

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

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

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

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Location of establishments serving alcoholic beverages on premises.
- 8-104. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-105. Annual privilege tax to be paid to the city recorder.
- 8-106. Employees of establishments serving alcoholic beverage on premises.
- 8-107. Advertisement of alcoholic beverages

**8-101. Definition of alcoholic beverages.** As used in this chapter, unless the context indicates otherwise: Alcoholic beverages means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of eight percent (8%) by weight, or less. (1995 Code, § 8-101, as replaced by Ord. #17-01, Feb. 2017)

**8-102. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be 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 Tusculum, Tennessee. It is the intent of the board of mayor and commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Tusculum,

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #17-01, Feb. 2017)

**8-103. Location of establishments serving alcoholic beverages on premises.** No approval will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the on-premise sale of liquor within three hundred feet (300') of any residential dwelling, hospital, school, church or other place of public gathering, provided the owner of said residential dwelling appears in person before the city commission and objects to such approval. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the liquor will be sold to the nearest point on the property line of the residential dwelling, hospital, school, church or other place of public gathering. (as added by Ord. #17-01, Feb. 2017)

**8-104. 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 Tusculum 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 Tusculum on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #17-01, Feb. 2017)

**8-105. Annual privilege tax to be paid to the city recorder.** 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 Tusculum shall remit annually to the city recorder the appropriate tax described in § 8-104. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #17-01, Feb. 2017)

**8-106. Employees of establishments serving alcoholic beverages on premises.** No person shall be employed in the sale of alcoholic beverages except a citizen of the United States. No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of

eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the storage, sale, or distribution of alcoholic beverages. (as added by Ord. #17-01, Feb. 2017)

**8-107. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission and the sign and zoning regulations of the City of Tusculum. (as added by Ord. #17-01, Feb. 2017)

## CHAPTER 2

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

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension.

**8-201. Beer board established.** There is hereby established a beer board to be composed of the board of commissioners. The mayor shall be the chairman of the beer board. (1995 Code, § 8-201)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1995 Code, § 8-202)

**8-203. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc.,

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<sup>1</sup>Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982).

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. (1995 Code, § 8-203)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1995 Code, § 8-204)

**8-205. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (1995 Code, § 8-205)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than eight percent (8%) by weight. (1995 Code, § 8-206, as amended by Ord. #17-03, March 2017)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), 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 Tusculum. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (1995 Code, § 8-207)

**8-208. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Tusculum, 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. (1995 Code, § 8-208)

**8-209. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate

permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. A single permit may be issued for on premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1995 Code, § 8-209)

**8-210. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any residential dwelling, hospital, school, church or other place of public gathering, provided the owner of said residential dwelling appears in person before the city beer board and objects to the issuance of such beer permits. The distances shall be measured in a straight line<sup>1</sup> from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the residential dwelling, hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 1993. (1995) Code, § 8-210)

**8-211. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of

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<sup>1</sup>State law reference

See Watkins v. Naifeh, 625 S. W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (1995 Code, § 8-211)

**8-212. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week; at any time on Sunday; or on election days before and while the polls are lawfully open.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

(5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.

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

(7) Allow drunk persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than eight percent (8%) by weight.

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

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(11) Sell or distribute beer at locations operating a dance hall or where dancing is permitted. (1995 Code, § 8-212, as amended by Ord. #17-03, March 2017)

**8-213. Revocation of beer permits.** The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (1995 Code, § 8-213)

**8-214. 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. (1995 Code, § 8-214)



## CHAPTER 3

### PACKAGE LIQUOR STORES

#### SECTION

- 8-301. Alcoholic beverages subject to regulation.
- 8-302. Application for certificate.
- 8-303. Applicant to agree to comply with laws.
- 8-304. Applicant to appear before board of mayor and commissioners;  
duty to give information.
- 8-305. Action on application.
- 8-306. Residency requirement.
- 8-307. Applicants for certificate who have criminal record.
- 8-308. Only one establishment to be operated by retailer.
- 8-309. Where establishments may be located.
- 8-310. Retail stores to be on ground floor; entrances; construction.
- 8-311. Limitation on number of retailers.
- 8-312. Sales for consumption on premises.
- 8-313. Radios, amusement devices and seating facilities prohibited in  
retail establishments.
- 8-314. Restrictions on employees of package liquor stores.
- 8-315. Inspection fee.
- 8-316. Violations.

**8-301. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57, chapter 3. (as added by Ord. #17-02, Feb. 2017)

**8-302. Application for certificate.**<sup>1</sup> Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any commissioner, an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Time of residence in Tennessee.
- (3) Occupation or business and length of time engaged in such occupation or business.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208.

(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.

