

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.
4. INTOXICATING LIQUORS IN RETAIL FOOD STORES.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definition of "alcoholic beverages."
8-102. Consumption of alcoholic beverages on premises.
8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
8-104. Annual privilege tax to be paid to the town recorder.

8-101. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (as replaced by Ord. #04.11.01, Dec. 2004)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption that are regulated by the said code when such sales are conducted within the corporate limits of Oakland, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Oakland, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #04.11.01, Dec. 2004)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, 57-4-301, there is hereby levied a privilege tax (in

¹State law reference

Tennessee Code Annotated, title 57.

the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the Town of Oakland General Fund to be paid annual as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Oakland alcoholic beverages for consumption on the premises where sold. (as added by Ord. #04.11.01, Dec. 2004)

8-104. Annual privilege tax to be paid to the town recorder. Any person, firm corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption the premises in the Town of Oakland shall remit annually to the town recorder the appropriate tax described in 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law (as added by Ord. #04.11.01, Dec. 2004)

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.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Suspension and revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension or revocation.
- 8-215. Beer permits to be non-transferable.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. A chairman shall be elected annually by the board from among its members. The board of mayor and aldermen shall serve without compensation for the term of their election or until their successors shall take office.

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.

¹Municipal code references

Public drunkenness, minors in beer places, etc.: title 11 chapter 2.

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).

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

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board. 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 town in accordance with the provisions of this chapter.

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.

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, § 57-5-101(b), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00).¹ Said fee shall be in the form of a cashier's check payable to the Town of Oakland. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax. Effective January 1, 1994, there is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution,

¹State law reference

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

storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1 to the Town of Oakland, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

Permits issued by the beer board shall consist of three (3) types:

(1) Off premise permits. An off premises permit shall be issued for the consumption of beer only off the premises of the seller.

(2) On premise permits. On premises permits shall be issued for the consumption of beer on the premises. To qualify for an on premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter, be a bona fide restaurant with a menu and food available for consumption between the hours of 4:00 P.M. and 10:00 P.M. each day that the establishment is open.

(3) Special event permits. A permit to sell beer may be obtained from the beer board for special events not to exceed three (3) days. To qualify for a special event permit, the applicant must, in addition to meeting all other requirements and restrictions for a beer permit in this chapter. (as amended by Ord. #00-12-01, March 2001, and Ord. #05.07.05, July 2005)

8-210. 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 residences, hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred fifty feet (250') of any residence, hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from any doorway entrance, regularly used for public ingress or egress, of the place of business from which the beer will be manufactured, sold or stored to the nearest doorway entrance of any hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a residence, hospital, school,

church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 2013, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 2013. (as replaced by Ord. #08.02.02, April 2008, and Ord. #13.01.01, Feb. 2013)

8-211. 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.

8-212. 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) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off-premises consumption only.)

(3) Make or allow any sale of beer between the hours of 2:00 A.M. and 6:00 A.M. during any night of the week and between 6:00 A.M. and 12:00 noon on Sunday.

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

(5) Make or allow any sale of beer to a person under twenty-one (21) years of age, except as may be provided by state law.

(6) Allow any person under eighteen (18) years of age to loiter in or about his place of business.

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

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

(9) 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.

(10) Allow gambling on his premises.

(11) Allow pool or billiard playing in the same room where beer is sold. (as amended by Ord. #00-12-01, March 2001)

8-213. 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 municipal governing body.

8-214. Civil penalty in lieu of suspension or revocation. Pursuant to Tennessee Code Annotated, § 57-5-108(a)(2) the board may assess a civil penalty against a permit holder in lieu of suspension or revocation of said permit. Such penalty may be up to one thousand five hundred dollars (\$1500) for each offense of making or allowing sales to minors and up to one thousand dollars (\$1000) for any other violation. The permit holder will have seven days to pay aforementioned penalty before the suspension or revocation takes effect. Payment of the penalty does not effect the permit holders right to seek judicial review of the suspension or revocation pursuant to the general laws of the State of Tennessee.

