

TITLE 2

ALCOHOLIC BEVERAGES¹

CHAPTER

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2. BEER.
3. ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES.
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CHAPTER 1

INTOXICATING LIQUORS

SECTION

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2-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to

¹For provisions prohibiting driving under the influence, see section 9-108 in this code; for provisions prohibiting minors in beer places, prohibiting public drunkenness, and prohibiting drinking beer, etc., on the streets, etc., see title 10.

For general provisions in the state law, see title 57 of the Tennessee, Code Annotated.

purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57.¹

2-102. Application for certificate of good moral character.² Before any character certificate, as required by Tennessee Code Annotated, section 57-3-208 or a renewal as required by 57-3-213 shall be signed by the mayor, or by any commissioners,³ an application in writing shall be filed with the city manager on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not 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.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) 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, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

Each application shall be accompanied by a non-refundable investigation fee of two hundred and fifty dollars (\$250.00).

2-103. Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the

¹State law reference

Tennessee Code Annotated, title 39, chapter 6.

²State law reference

Tennessee Code Annotated, section 57-3-208.

³State law reference

Tennessee Code Annotated, section 57-3-208 requires the certificate of good moral character to be signed by the mayor or a majority of the governing body.

state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages.

2-104. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of commissioners for such reasonable examination as may be desired by the board.

2-105. Action on application. Every application for a certificate of good moral character 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 board of commissioners within thirty (30) days of the date each application was filed.

The mayor or a majority of the board of commissioners may issue a certificate of moral character to any applicant.

2-106. Residency requirement. The applicant has met State of Tennessee residency requirements required for the issuance of retail sales license. (as replaced by Ord. #707, Jan. 2003)

2-107. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages or for the manufacture or vinting 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 good moral character, 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.

2-108. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise.

2-109. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose, but in no event shall any establishment be located within five hundred (500) feet of a hospital, church or school, or any other place of public gathering,

measured in a straight line¹ between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the hospital, school, church, or other place of public gathering.

2-110. Retail stores to be on ground floor; entrances.² No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one 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; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

2-111. [Deleted.] (as deleted by Ord. #717, May 2003)

2-112. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller.

2-113. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

2-114. Inspection fee. The City of Shelbyville hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, section 57-3-510 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

2-115. Violations. Any violation of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the

¹State law references

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

²State law references

Tennessee Code Annotated, section 57-3-708(b).

conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

CHAPTER 2

BEER¹

SECTION

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¹For a leading case in Tennessee on a city's authority to regulate beer, see the 1947 Tennessee Supreme Court decision in Grubb et al. v. Mayor and Aldermen of Morristown et al., 185 Tenn. 114.

Municipal code references

General business regulations: title 5.

Tax provisions: title 6.

Minors in beer places, etc.: title 10.

- 2-228. (Reserved)
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- 2-234. (Reserved)
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2-201. 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 within the corporate limits of the City of Shelbyville without first making application to and obtaining a permit from the beer board. However said activities shall be subject to all of the regulations, limitations and restrictions hereinafter provided, and subject to the rules and regulations established by the mayor and city council and approved by the beer board of the City of Shelbyville, Tennessee. (1979 code, § 2-201, as amended by ord. No. 296, and replaced by Ord. #498, Nov. 1993, and Ord. #2015-955, March 2015)

2-202. Terms defined. The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(1) "Adequate public notice" shall consist of publication of notice of a meeting, application or hearing scheduled by the beer board, either regular or special, in a newspaper of general circulation in the City of Shelbyville area.

(2) "Applicant" shall mean the person on whose behalf an applicant for beer permit is filed.

(3) "Beer" shall mean beer, ale, or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101.¹

(4) "Certified clerk" shall mean a clerk who has successfully satisfied the training requirements contained in this chapter, and who has received certification from a responsible vendor training program.

(5) "City" shall mean the City of Shelbyville TN.

¹State law reference

Tennessee Code Annotated, § 57-6-102.

(6) "Clerk" shall mean any person working in a capacity to sell beer directly to consumers for off-premises consumption.

(7) "Commission" shall mean the Tennessee Alcoholic Beverage Commission.

(8) "Curb service" shall mean all sales transacted outside the building where the beer business is carried on. The intent of this provision is to ensure that the sale and purchase of beer takes place with the customer outside of the motor vehicle in a face-to-face meeting with the salesperson.

(9) The pronouns "he, him and his" shall refer to persons of the female as well as the male gender, as applicable.

