

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. LIQUOR STORES.
3. BEER.

CHAPTER 1²**INTOXICATING LIQUORS****SECTION**

- 8-101. Definitions of "alcoholic beverages."
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8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
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8-101. Definitions 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, liquor and wine capable of being consumed by a human being other than medicine or beer where the latter contains an alcohol content of five percent (5%) by weight or less. Products or beverages including beer containing less than one-half percent (1/2%) alcohol by volume, other than wine as defined by this chapter, shall not be considered alcoholic beverages and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided. Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. (1970 Code, § 2-101, as replaced by Ord. #09-1115, Dec. 2008)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be

¹State law reference

Tennessee Code Annotated, title 57.

²Municipal code references:

Driving under the influence: § 15-104.

Minors in beer places, public drunkenness, etc.: title 11, chapter 2.

applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Rockwood, Tennessee. It is the intent of the city council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Rockwood, Tennessee the same as if said code sections were copied herein verbatim. (as added by Ord. #09-1115, Dec. 2008)

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 the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Rockwood General Fund to be paid annually 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 City of Rockwood alcoholic beverages for consumption on the premises where sold. (as added by Ord. #09-1115, Dec. 2008)

8-104. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Rockwood shall remit annually to the city clerk the appropriate tax described in § 8-103 hereof. Such payment shall be remitted within 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. #09-1115, Dec. 2008)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Rockwood, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, not withstanding any other provision contained in the Rockwood City Code, qualify to receive a beer permit from the city. (as added by Ord. #09-1115, Dec. 2008)

8-106. Zoning and distance requirements. On-premises consumption is permitted only in C-1 Commercial: Central Business, or C-2 Commercial: General Business Zoning Districts, as depicted on the Official Zoning Map of the City of Rockwood¹ on the date of application. No distance requirements apply as

¹The Rockwood Zoning Map (and amendments) is available in the office
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to churches or schools in C-1 or C-2 Zones. (as added by Ord. #10-1128, Dec. 2009)

¹(...continued)
of the recorder.

CHAPTER 2

LIQUOR STORES

SECTION

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8-201. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise:

(1) "Applicant" means a person applying for a local liquor store privilege license or a certificate of compliance, as the context provides.

(2) "Applicant group" means more than one (1) person joining together to apply for a local liquor store privilege license or certificate of compliance, as the context provides, to operate a single liquor store pursuant to the same application.

(3) "Application" means the form or forms or other information an applicant or applicant group is required to file with the city in order to attempt to obtain a local liquor store privilege license or certificate of compliance, as the context provides.

(4) "Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, liquor and wine capable of being consumed by a human being other than medicine or beer where the latter

contains an alcohol content of five percent (5%) by weight or less. Products or beverages including beer containing less than one-half percent (1/2%) alcohol by volume, other than wine as defined by this chapter, shall not be considered alcoholic beverages and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.

(5) "Certificate of compliance" means the certificate required in Tennessee Code Annotated, § 57-3-208, as the same maybe amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(6) "City" means the City of Rockwood, Tennessee.

(7) "City council" means the governing body of the City of Rockwood.

(8) "Co-licensees" means the persons who together hold a single local liquor store privilege license for a single liquor store.

(9) "Domicile" means and includes present and continuous actual physical residence with an established permanent residence.

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

(11) "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 at a liquor store. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, such inspection fee shall be the same as if the local liquor store privilege license were held by a single licensee.

(12) "Licensee" means the holder or holders of a local liquor store privilege license. In the event of co-licensees each person who receives a certificate of compliance and local liquor store privilege license shall be a licensee subject to the rules and regulations herein.

(13) "License fee" means the annual fee a licensee is required by this chapter to pay prior to the time of the issuance or renewal of a local liquor store privilege license. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, only one (1) license fee is required.

(14) "Liquor store" means the building or part of a building where a licensee conducts any of the business authorized by the local liquor store privilege license and state liquor license held by such licensee.

(15) "Local liquor store privilege license" means a local liquor store privilege license issued under the provisions of this chapter for the purpose of authorizing the holder or holders thereof to engage in the business of selling alcoholic beverages at retail in the city at a liquor store. Such a local liquor store privilege license will only be granted to a person or persons who has or have a valid state liquor retailer's license. One (1) local liquor store privilege license is necessary for each liquor store to be operated in the city.

