee shall have any interest as an owner, stockholder, officer, director, or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverages in the state or in any other place; and

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(13) If any licensee, for any reason, shall not be actively engaged in and keep open its liquor store during normal business hours for a period of fifteen (15) work days in any calendar year, then the city recorder shall forthwith report such fact to the State Alcoholic Beverage Commission and take such other action as may appear necessary or proper to have the license of such licensee revoked.

(14) Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where alcoholic beverage is sold by a licensee that is either a partnership or a corporation, the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such

manager shall be reported forthwith in writing to the city recorder. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-211. Nature and revocability of license. The issuance of a license hereunder shall vest no property rights in the licensee and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations. In the event of any violation of the state statutes, state rules and regulation, federal statutes or of the provisions of this chapter by a licensee or by any person for whose acts the licensee is responsible, the city recorder shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or its successor and shall take such action before the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-212. Display of license. The licensee shall display and post, and keep displayed and posted, his 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. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-213. Location of liquor store. Liquor stores may be operated and maintained on premises within the corporate limits, but only within the following listed zones as defined in the zoning ordinance of the Town of Monterey, Tennessee, as set out on the zoning map of the town, as in effect on the date of any application for a license hereunder.

A liquor store shall not be located adjacent to a church or place of public gathering, or within one hundred feet (100') of a public school as measured in a direct line from the closest points of the church or school building to the center of the front door of the licensee's place of business. For the purposes of this section, the terms "church" and "church building" shall not include any church building or building used for church purposes which is located on privately owned real property. "School" shall mean any primary or secondary public or private school building which is used exclusively for school purposes, and shall not include a vocational school or university.

To assure that these requirements are satisfied, no original or renewal certificate of compliance for an applicant for a license shall be issued for any location until a majority of the members of the board have approved the proposed location as being suitable for a liquor store after a consideration of this matter at a meeting of the board. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-214. License non-transferable. A licensee shall not sell, assign, give, pledge, or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of

law through any proceedings in bankruptcy, insolvency, or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one (1) location to another location without the prior written approval of the board. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-215. Limited times of operation. No retailer shall sell or give away any alcoholic beverages between 11:00 P.M. on Saturday night and 8:00 A.M. on Monday of each week and shall not sell, give away or otherwise disburse alcoholic beverages except between the hours of 8:00 A.M. and 11:00 P.M. Monday through Saturday. Retail stores shall not be open to the general public except during regular business hours and shall be closed for business Thanksgiving Day and Christmas Day. In addition, no retailer shall sell or give away any alcoholic beverages on Christmas, Thanksgiving Day, Labor Day, New Year's Day and the Fourth of July. In the event of an emergency, liquor stores may be closed by order of the mayor. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-216. Minors, persons visibly intoxicated, and habitual drunkards. It shall be unlawful for any licensee to sell, furnish, or give away any alcoholic beverage to any person who is under twenty-one (21) years of age or to any person who is visibly intoxicated or to any person who is a habitual drunkard (any person under twenty-one (21) years of age or visibly intoxicated or a habitual drunkard being hereafter in this section referred to as "such person.") It shall be unlawful for any such person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in the licensee's liquor store or any part of the licensee's adjacent to the liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee for the purpose of selling or giving such alcoholic beverage to such person. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-217. Consumption on premises prohibited. It shall be unlawful for any licensee to sell or furnish 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 to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-218. Inspection fee. There is hereby levied on each licensee in the town an inspection fee in the amount of eight percent (8%) of the wholesale price of all alcoholic beverage supplied during each calendar month by a wholesaler to each licensee in the town. It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, concurrently with each such shipment or delivery, an invoice showing:

- (1) The date of the transaction;
- (2) The name and address of the wholesaler and of the licensee;
- (3) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (4) The unit wholesale price and the gross wholesale price for each item listed thereon. The wholesaler's invoice shall be issued and delivered to the licensee as hereinafter provided without regard to the terms of payment or on credit or partly for cash and partly for credit. The inspection fee, computed as herein above provided, shall be collected by the wholesaler as provided for in Tennessee Code Annotated, § 57-3-502, and shall be paid to the city recorder on or before the fifteenth day of each calendar month for the preceding calendar month. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-219. Inspection fee reports. The town shall prepare and make available to each licensee sufficient forms for the monthly report of the inspection fees payable by each licensee; and the city recorder is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records to be kept by each licensee. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-220. Records to be kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city recorder pursuant to the preceding section, each licensee shall keep on file at such licensee's liquor store the following records:

- (1) Original invoices required above for all alcoholic beverages bought by or otherwise supplied to the licensee;
- (2) Original receipts for any alcoholic beverage returned by such licensee to any wholesaler; and
- (3) Accurate record of all alcoholic beverages lost, stolen, damaged, given away, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverage involved, and, where known, the name of the person or persons receiving the same. All such records shall be preserved for a period of at least two (2) years unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-221. Inspections. The city recorder or city auditor are authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city fiscal officer or city auditor and the chief of police and other police officers of the town are authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers, and records of a licensee by a fiscal officer or auditor or the inspection and examination of the premises of a liquor store, shall be a violation of this chapter and the city fiscal officer or auditor shall forthwith report such violation to the State Alcoholic Beverage Commission with the request that appropriate action be taken to revoke the license of the offending licensee. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-222. Effect of failure to report and pay inspection fee. The failure to pay the inspection fee and to make the required reports accurately and within the time prescribed in this chapter shall, at the sole discretion of the board, be cause for the taking of such action as is necessary to suspend the offending licensee's license for as much as thirty (30) days, or to revoke said license. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-223. Use of funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the town. The town shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the town in investigating and inspecting licensees and applicants and in seeing all provisions of this chapter are observed; and the board finds and declares that the amount of these inspections is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes. The inspection fee levied by this chapter shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages, and shall not be a substitute for any such taxes. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-224. Other violations by licensee. Any licensee who, in the operation of such licensee's liquor store, shall violate any federal statute, any state statute, or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages, shall be guilty of a violation of the provisions of this chapter. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-225. Licensee's responsibility. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents

and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #17-533, March 2017 ***Ch9_10-5-20***)

CHAPTER 3

BEER¹

SECTION

- 8-301. Authority to grant, revoke, etc., beer permits.
- 8-302. Permit required for engaging in beer business.
- 8-303. Privilege tax.
- 8-304. Applicant shall file written application containing certain specific requirements.
- 8-305. Permits issued for sale of beer within corporate limits for off-premises and on-premises consumption.
- 8-306. Sales to minors or intoxicated persons unlawful.
- 8-307. Hours and days of sale, etc., regulated.
- 8-308. Permittees not to allow minors to loiter about premises.
- 8-309. Unlawful for minor to misrepresent age.
- 8-310. The board of mayor and aldermen vested with the authority to conduct hearings on revocation or suspension of beer permits issued under this chapter.
- 8-311. Revocation or suspension of beer permits.
- 8-312. Civil penalty in lieu of revocation or suspension.
- 8-313. Loss of clerk's certification for sale to minor.
- 8-314. Violations.

8-301. Authority to grant, revoke, etc., beer permits. The board of mayor and aldermen is designated, appointed, and given authority for the purpose of granting, refusing, rescinding, or revoking permits for sale, storage and warehousing of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight within the corporate limits of Monterey, Tennessee. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-302. 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, § 57-5-101(b), and

¹Municipal code reference
Tax provisions: title 5.

State 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).

shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Monterey. 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. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-303. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 2018, and each successive January 1, to the Town of Monterey, 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. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-304. Applicant shall file written application containing certain specific requirements. Before any permit is issued by the board of mayor and aldermen, the applicant therefor shall file with the board of mayor and aldermen a sworn petition in writing and shall establish the following:

- (1) The name and residence of the applicant.
- (2) The location of the premises at which the business shall be conducted.
- (3) The owner or owners of such premises.
- (4) That the applicant shall not engage in the sale of such beverages except at the place or places for which the board of mayor and aldermen has issued permits or permit, to such applicant
- (5) That no sale of such beverages will be made except in accordance with the permit granted.
- (6) The applicant shall state as to whether the permit for the sale of beer is sought for consumption on the premises or for sale to be carried off the premises with no consumption on the premises.
- (7) The application, if for a Class A off-premises consumption permit, is for a grocery store/convenience store; if for a Class A on-premises consumption permit is for a restaurant. All applicants shall state how many years that they have been in business at the premises to be licensed, and the straight-line distances to the closest school, the closest church, and to any other nearby place of public gathering.
- (8) That neither the applicant nor any persons employed, or to be employed by him in such distribution or sale of such beverage, has ever been convicted of any violation of the law against prohibition, sale, possession, manufacture, or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(9) That the applicant has not had a license for the sale of legalized beer or other beverages of like alcoholic content revoked.

(10) The application shall state whether the person applying will conduct the business in person, or whether he is acting as agent for any other person.

(11) That no brewer or distiller of legalized beer or any other beverage of like alcoholic content has any interest, financial or otherwise, in the premises upon or in which the business to be licensed is carried on.

(12) That no brewer or distiller of legalized beer or any other beverages of like alcoholic content has any interest, financial or otherwise, in the business which is licensed, or requested to be licensed.

(13) That the applicant will not thereafter convey or grant any brewer or distiller of legalized beer or any other beverage of like alcoholic content any interest in either the business which is licensed to be carried on, or in any other property at which such business may thereafter be carried on.

(14) That the applicant has, at the time of making such application, no indebtedness or other financial obligation to any brewer or distiller of legalized beer or other beverage of like alcoholic content, and will not, during the period such license shall be in force, contract any financial obligation to any brewer or distiller of legalized beer or other beverage of like alcoholic content other than for the purchase of such beer or other beverage of like alcoholic content.

