

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

1. INTOXICATING LIQUORS.
2. BEER.

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

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¹State law reference

Tennessee Code Annotated, title 57.

8-101. Sale, etc., of intoxicating liquor regulated. It shall be unlawful to purchase or possess alcoholic beverages or to engage in the business of selling, storing, transporting, or distributing alcoholic beverages within the corporate limits of the City of Erin except as provide by Tennessee Code Annotated, title 57, and by rules and regulations promulgated thereunder, and as provided in this chapter. (1974 Code, § 2-101, as replaced by Ord. #601, Jan. 2014)

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

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, and wine and capable of being consumed by a human being, other than patented medicine, beer, or wine where the latter two (2) contain alcohol of five percent (5%) by weight or less.

(2) "Federal license" shall not mean tax receipt or permit.

(3) "Gallon" or "gallons" shall be construed to mean a wine gallon or wine gallons, of one hundred twenty-eight (128) ounces. The word "quart" whenever used herein will be construed to mean one-fourth (1/4) of a wine gallon. The word "pint" wherever used shall be construed to mean one-eighth (1/8) of a wine gallon.

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

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

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

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

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

(9) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57.

(10) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine, and seasonal conditions, including champagne, and sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product content shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine.

Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. (as added by Ord. #601, Jan. 2014)

8-103. Manufacture prohibited. The manufacture of alcoholic beverages is prohibited within the corporate limits. (as added by Ord. #601, Jan. 2014)

8-104. Wholesale selling prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits. (as added by Ord. #601, Jan. 2014)

8-105. License required. For the retail sale of alcoholic beverages a certificate of compliance may be issued as herein provided. Any person, firm, or corporation desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the City of Erin for a certificate of compliance, which application shall be in writing on forms prescribed and furnished by the city recorder subject to the issuance of a retail license by the Alcoholic Beverage Commission State of Tennessee, a majority of the board of mayor and aldermen may issue such certificate of compliance. Such certificate shall not be issued unless and until the applicant therefor shall pay to the city recorder a certification fee of two hundred fifty dollars (\$250.00). (as added by Ord. #601, Jan. 2014)

8-106. Application for certificate. (1) Before any certificate, as required by Tennessee Code Annotated, § 57-3-208, or a renewal as required by an application in writing shall be filed with the city recorder on a form to be provided by the city, together with a non-refundable application fee of two hundred fifty dollars (\$250.00), giving the following information:

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

is a corporation or limited liability company, the name, age and address of the stockholders or members and their percentage of ownership of the corporation or limited liability company.

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

(3) If a new certificate of compliance is required by the State of Tennessee Alcoholic Beverage Commission after the initial issuance of a certificate of compliance but before a renewal certificate of compliance is issued, or between the time of the issuance of the renewal certificate of compliance is issued, or between the time of the issuance of the renewal certificate of compliance and subsequent renewals of compliance, an additional two hundred fifty dollars (\$250.00) will become due and payable at time of request.

(4) At the time of a request for a renewal certificate of compliance there will be a two hundred fifty dollar (\$250.00) application fee due; provided the number of owners (individually, stockholders, partners, or members) does not exceed three (3) in number. If the number of owners exceeds three (3) in number the application fee shall be increased by fifty dollars (\$50.00) for each owner in excess of three (3).

(5) The information in any application shall be verified by the oath of the applicant. If the applicant is a partnership, a corporation or a limited liability company, the application shall be verified by the oath of each owner of the entity. (as added by Ord. #601, Jan. 2014)

8-107. Limitations on issuance of certificate of compliance. No certificate of compliance shall be granted for the operation of a retail store for the sale of alcoholic beverages when the carrying on of such business at the premises covered by the application for a license would be closer than two hundred feet (200') as measured from the main and principal front entrance of such business at such premises of licensee to the main and principal front entrance of a church or school. A certificate of compliance issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the mayor, unless the location is approved in writing by the mayor. Said approval by the mayor must be authorized by approval of majority of the board of mayor and aldermen. (as added by Ord. #601, Jan. 2014)

8-108. Number of certificates. There shall be no restriction on the number of stores for the sale of alcoholic beverages as herein defined. (as added by Ord. #601, Jan. 2014)

8-109. Bonds of licensees. Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee. Bonds of retailers shall be five hundred dollars (\$500.00). Said bond shall be

conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (as added by Ord. #601, Jan. 2014)

8-110. Restrictions on license holders and employees. (1) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under sections herein. In addition to all other penalties, a violation of this section shall authorize and require the revocation of the license, the fee for which was paid by another, and also the revocation of the license, if any, of the person so paying for the license of another.