8-215. Beer permits to be non-transferable. The beer permit shall be issued to the person making application for the permit and shall not be transferable.

CHAPTER 3

WINE IN RETAIL FOOD STORES

SECTION

- 8-301. Application.
- 8-302. Definitions.
- 8-303. Privilege fees established.
- 8-304. State statutes.
- 8-305. Licenses.
- 8-306. Certificate.
- 8-307. Appeal.
- 8-308. Presumed approval.
- 8-309. Exception.
- 8-310. Sales to minors, the visibly intoxicated or an unidentified consumer.
- 8-311. Identification prior to sale.
- 8-312. Hours and date of sale.
- 8-313. Restrictions.
- 8-314. Violation - penalties.
- 8-315. Severability.

8-301. Application. This chapter shall apply and be in effect so long as sale of wine in retail food stores is permitted in the municipality by local option referendum pursuant Tennessee Code Annotated, §§ 57-3-801, et seq. and § 57-3-106. (as added by Ord. #16-1, March 2016)

8-302. Definitions. For purposes herein:

- (1) "Applicant" means any person, partnership, limited liability company or corporation seeking a retail food store wine license hereunder.
- (2) "Commission" means the alcoholic beverage commission.
- (3) "License holder" means an applicant who has received a retail store wine license from the commission.
- (4) "Municipality" means Oakland, Tennessee.
- (5) "Retail food store" means an establishment that is open to the public that derives at least twenty percent (20%) of its taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in § 67-6-228(a) and has retail floor space of at least one thousand two hundred square feet (1,200 sq. ft.) .
- (6) (a) "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 champagne, sparkling and fortified wine of an alcoholic content not to exceed eighteen percent (18%) by volume. No other product shall be called "wine" unless

designated by appropriate prefixes descriptive of the fruit or the product from which the same was predominately produce, or an artificial or imitation wine.

(b) "Wine" does not mean alcohol derived from wine that has had substantial changes to the wine due to additional flavorings and additives. (as added by Ord. #16-1, March 2016)

8-303. Privilege fees established. Each applicant shall pay Oakland a one (1) time, nonrefundable fee in the amount of four hundred dollars (\$400.00) when the certificate application is submitted for review. Each license holder shall pay Oakland an annual license fee of one thousand dollars (\$1,000.00), due on the first business day of each year. (as added by Ord. #16-1, March 2016)

8-304. State statutes. Tennessee Code Annotated, §§ 57-3-801, et seq., governing the sale of wine in retail food stores, is adopted and incorporated herein, to the extent its provisions are applicable. Provisions of Tennessee Code Annotated, §§ 57-3-201, et seq., governing issuance, renewal, suspension and termination of retailers licenses, as well as the regulation and operation of retail license holders, are adopted and incorporated herein and apply to retail food store wine licenses. The restrictions in Tennessee Code Annotated, §§ 57-3-204(b), 57-3-201(g) and (h) and 57-3-404(e) shall not apply to license holders. (as added by Ord. #16-1, March 2016)

8-305. Licenses. Any applicant desiring to sell wine to patrons or customers within the premises of a retail food store, in sealed packages only, and not for consumption on the premises, shall make application for, and receive from the commission, a retail food store wine license. The license application shall comply with all the terms and conditions set forth in Tennessee Code Annotated, §§ 57-3-801, et seq., and, specifically, § 57-3-803. (as added by Ord. #16-1, March 2016)

8-306. Certificate. The applicant shall obtain from the municipality, and shall include with a license application, a certificate of compliance signed by the municipality's mayor. The applicant shall submit a certificate application to the municipality using a form provided by the municipality stating:

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

(2) The applicant or applicants have secured a location for the business which complies with all zoning laws adopted by the municipality, as to the location of the business. (as added by Ord. #16-1, March 2016)