(10) "Minor" shall mean any person who has not attained the age of twenty-one (21) years.

(11) "Person" shall mean any private individual, partnership, joint venture, corporation, and any other business entity or association.

(12) "Premises" shall mean on the property owned, leased, or controlled by the permittee and so connected with the beer business in which the permittee is engaged as to form a component or integral part of it, including, but not limited to, the building and the parking areas surrounding it. "Premises" includes all decks, patios and other well-defined outdoor serving areas that are contiguous to the exterior of the building in which the business is located, that are operated by the business and only for a business operating under the name identified in the permit.

(13) "Private club" shall mean an association that:

(a) Has members who pay regular dues for the privilege of membership, whether the club is organized or operated for profit or nonprofit purposes;

(b) Owns, hires, or leases a building or space therein for the exclusive use of its members and their invited guests, when accompanied by a member, and not otherwise open to the general public;

(c) Requires that a written application for membership be filed at least one (1) week before the applicant is admitted to membership;

(d) Keeps a current roster of members that shows the date each member filed an application for membership, the date each member was admitted to membership, the dates on which each member has paid membership fees, and the amount of membership fee paid on each date;

(e) Makes the roster of members available for inspection, during the hours the club is open, by members of the Shelbyville Police Department or any city official designated by the city council; and

(f) Applies for, receives, and holds a valid beer permit.

(14) "Responsible vendor" shall mean a vendor that has received certification from the commission pursuant to Tennessee Code Annotated, § 57-5-601, et seq.

(15) "Responsible Vendor Training Program" shall mean a training program related to the responsible sale of beer for off-premises consumption

which has met all the statutory and regulatory requirements set forth in Tennessee Code Annotated, § 57-5-601, et seq.

(16) "Show cause hearing" shall mean any hearing scheduled by the board for the purpose of allowing the permittee the opportunity to show cause as to why action should not be taken against the permittee.

(17) "Storage" shall mean the storing or possessing of beer or other alcoholic beverages for the purpose of resale by the permit holder. The practice by a private club of maintaining on its premises beer or other alcoholic beverages that have been brought there by a patron shall not constitute unlawful storing of alcohol in violation of any section of this chapter.

(18) "TABC" shall mean the Tennessee Alcoholic Beverage Commission. (1979 code, § 2-202, as replaced by Ord. #2015-955, March 2015)

2-203. Beer business lawful but subject to regulation. It shall be lawful for any person to transport, store, sell, distribute, possess, receive, or manufacture beer or other beverage of alcoholic content of not more than five percent (5%) by weight, in the city, subject, however, to all the applicable provisions of this chapter and of Tennessee Code Annotated, title 57, §§ 57-5-101, et seq. However, no brewer or wholesaler of any such beverage, or their agents, shall be permitted to make any loan or furnish any fixtures of any kind or have any interest, direct or indirect, in the business of any retailer of such beverages or in the premises occupied by such retailer. (1979 code, § 2-203, as amended by Ord. #498, Nov. 1993, and replaced by Ord. #2015-955, March 2015)

2-204. Beer board created. There is hereby created a board to be known and designated as the "Beer Board of the City of Shelbyville," which shall be hereafter referred to as the board, consisting of five (5) members. (1979 code, § 2-204, as replaced by Ord. #2015-955, March 2015)

2-205. Qualifications, compensation, and terms of board members. The members of the board shall be qualified voters of the city who have been bona fide residents in the city for at least one (1) year prior to election to membership on the board and who shall be at least twenty-one (21) years of age at the time of such election and are current residents of the City of Shelbyville. The members shall serve without compensation and, except for the initial members, shall hold office for a term of one (1) year from and after the date of their election and until their successors are elected and qualified. (1979 code, § 2-205, as replaced by Ord. #2015-955, March 2015)

2-206. Vacancies. When any vacancy occurs on the board by reason of death, resignation, removal, or other cause, such vacancy shall be filled by the mayor and council at the next succeeding regular meeting after such vacancy occurs. The person elected to fill such vacancy shall serve for the unexpired term

of the member whose office has been vacated. (1979 code, § 2-206, as replaced by Ord. #2015-955, March 2015)

2-207. Organizations, records, quorum, and meetings of the board. The members of the board shall elect one of their number to act as chairman. It shall be his duty to preside at all meetings of the board. A majority of the board shall constitute a quorum, and the board shall act by a vote of the majority of all its members only. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. The city recorder shall keep, in detail, accurate minutes and records of its action. 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. The city recorder shall also maintain an up-to-date list of the names and addresses of all beer permit holders. The recorder shall also maintain on file all applications received. (1979 code, § 2-207, as replaced by Ord. #2015-955, March 2015)

