

**TITLE 8****ALCOHOLIC BEVERAGES**<sup>1</sup>**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

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<sup>1</sup>State law reference

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**8-101. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this municipality except as provided by Tennessee Code Annotated, title 57, by rules and regulations promulgated thereunder, and as provided in this chapter. (1980 Code, § 2-101, as replaced by Ord. #09-28, Sept. 2009)

**8-102. Definitions.** Whenever used herein unless the context requires otherwise:

(1) "Alcoholic beverages" or "beverage" 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, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight, or less.

(2) "Certificate of compliance" means the certificate authorized under the provisions of Tennessee Code Annotated, § 57-3-208.

(3) "License" means the license issued herein and "licensee" means any person to whom such license has been issued.

(4) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

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

(6) "Manufacturer" means and includes distiller, vintner and rectifier. "Manufacture" means and includes distilling, rectifying and operating a winery.

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

(8) "Wholesaler" means any person who sells at wholesale beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101 – 57-3-112.

(9) "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 climate, saccharine and seasonal conditions, including 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 an artificial or imitation wine; and

(10) The word "gallon" or "gallons" wherever used herein, shall be construed to mean a wine gallon or wine gallons, of one hundred and twenty-eight (128) ounces. The word "quart" whenever used herein will be

construed to mean one-fourth (1/4) of a wine gallon. The word "pint" wherever used shall be construed to mean one-eighth (1/8) of a wine gallon.

(11) Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural.

(12) The term "federal license" as used herein shall not mean tax receipt or permit. (as added by Ord. #09-28, Sept. 2009)

**8-103. Manufacturing prohibited within corporate limits.** The manufacture of alcoholic beverages is prohibited within the corporate limits. (as added by Ord. #09-28, Sept. 2009)

**8-104. Selling prohibited within corporate limits.** No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits except to a duly licensed local city retailer, as provided herein. (as added by Ord. #09-28, Sept. 2009)

**8-105. License required.** For the retail sale of alcoholic beverages a license may be issued as herein provided. Any person, firm or corporation desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the city recorder for a certificate of compliance, which application shall be in writing on forms prescribed and furnished by the city recorder; subject to the issuance of a retail license by the Alcoholic Beverage Commission, State of Tennessee. (as added by Ord. #09-28, Sept. 2009)

**8-106. Application for certificate.** (1) Before any certificate, as required by Tennessee Code Annotated, § 57-3-208, or a renewal as required by § 57-3-213, shall be signed by the mayor, or by any member of the city council, an application in writing shall be filed with the city recorder on a form to be provided by the city, together with a non-refundable application fee of seven hundred fifty dollars (\$750.00), giving the following information:

- (a) Name, age and address of the applicant.
- (b) Number of years of residence in Robertson or Sumner County.
- (c) Occupation or business and length of time engaged in such occupation or business.
- (d) Whether or not the applicant or any owner of the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (e) If employed, the name and address of employer.
- (f) If in business, the kind of business and location thereof.
- (g) The location of the proposed store for the sale of alcoholic beverages.

(h) The name and address of all owners of the store.

(i) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation or limited liability company, the name, age and address of the stockholders or members and their percentage of ownership of the corporation or limited liability company.

(2) If the owners (individually, stockholders, partners, or members) exceed three (3) in number, the application fee shall be increased by fifty dollars (\$50.00) for each owner in excess of three (3).

(3) If a new certificate of compliance is required by the State of Tennessee Alcoholic Beverage Commission after the initial issuance of a certificate of compliance but before a renewal certificate of compliance is issued, or between the time of the issuance of the renewal certificate of compliance and subsequent renewals of compliance, an additional two hundred dollars (\$200.00) will become due and payable at time of the request.

(4) At the time of a request for a renewal certificate of compliance there will be a five hundred dollar (\$500.00) application fee due provided the number of owners (individually, stockholders, partners, or members) does not exceed three (3) in number. If the number of owners exceeds three (3) in number the application fee shall be increased by fifty dollars (\$50.00) for each owner in excess of three (3).