8-307. Appeal. An applicant may seek review of the denial of the certificate application by instituting an action in the Chancery Court of Fayette County, Tennessee, within sixty (60) days of the denial. (as added by Ord. #16-1, March 2016)

8-308. Presumed approval. If the municipality fails to grant or deny the certificate application within sixty (60) days of the municipality's physical receipt of the application, then the application shall be deemed granted. (as added by Ord. #16-1, March 2016)

8-309. Exception. An applicant need not obtain a certificate and submit it with the license application to the commission if:

- (1) The municipality fails to grant or deny the certificate within sixty (60) days after its physical receipt of the certificate application; or,
- (2) The applicant submits a final order of the Fayette County Chancery Court holding the municipality's denial of the certificate application was unreasonable. (as added by Ord. #16-1, March 2016)

8-310. Sales to minors, the visibly intoxicated or an unidentified consumer. A license holder shall not make, or permit to be made, any sales to:

- (1) Minors;
- (2) Any person who is visibly intoxicated;
- (3) Any person who is accompanied by any person who is visibly intoxicated; or,
- (4) Any person lacking the required photograph and birthdate identification required in this chapter. (as added by Ord. #16-1, March 2016)

8-311. Identification prior to sale. Prior to sale, a wine buyer must present to the license holder:

- (1) A valid, government-issued document showing the buyer's photograph and birthdate, such as a drivers license or other acceptable documentation; or
- (2) Any documentation acceptable to the license holder if the wine buyer is exempt under state law from the requirement to have a photo identification. (as added by Ord. #16-1, March 2016)

8-312. Hours and date of sale. License holders may sell or give away wine only between the hours of 9:00 A.M. and 10:00 P.M., each day; provided, however, that no license holder shall sell, give away, or otherwise dispose of any wine between 10:00 P.M. on Saturday and 9:00 A.M. on the following Monday. No license holder shall sell or give away any wine on the following days: Christmas Day; Thanksgiving Day; Labor Day; New Year's Day; the Fourth of July; a general election day; or, a primary election day. (as added by Ord. #16-1, March 2016)

8-313. Restrictions. Wine license holders shall abide by the restrictions in §§ 57-3-801, et seq., governing:

- (1) Purchase, delivery, storing and ordering of wine;
- (2) Credit sales;
- (3) Wholesales sale;
- (4) Responsible vendor training program requirements;
- (5) Permitted managers;
- (6) Wine tasting; and
- (7) On premises consumption licenses. (as added by Ord. #16-1, March 2016)

8-314. Violation - penalties. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not more than fifty dollars (\$50.00). Upon conviction of any person or entity under this chapter, it shall be mandatory for the town judge to immediately notify the commission of said conviction, whether on appeal or not. (as added by Ord. #16-1, March 2016)

8-315. Severability. If any section, clause, paragraph or portion of this chapter shall be held unlawful or unconstitutional by a court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph or portion of this chapter. (as added by Ord. #16-1, March 2016)

CHAPTER 4**INTOXICATING LIQUORS SOLD IN RETAIL LIQUOR STORES****SECTION**

- 8-401. Legalized; compliance with state law and this chapter.
- 8-402. Definitions.
- 8-403. Exception from this chapter.
- 8-404. Privilege license fees established.
- 8-405. Duration of licenses; renewals; payment of fees; issuance
- 8-406. Display of license.
- 8-407. Issuance of duplicate license.
- 8-408. Certificate.
- 8-409. Appeal.
- 8-410. Presumed approval.
- 8-411. Exception.
- 8-412. Location near churches, schools, or other public institutions.
- 8-413. Number of licenses to be issued and outstanding.
- 8-414. Location of establishments.
- 8-415. Retail store restrictions.
- 8-416. Persons not to be served.
- 8-417. Restriction on hours and days of sale.
- 8-418. Inspection of business establishments.
- 8-419. Inspection fee.
- 8-420. Monthly reports by wholesaler to collector of licenses and privileges;
payment of fees collected.
- 8-421. Collection service fee to wholesalers.
- 8-422. Penalty for wholesaler's failure to collect or report and pay
inspection fee.
- 8-423. Use of premiums, tokens, or other articles as inducements to purchase
alcoholic beverages.
- 8-424. Gambling devices, music machines, pinball machines, and other devices
prohibited on the premises.
- 8-425. Violations - penalties.
- 8-426. Severability.