(10) Certain financial information pertinent to the applicant, partnership, corporation and partners or stockholders.

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. A non-refundable application fee of two hundred fifty dollars (\$250.00) shall be submitted with the application. (as added by Ord. #17-02, Feb. 2017)

**8-303. Applicant to agree to comply with laws.** The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the State of Tennessee for sale of alcoholic beverages. (as added by Ord. #17-02, Feb. 2017)

**8-304. Applicant to appear before Board of Mayor and Commissioners; duty to give information.** An applicant for a certificate of compliance may be required to appear in person before the board of mayor and commissioners for such reasonable examination as may be desired by the board. (as added by Ord. #17-02, Feb. 2017)

**8-305. Action on application.** Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and commissioners within thirty (30) days of the date each application was filed.

The board of mayor and commissioners may issue a certificate of compliance to any applicant which meets the requirements herein, which shall be signed by the mayor or by a majority of the board of mayor and commissioners. (as added by Ord. #17-02, Feb. 2017)

**8-306. Residency requirement.**<sup>1</sup> The applicant for a certificate of compliance shall have been a bona fide resident of Tennessee for a period of not less than two (2) years at the time the application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Tennessee for a period of not less than two (2) years at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years. (as added by Ord. #17-02, Feb. 2017)

**8-307. Applicants for certificate who have criminal record.** No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or 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 compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #17-02, Feb. 2017)

**8-308. 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. (as added by Ord. #17-02, Feb. 2017)

**8-309. 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. No certificate will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the retail sale of liquor within three hundred feet (300') of any residential dwelling, hospital, school, church or other place of public gathering, provided the owner of said residential dwelling appears in person before the city commission and objects to the issuance of such certificates. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208(c).

building from which the liquor will be sold to the nearest point on the property line of the residential dwelling, hospital, school, church or other place of public gathering. (as added by Ord. #17-02, Feb. 2017)

**8-310. Retail stores to be on ground floor; entrances; construction.** 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.

In addition, all liquor stores shall be a permanent type of construction. No liquor stores shall be located in a manufactured or other moveable or prefabricated type building. All liquor stores shall have night lights surrounding the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The minimum square footage of the interior of the liquor store shall be one thousand two hundred (1,200) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway or street to the interior of the liquor store by the way of large windows in the front, and to the extent practicable, to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, adopted by the city, unless specifically provided otherwise. (as added by Ord. #17-02, Feb. 2017)

**8-311. Limitation on number of retailers.**<sup>1</sup> Number of retail licenses for the sale of alcoholic beverages will be limited as shown in the chart below:

<u>Tusculum Population</u>	<u>Number of Retail Licenses Allowed</u>
1 - 3000	1
3001 - 6000	2
6001 - 9000	3

(as added by Ord. #17-02, Feb. 2017)

**8-312. Sales for consumption on premises.** No alcoholic beverages shall be sold for consumption, or shall be consumed, on the premises of the retail seller. (as added by Ord. #17-02, Feb. 2017)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208(c).

**8-313. Radios, amusement devices and seating facilities prohibited in retail establishments.** No radios, television sets, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment, other than in employee-only areas. No seating facilities shall be provided for persons other than employees. (as added by Ord. #17-02, Feb. 2017)

**8-314. Restrictions on employees of package liquor stores.** No person shall be employed in the sale of alcoholic beverages except a citizen of the United States. No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the storage, sale, or distribution of alcoholic beverages. (as added by Ord. #17-02, Feb. 2017)

**8-315. Inspection fee.** The City of Tusculum hereby imposes an annual inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages in a package liquor store in the City of Tusculum shall remit annually to the city recorder the appropriate inspection fee described in Tennessee Code Annotated, § 57-3-501. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the certificate. Upon the transfer of ownership of such business or the discontinuance of such business, said fee 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 fee when due shall be subject to the penalty provided by law. (as added by Ord. #17-02, Feb. 2017)

**8-316. Violations.** Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. However, nothing herein shall be construed to prevent the City from exercising any criminal or civil remedies that it may have with respect to violations of this chapter. (as added by Ord. #17-02, Feb. 2017)

## CHAPTER 4

### WINE IN RETAIL FOOD STORES

#### SECTION

8-401. Inspection fee on retail food store wine licensees.

8-402. Application for certificate.

**8-401. Inspection fee on retail food store wine licensees.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-3-501 et seq., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee. (as added by Ord. #18-05, Jan. 2019 *Ch2\_7-27-20*)

**8-402. Application for certificate.** Before any certificate, as required by Tennessee Code Annotated, § 57-3-806, shall be signed by the mayor, a request in writing shall be filed with the city manager giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store. 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. (as added by Ord. #18-05, Jan. 2019 *Ch2\_7-27-20*)