(5) The information in any application shall be verified by the oath of the applicant. If the applicant is a partnership, a corporation or a limited liability company, the application shall be verified by the oath of each owner of the entity. (as added by Ord. #09-28, Sept. 2009, and replaced by Ord. #10-32, Nov. 2010)

**8-107. Applicant to appear before city council; duty to give information.** An applicant for a certificate of compliance shall be required to appear in person before the city council for such reasonable examination as may be desired by the council. (as added by Ord. #09-28, Sept. 2009)

**8-108. Action on application.** Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the city council within thirty (30) days of the date each application was filed.

The city council may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the city council

The meeting of the city council at which the certificate of compliance will be considered shall be advertised for two (2) consecutive weeks in a local newspaper having circulation within the municipal limits of the City of Portland. (as added by Ord. #09-28, Sept. 2009)

**8-109. Applicants for certificate who have criminal record.** No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or venting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #09-28, Sept. 2009)

**8-110. Limitations on issuance of certificate of compliance.** (1) No certificate of compliance will be issued authorizing the storage, sale, or manufacture of beer or the location of a retail store for the sale of alcoholic beverages at places within five hundred feet (500') of any church, school, including a school with a pre-kindergarten curriculum, hospital, and public recreation parks, not including areas located within the city's greenway plan. Measurements shall be in a straight line and be conducted by the Public Works Department of the City of Portland under the supervision of the public works superintendent or his designate who shall use the most accurate measuring technology available to the City of Portland. The points to be measured from in a straight line will be the closest corner of the building of the establishment seeking the permit and the closest corner of the church building, school building, or hospital facility. In the case of a public recreation park the point of measurement is to the center of the park's closest roadway entrance. A certificate of compliance issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said certificate executed by the mayor, unless the location is approved in writing by the mayor. Said approval by the mayor must be authorized by approval of a majority of the members of the city council.

(2) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages which retail store is not located on a arterial road or located on property adjacent to a road having direct access to an arterial road within the City of Portland and which property is zoned General Commercial Services (GCS) or Interchange Service District (ISO).

(3) No certificate of occupancy shall be granted for the operation of a retail store for the sale of alcoholic beverages in a building structure that provides less than one thousand five hundred (1,500) square feet of floor space. The structure shall have an exterior design as approved by the Design Review Committee of the City of Portland, the signage to meet the requirements of Office and Professional Service District if located in the GCS zone and the location of the structure shall meet all provisions of Zoning Ordinance No. 387

of the city. No retail store shall be located anywhere on the premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street. (as added by Ord. #09-28, Sept. 2009)

**8-111. Limitations as to residency.** No license shall be issued to any person or persons unless the legal residence of such person or persons has been within Sumner or Robertson Counties, Tennessee, one (1) year at the time of the issuance of the retail license. In the case of a corporation, partnership or limited liability company at least fifty-one percent (51%) of the stockholders, partners or members must have had a one (1) year residency within Sumner or Robertson Counties at the time of the issuance of the license. Thereafter any change in such residence by such persons or owners to be outside this community must be approved by a majority of the board of mayor and aldermen. This provision shall likewise apply to any corporation that may subsequently move or desires to move the principal office of the corporation. However, in any event, such person or persons, firm or corporation's legal residence, and in the case of a corporation, its principal place of business and office must be with the State of Tennessee. (as added by Ord. #09-28, Sept. 2009, and amended by Ord. #12-11, March 2012)

**8-112. Bonds of licensees.** Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee; bonds of retailers shall be five hundred dollars (\$500.00). Said bond shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (as added by Ord. #09-28, Sept. 2009)

**8-113. Retailer's license.** (1) No retailer's license shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such 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. The foregoing shall not apply to uncompensated appointees to municipal boards and commissioners where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(2) No retailer shall be a person who has been convicted of a felony involving moral turpitude, within ten (10) years prior to the time he or she is concerned with which he is connected shall receive a license; 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 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.