2-208. Meetings. Meetings shall be held on the second Wednesday of each month at 6:00 P.M., or on a day and time decided by the majority of the beer board. Special meetings may be called by the chairman when necessary and proper to discharge effectively the duties of the board. All meetings shall be held in accordance with the state's open meeting law, § 8-44-101, et seq. All meetings shall be held in the courtroom of the Shelbyville Police Department unless public notice of alternate location given. (1979 code, § 2-208, as replaced by Ord. #2015-955, March 2015)

2-209. [Reserved.] (1979 code, § 2-209, as reserved by Ord. #2015-955, March 2015)

2-210. Powers and duties of the board. The board is hereby vested with full power and authority to hear, and is charged with the duty of hearing, all applications filed by persons, firms, corporations, or associations to sell, store, or manufacture beer. The board may revoke any permit, the issuance of which is herein provided for, and is fully authorized and empowered to hear and determine all complaints brought for this purpose. (1979 code, § 2-210, as replaced by Ord. #2015-955, March 2015)

2-211. Applications for beer licenses or permits. Any person who has complied with all applicable provisions of the state law and this chapter may apply for a license or permit to store, sell, distribute, consume or manufacture beer and other such beverages. 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 fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Shelbyville. 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. To obtain such license or permit, such person shall first make application in writing, duly verified by oath, to the beer board for such license or permit, showing:

(1) Names and addresses of all persons, as defined in this chapter, with at least a five percent (5%) ownership interest in the applicant. The application shall include a copy of a government issued photo ID. An authorization and release for the city to obtain all relevant information to investigate and determine the applicants character, qualifications and suitability for the issuance of a permit hereunder:

(a) If the applicant is a partnership, a joint venture or a corporation, the private individual who signs the application shall indicate, in words, that the signature is a valid, binding legal signature "on behalf of" the business entity. By such signature, the partnership, the joint venture, or the corporation agrees to be bound by all regulations under this chapter and be liable for any violations thereof. Where it deems it to be appropriate, the beer board may require the applicant to furnish as a condition of approval certified copy of a resolution approved by the managing body of the business entity authorizing the individual signing the application on behalf of the business entity to obligate the entity.

(b) If the applicant will operate the business through an agent, the name and the address of the agent will be indicated. Any time the applicant/license changes agents, it shall notify the beer board in writing within thirty (30) days of the change and shall supply the name and address of the new agent. If applicant is a corporation, it shall indicate whether it is authorized to do business within the State of Tennessee.

(2) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant;

(3) That no sale of such beverages will be made except in accordance with the permit granted;

(4) That the applicant understands it must secure a certificate or a statement from the health department or health officer that the premises which the application covers meet the requirements of § 8-223;

(5) That such person has complied with the state law and this chapter in all applicable respects;

(6) That neither such person nor any person in his employment has been convicted of any violation of the laws of the state or of the city against the possession, sale, manufacture, or transportation of intoxicating liquor or of any

crime involving moral turpitude within the last ten (10) years; and that such person will not, and agrees not to, at any time employ any such person;

(7) Whether such person applies for a permit or license to transport, store, sell, manufacture, or distribute such beverages, or for any or all such purposes, and whether at wholesale or retail;

(8) The place in the city where such person proposes to store, sell, distribute, or manufacture such beer or other beverage; and, if such person is already in business, the nature of his business and the place where such business is conducted;

(9) That the storage, sale, distribution, or manufacture of beer or such other beverage at any such place will not cause nor be likely to cause congestion of traffic or interference with schools, churches, or other places of public gathering or otherwise interfere with, injure, adversely affect, or be likely adversely to affect the public health, safety, and morals;

(10) That no sale of beer shall be made to minors by any such person or by any person in the employment or service of such person;

(11) That the applicant agrees to and will comply with all rules and regulations prescribed by this chapter for regulating the storage, sale, distribution, or manufacture of such beverages;

(12) Such other relevant information as the city recorder or city council may by order, rule, or regulation require to be stated in the application in order better to determine whether or not such permit or license should be issued.

(13) If the applicant does not own the property on which the business is to be located the applicant also should submit proof that the property owner does not object.