(2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(3) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked if such convicted felon be an individual licensee, and if not, the partnership, corporation, or association with which he is connected shall immediately discharge him.

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

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

(6) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in said business and the nature, extent, and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the City of Erin and approved by the board of mayor and aldermen. Where such interest is

owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he himself signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

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

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

(9) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who, within then (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

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

(11) Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter.¹ (as added by Ord. #601, Jan. 2014)

8-111. Display of license. Persons granted a license to conduct business shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license.² (as added by Ord. #601, Jan. 2014)

8-112. Transfer of permits restricted. The holder of a license may not sell, assign, or transfer such license to any other person, and said license shall be good and valid only for the calendar year in which the same was issued; provided, however, that licensees who are serving in the military forces of the

¹State law reference
Tennessee Code Annotated, § 57-3-210.

²State law reference
Tennessee Code Annotated, § 57-3-211.

United States in the time of war may appoint an agent to operate under the license during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of the licensee. No person who is eligible to obtain a license shall be eligible to serve as the agent of a licensee under this section.¹ (as added by Ord. #601, Jan. 2014)

8-113. Expiration and renewal of license. Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by payment of the above-mentioned license fee.² (as added by Ord. #601, Jan. 2014)

8-114. New license after revocation. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective.³ (as added by Ord. #601, Jan. 2014)

8-115. Federal license, effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (as added by Ord. #601, Jan. 2014)

8-116. Inspection fee. (1) The City of Erin imposes an inspection fee in the amount of eight percent (8%) of the wholesale price of alcoholic beverages supplied by a wholesaler pursuant to and allowed by Tennessee Code Annotated, § 57-3-501. Collection and remission of inspection fees shall be pursuant to Tennessee Code Annotated, §§ 57-3-502 and 57-3-503 as to all licensed retailers of alcoholic beverages located within the municipal limits.

(2) **Collection.** The inspection fee shall be collected by the wholesaler and transmitted to the city recorder not later than the twentieth day of each

¹State law reference
Tennessee Code Annotated, § 57-3-212.

²State law reference
Tennessee Code Annotated, § 57-3-213.

³State law reference
Tennessee Code Annotated, § 57-3-215.

month. (Tennessee Code Annotated, § 57-3-503.)¹ (as added by Ord. #601, Jan. 2014, and replaced by Ord. #627, Nov. 2020 *Ch9_6-8-21*)

8-117. Regulations for purchase and sale of intoxicating liquors.

The following regulations shall apply in the purchase and sale of intoxicating liquors:

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

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

(3) No retail store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereafter provided. When a retail store is located on the corner of two (2) public streets, such retail store may maintain a door opening on each of the public streets; provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public; and provided, further, that every retail store shall be provided with whatever entrances and exits may be required by existing or future ordinances.

(4) No holder of a license for the sale of alcoholic beverages for retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit.

(5) No alcoholic beverages shall be sold for consumption on the premises of the seller.

(6) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee, and curb service is not permitted.

(7) To the fullest extent, consistent with the nature of the establishment, full free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.

(8) No form of entertainment, including pinball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.

(9) No advertising by licensee, or signs, displays, posters, or designs intended to advertise any alcoholic beverage are permitted within the corporate limits of the City of Erin, except that a sign, subject to city zoning ordinance 412 4-1300.1, may be erected upon the face of the premises occupied by the licensee.

¹State law reference

Tennessee Code Annotated, § 57-3-503.