(16) "Manufactured" means a structure, transportable in one (1) or more sections, and which is built on a permanent chassis with or without permanent foundation.

(17) "Person" means any natural person as well as any corporation, limited liability company, partnership, firm or association or any other legal entity recognized by the laws of the State of Tennessee.

(18) "Retailer" or "dealer" means any person who sells at retail any beverage covered by this chapter.

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

(20) "State law, rules and regulations" means all applicable laws, rules and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may hereafter be changed including, without limitation, the Local Option Liquor Rules and Regulations of the Tennessee Alcoholic Beverage Commission.

(21) "State liquor retailer's license" means a license issued by the Alcoholic Beverage Commission of the State of Tennessee pursuant to Tennessee Code Annotated, § 57-3-201, et seq., permitting its holder to sell alcoholic beverages at retail in Tennessee.

(22) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(23) "Wine" means the product of normal alcoholic fermentation of juice of fresh, sound, ripe grapes or other fruit, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume: words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. (1970 Code, § 2-201, as replaced by Ord. #09-1115, Dec. 2008)

8-202. Selling and distributing generally. It shall be unlawful for any person to engage in the business of selling, possessing or distributing alcoholic beverages within the corporate limits of the city except as provided by Tennessee Code Annotated, title 57 and by the rules and regulations promulgated thereunder and as provided under this chapter. Nothing in this chapter regulates the transportation, storage, sale, distribution, possession or receipt of or tax upon any beverage of alcoholic content of five percent (5%) by weight or less, and no ordinance related thereto is modified by this chapter. (1970 Code, § 2-202, as replaced by Ord. #09-1115, Dec. 2008)

8-203. State laws to be complied with. No person, firm, corporation, association or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained. (1970 Code, § 2-203, as replaced by Ord. #09-1115, Dec. 2008)

8-204. Incorporation of state law. Tennessee Code Annotated, title 57, chapter 3 is hereby adopted so as to be applicable to all sales of alcoholic

beverages conducted within the corporate limits of the City of Rockwood. It is the intent of the city council that Tennessee Code Annotated, title 57, chapter 3 shall be effective in Rockwood, Tennessee the same as if said code sections were copied herein verbatim. (1970 Code, § 2-204, as replaced by Ord. #09-1115, Dec. 2008)

8-205. Licenses required for sale of alcoholic beverages at retail.

It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store provided that such sales are made in strict compliance with all federal statutes, all state laws, rules and regulations, and all provisions of this chapter, and provided that such licensee has a valid and duly issued state liquor retailer's license and a valid and duly issued local liquor store privilege license from the city permitting him or her to sell alcoholic beverages at retail transfer of ownership or possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited. (1970 Code, § 2-205, as replaced by Ord. #09-1115, Dec. 2008)

8-206. Licensee responsible for officers and agents.

Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1970 Code, § 2-206, as replaced by Ord. #09-1115, Dec. 2008)

8-207. Maximum number of licenses authorized.

There shall be a limit of two (2) local liquor retailers' licenses for the sale of alcoholic beverages at liquor stores within the City of Rockwood. (1970 Code, § 2-207, as replaced by Ord. #09-1115, Dec. 2008)

8-208. Location restrictions.

It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the City of Rockwood unless at a location approved by the city. All such stores shall be located within the C-1 Commercial: Central Business, or C-2 Commercial: General Business Zoning Districts as depicted on the Official Zoning Map of the City of Rockwood on the date of application. No distance requirements apply as to churches or schools in C-1 or C-2 Zones. (1970 Code, § 2-208, as replaced by Ord. #09-1115, Dec. 2008, and Ord. #10-1128, Dec, 2009)

8-209. Limitations on building containing liquor store.

All liquor stores shall be a permanent type of construction in a material and design approved by city council. No liquor store shall be located in a manufactured or other movable or prefabricated type of building. All liquor stores shall have night lights surrounding the outside of the premises and shall be equipped with

a functioning burglar alarm-system on the inside of the premises. The minimum square footage of the liquor store display area, not including storage area, shall be a minimum of one thousand five hundred (1,500) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway to the interior of the liquor store by way of large windows in the front and, to the extent practical; to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, building, and city land development regulations unless specifically stated otherwise herein. No liquor store shall be located within five hundred feet (500') of any other liquor store in the City of Rockwood. The distance shall be measured in a straight line from the nearest point of the building upon which sits the building from which the alcoholic beverage will be sold, manufactured or stored, to the nearest point of the building upon which sits the second building from which the alcoholic beverage will be sold, manufactured or stored. The building shall be equipped with an adequate security system of cameras and camera recording devices. The Rockwood Chief of Police shall determine if the proposed building security system is adequate as to the number and location of cameras or recording devices. Recorded data, disks, or tapes, from the security system must be cataloged and maintained for a minimum of thirty (30) calendar days. (1970 Code, § 2-210, as replaced by Ord. #09-1115, Dec. 2008)