(14) Completed applications shall be filed by the last business day of the month preceding the next regular meeting of the beer board. (1979 code, § 2-211, as replaced by Ord. #2015-955, March 2015)

2-212. False statements in applications. Any applicant for a license or permit under the provisions of this chapter making any false statement in this written application shall forfeit his permit or license, if he already has a permit or license, and shall not be eligible to receive any permit or license for a period of ten (10) years thereafter. Any omission of information on an application shall be deemed as a false statement. (1979 code, § 2-212, as replaced by Ord. #2015-955, March 2015)

2-213. Board's action on applications. Applications for permits or licenses under this chapter shall be heard and disposed of by the board as soon as practicable after the filing of such applications. At the hearing on an application, the applicant shall have the right to be represented by counsel and shall establish the allegations of his application. The board shall be charged with the duty of fully determining the truth of the allegations of such application and may call or offer witnesses in opposition to the application. If the board is

satisfied upon such hearing that the allegations of the petition required to be stated therein by subsections (1), (2), (6), and (7) of § 2-208 are established by the proof and will be complied with by the applicant; that no false statement is made in the application; and that the storage, sale, distribution, or manufacture of such beverage, at the place or places stated in the application as the place or places where the applicant proposes to store, sell, distribute, or manufacture such beverages will not cause congestion in traffic or otherwise interfere with schools, churches, or other places of public gathering; or otherwise interfere with or injure the public health, safety, and morals; then said board shall issue a license or permit to the applicant for the purpose of storing, selling, distributing, or manufacturing such beverages, at, but only at, the place or places stated in the application. If the board is not so satisfied it shall deny the application and refuse the license or permit. If the application is made for a permit or license for more than one place the board may grant the application for one or more of such places, and deny the same as to the other places. Any fee shall be established by resolution of the city council. (1979 code, § 2-213, as replaced by Ord. #2015-955, March 2015)

2-214. Permit required for engaging in beer business and fees assessed.

(1) Permit required. No person shall engage in the storing, selling, distribution, giving away, or manufacturing of beer, or other beverages of like alcoholic content, within the corporate limits of the City of Shelbyville until that person shall receive a permit to do so from the beer board of the City of Shelbyville or the city recorder. Four (4) types of permits may be issued by the beer board:

(a) A retailer's "off premises" (package sales) permit shall be issued to any person engaged in the sale of packaged beer for consumption and where the beer sold is not to be consumed by the purchaser upon or near the premises of the seller;

(b) A retailer's "on premises" permit shall be issued to any person engaged in the sale of beer where the beer is to be consumed by the purchaser or his guest upon the premises of the seller;

(c) A single permit for both on- and off-premises sales may be issued to an applicant. Permits shall at all times be subject to all of the limitations and restrictions provided under this code and state law and the applicant shall certify that he has read and is familiar with the provisions of this chapter.

(d) A special event permit.

(2) Fee. All applications for the issuance of any type of beer permit shall be accompanied by an application fee as specified, comprehensive fees and penalties, for use in offsetting the expenses of investigating the applicant and processing the applicant. No portion of the fee shall be refunded to the applicant notwithstanding whether the application is approved. (1979 Code, § 2-214, as

amended by Ord. #710, March 2003, and replaced by Ord. #2015-955, March 2015)

2-215. License--hotels; motels; clubs, lodges. (1) Hotels; motels. Licenses may be issued to hotels and motels for the sale of beverages for consumption on the premises.

(2) Clubs; lodges. Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee and which are organized and exist for purposes other than the sale of beverages under such license. Limited to on-premises consumption. (1979 Code, § 2-215, as replaced by Ord. #702, Dec. 2002, and Ord. #2015-955, March 2015)

2-216. Special event permits. (1) The beer board is authorized to issue special event permits to bona fide charitable, nonprofit or political organizations for special events.

(2) The special event permit shall not be issued for longer than one forty-eight (48) hour period unless otherwise specified, subject to the limitations on the hours of sale imposed by law. The application for the special event permit shall state whether the applicant is a charitable, nonprofit or political organization, include documents showing evidence of the type of organization, and state the location of the premises upon which beverages shall be served and the purposes for the request of the license. An application fee for special events permits shall be established by resolution of the city council.

(3) For the purpose of this section:

(a) Bona fide charitable nonprofit organizations means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

(b) Bona fide political organization means any political campaign committee as defined in Tennessee Code Annotated, § 2-10-101(a) or any political party as defined in Tennessee Code Annotated, § 2-13-101.

(4) No charitable, nonprofit, or political organization possessing a special event permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.