(3) No license shall under any condition be issued to any person who, within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling alcoholic beverages or who has, during said period, been engaged in business alone or with others, in violation of any said laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(4) No manufacturer, brewer or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person.

(5) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, 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 be fully disclosed to the mayor and city council and approved by them. Where such interest is owned by such person on or before the application for any 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 said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(6) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) No retailer shall employ in the storage, sale or distribution 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 should be so 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.

(9) The issuance of a license does not vest a property right to the licensee, but is a privilege subject to revocation or suspension according to this chapter.

(10) Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter. (as added by Ord. #09-28, Sept. 2009)

**8-114. Display of license.** Persons granted a license to carry on the business or undertaking contemplated therein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license. (as added by Ord. #09-28, Sept. 2009)

**8-115. Transfer of license restricted.** The holder of a license may not sell, assign or transfer such license to any other person unless same is approved by a majority of the board of mayor and aldermen and the state alcoholic beverage commission and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military force of the United States in the time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. (as added by Ord. #09-28, Sept. 2009)

**8-116. Expiration date of license.** Licenses issued under this chapter shall expire and be renewed as provided by the rules and regulations of the State of Tennessee Alcoholic Beverage Commission. (as added by Ord. #09-28, Sept. 2009)

**8-117. New license after revocation.** Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (as added by Ord. #09-28, Sept. 2009)

**8-118. Federal license, effect of.** The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (as added by Ord. #09-28, Sept. 2009)

**8-119. Inspection fee.** The City of Portland hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (as added by Ord. #09-28, Sept. 2009)



**8-120. Regulations for purchase and sale of alcoholic beverages.**

(1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell alcoholic beverages at retail in connection with any other business or in the same store where any other business is carried on. (as added by Ord. #09-28, Sept. 2009)

**8-121. Solicitation.** No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such license receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This section shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises. (as added by Ord. #09-28, Sept. 2009)

**8-122. Regulation of retail sales.** (1) No retailer shall directly or indirectly, operate more than one (1) place of business in this municipality for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall sell, lend or give away any alcoholic beverages to any person who is drunk nor shall any retailer selling alcoholic beverages sell, lend or give away to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend or give away any alcoholic beverages to a person under twenty-one (21) years of age.

(4) No retailer shall sell, lend or give away any alcoholic beverages between 11 o'clock P.M. on Saturday and 8 o'clock A.M. on Monday of each week, and between 11 o'clock P.M. and 8 o'clock A.M. Monday through Saturday.

(5) No retailer shall sell, lend or give away any alcoholic beverages upon Christmas Day, Thanksgiving Day, Labor Day, New Year's Day or the Fourth of July.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(7) No retailer as herein defined shall own, store or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state. (as added by Ord. #09-28, Sept. 2009)

**8-123. Failure to pay inspection fee.** Whenever any person licensed hereunder fails to account for or pay over to the city recorder any inspection fee, or defaults in any of the conditions of his bond, the mayor and/or city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such inspection fee. (as added by Ord. #09-28, Sept. 2009)

**8-124. Mayor to determine if provisions are being complied with.** The mayor and/or designated agent thereof is authorized to examine the books, papers and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. The refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises, shall constitute, sufficient reason for the revocation of a license or the refusal to issue a license. (as added by Ord. #09-28, Sept. 2009)

**8-125. Violation and penalty.** Any violation of the terms of this chapter shall be punishable by a fine of not more than five hundred dollars (\$500.00); in such cases, suspension of said license by mayor for thirty (30) days shall be mandatory, and in the discretion of the board of mayor and aldermen may be cause for revocation of said license. (as added by Ord. #09-28, Sept. 2009)

**8-126. Visible possession prohibited.** Visible possession of alcoholic beverages in unsealed containers upon any public street or within any governmental building shall be a violation of this chapter. (as added by Ord. #09-28, Sept. 2009)