8-210. Restrictions generally. (1) Entertainment devices and seating forbidden. No form of entertainment, including pinball machines, music machines or similar devices, shall be permitted in any liquor store. No seating facilities, other than for employees of the liquor store, shall be permitted in any liquor store.

(2) Time and days of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on any Sunday. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before eight o'clock in the morning (8:00 A.M.) or after eleven o'clock at night (11:00 P.M.). Stores shall be closed on Thanksgiving Day and Christmas Day.

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

(4) Consumption on premises of liquor store. It shall be unlawful for any licensee to sell any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store.

(5) Advertising. The provisions of the Rockwood Zoning and Sign Regulations and any other city ordinances or regulations addressing signs shall be adhered to. No off-premises signs shall be allowed within the city. Regarding signage inside a liquor store, no banner or temporary or permanent signage shall be placed so that it obstructs free and clear vision of the interior of the liquor store from outside the liquor store. One (1) grand opening event shall be permitted at the time a liquor store is first opened for business and for two (2) weeks thereafter where one (1) grand opening banner shall be allowed provided a sign permit for such banner is properly obtained.

(6) Off-premises business. All retail sales of alcoholic beverages shall be confined to the premises of the liquor store. No curb service is permitted nor shall there be permitted drive-in windows. No licensee shall employ any canvasser, agent, solicitor, or other representative for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer nor shall any licensee receive or accept any such order which shall have been solicited and received at the residence or place of business of such consumer. This paragraph shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises. (1970 Code, § 2-211, as replaced by Ord. #09-1115, Dec. 2008)

8-211. Fees. (1) Amounts generally. There is hereby levied on each licensee an inspection fee of five percent (5 %) on the gross purchase price of all alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. Payment of the inspection fee by the collecting wholesaler or other source shall be made to the city clerk on or before the twentieth (20th) day of each calendar month for all collections in the preceding calendar month. Nothing herein shall relieve the licensee of the obligation of payment of the inspection fee and it shall be the licensee's duty to see that the payment of the inspection fee for his or her liquor store is made to the city clerk on or before the twentieth day of each calendar month for the preceding month. Wholesalers collecting and remitting the inspection fee to the city shall be entitled to reimbursement for this collection service in a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the city.

(3) **Reports.** The city clerk shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by such licensee making purchases from such wholesaler or other source. Such wholesaler shall timely complete and return the forms and the required information and inspection fees within the time specified above.

(4) **Failure to pay fees.** The failure to pay the inspection fees and to make the required reports accurately and within the time required by this chapter shall, at the sole discretion of the city recorder, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the city council, be cause for revocation of such local liquor store privilege license. Each such action may be taken by giving written notice thereof to the licensee, no hearing with respect to such an offense being required. If a licensee has his license revoked, suspended or otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal, the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay or have paid on his or her behalf the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee. (1970 Code, § 2-212, modified, as amended by Ord. #1051, Feb. 2002, and replaced by Ord. #09-1115, Dec. 2008)

8-212. Records kept by licensee. In addition to any records specified in the state laws, rules and regulations, each licensee shall keep on file, at such licensee's store, the following records:

(1) The original invoices of all alcoholic beverages bought by the licensee;

(2) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;

(3) A current daily record of the gross sales by such licensee with evidence of cash register receipts for each day's sales; and,

(4) An accurate record of all alcoholic beverages lost, damaged, or disposed of other than by sale and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved, and the name of the person or persons receiving the same. All such records shall be preserved for a period of at least fifteen (15) months unless the city clerk gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part. (1970 Code, § 2-213, as replaced by Ord. #09-1115, Dec. 2008)

8-213. Inspections generally. The city recorder, the city clerk, the chief of police or the authorized representatives or agents of any of them are

authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee. (1970 Code, § 2-214, modified, as amended by Ord. #1051, Feb. 2002, and replaced by Ord. #09-1115, Dec. 2008)

8-214. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. (1970 Code, § 2-215, modified, as replaced by Ord. #09-1115, Dec. 2008)

8-215. Application. (1) Filing--content. An applicant or applicant group for a liquor store shall file with the city clerk a completed written application on a form to be provided by the city clerk which shall contain all of the following information and whatever additional information the city council or city recorder may require:

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

(b) The name of the liquor store proposed;

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

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

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

(f) That applicant has no outstanding property or personal property taxes due the city.