8-401. Legalized; compliance with state law and this chapter. It shall be lawful to engage in the business of manufacturing, selling, storing, transporting, and distributing alcoholic beverages within the corporate limits of the town. The manufacture, sale, receipt, possession, storage, transportation, distribution, or in any manner dealing with alcoholic beverages within the corporate limits of the town shall be regulated with the provisions of Tennessee Code Annotated, §§ 57-3-101, et seq., the rules and regulations adopted by the

commissioner of finance and taxation of the state, and in accordance with the provisions of this chapter. (as added by Ord. #16-6, April 2016)

8-402. Definitions. For purposes of this chapter:

(1) "Alcoholic beverage," "beverage" or "intoxicating liquor" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine capable of being consumed by a human being, other than a patented medicine, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight or less. (Tennessee Code Annotated, § 57-3-101(1)(a)).

(2) "Applicant" means any person, firm or corporation seeking a retail liquor store license hereunder.

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

(4) "Commission" means the alcoholic beverage commission.

(5) "License holder" means an applicant who has received a retail liquor store licenses from the commission.

(6) "Retailer" means a person who sells intoxicating liquors in sealed containers for consumption, and not for resale.

(7) "Town" means the Town of Oakland, Tennessee.

(8) "Wholesaler" means a person who sells intoxicating liquors to retailers, which shall include distributors, distillers or any person making sales to retailers. (as added by Ord. #16-6, April 2016)

8-403. Exception from this chapter. Nothing in this chapter is intended to relate to the manufacture, transportation, storage, sale, distribution, possession, or receipt of, or tax upon, any beverage of an alcoholic content of five percent (5%) by weight or less; and no ordinance relating thereto shall be considered or construed as modified by this chapter.¹ Nothing in this chapter is intended to relate to the sale of wine in retail food stores, unless as expressly provided in Oakland code provisions and/or Tennessee Code Annotated, §§ 57-3-801, et seq., regarding same; and, no ordinance or Oakland code provisions shall be considered or constructed as modified by this chapter. (as added by Ord. #16-6, April 2016)

8-404. Privilege license fees established. There are hereby levied and imposed privilege license fees in the amounts and in accordance with the terms and conditions stated in this chapter, upon each person who may be authorized to engage in the manufacture, distribution, or sale, at wholesale or retail, of alcoholic beverages within the town. The amount of the license fees levied annually and imposed by this chapter shall be as follows:

¹State law reference

Tennessee Code Annotated, § 57-3-103(a)(1).

- (1) Each manufacturer, distiller or rectifier of alcoholic beverages \$1,000.00
 - (2) Each wholesaler of alcoholic beverages \$ 500.00
 - (3) Each retailer of alcoholic beverages \$ 250.00
 - (4) Each vintner or operator of a winery \$ 250.00
- (as added by Ord. #16-6, April 2016)

8-405. Duration of licenses; renewals; payment of fees; issuance.

The amount of the license fees set forth in §8-404 shall be for the period of one (1) year, commencing January 1 of each year, expiring on December 31 of each year. Licenses may be renewed each year by compliance with Tennessee Code Annotated, §§ 57-3-101, et seq. upon payment of the fees described in § 8-404. All license fees shall be paid to the collector of licenses and privileges of the town ("collector"), and the collector shall not be authorized to issue such license until the applicant is qualified, as required by Tennessee Code Annotated, §§ 57-3-101, et seq., to engage in such business and has exhibited to the collector of the license issued to the applicant by the state commissioner of finance and taxation. (as added by Ord. #16-6, April 2016)

8-406. Display of license.