**8-127. Severability.** If any provision of this chapter is hereafter determined to be unenforceable or unconstitutional by a court of competent jurisdiction then the other provisions of this chapter shall not be effected and shall remain valid. (as added by Ord. #09-28, Sept. 2009)

**8-128. Limitations of the number of licenses.** The maximum number of licenses for retail liquor stores authorized to be issued within the municipal boundaries of the City of Portland is limited to four (4) and no new licenses shall be issued until the population of the city reaches the number of twenty thousand one (20,001) according to the latest legal census certified by the government. Thereafter the number of licenses authorized is one (1) license per five thousand (5,000) residents according to the latest legal census certified by government or the number of licenses authorized by the statutes of the State of Tennessee. (as added by Ord. #12-11, March 2012)

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Alcoholic beverage board established.
- 8-202. Meetings of the alcoholic beverage board.
- 8-203. Record of alcoholic beverage board proceedings to be kept.
- 8-204. Requirements for alcoholic beverage board quorum and action.
- 8-205. Powers and duties of the alcoholic beverage board.
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- 8-207. Permit required for engaging in beer business.
- 8-208. Beer permits shall be restrictive.
- 8-209. Issuance of permits to aliens prohibited.
- 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. Revocation of beer permits.
- 8-214. Privilege tax.
- 8-215. Civil penalty in lieu of suspension.
- 8-216. Beer to be sold only in original container.
- 8-217. Limitation on number of permits.
- 8-218. Loss of clerk's certification for sale to minor.

**8-201. Alcoholic beverage board established.** There is hereby established an alcoholic beverage board to be composed of the seven (7) members of the City Council of the City of Portland. A chairman shall be elected annually by the alcoholic beverage board from among its members. All members of the board shall serve without compensation. (1980 Code, § 2-201, as amended by Ord. #536, July 1997, and replaced by Ord. #05-05, April 2005, Ord. #05-34, Oct. 2005, and Ord. #09-49, Sept. 2009)

**8-202. Meetings of the alcoholic beverage board.** All meetings of the alcoholic beverage board shall be open to the public. The board shall hold advertised regular monthly meetings in the city hall at such times as it shall prescribe. When there is business to come before the alcoholic beverage 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

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<sup>1</sup>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).

to another time and place. (1980 Code, § 2-202, as amended by Ord. #536, July 1997, and Ord. #05-11, July 2005)

**8-203. Record of alcoholic beverage board proceedings to be kept.**

The recorder shall make a record of the proceedings of all meetings of the alcoholic beverage 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. (1980 Code, § 2-203, as amended by Ord. #536, July 1997)

**8-204. Requirements for alcoholic beverage board quorum and action.**

The attendance of at least a majority of the members of the alcoholic beverage 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. (1980 Code, § 2-204, as amended by Ord. #536, July 1997)

**8-205. Powers and duties of the alcoholic beverage board.** The alcoholic beverage board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this city in accordance with the provisions of this chapter. (1980 Code, § 2-205, as amended by Ord. #536, July 1997)

**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. (1980 Code, § 2-206)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the alcoholic beverage 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 shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Portland. The applicant shall also provide a statewide background check provided by TBI at the applicant's expense. Any new permits and any renewals shall be submitted for consideration. (1980 Code, § 2-207, as amended by Ord. #536, July 1997, Ord. #05-11, July 2005, and Ord. #09-41, Sept. 2009)

**8-208. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the alcoholic beverage board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the alcoholic beverage board. (1980 Code, § 2-208, as amended by Ord. #536, July 1997)