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

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

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

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

(d) The identification of every parcel of land within one hundred fifty feet (150') of the lot upon which the liquor store is to be operated indicating ownership thereof and the location of any structures thereon and the use being made of every such parcel.

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

(4) Misrepresentation--concealment of fact--duty to amend. If any applicant, member of an applicant group, or licensee misrepresents or conceals any material fact in any application form, or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group, or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by city council. Further, no sale, transfer or gift of any interest of any nature, either financial or otherwise, in a liquor store shall be made without first obtaining a replacement license from the city upon the approval of the city council.

(5) Fees. Each applicant shall be accompanied by a non-refundable three hundred dollars (\$300.00) investigation fee. One (1) application fee per applicant group is sufficient. (1970 Code, § 2-216, as replaced by Ord. #09-1115, Dec. 2008, and amended by Ord. #11-70, March 2013)

8-216. Consideration of application for certificate of compliance.

In issuing a certificate of compliance sufficient for the licensing of the liquor stores in the city permitted by this chapter, the city council will consider all applications filed with it after publication of notices published in a newspaper of general circulation in Roane County, Tennessee required by state law and/or applicable sign regulations. The city council will determine if the applicants have the qualifications required by state law. Applications and all matters

submitted with or as a part of such applications become, at the time they are submitted, the sole and exclusive property of the city and constitute public records open to public inspection. (as added by Ord. #09-1115, Dec. 2008)

8-217. Restrictions upon issuance of certificate of compliance.

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

(2) Time period for action. Any applicant or applicant group who has obtained a certificate of compliance as provided herein must, unless an extension is granted by city council, within one hundred twenty (120) days open a liquor store in the city or said certificate of compliance will be revoked by the passage of this amount of time and a certification thereof will be sent to the Alcoholic Beverage Commission of the State of Tennessee and the local liquor store privilege license issued pursuant to such application shall be considered canceled and revoked. (as added by Ord. #09-1115, Dec. 2008)

8-218. Local liquor store privilege license from city to operate liquor store. After an applicant or applicant group receives a license from the State of Tennessee to operate a retail liquor store pursuant to Tennessee Code Annotated, §§ 57-3-101 et seq., he or she shall apply to the city clerk for a local liquor store privilege license to operate a retail liquor store pursuant to the following terms, conditions and restrictions set out in §§ 8-219 and 8-220 hereof. (as added by Ord. #09-1115, Dec. 2008)

8-219. Restrictions on local liquor store privilege licenses.

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

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

(3) Transfer. A licensee or co-licensee shall not sell, assign or transfer his license or any interest therein to any other person. No license shall be transferred from one (1) location to another location without the express permission of city council.

(4) Fees. A license fee of five hundred dollars (\$500.00) is due at the time of application for a license and annually, prior to January 1 each year, thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city clerk before any license shall issue. (as added by Ord. #09-1115, Dec. 2008)

8-220. Restrictions upon licensees and employees. (1) Initial qualifications. To be eligible to apply for or to receive a license, an applicant, or in the case of an applicant group each member of the applicant group, must satisfy all of the requirements of the state statutes and of the state laws, rules and regulations for the holder of a state liquor retailer's license.

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

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

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

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

(6) Disclosure of interest. It shall be unlawful for any person to have ownership in or participate in, either directly or indirectly, the profits of any liquor store unless his or her interest in such business and the nature, extent and character thereof shall appear on the application or if the interest is

acquired after the issuance of a license unless it be fully disclosed to the city recorder and approved by him or her in a timely manner.