(5) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Shelbyville will result in a denial of a special event beer permit for the sale of beer for a period of one (1) year. (as added by Ord. #498, Nov. 1993, and replaced by Ord. #2015-955, March 2015)

2-217. [Reserved.] (1979 code, § 2-217, as reserved by Ord. #2015-955, March 2015)

2-218. Restrictions. (1) No permit shall be issued to sell any beverage coming within the provisions of this chapter:

(a) In violation of any provision of the state law or of this chapter.

(b) In violation of the Zoning Ordinance of the City of Shelbyville.

(c) When any requirement established in this chapter is not fully met.

(d) When any permit application fails to meet guidelines established by the beer board in its regulations for consideration and denial of any beer permit.

(2) The judgment of the beer board on such matters shall be final, except as same is subject to review at law, under Tennessee Code Annotated, § 57-5-108. (1979 code, § 2-218, as replaced by Ord. #2015-955, March 2015)

2-219. Appeals from the board's action. The provisions of Tennessee Code Annotated, title 57, § 57-5-109, et seq., shall govern all appeals from the actions of the board. (1979 code, § 2-220, as replaced by Ord. #2015-955, March 2015)

2-220. Licenses to be for specific locations, to be displayed, to be subject to revocation, and to be renewed annually. Each license or permit shall state on the face thereof the place or places for which it is granted or issued; shall not authorize the storage, sale, distribution, or manufacture of any such beverage at any other place whatsoever except by order of the board as hereinafter stated; shall be conspicuously displayed in the place of business of the applicant; shall at all times be subject to suspension or revocation as hereinafter stated; and shall be granted only for periods of one (1) year, upon the payment of all license fees and privilege taxes herein provided. Beer license or permits shall be renewed annually upon application therefore. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however, that notwithstanding the failure to return a beer permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name. (1979 code, § 2-221, as replaced by Ord. #2015-955, March 2015)

2-221. Transfer of licenses to different locations. Upon application, the board may authorize or deny to the holder of a license or permit under the provisions of this chapter the right to store, sell, distribute, or manufacture beer at some other place in the city, without paying additional license fees or privilege taxes, if the original period for which such license or permit is issued has not expired. (1979 code, § 2-222, as replaced by Ord. #2015-955, March 2015)

2-222. Beer licenses not to be issued when congestion of traffic, interference with schools, etc., will result. No license or permit to store, sell, distribute, or manufacture any beverage covered by this chapter, at any place or places in the city, shall be issued by the board to any person, when such storage, sale, distribution, or manufacture will cause or will be likely to cause (as determined by the board) congestion of traffic or interference with schools, churches, or other places of public gathering, or residential areas, or otherwise interfere with, injure, adversely affect, or be likely to interfere with, injure, or adversely affect the public health, safety, and morals, as hereinafter in this section more fully defined. The board is especially charged with the duty, upon application for such license or permit, to inquire into and determine whether or not the granting of such license or permit for the place or places stated in the application will cause, or be likely to cause, congestion of traffic or such interference or injury, or have, or be likely to have, such adverse effect. If it finds that such congestion of traffic or interference or injury or adverse effect will be caused, or is likely to be caused, it shall deny such application. The board shall presume conclusively that the issuance of a license for on premises consumption of beer for a location adjacent to residentially zoned property would be likely to have an adverse effect upon the residential area, and it shall deny the application; provided however, this conclusive presumption shall not apply where the permit or license holder would otherwise be entitled to sell alcoholic beverages for on-premises consumption under Tennessee Code Annotated, § 57-4-101.

The board, in determining whether or not such storage, sale, distribution or manufacture of any such beverage at any place or places for which a license or permit is applied for, will cause or be likely to cause congestion of traffic, or interference with schools, churches, or other places of public gathering, or residential areas, or will interfere with, or be likely to interfere with, injure, or adversely affect the public health, safety, and morals, shall give consideration to the following, among other facts, conditions and circumstances:

The proximity of such places to schools, churches, or other public places; whether such place or places are in a business or residential section of the city and the general nature of the neighborhood in which such place or places are situated together with the probable effect upon the public health, peace, quiet, rest, sleep, safety, and morals; the amount, condition, and effect of traffic, both pedestrian and vehicular, at, by, or near such place or places; whether or not the storage, sale, distribution, or manufacture of such beverage at such place or places would be likely adversely to affect the full but usual prior use, occupation, and enjoyment of property in the same locality; whether or not the storage, sale, distribution, or manufacture of such beverage at such place or places would be likely to cause unusual or large congestion of persons or unusual noises and disturbances, or would be likely to disturb the peace, quiet, rest, or sleep of citizens; whether or not the city police, giving due consideration to the number of police on the city's police force and to the location of such place or places in

reference to the location of police headquarters, the public square, and the fire zone, can adequately patrol and police such place or places; whether or not such place or places are situated in a locality adjacent to or near any bawdy house or house of ill-fame or adjacent to or near a house reputed to be a bawdy house or house of ill-fame; the number and location of other places in the same neighborhood or locality for which licenses or permits to store, sell, distribute, or manufacture beer have been issued by the city; the experience of the city with any other place or places in the same locality or neighborhood where such beverage is then or has previously been stored, sold, distributed or manufactured, with reference to the effect thereof upon traffic, schools, churches, or other places of public gathering, and upon the public health, safety, quiet, peace, rest, sleep and morals, and especially with reference to whether or not the operation of any such other place in the same locality or neighborhood has previously created disturbances and disorders and whether or not such places have been frequented by drunks, or persons of bad reputation or public prostitutes, or have been the scene of fights, brawls, or killings; and any other fact, condition, or circumstance that would be relevant to the inquiry. The enumeration of the foregoing facts, conditions, and circumstances shall not be construed as exclusive. The board is expressly authorized and required to take into consideration all facts, conditions, and circumstances, whether so enumerated or not, that may be relevant upon the inquiry as to whether or not the storage, sale, distribution, or manufacture of any such beverage at any such place or places will cause or be likely to cause congestion of traffic, or interference with schools, churches, other places of public gathering, or residential areas, or will interfere with, or be likely to interfere with, injure, or adversely affect, the public health, safety and morals. (1979 code, § 2-223, as replaced by Ord. #2015-955, March 2015)

2-223. [Reserved.] (1979 Code, § 2-224, as amended by Ord. #304, and Ord. #702, Dec. 2002, and reserved by Ord. #2015-955, March 2015)

2-224. Wholesale beer tax. Pursuant to the authority in Tennessee Code Annotated, § 57-6-103, there is hereby imposed on the sale of beer at wholesale within the city a tax of seventeen percent (17%) of the wholesale price.¹ (1979 code, § 2-228, as replaced by Ord. #2015-955, March 2015)

2-225. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company,

¹State law reference

Local enforcement of wholesale beer tax law: Tennessee Code Annotated, § 57-6-113.

syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Shelbyville, 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. (1979 code, § 2-229, as replaced by Ord. #2015-955, March 2015)

2-226. Sales to minors prohibited. No person engaging in the business regulated in this chapter shall make or permit a sale of any beverage covered by this chapter to minors. (1979 code, § 2-230, as replaced by Ord. #2015-955, March 2015)

2-227. Employment of and loitering of minors prohibited. It shall be unlawful for any person engaging in any business regulated in this chapter to allow any minor to loiter about his place of business. The burden of ascertaining the age of minor customers shall be upon the owner or operator of such place of business. (1979 code, § 2-231, as replaced by Ord. #2015-955, March 2015)

2-228. [Reserved.] (1979 code, § 2-232, as reserved by Ord. #2015-955, March 2015)

2-229. Ex-convicts not to be licensed or employed. Neither the applicant for a license or permit under this chapter nor any person employed by him in the storage, sale, distribution or manufacture of any beverage covered by this chapter, shall be a person who has been convicted of any violation of the laws of the state or of the city against the possession, sale, manufacture or transportation of intoxicating liquors, or any crime involving moral turpitude within the past ten (10) years. (1979 code, § 2-233, as replaced by Ord. #2015-955, March 2015)

2-230. Compliance with state law required. Neither the applicant for a license or permit under this chapter nor any person in his employment shall conduct any business regulated by this chapter in violation of any of the terms and provisions of Tennessee Code Annotated, title 57, §§ 57-5-101, et seq. Any person who violates or fails to comply with any provision of such act or this chapter shall be guilty of a misdemeanor. No permit or license shall be issued to authorize any person to engage in any business regulated in this chapter in any case expressly prohibited by the act mentioned in this section. (as added by Ord. #498, Nov. 1993, and replaced by Ord. #2015-955, March 2015)

2-231. Intoxicating liquor. No person engaging in any business regulated in this chapter, or any person in his employment, shall possess, sell, dispense, or give away any intoxicating liquor in violation of the laws of the state or of the

city, at his place of business or on the premises thereof. (as added by Ord. #2015-955, March 2015)