**8-209. Deleted.** (1980 Code, § 2-209, as amended by Ord. #536, July 1997, and deleted by Ord. #05-11, 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 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 storage, sale, or manufacture of beer at places within 500 feet of any church, school, state licensed child care center, hospital, and public recreation parks having an area in size greater than five (5) acres. Measurements shall be in a straight line and be conducted by the public works department of the City of Portland under the supervision of the public works superintendent or his designate who shall use the most accurate measuring technology available to the City of Portland. The points to be measured from in a straight line will be the closest corner of the building of the establishment seeking the permit and the closest corner of the church building, school building, or hospital facility. In the case of a public recreation park the point of measurement is to the center of the park's closest roadway entrance. The foregoing restriction as to distance will not apply to those locations where a permit has been previously granted and issued for the sale of liquor by the drink by the Alcoholic Beverage Commission of the State of Tennessee. (1980 Code, § 2-210, modified, as amended by Ord. #05-11, July 2005, and Ord. #13-11, May 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. (1980 Code, § 2-211)

**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 the age of 18 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 12:00 Midnight and 6:00 o'clock A.M. during any night of the week; at any time on Sunday.
4. Make or allow any sale of beer to a minor.
5. Allow any minor to loiter in or about his place of business.
6. Make or allow any sale of beer to any intoxicated person or to any otherwise mentally incapacitated person.
7. Allow drunk or disreputable persons to loiter about his premises.
8. Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
9. Fail to provide and maintain separate sanitary toilet facilities for men and women.
10. To violate any state criminal statute or law where the violation results in adjudication of a misdemeanor or felony or the violation of any city ordinance which is a violation of state law or city ordinance occurring on or about the premises to which the beer permit is issued by the alcoholic beverage board applies. (1980 Code, § 2-213, modified, as amended by Ord. #05-11, July 2005, and Ord. #12-32, Aug. 2012)

**8-213. Revocation of beer permits.** The alcoholic beverage board shall have the power to 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 revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the alcoholic beverage board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off premises consumption. Under Tennessee Code

Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (1980 Code, § 2-214, as amended by Ord. #536, July 1997, and Ord. #07-36, Aug. 2007)

**8-214. Privilege tax.** 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, storage or manufacture of beer shall remit the tax on Portland, Tennessee. At the time a new 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. (1980 Code, § 2-215)

**8-215. Civil penalty in lieu of suspension.** 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 city may impose. (1980 Code, § 2-217, as amended by Ord. #536, July 1997, and replaced by Ord. #07-36, Aug. 2007)

**8-216. Beer to be sold only in original container.** No person, having obtained a permit from the alcoholic beverage board, shall offer beer for sale in any container other than the container in which it is received from the

manufacturer and distributor. (1980 Code, § 2-218, as amended by Ord. #536, July 1997)

**8-217. Limitation on number of permits.** The number of licenses for the sale of beer shall be limited to twenty-four (24). In calculating the limitation of the number of permits to be issued, those locations which have been issued a permit for the sale of liquor by the drink by the Tennessee Alcoholic Beverage Commission and retail establishment locations which have five thousand (5,000) square feet of retail space shall not be included in the total of permits to be authorized. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of the ordinance comprising this section shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. The number of additional permits hereafter allowed shall be increased by one (1) for each seven hundred fifty (750) citizens of the City of Portland which are added to the census of the city by any new verified census hereafter taken for the City of Portland. Any permit heretofore or hereafter issued by the Alcoholic Beverage Board of the City of Portland shall automatically terminate if not used or exercised by the permit holder within one hundred eighty (180) days of the date of issuance of permit or for any period of ninety (90) consecutive days after the expiration of six (6) months from the date of issuance of the permit. The failure of the alcoholic beverage board to enforce the termination of the permit immediately shall not operate as a waiver to enforce the termination of the permit at a subsequent time. A holder of a beer permit may submit a written application to the alcoholic beverage board for an extension of the time periods set forth herein setting forth in the application the reasons therefore but the reasons given must state with specific clarity the hardship providing the basis for the extension. (as added by Ord. #05-11, July 2005, and amended by Ord. #13-10, May 2013)

**8-218. 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. #07-36, Aug. 2007)