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

(8) Interest in only one liquor store. A person shall have an interest, either direct or indirect, in no more than one (1) liquor store licensed under this chapter in the City of Rockwood. (as added by Ord. #09-1115, Dec. 2008, and amended by Ord. #11-20, March 2013)

8-221. Nature of license; suspension or revocation. The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by city council for any violation of this chapter by the licensee or by any person whose acts the licensee is responsible. The licensee shall be given reasonable notice and an opportunity to be heard before the city council suspends or revokes a license for any violation unless provided otherwise specifically herein. If the licensee is convicted of a violation of this chapter by a final judgment in any court and the operation of the judgment is not suspended by an appeal, upon written notice to the licensee, the city recorder may immediately suspend the license for a period not to exceed sixty (60) days and the city council may revoke the license on the basis of such conviction thereafter. A license shall be subject to revocation or suspension without a hearing whenever such action is expressly authorized by other provisions of this chapter stating the effect of specific violations. (as added by Ord. #09-1115, Dec. 2008)

8-222. Violations--penalties. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with petition that all licenses be revoked, pursuant to the provisions of chapter 3 of title 57 of the Tennessee Code Annotated, and the rules and regulations of said commission. (as added by Ord. #09-1115, Dec. 2008)

8-223. Selection of liquor store applicants. (1) Each applicant shall submit his name, address, voting precinct, phone number and a fee of two hundred dollars (\$200.00) (cash or check), non-refundable, in order to be included in the lottery drawing.

(2) At a public meeting, time and date to be set, a lottery drawing will be held.

(3) Names will be drawn and numbered in the order drawn, and listed accordingly, until all names have been drawn and listed.

(4) Depending upon the number of liquor stores authorized by city council, applicants at the top of the list will be authorized to begin the state and local licensing process.

(5) Should any of the tentative selectees be eliminated from consideration, then that slot would fall to the next highest lottery name on the list until all slots are filled.

(6) This lottery is only an initial step in the licensing process and in no way assures an applicant's final selection and licensing. (as added by Ord. #09-1115, Dec. 2008)

CHAPTER 3

BEER¹

SECTION

- 8-301. Beer board established.
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- 8-305. Powers and duties of the beer board.
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- 8-314. Privilege tax.
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- 8-316. Concurrent sales of liquor by the drink and beer.
- 8-317. Sale of beer to persons under the age of 21 years.
- 8-318. Criminal history background and fingerprint checks.

8-301. Beer board established. There is hereby established a beer board to be composed of five (5) members appointed by the city council upon recommendation of the mayor. All members of the beer board shall have been residents of the city for at least one (1) year next preceding their appointment. They shall be appointed for four (4)² year terms except that the first members shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively, beginning on September 15, 1980, so that the terms of one (1) member shall expire each year. A chairman shall be elected annually by the board from among its members. Members of the beer board shall be

¹State law reference

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

²Ordinance #987 (March 1995) changed the term of office of beer board members from 5 to 4 years and provided further that" ... this Ordinance shall not affect the term of office of any existing board members, but shall take effect with all future appointments"

compensated fifty dollars (\$50.00) per meeting, not to exceed fifty dollars (\$50.00) per month, and only if the member attends the meeting. Any member of the beer board may be removed by the city council for cause. (as added by Ord. #09-1115, Dec. 2008)

8-302. 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. Where 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. Reasonable public notice shall likewise be given for any adjourned or special called meeting. (as added by Ord. #09-1115, Dec. 2008)

8-303. Record of beer board proceedings to be kept. The recorder or city clerk shall be required to attend and to make separate 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 contents of each beer permit issued by the board. (as added by Ord. #09-1115, Dec. 2008)

8-304. 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 board member present who passes or abstains from voting shall be deemed to have cast a negative vote. (as added by Ord. #09-1115, Dec. 2008)

8-305. Powers and duties of the beer board. The beer board shall have the power and is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer, within this municipality in accordance with the provisions of this chapter and other applicable laws and ordinances. (as added by Ord. #09-1115, Dec. 2008)

8-306. "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. (as added by Ord. #09-1115, Dec. 2008)

8-307. 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 authorize 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 fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Rockwood. 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. All permits to be issued in the name of the owner. (as added by Ord. #09-1115, Dec. 2008)

8-308. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by permit or license. 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. (as added by Ord. #09-1115, Dec. 2008)

8-309. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals of the community. In no event will a permit be issued authorizing the storage, sale, or manufacturing of beer except within the C-1 Commercial: Central Business, or C-2 Commercial: General Business Zoning Districts as depicted on the Official Zoning Map of the City of Rockwood on the date of application, unless such a valid permit exists in zones other than C-1 or C-2 on the date of passage of this ordinance. No distance requirements shall apply as to churches or schools in C-1 or C-2 Zones. (as added by Ord. #09-1115, Dec. 2008, and replaced by Ord. #10-1128, Dec. 2009)

8-310. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted of any violation of state laws or local ordinances against the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (as added by Ord. #09-1115, Dec. 2008)

8-311. 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 alcoholic beverages, 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.