(10) No retail store shall be located except in a C-1 or C-2 zone. (as added by Ord. #601, Jan. 2014)

8-118. Canvassers and solicitors prohibited. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This section shall not be construed to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises. (as added by Ord. #601, Jan. 2014)

8-119. Regulation of retail sales. The following regulations shall apply to retail sales:

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

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

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

(4) No retailer shall sell, lend, or give away any alcoholic beverages between 11:00 P.M. on Saturday and 8:00 A.M. on Monday of each week, and between 11:00 P.M. and 8:00 A.M. Monday through Saturday.

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

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.¹ (as added by Ord. #601, Jan. 2014)

8-120. Failure to pay fees. Whenever any of the persons licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (as added by Ord. #601, Jan. 2014)

¹State law reference

Tennessee Code Annotated, § 57-3-406.

8-121. Inspections. The city mayor, or authorized representatives are authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city mayor, the chief of police and any other police officer of the city is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store shall be unlawful. The mayor shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken to revoke the license of the offending licensee. (as added by Ord. #601, Jan. 2014)

8-122. Suspension or revocation of license. In addition to any pecuniary penalty, any violation of the terms of this chapter shall make mandatory the suspension of said license by the city mayor for thirty (30) days and in the discretion of the board of mayor and aldermen may be cause for revocation of said license. (as added by Ord. #601, Jan. 2014)

8-123. Consumption of alcoholic beverages on premises. Restaurants or limited service restaurants may allow the consumption of alcoholic beverages as defined in this chapter on premises and under the terms and conditions within this title and as provided by Tennessee Code Annotated, title 57. Restaurants may furnish set-ups for use in consumption of alcoholic beverages as long as they comply with the setup tax provisions of Tennessee Code Annotated, § 57-4-301; provided, however, that nothing in this section permits the sale of liquor by the drink except where the establishment meets an exception under Tennessee Code Annotated, title 57, chapter 3. (as added by Ord. #629, Dec. 2020 *Ch9_6-8-21*)

8-124. 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, § 57-4-301), for the city's General Fund to be paid annually (as provided herein this chapter) upon any person, firm, corporation, joint stock company, syndicate or association engaging in the business of selling at retail in the city alcoholic beverages for consumption on the premises where sold. (as added by Ord. #629, Dec. 2020 *Ch9_6-8-21*)

8-125. 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 shall remit annually to the city recorder the appropriate tax described in Tennessee Code Annotated, § 57-4-301, the payment shall be

remitted within thirty (30) days of expiration of such tax. Upon the transfer of ownership of the business or the discontinuance of the business, the tax shall be filed within thirty (30) days following the 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. #629, Dec. 2020 ***Ch9_6-8-21***)

CHAPTER 2

BEER¹

SECTION

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8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. (1974 Code, § 2-201, as replaced by Ord. #604, Aug. 2015)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The beer board shall hold regular meetings upon the first Tuesday of each month when there is business to come before the beer board. A special meeting may be called by the chairman; provided reasonable notice thereof to each member. The board may adjourn a meeting at any time

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).

to another time and place. (1974 Code, § 2-202, as replaced by Ord. #604, Aug. 2015)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1974 Code, § 2-203, as replaced by Ord. #604, Aug. 2015)

8-204. Board 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. (1974 Code, § 2-204, as replaced by Ord. #604, Aug. 2015)

8-205. Powers and duties of the beer board. The beer board shall have the authority and is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the municipality in accordance with the provisions of this chapter. (1974 Code, § 2-205, as replaced by Ord. #604, Aug. 2015)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101. (1974 Code, § 2-206, as replaced by Ord. #604, Aug. 2015, and Ord. #608, March 2017)

8-207. Permit required for engaging in beer business. (1) Permit required. 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. Each applicant must be a person of good moral character and must certify that he has read and is familiar with the provisions of this chapter. Four (4) types of permits may be issued by the beer board.

(a) Class 1 on-premises permit shall be issued for the consumption of beer only on the premises of a restaurant.

(b) Class 2 on-Premises - tavern, where beer is sold for consumption at a tavern. "Tavern" shall mean a business establishment whose primary business is or is to be the sale of beer to be consumed on the premises.