Applicants granted licenses to carry on any of the businesses or undertakings contemplated by this chapter shall, before being qualified to do business, display and post and keep displayed and posted such license in a conspicuous place on the premises of such licensee.¹ (as added by Ord. #16-6, April 2016)

8-407. Issuance of duplicate license.

When a license shall be lost or destroyed without fault of the license holder, a duplicate in lieu thereof shall be issued by the collector only after the collector has been furnished with satisfactory evidence of such loss without fault of the license holder; provided, however, that upon the issuance of such duplicate license, the license holder shall be required to pay a registration fee of five dollars (\$5.00). (as added by Ord. #16-6, April 2016)

8-408. Certificate.

The applicant shall obtain from the town, and shall include with a license application, a certificate signed by the town's mayor. The applicant shall submit a certificate application to the town using a form provided by the town stating:

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

¹State law reference
Tennessee Code Annotated, § 57-3-211.

executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of application; and

(2) The applicant or applicants have secured a location for the business which complies with all restrictions of any town law, ordinance or resolution, duly adopted by the board, as to the location of the business.

(3) The applicant or applicants have complied with any town law, ordinance or resolution duly adopted by the board regulating the number of retail licenses to be issued within the town. (as added by Ord. #16-6, April 2016)

8-409. Appeal. An applicant may seek review of the denial of the certificate application by instituting an action in the Chancery Court of Fayette County, Tennessee, within sixty (60) days of the denial. (as added by Ord. #16-6, April 2016)

8-410. Presumed approval. If the town fails to grant or deny the certificate application within sixty (60) days of the town's physical receipt of the application, then the application shall be deemed granted. (as added by Ord. #16-6, April 2016)

8-411. Exception. An applicant need not obtain a certificate and submit it with the license application to the commission if:

(1) The town fails to grant or deny the certificate within sixty (60) days after its physical receipt of the certificate application; or,

(2) The applicant submits a final order of the Fayette County Chancery Court holding the town's denial of the certificate application was unreasonable. (as added by Ord. #16-6, April 2016)

8-412. Location near churches, schools or other public institutions. No alcoholic beverages shall be manufactured, distilled, or rectified, sold, or stored on any premises that shall be located within five hundred feet (500') of any school or within two hundred fifty feet (250') of any church or other public institution whatsoever, measuring in a straight line connecting each structure's nearest corner.¹ (as added by Ord. #16-6, April 2016)

8-413. Number of licenses to be issued and outstanding. The number of retail licenses issued and outstanding in the town at any time shall be restricted to: one (1) for the first ten thousand (10,000) resident citizens of the town according to the last official census; one (1) additional license if the population is ten to eighteen thousand (10,000 to 18,000) according to the last

¹State law reference

See Watkins v. Naifeh, 635 S. W.2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

official census; and, one (1) additional license if the population exceeds eighteen thousand (18,000), according to the last official census. (as added by Ord. #16-6, April 2016)

8-414. Location of establishments. It shall be unlawful for any person to operate or maintain any wholesale or retail establishment for the sale, storage, or distribution of alcoholic beverages in the town except at locations within the B-1 (Neighborhood Business District), B-2 (Highway Oriented Business District) and B-3 (Old Town Business District) zoning classifications of the zoning ordinance of the town on the date of application. (as added by Ord. #16-6, April 2016)

8-415. Retail store restrictions. No retail liquor store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail liquor store is located on the corner of two (2) streets, such retail liquor store may maintain a door opening on each of the public streets. All retail liquor stores shall be of a permanent type construction, shall include a minimum of two thousand five hundred (2,500) square feet of occupied space and shall not be located in a mobile home or other movable type building. All buildings housing retail liquor stores shall be in compliance with the state regulations for the operation of retail liquor stores. No retail liquor store shall be located within two thousand five hundred feet (2,500') from any other retail liquor store, measuring in a straight line connecting each structure's nearest corner.¹ (as added by Ord. #16-6, April 2016)