2-232. Hours of sale. It shall be unlawful and a misdemeanor for any person to sell or offer for sale, or to give away or serve, or for any person to buy or offer to buy, or to accept as a gift, or to be served, or to consume any beverage covered by this chapter at any place for which a license or permit has been issued by the city as provided in this chapter between 3:00 A.M. and 8:00 A.M. Monday through Saturday. Sunday sale hours shall be limited from 12:00 P.M. to 3:00 A.M. (as added by Ord. #2015-955, March 2015)

2-233. [Reserved.] (as reserved by Ord. #2015-955, March 2015)

2-234. [Reserved.] (as reserved by Ord. #2015-955, March 2015)

2-235. Drugs on premises. It is unlawful for any person to bring, to cause or to allow onto any permitted premises under this chapter any prohibited drugs within the meaning of Tennessee Code Annotated, §§ 53-10-101, et seq., and 39-17-401, et seq. (as added by Ord. #2015-955, March 2015)

2-236. Enforcement. The city manager, or city recorder as his designee, shall have full power to enforce the provisions of this chapter and to investigate reported violations thereof. The city manager is hereby authorized to utilize the full facilities of the Shelbyville Police Department and such other investigative agencies of the city as the city manager may deem proper.

The city manager and the SPD shall have the right of entrance on any business premises covered by a permit issued under this chapter during normal business hours for the purpose of investigation and inspection for compliance with the provisions of this chapter. (as added by Ord. #2015-955, March 2015)

2-237. Suspension or revocation of license or permit. Any license or permit issued under the provisions of this chapter may be suspected or revoked at any time by the board for any of the following reasons:

(1) For any violation of, or failure at any time to comply with the provisions of this chapter or any provisions of the acts mentioned herein; or if the board believes or has reason to believe that such person has been or is guilty of any such violation or failure to comply; or

(2) For violation of any penal provision of this chapter or any other penal provision of this code or of any other ordinance of the city, now or hereafter in force or effect, or if the board believes or has reason to believe that such person has been or is guilty of any such violation; or

(3) If it is found or believed by the board, or if it has reason to believe, that such person is not or has ceased to be a person entitled to a license or

permit to engage in any business regulated under this chapter or as regulated under this or any subsequent ordinance of the city; or

(4) If it is found or believed by the board, or if it has reason to believe, that such person is conducting or has conducted any of the businesses herein regulated in violation of or contrary to any provisions of this chapter, or at any place, or for any purpose, or in any manner other than as stated in his application for such license or permit or in such license or permit; or

(5) If it is found or believed by the board, or if it has reason to believe, that such business engaged in as authorized by such license or permit is causing, or has caused, or in the future will be likely to cause congestion of traffic, or interference with schools, churches, or other places of public gathering, or other interference with, or injury to, or adverse effect upon the public health, safety, and morals, as hereinbefore in this chapter more fully defined. It shall be unlawful and a misdemeanor during the period of suspension or revocation for such person to engage in any such business. Complaints brought for the purpose of revoking permits shall be made in writing and filed with the chairman of the board. He shall thereupon give or cause to be given written notice, accompanied by a copy of the written complaint, commanding the person, persons, firm, corporation, or association to appear at a time and place designated in the notice before the board and show cause why the permit should not be revoked. The notice shall be served by any policeman of the city at least five (5) days prior to the date of the hearing. Upon the hearing the board shall publicly hear and determine the nature and merits of the complaint and for this purpose the chairman of the board is authorized to compel the attendance of witnesses by subpoena. The board shall have authority on its own motion to institute complaints or to serve notice on the holder of any permit to show cause why his permit should not be revoked for specified reasons set forth in writing. Such hearings shall follow the same procedure as hereinabove outlined for other complaints. Upon final hearing and determination by the board at such hearings, either party may remove the cause by certiorari to the next term of the circuit court of the county as provided by Tennessee Code Annotated, title 57, § 57-5-109, et seq. All hearings under this section shall have public notice of meeting time and place. (as added by Ord. #2015-955, March 2015)

2-238. Forfeiture of license fees, etc. There shall be no rebate or adjustment made of the license fees or privilege taxes. The same shall be forfeited in case of the revocation or suspension of any license. (as added by Ord. #2015-955, March 2015)