(c) Class 3 off-premises permit.

(d) Class 4 special occasion beer permit.

Permits shall at all times be subject to all of the limitations and restrictions provided under this code and the laws of the State of Tennessee.

(2) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate, or association.

(3) The applicant or a representative must appear in person before the board and subject himself to examination upon any and all questions appertaining to his qualifications under this chapter and amendments thereto. If the applicant fails to appear before the board the permit request will be postponed until the next regularly scheduled beer board meeting. (1974 Code, § 2-207, as replaced by Ord. #604, Aug. 2015)

8-208. Application fees and privilege tax. (1) Application fee. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00), or such larger amount as may be authorized by the laws of the State of Tennessee.

(2) 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), or such larger amount as may be authorized by the laws of the State of Tennessee. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution storage or manufacture of beer shall remit the tax each successive January 1 to the City of Erin, 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. (1974 Code, § 2-208, as amended by Ord. #531, Sept. 2002, and Ord. #538, May 2004, and replaced by Ord. #604, Aug. 2015)

8-209. Public consumption of alcoholic beverages prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, public market not governed by an on-premises permit, alley, boulevard, bridge, nor upon the grounds of any cemetery or public school. (1974 Code, § 2-209, as replaced by Ord. #604, Aug. 2015)

8-210. Police record check. The city recorder shall submit all applications to the City of Erin Police Chief for a records check prior to time of the beer board meeting at which the application will be considered. (1974 Code, § 2-210, as replaced by Ord. #604, Aug. 2015)

8-211. Application-requirements and conditions. Each applicant for a beer permit shall be required to complete a formal, written application in a form approved by the beer board. Each applicant must explicitly and affirmatively state all of the following:

- (1) The owner or owners of such premises.
- (2) Name of the applicant's business and whether the applicant is a person, partnership, corporation, limited liability company or association.
- (3) Location of premises of the business by street address and tax map and parcel.
- (4) Telephone number at the location.
- (5) If beer will be sold at two (2) or more restaurants or other businesses, within the same building as provided by Tennessee Code Annotated, § 57-5-103(a)(4), a description of all such businesses.
- (6) Any firm, corporation, joint stock company, syndicate, partnership, limited liability company or association having at least a five percent (5%) ownership in the applicant must provide the names of all owners, stockholders, partners, and members, together with the addresses, telephone numbers, Social Security numbers and Federal Tax ID numbers of such individuals. If an owner, stockholder, partner or member of the applicant is also a legal entity other than a person. The same information for its owners is required.
- (7) Identity, address, telephone number, and email address of a representative to receive annual tax notices and other communication from the city.
- (8) Whether any person, firm, corporation, joint stock companies, syndicate or associations having at least a five percent (5%) ownership interest in the applicant or any person employed in the distribution or sale of beer has 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.
- (9) Whether the applicant is seeking a permit which would allow the sale of beer for on-premises consumption of beer or for off-premises consumption or both types of consumption.
- (10) The name, address, and telephone number of the owner of the property where the applicant's business will be located and a copy of the lease governing the applicant's possession of the premises.
- (11) The application shall authorize a police records check and shall waive any right the applicant may have to privacy concerning arrests reflecting on the moral character of the applicant.
- (12) 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.
- (13) That no sales of such beverages will be made except in accordance with the permit granted.
- (14) The application shall be submitted to the city recorder at least fifteen (15) days prior to the beer board meeting at which it is to be considered.
- (15) Applications shall at all times be kept on file by the city recorder and shall be open to inspection of the general public within the limits of federal, state and local law, and any person, firm, corporation or association knowingly

making any false statement in the application shall forfeit his permit or right to a permit and shall not be eligible to receive any permit for a period of one (1) year thereafter.

(16) No applicant for a beer permit for on-premises consumption shall be issued a permit unless the city recorder has on file a background report from the City of Erin Police Chief recommending approval.