8-416. Persons not to be served. It shall be unlawful for any license holder to sell, furnish, or give away any alcoholic beverage to any person visibly intoxicated, to any insane person, to any minor, to any habitual drunkard or to a person of known intemperate habits. (as added by Ord. #16-6, April 2016)

8-417. Restriction on hours and days of sale. License holders may sell or give away intoxicating liquors only between the hours of 9:00 A.M. and 10:00 P.M., each day; provided, however, that no license holder shall sell, give away, or otherwise dispose of any intoxicating liquors between 10:00 P.M. on Saturday and 9:00 A.M. on the following Monday. No license holder shall sell or give away any intoxicating liquors on the following days: Christmas Day; Thanksgiving Day; Labor Day; New Year's Day; the Fourth of July; a general election day; or, a primary election day. (as added by Ord. #16-6, April 2016)

¹See Watkins, supra.

8-418. Inspection of business establishments. The duly authorized representatives of the town shall have the right to inspect the premises of any business licensed under this article during the hours when such establishments are open for the conduct of business. (as added by Ord. #16-6, April 2016)

8-419. Inspection fee. There is hereby levied against license holders an inspection fee at the rate of five percent (5%) on all purchases of intoxicating liquors made by such license holders from wholesalers. The fee shall be measured by the wholesale price of the intoxicating liquors as sold by the wholesaler and paid by the license holders to the wholesaler. The fee shall be five percent (5%) of such wholesale price. The fee shall be added by the wholesaler to each invoice for alcoholic beverages sold to each license holder within the town and shall be collected by such wholesaler from such license holders and remitted to the collector.¹ (as added by Ord. #16-6, April 2016)

8-420. Monthly reports by wholesaler to collector of licenses and privileges; payment of fees collected. Each wholesaler shall furnish to the collector a report monthly, which report shall contain a list of intoxicating liquors sold to each license holder within the town, the wholesale price of the intoxicating liquor sold to each license holder, the amount of tax due, and such other information as shall be required by the collector. The monthly report shall be furnished to the collector not later than the twentieth (20th) day of the month following which the sales were made, and the inspection fees collected by the wholesaler from the license holder shall be paid to the collector at the time the monthly report is made.² (as added by Ord. #16-6, April 2016)

8-421. Collection service fee to wholesalers. Wholesalers collecting and remitting the inspection fee to the town shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted. Such reimbursement shall be deducted and shown on the monthly report to the collector.³ (as added by Ord. #16-6, April 2016)

8-422. Penalty for wholesaler's failure to collect or report and pay inspection fee. Failure to collect or timely report and/or pay the inspection fee

¹State law reference
Tennessee Code Annotated, § 57-3-501.

²State law reference
Tennessee Code Annotated, § 57-3-503(a).

³State law reference
Tennessee Code Annotated, § 57-3-503(a).

collected shall result in a penalty of ten percent (10%) of the fee due the town which shall be paid to the collector.¹ (as added by Ord. #16-6, April 2016)

8-423. Use of premiums, tokens, or other articles as inducements to purchase alcoholic beverages. No license holder shall give away, sell, or in any manner whatsoever deal in premiums, tokens, or other articles by means of which inducements are held out to trade to purchase any alcoholic beverages. (as added by Ord. #16-6, April 2016)

8-424. Gambling devices, music machines, pinball machines, and other devices prohibited on the premises. No gambling devices, pinball machines, music machines or similar devices shall be permitted to operate upon any premises from which alcoholic beverages are sold. (as added by Ord. #16-6, April 2016)

8-425. 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 more than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the town judge to immediately notify the commission of said conviction, whether on appeal or not. (as added by Ord. #16-6, April 2016)

8-426. Severability. If any section, clause, paragraph, provision or portion of this chapter shall be held unlawful or unconstitutional by a court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this chapter. (as added by Ord. #16-6, April 2016)

¹State law reference
Tennessee Code Annotated, § 57-3-503(b).