(3) Make or allow any sale of beer between the hours of three o'clock (3:00 A.M.) and six o'clock (6:00 A.M.) weekdays, and three o'clock (3:00 A.M.) and twelve o'clock (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 any person under the age of twenty-one (21) years of age.

(6) Allow any minor under twenty-one (21) years of age to loiter in or about the 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 the 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) Dancing that involves nudity or partial nudity or is considered lewd or sexually suggestive will be prohibited.

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

(12) Fail to provide and maintain separate sanitary toilet facilities for men and women. This shall apply only to on-premises consumption and shall not apply to off-premises consumption. (as added by Ord. #09-1115, Dec. 2008)

8-312. Revocation of beer permits. The beer board may revoke any beer permit issued under the provisions of this chapter when the permit holder thereof is guilty of violation of any of the provisions of this chapter or if a permit holder shall discontinue business or ceases to be associated with the business on a day to day basis. (as added by Ord. #09-1115, Dec. 2008)

8-313. Limitation of number of beer permits. There is hereby no limit on the number of off-premises or on-premises beer permits issued by the beer board. (as added by Ord. #09-1115, Dec. 2008, and replaced by Ord. #10-1128, Dec. 2009)

8-314. Privilege tax. There is hereby imposed on the business 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 the 1st day of January of each year thereafter to the City of Rockwood, 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. #09-1115, Dec. 2008)

8-315. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) 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. 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. (as added by Ord. #09-1115, Dec. 2008)

8-316. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell liquor in the City of Rockwood, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding any other provision contained in the Rockwood City Code, qualify to receive a beer permit from the city. (as added by Ord. #09-1115, Dec. 2008)

8-317. Sale of beer to persons under the age of 21 years. (1) A permit holder engaging in the business regulated hereunder, or any employee of such permit holder, shall not make or permit to be made any sales of beer to any person under the age of twenty-one (21) years. Prior to making a sale of beer for off-premises consumption or for on-premises consumption, the consumer must present to the permit holder, or any employee of the permit holder, a valid, government-issued document, such as a driver's license, or other form of identification deemed acceptable to the permit holder, that includes the photograph and the birth date of the adult consumer attempting to make the beer purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the permit holder. The permit holder or employee shall make a determination from the information presented as to whether the purchaser is an adult. No sale of beer for on-premises consumption or for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the permit holder or to any employee of the permit holder. However, it is an exception to any penalty imposed by this ordinance, and it is an exception to

license suspension or revocation, if the sale was made to a person who is or reasonably appears to be more than fifty (50) years of age and who failed to present an acceptable form of identification.

(2) A fifty dollar (\$50.00) fine shall be imposed for each violation of this section of the Rockwood Municipal Code. Both the purchaser under the age of twenty-one (21) years and the permit holder shall be subject to separate fines of fifty dollars (\$50.00) each for each violation. Additionally, the permit holder shall be subject to revocation or suspension of its beer permit, or civil penalty in lieu thereof, in accordance with title 8 of the Rockwood Municipal Code.

(3) No permit holder shall be fined hereunder, and no permit shall be suspended or revoked, and no civil penalty shall be imposed if a purchaser under the age of twenty-one (21) years exhibits an identification, false or otherwise, indicating the purchaser's age to be twenty-one (21) or over, if the purchaser's appearance as to maturity is such that the purchaser might reasonably be presumed to be the age of twenty-one (21) or over, and the purchaser's true age is unknown to the person making the sale. (as added by Ord. #12-08, June 2015)

8-318. Criminal history background and fingerprint checks. The beer board is authorized to seek criminal history background and/or fingerprint checks on all applicants for beer permits and on all applicants for renewal of beer permits. Criminal background checks may include fingerprint checks against state and federal criminal records maintained by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation. The applicant shall be responsible for any fees assessed for said searches in accordance with the fee schedule established by the Bureaus. (as added by Ord. #12-08, June 2015)