(17) Any on-premises or off-premises license in existence at the time of the enactment of the provisions of this chapter to any individual shall be considered a nonconforming use. (1974 Code, § 2-211, as replaced by Ord. #604, Aug. 2015)

8-212. 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 so as to authorize sales only for either off-premises or on-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for holder of a permit not to comply with any and all express restrictions or conditions in the permit.

Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may, in the owner's discretion, operate some or all such businesses pursuant to the same permit. (1974 Code, § 2-212, modified, and amended by Ord. #533, May 2003, and Ord. #568, Oct. 2010, and replaced by Ord. #604, Aug. 2015)

8-213. Permits not transferable; permitted locations for consumption. (1) The beer permit is only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.

(2) The beer permit is only for a single location, except as provided in § 8-212, and cannot be transferred to another location. A permit shall be valid for all decks, patio and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business.

(3) Notwithstanding any provision of this part to the contrary, when a permittee applies for a new permit based solely upon a change of the name under which the business operates with no change whatsoever in the ownership of the business or the location of its operation, upon completion of the appropriate application form and payment of any required fees, the city recorder shall be authorized to issue the new permit without further review by the beer board. (1974 Code, § 2-213, as replaced by Ord. #604, Aug. 2015)

8-214. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises. (1974 Code, § 2-214, as replaced by Ord. #604, Aug. 2015)

8-215. Interference with public health, safety, and morals prohibited. (1) No permit authorizing the sale of beer will be issued when, as determined in the discretion of the board, such business would cause congestion or traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals.

(2) No permit authorizing the sale of beer will be issued for any location except in a commercial or industrial zone.

(3) No permit authorizing the sale of beer shall be granted for the operation of a retail store for the sale of beer when the carrying on of such business at the premises covered by the application for a permit would be closer than two hundred feet (200') as measured from the main and principal front entrance of such business at such premises of the applicant to the main and principal front entrance of a church or school.

(4) 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 on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at the location during any continuous six (6) month period. (1974 Code, § 2-214, as replaced by Ord. #604, Aug. 2015)

8-216. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person, firm, corporation, joint stock company, syndicate, or association, when any person having at least a five percent (5%) interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or of any felony, or of any crime involving moral turpitude, within the past ten (10) years. For purposes of this section, "moral turpitude" means an act of baseness, vileness, or depravity in private and social duties owed to someone or to society in general, contrary to accepted rule or right and duty between two (2) or more people. (as added by Ord. #604, Aug. 2015)

8-217. Classes of consumption permits. Permits issued by the beer board shall consist of four (4) classes. (1) Class 1 on-premises permit. A Class 1 on-premises permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 on-premises permit, an establishment must, in addition to meeting the other regulations and restrictions in the chapter:

(a) Be a restaurant or an eating place regulated, monitored and rated by the State of Tennessee;

(b) Provide adequate and sanitary kitchen and dining room equipment on the premises;

(c) The establishment for which a permit for on-premises consumption is sought must sell food prepared for on-premises consumption as a normal, regular and integral part of its everyday activities and such food is available for purchase during the same hours that beer is sold for on-premises consumption; and

(d) Be able to seat a minimum of fifteen (15) people, including children, in booths and at tables in addition to any other seating it may have; and

(e) Have all required seating in the interior of the building under a permanent roof.

(2) Class 2 on-premise-tavern. A Class 2 on-premises tavern shall be issued where beer is sold for consumption at a tavern. "Tavern" shall mean a business establishment whose primary business is or is to be the sale of beer to be consumed on the premises. Establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Be housed in building space and/or tenant space that does not exceed three thousand (3,000) gross square feet.

(b) Not make or allow the sale of beer on Sundays and between 12:00 A.M. and 8:00 A.M. on all other days of the week.

(3) Class 3 off-premises permit. A retailer's "off-premises permit" shall be issued to any person engaged in the sale of beer where the beer is not to be consumed by the purchaser or his guest upon or near the premises of the seller.

(4) Class 4 special occasion beer permit. The special occasion beer permit request shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by a non-refundable application fee of one hundred dollars (\$100.00):

(a) The beer board is authorized to issue a special occasion beer permit to bona fide charitable or nonprofit organizations for special events.