2-239. Additional rules and regulations. The issuance of a license or permit under this chapter shall be subject to revocation at any time as in this chapter provided, and subject to such further, different, and additional rules and regulations as may be from time to time prescribed. The right is hereby reserved to impose any such additional or different rules and regulations on the business

of storing, selling, distributing, or manufacturing beer as the city council may hereafter pass or adopt and to revoke or suspend any license or permit in case of any noncompliance with such additional or different rules and regulations. However, a reasonable time shall be allowed every person to comply with any additional or different rules and regulations before revoking or suspending his license or permit for failure to comply therewith. (as added by Ord. #2015-955, March 2015)

2-240. Penalty. Any person who shall violate or fail to comply with any provision in this chapter shall be guilty of a misdemeanor and shall, upon conviction, unless otherwise provided by this chapter, be punished as provided in the general penalty clause for this code. (as added by Ord. #2015-955, March 2015)

2-241. 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 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. 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. #2015-955, March 2015)

CHAPTER 3

ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

SECTION

2-301. Privilege tax levied.

2-302. City recorder to insure city receives its share.

2-301. Privilege tax levied. Pursuant to the authority of Tennessee Code Annotated, section 57-4-301 there is levied on every person who engages in the business of selling at retail in the City of Shelbyville alcoholic beverages for consumption on the premises, an annual privilege tax as follows:

- (1) Private Club \$300
- (2) Hotel and motel \$1,000
- (3) Convention center \$500
- (4) Premier type tourist resort \$1,500
- (5) Restaurant, according to seating capacity, on licensed premises
 - (a) 75-125 seats 600
 - (b) 126-175 seats 750
 - (c) 176-225 seats 800
 - (d) 226-275 seats 900

If a restaurant is licensed by the ABC to sell wine only under Tennessee Code Annotated, section 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified in (5) above.

- (6) Historic performing arts center 300
- (7) Urban park center 500
- (8) Commercial passenger boat company 750
- (9) Historic mansion house site 300
- (10) Historic interpretive center 300
- (11) Community theater 300
- (12) Zoological institution 300
- (13) Museum 300
- (14) Establishment in a terminal building of a commercial air carrier airport 1,000
- (15) Commercial airline travel club 500
- (16) Public aquarium 300

(as added by Ord. #564, Feb. 1997)

2-302. City recorder to insure city receives its share. It shall be the responsibility of the city recorder to insure that the city receives its share of the fifteen percent (15%) tax levied on the gross sales of all alcoholic beverages sold at retail for consumption on premises and collected by the commissioner of the ABC under Tennessee Code Annotated, section 57-4-301(c), and distributed to

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the state and its political subdivisions under Tennessee Code Annotated, section 57-4-306. (as added by Ord. #564, Feb. 1997)

CHAPTER 4

"BROWN-BAGGING"

SECTION

2-401. Definitions.

2-402. Regulations.

2-403. Violations and penalty.

2-404. Punishment for violations.

2-401. Definitions. (1) "Alcoholic beverages" shall mean and include alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits or wine and capable of being consumed by a human being, other than patented medicine or beer where the latter contains more than five percent (5%) by weight, or less. Notwithstanding any provision to the contrary in this title, "alcoholic beverage" or "beverage" also includes any liquor product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content.

(2) "Beer" shall mean all beers, ales and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #565, § 1, Jan. 1997)

2-402. Regulations. (1) No owner, operator or employee of any business establishment, that does not have a valid beer permit, shall permit or allow any person to open, or to have open, or to consume inside or on the premises a bottle, can flask or container of any kind or description, of alcoholic beverages or beer.

(2) No owner, operator or employee of any business establishment possessing a valid beer permit shall permit or allow any person to open, or to have open, or to consume inside or on the premises a bottle, can, flask or container of any kind or description, of alcoholic beverages or beer, except such beer that is sold on the premises.

(3) This section shall not apply to any business establishment possessing a valid permit for the on premises sale of alcoholic beverages issued by the state Alcoholic Beverage Commission. (Ord. #565, § 2, Jan. 1997)

2-403. Violations and penalty. Any violation of this chapter by the owner, operator or employee of a business establishment not possessing a valid permit issued by the City of Shelbyville for the on-premises sale of beer shall be punishable by monetary penalty of up to \$500.00. (Ord. #565, § 3, Jan. 1997)

2-404. Punishment for violations. Any violation of this chapter by the owner, operator or employee of a business establishment possessing a valid permit for the on-premises sale of beer shall be subject to punishment as

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provided for other violations of the beer ordinance, including but not limited to, suspension or revocation of the beer permit. (Ord. #565, § 4, Jan. 1997)