(15) This application shall be verified by the affidavit of the applicant, made before a notary public or the city recorder, and if any false statement is made in any part of such application the permit or license granted or issued to the applicant shall be revoked by the board of mayor and aldermen. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-305. Permits issued for sale of beer within corporate limits for off-premises and on-premises consumption. No permit for the sale of beer shall be issued to any person, persons, firm, corporation, joint stock company, syndicate, partnership, or association for the sale of beer or other alcoholic beverage with an alcohol content not exceeding five percent (5%) by weight within the corporate limits of Monterey, Tennessee, except as defined by the following classes of businesses:

(1) Class A off-premises consumption. To qualify for a Class A off-premises permit, an establishment must, in addition to meeting the other regulations in this chapter:

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

(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; and

(c) The business privilege sales, and ad valorem taxes are maintained in a paid status at all times, and the majority of the gross sales of said businesses are derived from the retail sales of groceries, and

which is not located within one hundred feet (100') of a church or other public gathering place, and which is not located within one hundred feet (100') of a school measured by the length of a straight line drawn from the closest points of the church, public gathering place or school building and the front door of the grocery store. No beer will be sold, warehoused, or distributed from any building other than the one (1) to which the permit is for sale in the said grocery store shall be permitted. Any beer or alcoholic beverage sold by Class A permit holder shall not be opened or consumed on the licensed premises.

(2) Class A on-premises consumption. To qualify for a Class A on-premises consumption permit, an establishment must, in addition to meeting other regulations and restrictions in this chapter:

- (a) Be primarily a restaurant or an eating place;
- (b) Be able to seat a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have;
- (c) Have all seating in the interior of the building under a permanent roof; and

(d) In addition, the monthly beer sales of any establishment which holds a Class A on-premises consumption permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked. The business privilege sales, and ad valorem taxes are maintained in a paid status at all times, and the majority of the gross sales of said businesses are derived from the retail sales of groceries, and which is not located within one hundred feet (100') of a church or other public gathering place, and which is not located within one hundred feet (100') of a school measured by the length of a straight line drawn from the closest points of the church, public gathering place or school building and the front door of the grocery store. No outside advertising of beer, or of various brands of beer, for sale on the said licensed premises shall be permitted. Any beer or alcoholic beverage. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-306. Sales to minors or intoxicated persons unlawful. It shall be unlawful to sell or offer for sale any beverage falling within the provisions of this chapter to a person under the age of twenty-one (21) years or to a person in an intoxicated or partially intoxicated condition. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-307. Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content

not exceeding five percent (5%) by weight within the corporate limits of Monterey, Tennessee, between the hours of 3:00 A.M. and 8:00 A.M. on weekdays, or between the hours of 3:00 A.M. and 8:00 A.M. on Sundays. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-308. Permittees not to allow minors to loiter about premises.

It shall be unlawful for the management of any place where any beer or other beverage of like alcoholic content is sold within the corporate limits of Monterey, Tennessee, to allow any minor to loiter about such place or business and the burden of ascertaining the age of minor customers shall be upon the owner or operator of such place of business. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-309. Unlawful for minor to misrepresent age. It shall be unlawful and a misdemeanor for any person under twenty-one (21) years of age to knowingly misrepresent his age in order to obtain or purchase beer within the corporate limits of the Town of Monterey, Tennessee, or to remain in a location where beer is legally being sold under the provisions of this chapter and where minors are not allowed. (as added by Ord. #17-533, March 2017 *Ch9_10-5-20*)

8-310. The board of mayor and aldermen vested with the authority to conduct hearings on revocation or suspension of beer permits issued under this chapter.

The Board of Mayor and Aldermen of the Town of Monterey, Tennessee, is vested with full and complete power to investigate charges against any permit holder who is cited to appear and show cause why his and/or its permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer laws of the State of Tennessee. 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 of mayor and aldermen. When the board of mayor and aldermen shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the State Beer Act, the board of mayor and aldermen is authorized, in its discretion, 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 register mail or by a member of the Police Department of the Town of Monterey. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing, the board of mayor and aldermen shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board of mayor and aldermen, in its discretion, may suspend or revoke said permit. The action of the board of mayor and aldermen in all such hearings shall be final,

subject only to review by the court as provided in the State Beer Act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. In the event any person or persons, firm, corporation, joint stock company, syndicate, or association has its beer permit revoked for the second time for the violation of the provisions of this chapter or the State Beer Act of the State of Tennessee, then that person or persons, firm, corporation, joint stock company, syndicate, or association shall not be granted a new permit for a period of three (3) years. In the event any person or persons, firm, corporation, joint stock company, syndicate, or association has its beer permit revoked for a third violation of the provisions of this chapter or the provisions of the State Beer Act of the State of Tennessee, then that person or persons, firm, corporation, joint stock company, syndicate, or association shall never be granted a beer permit under the provisions of this chapter. (as added by Ord. #17-533, March 2017 **Ch9_10-5-20**)

8-311. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend 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 revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board. Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 67-5-606, for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-6-608, 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. (as added by Ord. #17-533, March 2017 **Ch9_10-5-20**)

8-312. 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) for any other offense. The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before 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 town may impose. (as added by Ord. #17-533, March 2017 ***Ch9_10-5-20***)

8-313. 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 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. #17-533, March 2017 ***Ch9_10-5-20***)

8-314. Violations. Except as provided in § 8-313, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #17-533, March 2017 ***Ch9_10-5-20***)