(b) The special occasion beer permit shall not be issued for longer than one (1) forty-eight (48) hour period, unless otherwise specified by the beer board, subject to the limitations on the hours, imposed by law.

(c) The application for the special occasion beer permit shall state whether the applicant is a charitable or nonprofit organization, include documents showing evidence of the type of organization, and state the location of the premises upon which alcoholic beverages shall be served and the purpose for the request of the license.

(d) For purposes of this section: "Bona fide charitable or nonprofit organization" means any corporation or other legal entity which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

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

(f) Failure of the special occasion permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Erin will result in a denial of a special occasion beer permit for the sale of beer for a period of two (2) years. (as added by Ord. #604, Aug. 2015)

8-218. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. The following acts or conduct on licensed premises are deemed contrary to public policy, safety, health and morals and it shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Employ any person convicted of a crime related to 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 the sale of beer between the hours of 12:00 A.M. and noon on Sundays, and between 12:00 A.M. and 6:00 A.M. on all other days of the week.

(4) Allow any loud, unusual, or obnoxious noises to emanate from the premise of the beer permit holder.

(5) Make or allow the sale of beer to a minor under twenty-one (21) years of age. The burden of ascertaining the age of customers shall be upon the owner or operator of such place of business.

(6) Operate or permit any employee or any other person to operate any gambling device or game of chance whatsoever.

(7) Bring, cause or allow to be brought onto the premises of any permittee any prohibited drugs under the provisions and within the meaning of the Tennessee Code Annotated.

(8) Fail to provide and maintain separate sanitary toilet facilities for men and women or fail to comply with any state, county or local health laws and regulation.

(9) Exhibit any motion pictures for which a fee for entrance to the theater is charged.

(10) Allow the sale of beer in any establishment where adult entertainment occurs or adult materials, novelty or other adult items are sold or stored. (as added by Ord. #604, Aug. 2015)

8-219. Issuance. After all inspections have been made and the applicant for a beer permit has met all requirements of this chapter, after all necessary fees and charges have been paid by the applicant, and after the beer board has

determined the applicant has complied with all other requirements contained in this chapter, the board shall approve the application. Within a reasonable time following final approval of the application, a beer permit shall be issued to the applicant. The permittee shall retain such beer permit for as long as he shall wish to do business at the premises for which it was issued; provided that such permit is not revoked or suspended by the board. (as added by Ord. #604, Aug. 2015)

8-220. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend 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 for failing to take actions required in this chapter or of violating any of the provisions of this chapter, including, but not limited to, the provisions of § 8-219. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the city mayor or member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (as added by Ord. #604, Aug. 2015)

8-221. Civil penalty in lieu of revocation or suspension.

(1) Responsible vendor. The beer board shall not, pursuant to Tennessee Code annotated, § 57-5-608, revoke or suspend the permit of a responsible vendor for a clerk's illegal sale of beer to a minor, if the vendor and the clerk making the sale have complied with the requirements of Tennessee Code Annotated, § 57-5-606, as a responsible vendor under that part, but may impose upon the responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any violation of this chapter or state law. Permanent revocation of beer permits issued to responsible vendors may only be applied when a responsible vendor permittee commits at least two (2) violations within a twelve (12) month period and then only after the state alcoholic beverage commission revokes the permittee's status as a responsible vendor.

(2) Non-responsible vendor. The prohibition of subsection (1) above concerning the revocation or suspension of the vendor's permit shall not apply to any vendor who is not a responsible vendor under the Responsible Vendor Act, Tennessee Code Annotated, §§ 57-5-601, et. seq., or to a participating vendor, if the vendor or clerk making a sale to a minor fails to comply with the requirements of Tennessee Code Annotated, § 57-5-606. With respect to such permittee, the beer board may, at the time it imposes a revocation or

suspension, offer the permittee 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.

(3) 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 not received within seven (7) days the revocation or suspension shall begin eight (8) days after the beer board hearing. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #604, Aug. 2015)

8-222. 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. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #604, Aug. 2015)